ICC Chief Prosecutor Karim Khan on Sexual Misconduct Allegations and Gaza Warrant Requests

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> ICC Chief Prosecutor Karim Khan addresses sexual misconduct allegations against him and discusses the investigation process, judicial findings, and the unprecedented political challenges to his position. Khan denies the allegations entirely and contests the framing of the UN report, arguing that judges unanimously found no misconduct while the ASP Bureau continues to consider removing him despite exonerating findings.

SAŽETAK

In this wide-ranging interview, ICC Chief Prosecutor Karim Khan discusses the sexual misconduct investigation initiated against him in May 2024 while he was pursuing arrest warrants for Israeli leaders and Hamas officials in Gaza. Khan details how he temporarily stepped away from his role as the investigation proceeded through a UN inquiry and subsequent judicial review. He expresses deep concern about the unprecedented and ad hoc nature of the process, emphasizing that a panel of three senior international judges unanimously concluded the UN investigation establishes no misconduct or breach of duty under relevant frameworks. Despite this judicial finding, Khan explains that the ASP Bureau—a group of ICC member states—has invited further submissions and may still vote to remove him from office. Khan contests media characterizations of the UN report, arguing that while allegations appear in the investigative section, the 137 actual findings contain no determination of misconduct. He addresses the timeline of his warrant applications for Netanyahu and Gallant, demonstrating they predate the allegations against him, and discusses broader concerns about politicization of the ICC, due process principles, and the importance of judicial deference in international institutions.

KLJUČNE PORUKE

- Khan cooperated fully with the UN investigation and was exonerated by a panel of three unanimously agreed senior judges who found no evidence of misconduct or

abuse of authority, yet the ASP Bureau has not closed the matter and continues to invite submissions.

Khan denies all allegations entirely, including allegations of non-consensual sexual contact, and confirms he did not have a sexual relationship with the accuser; he stated this both to UN investigators and consistently since October 2024.

Khan argues the process itself is unprecedented and ad hoc, with rules and procedures invented at each decision point rather than established at the outset, violating due process principles and the jurisprudential principle that decision-making bodies should defer to advisory opinions from senior, unanimous judges unless manifestly unfit.

Media reports citing The Guardian and The New York Times have misrepresented the UN findings by conflating allegations in the investigative section with actual findings; the UN report contains 137 findings, none characterizing any conduct as inappropriate, and an independent UN expert stated the two-page summary is absolutely unacceptable and mischaracterizes the report.

Khan established the timeline of his warrant application for Netanyahu and Gallant (announced May 2024, applied for December 2023) predates the allegations against him (May 2024), and he had notified the US, France, UK, and others in March 2024 before any allegations emerged, demonstrating the applications are unrelated to personal allegations.

The judges emphasized they had serious doubts about the allegations and applied the correct evidentiary standard (beyond reasonable doubt, per the International Labor Organization Appeals Tribunal standard applicable in disciplinary matters), and Khan argues that even under a lower civil standard (balance of probabilities), the evidence was insufficient for a finding of misconduct.

Khan emphasizes that the matter is larger than any individual; what is critical during a time of geopolitical polarization and fracturing international law is maintaining the rule of law, respecting independent judges, and ensuring process and consistency in how such matters are handled across the institution.

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The Investigation Process and Judicial Findings

In May 2024, International Criminal Court Chief Prosecutor Karim Khan requested arrest warrants for Israel's Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant over alleged war crimes committed in Gaza. He also requested warrants for Hamas leaders. Since 2025, Khan has temporarily stepped away from his role as

Chief Prosecutor while a UN investigation examines sexual misconduct allegations made against him by a female ICC staff member. Some observers believe the investigation into Khan is connected to his warrant requests for Israel, which triggered a campaign to discredit the court. The investigation and review process has faced criticism for being non-transparent and novel in its procedures.

Khan has taken voluntary leave from the ICC as the investigation proceeded. In March of this year, a panel of three judges commissioned by the ICC—separate from the UN investigators—unanimously concluded that the UN investigation into those allegations does not establish misconduct or breach of duty under the relevant framework. However, instead of Khan returning to his position, a group of countries within the ICC's Assembly of State Parties (ASP Bureau) could still determine that Khan engaged in serious misconduct and force a vote among all 125 ICC member countries to remove him from office.

When asked about his reaction to the process, Khan described it as unprecedented. He explained that after cooperating with what he called a "novel" and "completely ad hoc" process, and upon seeing the report with no findings of misconduct or abuse of authority, along with the unanimous decision of the senior judges appointed by the bureau, he expected the matter to be closed immediately. Khan expressed perplexity that the bureau did not close it straight away, noting that they instead invited further submissions. He stated this has never happened before and that one needs to be concerned about it.

