Israel Weary Of Bureaucratic Inroads By Palestinians At International Criminal Court

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The International Criminal Court (ICC) has elected Palestinian official Ahmad Mohammad Barak bin Hamad to an advisory committee for selecting judges. The move comes on the backdrop of an announcement earlier this month by ICC prosecutor Fatou Bensouda that she is nearing a decision on whether to launch a formal probe into alleged war crimes by the Israel Defense Forces as well as Hamas which rules the Gaza Strip.

Bin Hamad’s election is being construed as an example of growing acceptance of the Palestinian Authority as a legitimate actor within world bodies, a trend that is vehemently opposed by Israel and the United States.

“The prosecutor accepted Palestine’s inclusion [into the ICC] on the basis of the [2012 United Nations General Assembly] resolution giving the PA the status of non-member observer state,” Robbie Sabel, Professor of International Law at the Hebrew University in Jerusalem, explained to The Media Line. “The UNGA has no [legal] authority to recognize entities as full states so they were very careful to just give the Palestinians that designation.

“Israel disputes this,” he elaborated, “on the grounds that the territory of Palestine is not clearly defined or entirely recognized by the international community. The ICC prosecutor nevertheless allowed Palestine to accede to the Rome Statute,” the treaty that established the tribunal at The Hague in the Netherlands and to which Israel, in turn, is not a party.

“The appointment [of bin Hamad] will increase the Palestinians’ status within the organization as members wishing to sway the nomination of judges will see that it’s worthwhile to get the attention of the official from Palestine,” Prof. Sabel asserted.

“Palestine is a responsible international actor that has taken seriously its membership in the organizations and treaties onto which it has signed,” Dr. Saeb Erekat, Secretary General of the Palestine Liberation Organization (PLO), contended to The Media Line.

The PLO is the dominant faction within the PA and is considered the official voice of the Palestinian people.

“This is not about scoring points,” Dr. Erekat stressed, “it’s about being able to build our capacity and to cooperate with other states to bring justice to the victims of the crimes listed under the Rome Statute.”

Israel’s purported wrongdoings relate primarily to its military presence in the West Bank and operations against Hamas in Gaza. The PA also deems the Israeli government’s policy of expanding Jewish communities in the West Bank a violation of the Geneva Convention.

Bensouda’s decision is expected in the next few weeks and in the event a probe is initiated Sabel insists that Israel will continue to maintain its position that “no war crimes have been committed and if incidents do occur they should be prosecuted in Israeli courts.

“This [conflict] is a political issue that can only be settled through negotiations and Israel would view an ICC investigation as a plan by the Palestinians to avoid [renewing the peace process],” he added.

For his part, Dr. Erekat believes that “Israel is a state that constantly violates its obligations and disregards any multilateral forums aimed at supporting the international rule of law.”