Biden officials privately pushed Abbas to shelve ICC probe against Israel

September 10, 2021

By Joseph Magid

The Times of Israel

<https://www.timesofisrael.com/biden-officials-privately-pushed-abbas-to-shelve-icc-probe-against-israel/>

Senior officials in the Biden administration have privately pressed the Palestinian Authority, including its president Mahmoud Abbas, to walk back Ramallah’s effort to have Israel tried for war crimes at the International Criminal Court (ICC), a Middle Eastern diplomatic official told The Times of Israel on Thursday.

Publicly, the United States has issued [statements](https://twitter.com/SecBlinken/status/1367287375701938180?s=20) “firmly” opposing the ICC’s March decision to probe alleged actions committed by Israel and Palestinian terror groups in the West Bank, Gaza, and East Jerusalem since 2014.

The Biden administration, like the previous one led by former US president Donald Trump, maintains that the court does not have the jurisdiction to adjudicate the case because Israel, like the US, is not a signatory to the Rome Statute that established the ICC.

Moreover, Washington maintains that there is no Palestinian sovereign state and therefore it shouldn’t be granted membership at the ICC, nor be allowed to delegate jurisdiction to The Hague-based court. The ICC is also probing alleged war crimes in Afghanistan by Afghan forces, the Taliban and US military.

However, the Biden administration, in April, [revoked](https://www.timesofisrael.com/us-scraps-trumps-sanctions-against-icc-chief-prosecutor-bensouda-top-aide/) Trump-era sanctions against Fatou Bensouda, the ICC prosecutor who initiated the investigation into the “Situation in Palestine,” along with a top aide of hers.

The US has also refrained from publicly calling for Abbas to revoke the complaint against Israel he filed before the ICC in 2015, though its unclear what authority the PA president has at this point to roll back the process, once a decision to open an investigation has already been made by the court.

Nonetheless, Biden officials have several times urged Abbas and other senior figures in the PA to renounce the ICC investigation, arguing that it exacerbates efforts to keep dimming prospects for a two-state solution alive and antagonizes Israel, the Middle Eastern diplomat said.

Abbas, for his part, has bucked the requests, maintaining that he has every right to pursue the probe and that it is one of the few avenues he has to peacefully confront Israel, the diplomat explained. Distancing himself from the ICC probe would also be a highly unpopular move among Palestinians for the PA president, who is already facing a severe legitimacy crisis.

Prime Minister Naftali Bennett said [last week](https://www.timesofisrael.com/bennett-says-he-wont-meet-with-abbas-after-pa-chief-brought-israel-before-icc/) that he would not meet with Abbas, given the latter’s decision to bring Israel before the Hague, adding that he also opposes entering negotiations with the PA leader over a potential Palestinian state.

A well-placed Palestinian source confirmed that Biden officials raised shelving the ICC probe earlier this year, but added that the pressure has largely subsided more recently, as the US waits for the new Israeli government to pass a budget by early November, without which the parliament would automatically dissolve, triggering new elections.

“They cannot ask things only of the Palestinians, when they are not asking anything of the Israelis,” the source said.

The source appeared to be referencing the Biden administration’s willingness to hold off on plans to reopen a US consulate in Jerusalem — which will serve as a de facto mission to the Palestinians — until after Bennett’s nascent coalition passes a budget.

The White House has also recognized to their Israeli counterparts that it cannot ask for overly grand gestures toward the Palestinians, as it could risk toppling the politically diverse government in Jerusalem, US and Israeli officials have told ToI.

The Biden administration has separately urged the PA to reform its welfare system, which includes regular stipends to security prisoners who have killed Israelis and to the families of those killed while carrying out attacks.

But on this issue too, the Biden administration has more recently eased its pressure as it waits for Bennett’s government to pass a budget, the well-placed Palestinian source said.

The State Department did not respond to a query on the matter, but an official speaking on background reiterated to ToI previously stated positions regarding the ICC investigation.

“The United States firmly opposes the ICC investigation into the Palestinian Situation. We will continue to uphold our strong commitment to Israel and its security, including by opposing actions that seek to target Israel unfairly,” the official said.