Erekat sends ICC prosecutor letter on Israeli, war crimes, crimes against humanity

October 17, 2018

Wafa News

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Saeb Erekat, secretary general of the Executive Committee of the Palestine Liberation Organization sent a letter to the prosecutor of the International Criminal court (ICC), Fatou Bensouda, outlining Israeli crimes against humanity and war crimes within the meaning of Articles 7(2)(h) and 8(2)(b)(viii) of the Rome Statute, particularly the ongoing colonial settlement activity in the Palestinian city of Hebron.

Following if the full text of the letter:

Dear Prosecutor Bensouda,

I write today with regard to your preliminary examination of the situation in Palestine. I believe that the information in this letter is relevant to your ongoing work vis-à-vis Israeli crimes against humanity and war crimes within the meaning of Articles 7(2)(h) and 8(2)(b)(viii) of the Rome Statute, specifically they relate to the ongoing colonial settlement activity in the Palestinian city of Hebron. The following outlines the contextual basis for Israel’s crimes against the Palestinian people in Hebron today, and the urgency of this communiqué.

1. Following the 5 June 1967 Israeli occupation of the State of Palestine, Israel begins to implement a series of settler-colonial policies. On 4 April 1968, posing as Swiss tourists, 88 ultra-radical, right-wing extremist Jewish-Israelis, led by Rabbi Moshe Levinger, check into the Park Hotel in Hebron. The next day, they announce that they will establish a Jewish-Israeli colony in the heart of Hebron, and refuse to leave. Israeli Prime Minister Levi Eshkol immediately approves the construction of Kiryat Arba, one of the most violent and incendiary Israeli settlements in Palestine. The settler-colony of Jewish extremists was officially established by 1971. Today, Kiryat Arba has a population over 7,300 settlers.

2. On 26 April 1979, 40 Jewish-Israeli settlers from Kiryat Arba seizes the UNRWA elementary school, and with the assistance of the Israeli occupying forces and Israeli government, they establish the settler-colony of Beit Hadassah within the building.

3. Again, on 26 October 1981, colonial-settlers seize the homes of three Palestinian families and establish the settler-colony of Beit Schneersohn. Then on 28 October 1982, the settlers demolish the homes of 12 Palestinians in the Old City of Hebron to establish a new settler-colony, and simultaneously establish the settler-colony of Madreset Osama/Beit Romano on the grounds of a Palestinian boys’ school.

4. Less than three kilometers from Kiryat Arba, Israeli occupying authorities approve the construction of the settler-colony of Givat Harsina in 1983, sitting only meters away from Palestinian family homes. That same year, Israel establishes the illegal colony of Avraham Avinu behind the Palestinian vegetable market in the Old City of Hebron, thus permanently closing down the market.

5. On 15 July 1984, Israel establishes the colony of Beit Haggai, situated a few meters away from Palestinian homes in the south of Hebron. One month later, the Israeli occupying authorities establish the colony of Ramat Yishai/Tel Rumeida, on a Muslim cemetery in the heart of the Old City. With the assistance of the Israeli occupying forces, Israeli settlers destroy 23 Palestinian almond trees to expand the colony.

6. Following the start of the Oslo Peace Process, Israel allocates funds for the construction of additional settlement units in the settler-colonies of Madreset Osama/Beit Romano and Beit Schneersohn, in violation of the Oslo Agreements.

7. During Ramadan, on the morning of 25 February 1994, US-born Israeli settler, Baruch Goldstein opens fire on Muslim worshippers in the Haram al-Ibrahimi Mosque/Tomb of the Patriarchs, of the most sacred sites in Islam, killing 29 Palestinians and injuring 125 others. In the days that follow, the Israeli occupying forces kill an additional 36 Palestinians and shut down the area, legitimizing their actions moving forward in the Old City, and shut down Shuhada Street.

8. Prior to 1997, Israel controlled all of Hebron. Upon the signing of the Hebron Protocol on 17 January 1997, Hebron is divided into the H1 and H2 areas, whereby control of H1 shifts to the Palestinian Authority and H2 is to remain under Israeli occupying forces’ control. As a result, the Palestinian population of H2 significantly declines, over 500 Palestinian shops and commercial buildings are permanently shut down by Israeli military order, an additional 1,100 are forced to close down due to Israeli closures and restricted access, at least one third of Palestinian homes in the restricted area are abandoned due to Israeli coercive measures, and thousands of Palestinians are forced to leave.

9. By 1998, Israel allocates approximately $3 million for the construction of permanent structures in the Tel Rumedia settler-colony, and a wave of other closures and Apartheid policies are put in place to permanently restrict Palestinian movement and access in the Old City, as seen across the occupied State of Palestine. Since its establishment, the illegal settlement of Tel Rumeida has undergone numerous expansions, facilitated and funded by the Israeli occupying authorities.

10. As of October 2000, Israel has imposed a strict military curfew on the 20,000 Palestinians living in the Old City of Hebron. Until today, Palestinians live under 24-hour military curfew, and are systematically denied the ability of free movement to their homes, schools, work, and places of worship. The infamous Shuhada Street was completely shut down and sealed off to Palestinians by the Israeli occupying forces. Palestinians are forbidden to walk along the section between the Avraham Avinu and Bet Hadassah colonial settlements, let alone drive on the street. Those Palestinians allowed into Shuhada Street are very few, and only those that were able to resist forcible transfer. Often times, their homes are considered closed military zones by the Israeli occupying forces.

