**Has the ICC prosecutor secretly colluded with the PA and already decided to prosecute Israel? A Jordanian news site says so**

By: Itamar Marcus and Maurice Hirsch, Adv.

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In response to Palestinian complaints against Israel, the prosecutor for the International Criminal Court (ICC), submitted in December 2019 a request to the ICC’s Pre-Trial Chamber ostensibly asking the Chamber to confirm that the ICC has jurisdiction over “the situation of Palestine” and to confirm that the territory “comprises the West Bank, including East Jerusalem, and Gaza.” Palestinian Media Watch and dozens of other organizations and governments submitted Amicus Curaie (Friends of the Court) briefs showing that according to international law there is no “State of Palestine” and therefore the court has no jurisdiction. The prosecutor is meant to respond to the Amicus briefs by the end of the month.

Now it turns out, according to the Jordanian Jafra News, that this entire pre-trial legal process to determine if the court has jurisdiction and its scope is actually a mere charade with the puppeteer pulling the strings of deception being the General Prosecutor of the ICC herself, Fatou Bensouda. A PA source in contact with the general prosecutor’s office, told the Jordanian site that the request of the Prosecutor to the Pre-Trial Chamber was only initiated in order to protect “the ICC's public image… in a sensitive investigation such as this,” but in fact the decision of the court already is that there is jurisdiction:

“The general prosecutor’s office explained to the Palestinian side that it did not wait for the Preliminary Department's (i.e., Pre-Trial Chamber–Ed.) decision in order to begin preparations to open an investigation. This is because the aforementioned decision [that the ICC has jurisdiction] is a foregone conclusion, and a petition to this [Pre-Trial] Chamber was only done in the first place out of considerations related to protecting the ICC's public image and its proper activity, in the framework of its official authorities in a sensitive investigation such as this.”

[Jordanian news website jfranews.com.jo, March 5, 2020]

This behind-the-scenes collusion led, according to the Jordanian report, to information being given by “the ICC General Prosecutor Fatou Bensouda and her staff” to the PA, indicating “that the prosecutor’s office has taken the necessary steps towards launching a comprehensive investigation of the Israeli occupation’s crimes in the Palestinian West Bank,” even prior to the decision whether the court has jurisdiction at all. This report by Jafra News suggests that the ICC prosecutor is biased, lacks integrity, and therefore is incapable of conducting a fair proceeding concerning Israel.

Considering the collusion between the PA and the ICC prosecutor, who initiated sham proceedings merely to protect the ICC's image, it is no wonder that the PA is optimistic. According to Jafra News:

“PLO Executive Committee Secretary Saeb Erekat expressed confidence that a judicial investigation of Israeli senior officials on the issue of the settlements and other war crimes against the Palestinian people will soon be launched.”

[Jordanian news website jfranews.com.jo, March 5, 2020]

PMW has corroborated that there have been contacts at the highest level between the ICC and the Palestinian Authority, although the content of the meetings have not been publicized. For example, this picture published by WAFA, the official PA news agency, shows PA Prime Minister Muhammad Shtayyeh meeting with ICC’s Chief Prosecutor Fatou Bensouda in February this year. [WAFA, Feb. 15, 2020]

The Jordanian news site’s exposure of the collusion between the PA and the ICC Prosecutor explains the confidence of PA/PLO officials such as Erekat in the outcome on the pretrial request to determine if there is “territorial jurisdiction,” already months ago:

“The step taken by the prosecutors represents a confirmation of her position that the ICC has territorial jurisdiction to examine the ongoing crimes that are committed by Israel, the Occupying Power. It is the final step towards opening a criminal investigation, and it is a message of hope to our people, the victims of those crimes, that justice is indeed possible.”

[Wafa, official PA News Agency (English) Dec. 20, 2019]

Soon after the ICC Prosecutor submitted her request to the court intended to “protect the ICC’s public image,” Erekat told PA TV that not only the PA had been involved in preparing the case for the ICC but that internationally designated terror groups, such as Hamas and the Popular Front for the Liberation of Palestine (PFLP), also participated:

PLO Executive Committee Secretary Saeb Erekat: “After our acceptance as members of the ICC, His Honor [PA] President [Mahmoud Abbas] established a supreme national committee responsible for following up with the court. I have the honor of chairing it. [PA Minister of Foreign Affairs] brother Riyad Al-Malki is the official link connecting to the ICC, and he is the rapporteur to the committee…This committee included [factions] from all ends of the Palestinian political spectrum, without any exceptions… The number of committee members was 45 and we all worked as a team. Dr. Ghazi Hamad of [Hamas] was even elected the committee’s spokesman.”

Official PA TV interviewer: “He is a senior Hamas official.”

Erekat: “There were six from the Hamas Movement. And sister Khalida Jarrar who represented the Popular Front [for the Liberation of Palestine], Allah willing may she be released; and there was [Deputy Secretary-General of the Democratic Front for the Liberation of Palestine] brother Qais [Abd Al-Karim] ‘Abu Laila.’”

