ICC probe won’t deter Israel from expanding settlements, Netanyahu vows

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Prime Minister Benjamin Netanyahu on Wednesday said the decision of the International Criminal Court’s prosecutor to launch an investigation of war crimes allegedly committed in the West Bank, including the building of settlements there, will not prevent Israel from further expanding those Israeli towns.

“This will not deter us — not in the slightest,” he said, referring to Fatou Bensouda’s December 20 announcement that she found “reasonable basis to proceed with an investigation into the situation in Palestine.”

In her statement, which followed a five-year preliminary examination, [the prosecutor determined](https://www.timesofisrael.com/the-hague-vs-israel-everything-you-need-to-know-about-the-icc-palestine-probe/) that Israeli settlements in Palestinian-claimed territory may constitute a war crime.

Netanyahu made the comments at a conference of pro-settlement advocates in celebration of US Secretary of State Mike Pompeo’s recent [statement on the legality of Israeli settlements](https://www.timesofisrael.com/pompeos-settlements-speech-empty-rhetoric-or-prelude-to-annexation/).

“Pompeo’s declaration is the appropriate response to the scandalous decision of the International Criminal Court in The Hague to investigate the settlement enterprise in Judea and Samaria, which, brazenly, is considered a war crime,” he said, referring to the West Bank by its biblical name.

“As opposed to the views of some in the European community who view Pompeo’s declaration as a step that distances peace, I say the exact opposite: This declaration advances the chances of peace, because peace must be based on truth and not lies,” Netanyahu added.

Netanyahu went on to vow that he would not allow a single settlement to be uprooted, under any peace plan. The idea of “ethnically cleansing” the West Bank of Jews was inadmissible and must be discarded, he argued.

“We never lost our right to live in Judea and Samaria,” he went on.

“The only thing we lost, temporarily, was the ability to assume our rights after 1948, between the War of Independence and the Six Day War. And when we returned there, we didn’t return to a strange land that we stole from its previous owners,” Netanyahu said. “This is a total distortion of the historical truth.”

The current US administration and its pro-Israel positions present great opportunities, the prime minister said, going on to hint at his desire for US President Donald Trump to win another term in the White House.

A window of opportunity is currently open, he said, but it will remain open only “for a brief period of time — I hope it won’t be so brief, but I can’t go into it now,” he said to applause from the audience.

Notably, in his 25-minute speech, Netanyahu did not mention his promise to annex large parts of the West Bank, including the entire Jordan Valley and all settlements. He also did not explicitly rule out the creation of a Palestinian state on parts of the West Bank.

Trump’s special envoy to the peace process, Avi Berkowitz, [was in Israel earlier this week](https://www.timesofisrael.com/trumps-media-shy-new-peace-envoy-berkowitz-meets-israeli-leaders/) to discuss the administration’s plan to publish its long-expected peace proposal. Neither Netanyahu nor US Ambassador to Israel David Friedman, who also addressed the conference, revealed any details about the plan.

On November 18, Pompeo [declared](https://www.timesofisrael.com/full-text-of-pompeos-statement-on-settlements/) that the “establishment of Israeli civilian settlements in the West Bank is not per se inconsistent with international law.”

In a video message recorded for Wednesday’s conference, which took place in Jerusalem’s Menachem Begin Heritage Center, the US top diplomat reiterated his position on settlements, stressing that the administration rejects the so-called Hansell Memorandum, which under president Jimmy Carter determined that Israel’s establishment of civilian settlements in the territories captured in 1967 is “inconsistent with international law.”

“It’s important that we speak the truth when the facts lead us to it, and that’s what we have done,” Pompeo said. “We’re recognizing that these settlements don’t inherently violate international law. That’s important. We’re disavowing the deeply flawed 1978 Hansell Memo, and we’re returning to a balanced and sober Reagan-era approach, and in doing so, we’re advancing the cause of peace between Israelis and Palestinians.”

In 1981, president Ronald Reagan partially repudiated the [memorandum](https://www.hlrn.org/img/documents/USSDLegalAdvisorHansell_ltr.pdf), declaring that the settlements are not necessarily illegal, though he stressed that they are harmful to peace efforts.

The pro-settlement Kohelet Policy Forum, which co-sponsored the conference, celebrated Pompeo’s explicit disavowing of the memorandum.

“American Policy is now clearer than ever: Jews living in Judea and Samaria is not a crime,” said Eugene Kontorovich, who heads Kohelet’s international law department.

“For decades, the obscure Carter-era memo was used as justification for anti-Israel policies despite the fact that its conclusions were rejected by subsequent administrations,” he said. “Secretary Pompeo’s statement at the Kohelet conference today makes clear the US’s wholesale rejection of the legal theory that holds that international law restricts Israeli Jews from moving into areas from which Jordan had ethnically cleansed them in 1949.”

Also speaking at the conference, Defense Minister Naftali Bennett vowed to advance the annexation of Area C — the swaths of the West bank that include the settlements and that under the Oslo Accords are under full Israeli civilian and military control.

“I want to explain that as the defense minister, I declare a policy that Area C belongs to the State of Israel,” he said. For many years, Jerusalem helped Palestinians build up houses there, he claimed, vowing to halt that trend.

“We’re not the UN, we’re the State of Israel, and our political interest is to capture and settle Israel’s territory,” he went on. His goal was to apply Israeli sovereignty over Area C “in very little time,” he added. “Not merely settlements, not just one bloc or another.”

Bennett then added what may be interpreted as a condition for his New Right party to join the coalition that may be formed after the March 2 Knesset election. “The mission of the next government is to break out and apply sovereignty over Greater Jerusalem, Ma’aleh Adumim, the Etzion bloc, Givat Zeev, the Jordan Valley and everything in between,” he said.

Foreign Minister Israel Katz, too, addressed the conference, saying that Israel has a historical right to settle the West Bank and calling for the annexation of the Jordan Valley.