

## PA Min. of Justice compares ICC prosecution of Israelis with Nuremberg prosecution of Nazi leaders

*Nan Jacques Zilberdik | Feb 15, 2021*

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- **PA PM Shtayyeh whitewashes all Palestinian terror, opposes ICC trying Hamas for its crimes: “Palestinians were never on the attack, always on the defense”**
- **PLO official Abu Bakr on the ICC’s decision: “A national achievement saturated in the blood of the Martyrs, the wounded, and the prisoners”**

Earlier this month, the pre-trial chamber of the International Criminal Court (ICC) issued a decision granting the ICC jurisdiction to investigate and prosecute Israelis for alleged war crimes and crimes against humanity committed against Palestinians in the West Bank, East Jerusalem, and the Gaza Strip. The decision came despite the fact that Israel is not a member of the ICC, and there is no “State of Palestine.” Nevertheless, the PA has been a member of the ICC - a right otherwise reserved for states - since 2015. The ICC’s decision also opens the possibility of prosecution of Palestinians who have committed such crimes against Israelis. The following are some of the responses from top PA officials.

Praising the ICC’s decision, PA Minister of Justice Muhammad Al-Shalalkeh compared the ICC’s prosecution of Israelis with the Nuremberg prosecution of Nazi leaders:



**PA Minister of Justice Muhammad Al-Shalaldeh:** "The International [Criminal] Court (ICC) has full authority for judging and extradition. The Israeli settlers, or **the Israeli war criminals...** **There will be a list of names that may begin- We can investigate the [Israeli] prime minister...** The ICC will act according to a legal plan, according to the legal measures for extradition and prosecution, and **there were experiences with this after World War II: the court in Nuremberg and in Tokyo for prosecuting and punishing the Nazis."**

[Official PA TV, *Palestine This Morning*, Feb. 7, 2021]

PA PM Muhammad Shtayyeh also welcomed the ICC's decision, and its "ruling" that "Palestine is a state." Shtayyeh furthermore exploited the opportunity to whitewash all Palestinian terror against Israel as mere "defense." Asked if he would welcome an ICC probe into the crimes of Palestinian groups such as Hamas, Shtayyeh said: "Of course not," claiming that "Palestinians have never been on the attack," but "always on the defense":



**PA PM Shtayyeh:** “We are very happy to see the decision by the ICC... Not only because of the opening of the investigation but also the court has ruled that the Palestinian territory is the West Bank, including East Jerusalem as well as Gaza and that Palestine is a state! ... I think it is very important that the whole world will realize the crimes that have been committed by Israel...”

**France 24 interviewer:** “But this could also imply possible crimes by Palestinian groups, especially Hamas. Would you also welcome that?”

**PA PM Shtayyeh:** “Of course not. I mean by all means we will leave it to the court to decide in which direction to take the investigation, but by all means, Palestinians have never been on the attack. Palestinians have always been on the defense.”

[Facebook page of PA Prime Minister Muhammad Shtayyeh, Feb. 7, 2021]

The head of the PLO’s Commission of Prisoners’ Affairs, Qadri Abu Bakr, called the ICC’s decision “a national achievement saturated in the blood of the Martyrs, the wounded, and the prisoners,” and called on the ICC to hurry”:

“Director of [PLO] Commission of Prisoners’ Affairs Qadri Abu Bakr praised the ICC judges’ decision... [saying] that **the decision is a great national achievement that is saturated in the blood of the Martyrs, the wounded, and the prisoners, and in the Palestinian people’s endless sacrifices.** He called on the ICC to hurry and investigate the severe violations against the Palestinian people, its lands, and property, and [all the way to] **prosecuting the leaders and criminals of the Israeli entity as war criminals...**”

[Ma'an, independent Palestinian news agency, Feb. 6, 2021]

Palestinian Media Watch has documented that PA Minister of Justice earlier has admitted that the ICC has no jurisdiction over Israel.

***The following are longer excerpts of the statements cited above and additional PA reactions to the decision of the ICC:***

*Video posted on the Facebook page of PA Prime Minister Muhammad Shtayyeh of him interviewing in English with France 24*

**France 24 interviewer:** "On Friday the ICC ruled that it had jurisdiction over Palestinian territories, opening the possibility of a criminal probe into past actions by the Israeli army and by Palestinian groups."

