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Seminar: The ICC Fails Palestinians

A seminar hosted by the Arab Organisation for Human Rights in the UK (AOHR UK) discussed ways to pressure the International Criminal Court (ICC) to hold Israeli officials accountable for war crimes committed against Palestinians.

Participants at the event included American political scientist Norman Finkelstein, chairman of AOHR UK Mohamed Jamil, former president of the International Federation of Journalists (IFJ) Philippe Leruth, French lawyer and academic Gilles Devers, Dutch-Palestinian Middle East analyst specialising in the Arab-Israeli conflict and Palestinian affairs Mouin Rabbani and editor of Arab Digest Bill Law.

Also taking part was Lina Abu Akleh, the niece of Shireen Abu Akleh, the Al Jazeera journalist shot dead by Israeli forces in Jenin just over a week earlier, on May 11.

The seminar, which took place on Thursday, May 19, 2022, was chaired by Nasim Ahmed, a researcher at the Middle East Monitor news website.

The first speaker was **AOHR UK chairman Mohamed Jamil**, who gave a detailed report on the ICC's legal obligations towards the Palestinian people in the face of Israel's almost-daily crimes, and its failure to address these crimes.

He said that despite the killings, settlement expansions and attacks on holy sites, the chief prosecutor of the ICC has not yet taken a firm position on prosecuting Israeli soldiers, officers and politicians suspected of such crimes.

He added: "Over the past few days, the Israeli occupation has intensified its attacks. Most recently was the killing of the prominent Palestinian journalist Shireen Abu Akleh, in a move aimed to silence journalists exposing the Israeli cruel reality."



Jamil pointed out that ICC chief prosecutor Karim Khan has not shown any interest in probing war crimes committed in the Palestinian territories since his election for a nine-year term at The Hague in June 2021.

He further called on the Khan to “comply with the ICC’s statutory obligation and moral duty to prosecute war crimes in Palestine”.

Jamil concluded by saying: “The Israeli daily war crimes documented by international reports, NGOs, leave the ICC prosecutor with only two choices: Either to continue to ignore the crimes in a move that would politicise the court, or to immediately investigate the crimes and prosecute the criminals, in a move that would achieve justice.”

The second speaker was **the former president of the IFJ, Philippe Leruth**. He addressed the dangers facing journalists covering conflict zones and the Israeli occupation’s violations against journalists in Palestine.

He said: “The murder of Shireen Abu Akleh horrified not only all journalists in the world but the whole world, because she was obviously targetted as a journalist.

“She was clearly identified as a press member, as a journalist, and nevertheless, she was gunned down. This drama raises this serious question: Is the state of Israel a democratic state?”

Leruth noted the common argument from Israel that it was the “only democracy in the Middle East”, but added: “It’s not enough to have free elections to talk of democracy. Other elements are needed, and one of which is essential respect for press freedom.”

Leruth also noted that international press cards issued by IFJ are recognised by almost all states in the world, but not Israel.

He added: “This new tragedy challenges us, because it clearly shows that the protection given to ordinary civilians who are illegitimate targets for armed forces is not enough to protect journalists.”

He said that this use of fear was to push journalists to exercise “more and more self-censorship”.



Leruth noted several Unesco reports, which found that nine in 10 murders of journalists internationally go unpunished, and predicted that Shireen Abu Akleh's murder will also go unpunished.

American political scientist and activist Norman Gary Finkelstein then focused on the limits of the law as a weapon in struggles for justice.

He began by saying: “When I heard of [Shireen Abu Akleh's] death, the first thing that occurred to me was the Human Rights Council report from 2018 or 2019... on the mass nonviolence resistance in Gaza, and one of the conclusions of that report was that Israel was intentionally targeting... children, medics, journalists and disabled people who were assembling often quite far from the place where the snipers were.”

He added that targeting journalists was “Israel's modus operandi for quite a long time”.

He added that Palestinians have already achieved many prominent victories in international forums, including the International Court of Justice recognising the status of the West Bank and Gaza as “occupied territories” .