Khan emphasized that he cooperated with the process and the process exonerated him. He expressed concern about why it was not being closed and characterized the entire process as novel, with things being made up as people went along. In his view, the situation is no longer about the allegations themselves but rather about the process and devising a particular outcome. Khan contended that this approach runs counter to due process, which should respect the findings of independent judges who reviewed all evidence rather than attempting to achieve a predetermined result.

The ASP Bureau's Position and Khan's Defense

Interviewers noted that in early April, the majority of the ASP Bureau, including states like Belgium, Italy, Ecuador, and Brazil, voted in favor of making an initial determination that Khan may have committed some form of misconduct. They would argue that while the process may be ad hoc, the rules at the beginning made clear that the judges' decision was not binding—it was only an advisory opinion, and they are allowed to make their own decision.

Khan countered that there were actually no rules at the beginning. The rules that existed required the independent oversight mechanism to investigate matters. Khan called for an investigation in October 2024, and the independent oversight mechanism

closed the matter. It was then referred to UN investigators. Khan cooperated for more than a year, as did the complainant and others in the process. At each stage where there was a decision point, it was only then that the bureau decided what the next step would be. Khan emphasized that this ad hoc decision-making at each fork in the road is unprecedented.

Regarding the judges' advisory opinion, Khan explained his reasoning for believing their decision should be followed. He argued that the case law is clear that while an opinion is advisory, there is a principle of deference in jurisprudence. A decision-making body, particularly a political body like the bureau, should follow the advisory opinion unless there are insufficient reasons or it is manifestly unfit for purpose. The bureau appointed very senior, well-respected international judges from different parts of the world, and they were unanimous in their determination. This unanimity, Khan argued, should carry significant weight.

The UN Report Findings and Media Reporting

According to media outlets including The Guardian and The New York Times, the UN investigation found evidence establishing a factual basis for the accuser's claims against Khan. The investigation also reportedly found evidence that Khan retaliated against two other employees who reported the allegations. When pressed on whether all of this remains a significant problem for him, Khan raised the issue of false and inaccurate reporting. He noted that he has not seen the full UN report himself—only what The Guardian and New York Times have reported about it.

Khan explained that he has read the UN report and the findings of the judges. In the UN report, there are 137 findings, and not one of those findings characterizes any conduct as inappropriate in any way, shape, or form. Khan pointed out that what has happened is the creation of a two-page summary that, in his view, fundamentally misrepresents the findings of the UN investigation. When asked why such a misrepresentation would occur, Khan stated he had no idea, but emphasized that what is authoritative is the full report. In those 137 findings, there is no finding of misconduct or abuse of authority.

Khan highlighted that Ben Swanson, an independent expert brought in to oversee the investigation—who served as Assistant Secretary-General for all UN investigative entities—stated that the summary is absolutely unacceptable and mischaracterizes the report. According to Khan, the summary attempts to conflate evidence with findings. Khan and the judges make an important distinction: evidence is information, material, and allegations made, whereas a finding results from subjecting that body of material to analysis. Khan used the analogy of a DOJ indictment versus presenting it to a judge—the indictment contains allegations and evidence, but the judge's decision constitutes the actual finding.

On the Allegations and Khan's Denial

When specifically asked about The Guardian's report that the UN investigators found evidence that Khan engaged in non-consensual sexual contact with his accuser, Khan clarified that this allegation appears in a completely different section of the report—the allegations section, not the findings. Of course there are allegations, he noted, as that is why an investigation was conducted in the first place. The findings are what matter, and these were made by the UN and subsequently reviewed by the judges, who were, in Khan's words, absolutely unequivocal.

Regarding The Guardian's report that Khan would not confirm whether he had a sexual relationship with the staff member or accuser, Khan stated that he did confirm this to the UN. He denied the allegations entirely. The judges, in their report, stated that Khan denied all of the allegations. From the beginning, when individuals came to him, Khan told them to follow the normal reporting process. That is his track record. From the time he called for an investigation in October onward, he denied the allegations. When he met with the UN, in his opening comments to the investigators, he completely denied engaging in any harassment, abuse of authority, or inappropriate behavior whatsoever.

When directly asked to confirm for the record that he is denying the allegations of sexual misconduct and that he did not have any kind of relationship with the staff member, Khan stated: "Absolutely."

On the Release of the Full UN Report

When asked whether Khan would support releasing the whole UN report so viewers could assess it themselves, Khan invoked principles of consistency and confidentiality. He argued that like cases should be treated alike. He noted that he is not the first elected official to have been investigated. His predecessors as prosecutors have been investigated by the independent oversight mechanism, and judges have been investigated for different matters. Yet nobody knows their names or the details of those allegations. Khan questioned why it is now only his case that is being discussed publicly and with such scrutiny.