**PA PM Shtayyeh:** "We are very happy to see the decision by the ICC. This is something that has been very important for us. Not only the opening of the investigation but also the court has ruled that the Palestinian territory is the West Bank and East Jerusalem as well as Gaza and that Palestine is a state! And that this court has jurisdiction upon the invitation of the Palestinian- upon the State of Palestine. So we are now waiting for the next phase of the investigation. I think it is very important that the whole world will realize the crimes that have been committed by Israel, whether against our people in Gaza or the continuous crimes that have to do with the intensification of the colonization programs and building settlements illegally, illegitimately on an expropriated Palestinian land and territory."

**France 24 interviewer:** "But this could also imply possible crimes by Palestinian groups, especially Hamas. Would you also welcome that?"

**PA PM Shtayyeh:** "Of course not. I mean, by all means we will leave it to the court to decide in which direction to take the investigation, but by all means, Palestinians have never been on the attack. Palestinians have always been on the defense."

[Facebook page of PA Prime Minister Muhammad Shtayyeh, Feb. 7, 2021]

**PA Minister of Justice Muhammad Al-Shalaldeh:** "War crimes are mentioned in the Fourth Geneva Convention of 1949, and are mentioned in the Hague Conventions, and therefore they are part of the *jus cogens* (i.e., overriding principles) in international law. That is on the one hand, and also the International [Criminal] Court (ICC) has full authority for judging and extradition. In other words, **the Israeli settlers, or the Israeli war criminals**– [ICC] General Prosecutor [Fatou Bensouda] will now work in coordination with the Pre-Trial Chamber to prepare a prosecution case relying on criminal proof and evidence, **and there will be a list of names that may begin- We can investigate the [Israeli] prime minister**... Currently, what is the way and mechanism of investigating and bringing [suspects] before the ICC? It is

true that Israel is not a side [in the ICC.] It will say 'I'm not a side,' and this does not obligate it to cooperate with the ICC. And that is true to a certain extent... But the world has become a village. In other words, there is travel, and there are states: There are 123 [ICC member] states, and **if any citizen is wanted by the ICC and enters the borders of these states, the state must hand him over to the ICC.**

That is on the one hand, and in addition, there is regional legal cooperation between states... In the end [the wanted citizen] will be handed over to the ICC, and therefore I say: **This is a legal, humanitarian, and moral message** that whoever intends to commit a crime... must take into account that he will be extradited and will not escape punishment...

The ICC will act according to a legal plan, according to the legal measures for extradition and prosecution, and **there were experiences with this after World War II: the court in Nuremberg and in Tokyo for prosecuting and punishing the Nazis** – courts were established, as was the court of former Yugoslavia according to the [UN] Security Council's decision, and **they prosecuted [former Yugoslavia President] Slobodan Milošević...**

The ICC will not deal with the Palestinian cases tomorrow morning.

But I will say in general... that the stages and measures at the ICC take a long time... in order to ensure a just and clean trial. Also the matter of extradition takes time... But the important thing is to begin the process... **When you say: This man is wanted for war crimes, or crimes against humanity, I think that this is an initial message to reduce these crimes."**

[Official PA TV, *Palestine This Morning*, Feb. 7, 2021]

Headline: "Abu Bakr: **The ICC's decision is a national achievement saturated in the blood of the Martyrs, the wounded, and the prisoners"**

"Director of [PLO] Commission of Prisoners' Affairs Qadri Abu Bakr praised the ICC judges' decision from Friday, Feb. 5, 2020 (sic., 2021), according to which the ICC has jurisdiction over the Palestinian territories, which enables investigating the Israeli war crimes that are being committed against the Palestinian people.

Abu Bakr said that **the decision is a great national achievement that is saturated in the blood of the Martyrs, the wounded, and the prisoners, and in the Palestinian people's endless sacrifices.** He called on the ICC to hurry and investigate the severe violations against the Palestinian people, its lands, and property, and [all the way to] **prosecuting the leaders and criminals of the Israeli entity as war criminals...**

Abu Bakr noted that throughout its years of activity the **Commission of Prisoners' Affairs has documented the Israeli occupation's severe violations against the prisoners,** which

contradict international humanitarian law, the human rights conventions, and human values (sic., see note below regarding the PA libel on medical abuse of Palestinian prisoners)."