“The problem however is, what did the Palestinian leadership do with this victory?” he asked.

“It got this paper victory – after investing a huge amount of resources, despite huge Israeli resistance – it took the victory and put it in a drawer and closed the drawer to collect dust.”

He added: “The leading Israeli human rights organisation on the Occupied Palestinian Territory, B'Tselem, as well as the two leading human rights organisations in the world, Human Rights Watch and Amnesty International, which represent a very broad swathe of liberal public opinion... concluded that Israel is in part or in whole an apartheid state. What have the Palestinian authorities done with these victories?

“As of now, and almost certainly moving into the future, nothing.”

Finkelstein went on to warn that even if attempts to win justice through the ICC were successful, “it will be no more significant than all the other victories of the Palestinians, which as a practical matter... produce nothing”.



We went on to note that the only people convicted so far by the ICC have been African leaders.

“The ICC is not a court in any meaningful sense, it’s a political body, it targets all those countries that don’t have a major power backing them,” Finkelstein added.

“This court is so politicised it no longer deserves the description as a court.”

He added that whether the case for Palestinian justice was strong or weak, it would still not alter the decision of the ICC, due to its political nature.

Next to speak was **Lina Abu Akleh, Shireen Abu Akleh’s niece**, who spoke powerfully about the Israeli reaction to the family after the killing and the legal action taken by the family so far.

Lina said that the Israeli occupation had imposed severe restrictions on the Abu Akleh family since the day of Shireen's killing.

She said: “The Israeli police came to our house, they started to put constraints on how we want to mourn. They told us they didn’t want us to hold any gatherings, they didn’t want to have Palestinian flags placed around the house, they didn’t want any political chants.

“We explained to them this was not just a regular funeral. It is not just a funeral for the family but for the entire nation. Everyone was mourning her.

“Even after this incident, my father was called in to the police station, and they were trying to limit the number of people attending the funeral.”

She added: “The day of the funeral, it was very difficult, because from our house all the way to the French hospital in Jerusalem there were multiple police cars, a large number of forces, they were preventing a lot of people from even accessing the area of the hospital.”

Lina pointed to the Israeli attack on the mourners, saying “there are clear videos showing how they brutally attacked us. Everyone was there peacefully, we were unarmed versus a huge number of forces armed with batons and stun grenades.”

She said that she escaped the stun grenades by hiding in the hospital.



She added: “It was only a few days ago that we discovered that they actually stormed inside the hospital and not just the parking lot. They started throwing stun grenades inside the hospital facility, forcefully pushing a patient with a disability and a pregnant woman who was going into labour.”

Lina noted how Israel lied about the events, citing clashes in the hospital that they were forced to respond to, which were then reported as fact by international news outlets.

“The whole scene was just barbaric, and it was something that I've never witnessed, and I never thought I would experience in that moment, especially that it's a funeral. It felt like we were in a war zone.”

Lina asked: “If this happened in a different country, how would people react? That's why we are asking the international community, for the US, to continue to call for a transparent and independent investigation to be able to hold them accountable.”

Lina concluded by renewing her family's rejection to the Israeli demand to join the investigation into Shireen Abu Akleh's murder. She said: “We don't want them to be part of the investigation with us because you cannot be the murderer and investigator at the same time.”

She continued: “The only way for this crime not to be repeated is for the international community, the US, ICC, they actually carry out an investigation. I think this is the time we put an end to Israel's crime, we put an end to the atrocious indiscriminate killing of journalists and also we call for journalists from all around the world to continue to call out and continue to keep her name alive because we don't want her to be just another number.”

Continuing the theme, **French lawyer and academic Gilles Devers** spoke about the potential legal remedies before the ICC.

He started by noting that two crimes, by ICC definitions, had taken place: the killing of Shireen Abu Akleh and the attack on the funeral, which he noted was a “crime against dignity” under international law.

“The crime against dignity is of most importance, because everybody understands there is a direct link between the assassination and the funeral, because if you do not



have respect for the dignity of a person, it is no problem to kill him and it is no problem to attack his funeral.”