The interviewer pressed Khan on his reasons for confidentiality, noting they understand that there are proceedings and rights of confidentiality to protect complainants, families, and reputation and to allow due process. However, they pointed out that Khan himself had said the UN report was being misrepresented and mischaracterized multiple times, and suggested that releasing the full report would allow viewers to see for themselves what it actually says. Khan responded that these decisions about release are for the bureau to make—he has not devised this process. When asked directly if he would oppose releasing the full UN report, Khan did not commit to supporting such a release.

Legal Principles and the Rule of Law

What I will say is you must understand that you cannot keep changing the goalposts. Like cases should be treated alike. If we have a set of rules, nobody is above the law, but nobody is beneath the law either. The point is that there has to be consistency in how these matters are handled.

The Investigation and Judicial Review

The summaries have been seen by the media because people have said that they've seen those summaries. I haven't leaked anything. It's been with the bureau. State parties have seen this summary. The judges have seen everything. The judges have spoken, and now of course we're waiting to see what the bureau does with it. What we can't do is at every juncture they reach, decide the route which is most prejudicial to an individual, as opposed to an approach which is driven by principle.

The panel of judges in this case found insufficient evidence to support a finding of misconduct. They ultimately could not make a definitive proclamation on the existence or absence of the alleged misconduct. However, the judges did say in their executive summary that they were deeply frustrated with the UN report. They said the investigators failed to establish where the truth lies, leaving the panel with many unresolved factual disputes.

Interpreting the Judges' Decision

Letting aside rights to an expeditious process and the issue of like cases being treated alike, the point is this: I did not devise any of this. I was not consulted in any of this. This is a creation of the bureau. They created this process, and in that process there are determinations. If one looks at domestic matters, in any domestic case there is a charge. You don't have a finding of innocence. You have to say whether or not that charge is proved.

This process that they have created and that I have cooperated with has given rise to two reports. First, an investigative report from the UN which does not contain any findings of misconduct or abuse of process. Then the judges looked at that report, but also—and I think this is very important—they say they looked at all the underlying evidence, and they say there is no evidence of misconduct or abuse of process. The judges gave a meticulously reasoned decision based upon what they were tasked to do by the bureau.

Standards of Evidence and Judicial Authority

One judge, for example, stated that they had serious doubts. Serious doubts. You cannot just airbrush that out when a judge who is very experienced says they have serious doubts. It is not a marginal decision. It is a unanimous decision of three

handpicked judges, very respected judges, handpicked by the bureau for this process. They know their job. They are qualified. They are experienced. They have integrity, and their decision is that there is no misconduct or abuse of process.

There has been criticism of the judges for making their decision based on a criminal standard of beyond a reasonable doubt instead of the civil evidentiary standard, which is balance of probabilities, more likely than not. However, the bureau gave the standard to the judges they appointed. The supervisory authority is the International Labor Organization Appeals Tribunal, and that is the standard that is applicable in disciplinary matters. It would be a gross contortion of reality to say the judges said there is a smell here, or there is a prima facie case or a case on the balance of probabilities, but they are handcuffed to a higher standard. The judges have serious doubts, and my lawyers have said—and it is supported also by the decision—that even to a lower standard, the evidence was not there in order to find misconduct or abuse of authority.

For three judges of that seniority with that huge pedigree in gender crimes, in administrative processes, and in international adjudicative inquiries to be unanimous and say no misconduct and abuse of authority, this cannot be sidelined. It would be perilous to the institution at a time of massive polarization to sideline that just because people think a perceived wisdom has been established. This is not how due process works. It is the opposite of due process.

International Pressure and the Role of Politics

Last year, the US President Donald Trump sanctioned several ICC officials specifically citing the court's arrest warrants for Israeli Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant. There is a degree of unpredictability from the other side of the Atlantic that perhaps we haven't seen in many decades, if ever. The United States has a particular view on international justice and the rule of law, domestically and internationally, and that is manifested by sanctions and other measures. However, one hopes that the ones most immune from politicization are the judiciary, which is why I generally will always support judges as opposed to politics, particularly when there are considerable interests at play that we see manifest across the world at the moment.

The majority of countries which made an early finding saying there may be misconduct included Brazil, a country which is quite pro-Palestine and joined the South African case against Israel at the ICJ. The bureau has also breached its own processes. They have not said whether one should respond to serious misconduct or less serious misconduct. They simply invited submissions on whether there has been misconduct. It was not a unanimous decision, and it was the first time according to experts that the bureau made a decision without consensus. A number of countries voted in that way,

though African countries generally said they support the judges and back the judges. That was generally their response.