[Official PA TV, Dec. 21, 2019]

In other words, when she worked with the PA to submit her sham request, the ICC Prosecutor actually had worked with a committee comprised of many of the organizations that would all, factually and legally, be potential suspects in the ICC. Hamas and the PFLP both engage in “widespread or systematic attack[s]” directed against Israel’s civilian population (Article 7, Rome Statute). As regards the PA, the ICC Prosecutor herself has noted that the “PA have encouraged and provided financial incentives for the commission of violence through their provision of payments to the families of Palestinians who were involved, in particular, in carrying out attacks against Israeli citizens, and under the circumstances, the payment of such stipends may give rise to Rome Statute crimes.” (ICC Prosecutor Report on Preliminary Examination Activities, 2019)

The close contacts exposed by the PA official to Jafra News between the ICC prosecutor and the PA, together with her submission of a sham request merely to protect the ICC image, fundamentally undermines the professionalism, impartiality and ethics of the ICC prosecutor, and is a clear abuse of her position.

If the ICC indeed wishes to protect its image, it should immediately terminate further activity regarding the sham request of the prosecutor. In addition, it should initiate a thorough investigation of the contacts between the prosecutor and the PA committee comprised of Palestinian terror organizations who have undeniably committed crimes, the nature of which the court would deal with, if it had jurisdiction.

About Jafra News website

Jafra News is a Jordanian news site that is close to and supportive in its writing of the Jordanian government. At its 10 year anniversary celebrations last year many senior government officials attended:

“The Jafra News family, represented by its Chairman of the Board Nidal Al-Fara’neh held today a Ramadan iftar at the Bristol Hotel, with impressive presence and broad participation of the large Jordanian community, headed by their excellencies, the president of the [Jordanian] Senate Faisal Al-Fayez, Former Prime Minister Dr. Hani Mulki, Former Prime Minister Samir Rifai, speaker of the House of Representatives Atef Tarawneh and a large number of eminent ministers, members of the House of Representatives, chairmen of trade unions, General Secretaries and Directors of Government Institutions, colleagues from the journalistic and media community, artists, businessmen and friends.”

[Jordanian government newspaper, Ad-Dustour May 22, 2019]

The publisher of the news site Nidal Al-Fara’neh was previously a senior official in the Jordanian government Press and Publications Department.

The previous editor-in-chief of the site Omar Al-Maharma served as media advisor to the Jordanian Ministry of Justice, worked for the government newspaper Ad-Dustour and was elected as a representative to the Jordanian Journalists’ Association.

The current editor Essam Mubaideen is now a candidate for election to membership in the Jordanian Press Association, and previously held the position of head of the Committee to Resist Normalization with Israel of the journalists’ association.

The website, jfranews.com.jo, is also well known, with 1.1 million Facebook followers.

The following is a longer excerpt of the article showing the ICC prosecutor’s initiating a sham pre-trial review merely “protect the ICC’s public image”:

Headline: “Pompeo: ‘The PA is not a state’; optimism about the investigation of the occupation’s crimes at The Hague”

“Optimism reigns in the PA circles, which is now convinced that a comprehensive investigation of the Israeli occupation’s crimes will soon be launched at the International Criminal Court (ICC).

A Palestinian source, who is involved in what is happening behind the scenes in everything connected to the contacts taking place between the PA and the ICC at The Hague, revealed to [the Jordanian news website] Jfra News that the Palestinian side – based on what was presented by the ICC General Prosecutor Fatou Bensouda and her staff – has become convinced that the prosecutor’s office has taken the necessary steps towards launching a comprehensive investigation of the Israeli occupation’s crimes in the Palestinian West Bank.

In addition, the general prosecutor’s office explained to the Palestinian side that it did not wait for the Preliminary Department's (apparently Pre-Trial Chamber I –Ed.) decision in order to begin preparations to open an investigation. This is because the aforementioned decision is a foregone conclusion, and a petition to this department was only done in the first place out of considerations related to protecting the ICC’s public image and its proper activity, in the framework of its official authorities in a sensitive investigation such as this.

PLO Executive Committee Secretary Saeb Erekat expressed confidence that a judicial investigation of Israeli senior officials on the issue of the settlements and other war crimes against the Palestinian people will soon be launched.

It should be noted that the ICC general prosecutor demanded at the end of last December [2019] that the Preliminary Department (an ICC department composed of three judges) [parentheses in source] issue a decision within a month on the matter of its territorial jurisdiction in Palestine.

Palestinian [PA] President Mahmoud Abbas expressed satisfaction with Judge Bensouda’s statement, which received the support of Turkey, the Arab League, and responsible bodies in the Islamic world.

On the opposing side, American Secretary of State Mike Pompeo condemned the decision. He emphasized that the PA is not a state, and therefore it cannot join international bodies such as the ICC.

The PA is aware of the Israeli concerns and Israel’s attempts to avoid investigation by employing many experts in international law and mobilizing political support against it.

[The PA] provided the ICC with many legal materials, and it is aiding the ICC and cooperating with it. This is an effort to exhaust the legal proceedings against the occupation state, and in order to aid the prosecutor and her staff in doing justice and ensuring that international law is honored.”

[Jordanian news website jfranews.com.jo, March 5, 2020]

Saeb Erekat also serves as Fatah Central Committee member and PLO Chief Negotiator.