[Ma'an, independent Palestinian news agency, Feb. 6, 2021]

***Libel on medical abuse of Palestinian prisoners - the PA claims that Israel abuses Palestinian prisoners, through medical neglect, medical experiments, and by intentionally infecting them with diseases. However, the International Red Cross regularly visits these prisoners and has not documented or accused Israel of any of these claims. Likewise, lists of demands occasionally issued by the prisoners during hunger strikes - such as during one in 2011 - include no demands relating to these claims. PMW has documented prisoners talking about how they "lack nothing" in the prisons, and that "the worst thing about Israeli prison" is riding in a prison vehicle that has no padding on the seat. When PMW contacted the Israeli Ministry of Health in 2007 regarding PA claims of medical experiments on prisoners, the ministry responded: "Clinical testing on prisoners in prison was never approved, never performed, and is most certainly not taking place at present."***

Official PA TV program Palestine This Morning, on the International Criminal Court's (ICC) decision that it has jurisdiction to prosecute Israel, despite Israel not being an ICC member and despite "Palestine" not being a state

**Official PA TV newsreader:** "[PA] Prime Minister Muhammad Shtayyeh welcomed the International Criminal Court's (ICC) decision that was made by a majority of its members and confirmed the ICC's jurisdiction in the Palestinian territories that have been occupied since 1967, including the West Bank, Jerusalem, and the Gaza Strip, and that Palestine is a Rome Convention member state. Shtayyeh considered the decision **as a victory for justice, humaneness, the values of honesty and freedom, and as justice for the blood of the victims and their families...** The prime minister said that the decision is a message to those committing the crimes that their crimes will have no statute of limitations, and that they will not escape punishment. He noted that this is a victory for the ICC itself, which **thwarted Israel's attempts to politicize [the ICC's] discussions.**"

[Official PA TV News, Feb. 6, 2021]

Headline: "Palestine condemns the attempts of Australia and other states to politicize the International Criminal Court's activity"

"The State of Palestine condemned the attempts of Australia and other states to **politicize the International Criminal Court's (ICC) activity.** The [PA] Ministry of Foreign Affairs and Expatriates issued a statement yesterday [Feb. 7, 2021] saying: 'The State of Palestine expresses deep concern regarding the statements made by a number of ICC member states, including the statement of the Australian Ministry of Foreign Affairs opposing the pre-trial chamber's decision on the ICC's jurisdiction over the land of Palestine (refers to its decision to investigate Israel despite Israel not being an ICC member and "Palestine" not being a

state -Ed.). It emphasizes that **the goal of these statements is to politicize the ICC's activity, and to attempt to exert unacceptable pressure on it.** This position stands in contradiction of the ways of achieving justice and accountability. These positions also constitute **bias in favor of the colonialist occupation,** and a desire to continue hiding the crimes that have been committed against the Palestinian people for more than 54 years.'

The statement also said: 'The State of Palestine, as a Rome Convention member state, **emphasizes its support for the ICC's independence and its opposition to states interfering in its activity and [their attempts] to influence it and politicize it, according to the positions of these states. It calls on all the states to honor the ICC and its work – putting the most despicable crimes that are being committed around the world on trial – as no one is above the law, not even allies of superpowers.'** ...

The Ministry of Foreign Affairs concluded its statement by saying that **'the State of Palestine's existence is a legal and political fact that cannot be ignored or denied.** The governments that continue to deny this fact must wake up and move to the right side of history on this matter.'"

[Official PA daily *Al-Hayat Al-Jadida*, Feb. 8, 2021]

Headline: "Fouad Baker: The situation after the International Criminal Court's decision is not like before it and **the legal battle has actively begun**"

"[Official PA daily] *Al-Hayat Al-Jadida* spoke with Fouad Baker, the **Palestinian judge at the International Criminal Court (ICC) for conflict resolution and head of the Democratic Front [for the Liberation of Palestine's] Legal Department,** who said... regarding Israel not being part of the Rome Convention that everyone who commits any kind of criminal involvement in the geographical area of Palestine, which is a member state, needs to stand trial. However, the ICC has not intervened or applied its authority over the 1948 territories (i.e., Israel), regardless of the citizenship of the perpetrator of the crime, particularly because the local justice system is incapable or unwilling to prosecute Israelis, which leads to an escape from justice if they are not prosecuted by the ICC."

[Official PA daily *Al-Hayat Al-Jadida*, Feb. 9, 2021]



*The article includes an image of Judge Fouad Baker standing in front of the PA map of "Palestine" that presents all of Israel together with the PA areas as "Palestine." Overlaid on the map are scales representing the scales of justice*