The Timeline and the Netanyahu Warrant Application

Israel has not been shy to capitalize on these allegations against me. Benjamin Netanyahu has accused me of requesting arrest warrants against him and Yoav Gallant as a way to distract from the allegations that were against me within the ICC. To use an American expression, that is baloney. The timeline shows it is baloney.

I went to Rafah in October 2023 and I was not allowed in. I went to Israel, I went to the kibbutzim and I went to Ramallah in November 2023 and I said on Israeli television and on Palestinian television: comply now, don't comply you know complain later. I said it repeatedly. I flew straight from Jerusalem Tel Aviv to New York. I gave a speech there. I appointed an independent panel of very eminent experts, and in March 2024 I told the Americans that I was going to be applying for warrants by the end of April. I told them for the timeline—this is before I even knew there were allegations. I then spoke to the French and the British and even Chinese. The Russians are not speaking to me. It is completely unrelated.

The allegations made against me reported internally at the ICC in early May 2024 came just weeks before I announced the arrest warrant application for Benjamin Netanyahu and Yoav Gallant in late May. However, I applied for warrants in December 2023. I made it a mantra that we must work at the speed of relevance. To be absolutely crystal clear: I had already told the United States and other individuals in March, and we also had the evidence review before May, before the allegations. The panel was constituted in January.

The Panel Report and Investigation Trajectory

The speaker references a panel report signed by eminent jurists, including Myron Ebell, Clooney, and Helena Kennedy, who were appointed in January. The panel was tasked with examining the trajectory of investigations into crimes in Israel related to hostage-taking and crimes in Gaza, and determining responsibility where applicable.

Allegations Against the Prosecutor

The prosecutor addresses allegations made by a female Muslim Malaysian staff member. A UN report states that multiple accounts discredit suggestions that this accuser was linked to Mossad. However, The Guardian newspaper has reported that pro-Israel actors do appear to have been active in leaking information about her complaint. When asked whether the prosecutor or the legal team found any involvement of Israel or its proxies in the complaint, the prosecutor responds that they have never made allegations against any staff member regarding Mossad membership or similar claims. The prosecutor clarifies that they do not have a counter-intelligence

service, and that the relevant evidence was provided to UN investigators and submitted to the panel of judges.

The prosecutor notes that Prime Minister Netanyahu has amplified these allegations and sought to instrumentalize them. Additionally, the prosecutor mentions that in March, intelligence services from both the GRU and Israeli intelligence were on the ground conducting close surveillance. The prosecutor describes these as two separate matters and declines to comment further on their connection.

UN Officials' Response and Support

When the judges' decision was announced, several UN officials celebrated it. Special rapporteur on the occupied Palestinian territories Francesca Albanese wrote that those who stand for justice must ensure the prosecutor will not be removed by the pro-apartheid camp. Special rapporteur on the right to housing Balakrishnan Rajagopal also expressed support for the decision.

The Broader Institutional Perspective

When asked what would happen to the ICC and the UN if the prosecutor were ultimately voted out by the full Assembly of State Parties, the prosecutor emphasizes that the matter is bigger than any individual. Prosecutors and judges, the prosecutor explains, are temporary custodians of the institution. What matters most is the institution itself and maintaining the rule of law, particularly at a time of great political controversy and major power confrontations. The prosecutor stresses the importance of process, vigilance, and respecting judges, describing these as essential to keeping the rule of law pristine during a period of fracturing international law.

Returning to Work and Office Management

When asked whether the prosecutor could simply return to work and pick up cases, including the Israel case, if the vote goes in their favor, the prosecutor responds that it is important to fulfill the mandate as an elected official. However, working in a harmonious way with colleagues requires engagement. The prosecutor inherited an office that, according to a 2020 independent expert report, was considered a toxic work environment driven by schisms and factions. To address this, the prosecutor appointed a workplace panel, a special advisor on workplace culture for the first time, and a gender focal point for the office. The prosecutor acknowledges that the office still faces toxicity and that much work remains in change management.

Despite these challenges, the prosecutor expresses commendation for the resilience of the men and women in the office. They have continued working through COVID, sanctions, arrest warrants, and in a fraught, pressurized environment, all while remaining focused on what matters most: the victims. The prosecutor commits to continuing this work, listening to concerns, and moving forward.

#ICC investigation and judicial review process #Sexual misconduct allegations and denial #UN report findings and media representation #Arrest warrants for Israel and Gaza #Due process and rule of law #International justice and politicization #Institutional integrity and workplace culture

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