ICC prosecutor rejects PMW report of her improper collusion with the PA and terrorists

May 14, 2020

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Palestinian Media Watch

<https://palwatch.org/page/17911>

In a highly irregular tweet, the Prosecutor of the International Criminal Court (ICC), Fatou Bensouda responded to the content of [Palestinian Media Watch’s](https://palwatch.org/) recent report, which demonstrated her improper collusion with the Palestinian Authority. Based on numerous sources, [PMW documented](https://palwatch.org/page/17849) different aspects of her interactions with them, including pictures from the meeting of Bensouda with PA Prime Minister Muhammad Shtayyeh. Among other things, PMW cited statements of PLO official Saeb Erekat, who chairs a special PA committee responsible for follow up with the court, which includes members of Hamas and other Palestinian terrorists groups. Shtayyeh’s meeting cited above with Bensouda, was after the prosecutor had already been notified that the PA committee included members of Hamas. (See below.)

Bensouda’s response does not mention PMW’s report, nor did she deny any of the evidence PMW supplied. Her tweet merely claimed that her “office is executing its mandate with utmost professionalism, independence & objectivity,” without explaining the need to all of a sudden emphasize that. However, referring to the public criticism following PMW’s report, she added: “Any insinuation or assertion to the contrary is simply misled and unfounded.” [Twitter account of Int’l Criminal Court, May 8, 2020]

Specifically, she did not refute her contacts with the Palestinians, nor did she relate to the fact that the special PA committee headed by Saeb Erekat, whose purpose is to be the liaison with the ICC, includes members of Hamas and the Popular Front for the Liberation of Palestine – both internationally recognized terrorist groups. Both these terror groups have unquestionably committed crimes for which they could be prosecuted in the ICC.

She did not deny the allegation in the Jordanian news report that she told PA officials that her application to the court was a sham, submitted only to protect the “ICC's public image” or that the decision of the court “is a foregone conclusion”.

Similarly, she did not deny meeting with Palestinian PM Shtayyeh, who may himself be a suspect in the criminal court as the one who is personally responsible for the payment of financial rewards to terrorists. Bensouda herself has already confirmed that by paying terrorists the PA has “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)

Moreover, there are additional crimes for which the PA officials should be prosecuted in the ICC. As exposed by PMW, just days after Bensouda recognized the non-existent “State of Palestine”, PA TV broadcast the [PA’s message to carry out suicide bombings](https://palwatch.org/page/17908). The PA message even specified which Israeli cities to target: Haifa and Atlit. The message was repeated at least 4 times in the last few weeks on an official PA TV station.

These and the dozens of other similar PA messages to its population clearly constitute incitement to carry out “widespread or systematic attack[s]” directed against Israel’s civilian population, in breach of Article 7, of the [Rome Statute](https://www.icc-cpi.int/resource-library/documents/rs-eng.pdf).

In an interview with the Times of Israel after submitting her original request to the court, Bensouda was asked: **“The PLO’s Saeb Erekat has said publically that the Palestinian committee dealing with the ICC was made up of all Palestinian factions, including Hamas and the Popular Front for the Liberation of Palestine. Did you or members of your office meet with Hamas or PFLP representatives?”**Bensouda responded: “My office has not met with any individuals identified as representing Hamas or the PFLP.” [Times of Israel, Jan. 13, 2020]

However, one month later, she violated that pledge. When Bensouda met in February 2020 with PA Prime Minister Shtayyeh (see picture above) it was already after she had been made aware that the PA committee to the ICC included recognized terrorists. Why did the ICC prosecutor agree to meet with Shtayyeh when she knew that the PA committee his government established and represents is made up of known Hamas and PFLP terrorists? This of course in addition to the fact that he is a potential defendant himself for his own crimes of paying salaries to terrorists.

**New Indications of Collusion**

Just days after PMW’s report on the interactions between Bensouda and the Palestinians, her office submitted a response to the “Amici Curaie” (Friends of the Court) briefs, including the [brief of PMW](https://palwatch.org/page/17589) that had been submitted together with other organizations in response to her original request to the Pre-Trial Chamber of the ICC.

The extent and depth of the collusion between Bensouda and the Palestinians may be surmised both by her attempt in her recent tweet to hide or downplay her interaction with the Palestinians who she should be prosecuting, and by the exhilaration they expressed

The broadcast cited above of the PA TV song calling for suicide bombings, together with the finding that the PA’s payment of financial rewards to terrorists involved in murderous terror attacks also constitute to the basis for crimes the ICC should prosecute, mean that it is the Palestinian officials who should truly be concerned with the finding that a “State of Palestine” exists. If Bensouda and the ICC are indeed professional, independent and objective, declaring “Palestine” a state would pave the way for the prosecution of the Palestinian leadership who directly control PA TV that incites murder of civilians and who are paying the salaries to terrorists, since Bensouda herself has already written that “the payment of such stipends may give rise to Rome Statute crimes.” (ICC Prosecutor [Report on Preliminary Examination Activities](https://www.icc-cpi.int/itemsDocuments/191205-rep-otp-PE.pdf), 2019)

Yet, the PA and PLO officials had only praise for Bensouda’s position.

Official PA TV News, on May 5, 2020, reported that Shtayyeh had “praised the announcement” of Bensouda. Erekat, who heads the special PA/PLO committee responsible for contact with the ICC, expressed his “appreciation” and “pride” in Bensouda for her “brave step”:

“PLO Executive Committee Secretary Saeb] Erekat says that International Criminal Court (ICC) General Prosecutor [Fatou Bensouda’s] report is a brave step in the right direction towards launching an investigation…
Saeb Erekat, the head of the national committee responsible for contact with the ICC, **expressed appreciation for the brave and responsible report of ICC General Prosecutor Fatou Bensouda,** and for her response to the comments of the participants in the discussions determining the ICC’s regional authority over Palestine, relying on what [the national committee] conveyed to the [ICC’s] preliminary department.
Erekat expressed his **pride** in Bensouda’s commitment to the mandate given to her in order to guarantee the demand for accountability and justice, which is what the ICC was established for. He emphasized the significance of this step, since it contributes to the protection of the Palestinian people’s rights against the occupation’s crimes.”

[Official PA TV News, April 24, 2020]

Needless to say, the confidence expressed by Shtayyeh and Erekat indicates they are certain Bensouda will only prosecute Israel and not prosecute Palestinians, even though objectively the Palestinians are the ones who have committed crimes. It begs the conclusion that Palestinian leaders who have praised the decision, have either been told explicitly or have been led to believe by the ICC prosecutor that only Israel is to be targeted by the court, and not them. All of these are further indications of improper collusion between the prosecutor and the Palestinian Authority.

It’s time for ICC prosecutor to publish a serious response in which she doesn’t just claim impartiality and professionalism, but in which she answers all the serious questions pointing to collusion with the PA that PMW has raised.