Devers pointed out that the attack on the funeral was carried out in Jerusalem, which is a part of the Occupied Palestinian Territory, which under international law is part of a state of Palestine.

“Palestine is in a good way with international law and respects the ICC,” he said.

“And we have Israel, Israel says it is a democracy, but we refuse international law, they attack the ICC, they took personal measures against the prosecutor and against members of the court, so there are people in cooperation with the international court and there are people who are in opposition to international law and international courts.”

Devers concluded by hailing the Abu Akleh family’s decision to accept the autopsy, which he said provided excellent evidence of the crimes committed.

Next, **Dutch-Palestinian Middle East analyst Mouin Rabbani** dealt with Israel’s apparent impunity under international law and how to combat it.

Rabbani started by saying that “in death, Shireen managed to shine a light on the occupation and its brutality and its inhumanity as effectively as she had done in her very rich working life”.

He noted that Israel has consistently argued that international legal action was unnecessary over such cases, because it was capable of investigating its own actions. However, numerous human rights campaigners had shown Israel’s justice system in such areas to instead essentially perform “public relations” for the state.

He continued: “The International Criminal Court provided a new hope that Israeli war crimes would be treated with the seriousness that they have for so long deserved. But both the courts and the victims of Israeli war crimes and crimes against humanity came under massive, and often intolerable Western pressure, to do nothing, or at least devote their time and resources elsewhere.”

Rabbani said that the new ICC prosecutor, Karim Khan, abused the memory of his illustrious grandfather, the late Pakistani diplomat judge Mohammed Zafrullah Khan, who championed the Palestinian cause.



“In one of his first statements, the younger Khan indicated that he would prioritise cases referred to the ICC by the UN Security Council. This was an unmistakable signal to Israel, the United States and their allies that they had nothing to fear from him because he had no intention of proceeding with an investigation of the situation in Palestine.”

He added: “Khan’s misfortune was that Russia recently invaded Ukraine. Ever eager to please his masters, it took him only days to declare Ukraine a crime scene and he immediately travelled to that country, personally, to launch a new ICC investigation.”

He added: “But with respect to the situation in Palestine, he has and will continue to do nothing, unless sufficient pressure is brought to bear on him to properly perform his job.”

He concluded by saying that it was worth the effort of pursuing the case at the ICC, but that it needed a strong campaign behind it if it was to make a difference.

Finally, **the editor of Arab Digest and former BBC Gulf affairs analyst Bill Law** shed light on the risks facing journalists in the occupied territories, as well as “the role of Western journalists in telling and not telling the story over decades of what is happening in Palestine and to the Palestinian people”.

He said: “The first risk for journalists in situ is that they may be attacked, they will be in some cases murdered, they will be wounded, they will be jailed, they will be beaten, and secondarily, they will face, of course, censorship.”

He continued: “We in the West, as journalists, have the obligation and duty to change [the situation where] human rights can somehow be divorced from what we in the West do with these regimes, be it the Saudis, be it the Israelis, be it the Egyptians, be it the Emirates, that somehow we can continue to have conversations and shared trade and exchanges and academic exercises and not worry about human rights, well that’s not right.”

He added: “We need to speak up. We need to speak up much more effectively. We need to speak up loudly. As a journalist, I’m deeply grieved at the number of journalists who have died or were injured. I’m also grieved at the silence of some of my colleagues, that they do not speak up, shout out, that we have to defend these freedoms and we have to speak in defence of human rights.”



After a brief question and answer session, chair Nasim Ahmed closed the seminar by noting: “We know that public sympathy is with the Palestinian cause.

“The establishment, whether it be the government of the UK, US, Germany, the Middle Eastern governments, governments for whatever reason support and back the Israeli agenda, but the population of the world generally are sympathetic to the Palestinian situation and nothing brought that out more than the killing and the murder of Shireen Abu Akleh.

“So that gives me hope and I think that should give everyone else hope. We should galvanise and use this and mount a challenge.”

Arab Organisation for Human Rights in the UK (AOHR UK)