11. Al-Shuhada Street is approximately 400 meters long and between 10 and 15 meters wide. The street connects the northern city's neighborhoods to the southern part through three conjunctions. Shops line both sides of the streets and Palestinian citizens mainly reside above the commercial shops located on street level.

12. On 29 April, 2002, the Israeli occupying forces enter the Palestinian administered H1 area of Hebron, and retake control of the area in a heavy military operation, known as Operation Defensive Shield, and in 2003, the Israeli occupying forces construct two fortified posts in Palestinian neighborhoods, and declares them closed military zones.

13. In November 2002, during the height of the Second Intifada, Israel uses the pretext of an ambush of nine Israeli soldiers and three armed security agents to announce that they will destroy Palestinian homes in order to construct a “corridor” between the illegal colony of Kiryat Arba and the illegal colonies situated in the Old City of Hebron. Three houses are immediately demolished. The order to build the corridor is temporarily halted by the Israeli High Court. Days later, Israeli Prime Minister Ariel Sharon announces the construction of another illegal settler-colony in the Old City, which will include 1,000 settler housing units.

14. In 2005, the Israeli High Court of Justice orders Shuhada Street reopened to Palestinian pedestrians. Despite this, the Israeli occupying forces, specifically the military commander, orders the street to remain sealed off, and institutes new restrictive measures.

15. In 2007, 100 Jewish-Israeli settlers occupied a Palestinian family building and established the settler-colony of Beit al-Rajabi/Beit Ha Shalom. The Israeli court ordered the eviction of the settlers, however in 2014, the court ruled in favor of the colonial settlers and reoccupied the building since.

16. In November 2015, Israel expands the closed military zone, extending to the Tel Rumeida settler-colony and further restricting access of Shuhada Street to Palestinians, as well as citizens from international countries.

17. On 31 August 2017, Israel issues military order No. 1789 to establish a “civil services administration” for settlements in H2, and consolidates settler presences and upgrades the status of settlements through conferring legal personality and new powers, such as purchase powers, renovation powers, municipal services, and legal representation to settlers.

18. On 16 October 2017, the Israeli occupying authorities indicate a decision to approve a permit request to build 31 housing units for a new settlement on Shuhada Street, marking the first fully-fledged building of a colonial settlement from the ground up since 1979, and in the heart of Shuhada Street. Funds are allocated by official funds from the Israeli occupying authorities – a total of $6 million USD of funding for colonial settlement expansion, including the building of the 31 housing units in Shuhada Street, creating a very dangerous precedent.

19. On 17 October 2018, one year later, the request is approved by the Israeli occupying authorities. Such a move will lead to the further closure of this area and will divide the northern and southern parts of Hebron's Old City. It is slated to increase the number of colonial settlers by 20 percent, increase roadblocks, checkpoints, further attacks on Palestinians, and will prevent ever reverting to the Hebron Protocol of 1997. It will also violate the sanctity of Hebron as a UNESCO world heritage site.

20. Between 1 January 2009 and 16 October 2018 alone, 730 Palestinian structures in the Hebron Governorate have been fully demolished by the Israeli occupying authorities. This number does not include the thousands of outstanding demolition orders by Israel, the Occupying Power.

21. The situation created by Israel in Hebron has been described by UNOCHA:

“The coercive environment generated by access restrictions, along with systematic harassment by Israeli settlers, has resulted in the forcible transfer of thousands of Palestinians and the deterioration of the living conditions of those who remain.”

22. The H2 area in numbers:

a.         Checkpoints:                                20

b.         Partial Checkpoints:                    11

c.         Roadblocks:                                 41

d.         Road Gates:                                  5

e.         Other Obstacles:                           34

f.          Total Obstacles:                            111

g.         Palestinian Population:                 40,000

h.         Jewish-Israeli Colonial Settlers:   750

i.          Number of Colonial Settlements:  5

j.          Israeli Occupying Forces:              1,500 (including those surrounding the H2 area)

23. The situation of Hebron is intolerable, creating a clear policy of Apartheid. As you know quite well, the crime of Apartheid is considered a Crime Against Humanity within the meaning of Article 7(2)(h) of the Rome Statute, and is characterized as “inhumane acts…committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime”.

24. In addition, Article 1 of the International Convention on the Suppression and Punishment of the Crime of Apartheid, defines the crime of Apartheid as “inhumane acts resulting from policies and practices of apartheid and similar policies and practices of racial segregation and discrimination[.]”

25. Further, pursuant to Article 49 of the Fourth Geneva Convention, Israeli settlements constitute a grave violation of international law: “the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”  This is also reiterated by the Rome Statute, which characterizes the transfer of the civilian population of the occupying power into occupied territory as a War Crime within the meaning of Article 8(2)(b)(viii).

Your office has indicated that you must determine whether there is a reasonable basis that crimes within the ICC’s jurisdiction have been committed by Israel, the Occupying Power. For over 51 years, the Israeli occupation has plagued the Palestinian people through countless violations of international law, including those crimes outlined in this letter. Settler colonialism cannot continue without accountability, and those responsible for crimes against humanity and war crimes must be brought to justice. It is contingent upon your office to swiftly and expeditiously carry out your work in determining that crimes within the ICC’s jurisdiction have been committed and require your immediate attention.

Sincerely,

Dr. Saeb Erekat

PLO Secretary General

T.R.