



State of Palestine
Ministry of Foreign Affairs and Expatriates

The Hague, 5 December 2022

Statement by H.E. Dr. Riad Malki, Minister of Foreign Affairs and Expatriates of the State of Palestine before the General Debate of the 21st Session of the Assembly of States Parties of the International Criminal Court

Excellencies,

Allow me at the outset to commend the President of the ASP, Ms. Silvia Fernández de Gurmendi, for conducting the work of the ASP with determination and vision over the past year and assure her of the State of Palestine's full support.

Twenty years ago, we established a Court with a universal calling. Our Court opened its doors to victims of the most serious crimes of concern for the international community as a whole. Never before in history had an effort been made to bring within the scope of one international Court a universal response to countless crimes, spanning decades, across all continents, and building on a century of efforts to develop international criminal law.

Twenty years ago, justice was no longer a distant hope. It became a recognized right for all peoples that could be realized despite the odds... *Or so we hoped*. Justice must be, necessarily, blind. And so must be the Court's application of its mandate. It must be fulfilled effectively and consistently across all situations under its jurisdictions, without fear or favor.

To this end, we remain concerned about the growing gap in both the resources available to the Court and the resources allocated for situations. We are troubled that the Court's budget is, *inter alia*, limiting access of victims to justice and ultimately obstructing the Court's mandate.

The State of Palestine affirms the importance of substantively increasing the Court's regular budget. We also affirm that an equitable allocation of resources is essential to ensure that crimes are prosecuted effectively, expeditiously, and independently across all situations. This is especially pertinent in situations where crimes are ongoing and escalating and where impunity is protracted.

The budget of the Court and the allocation of its resources could either reinforce selectivity or foster universal accountability. Only a principled approach to ensure long-term and sufficient resources provides the best protection for the Court's independence and guarantees a universal, responsive, flexible, and resilient institution.

Palestine is a scene of ongoing crimes. In fact, Palestine *is* the scene. The Office of the Prosecutor recognized this when it opened an investigation in 2021. Undeterred by the Court's ongoing investigation, Israeli crimes are escalating, and impunity is further entrenching. Yet, the Court is still to address this grave situation in the ongoing investigation in Palestine, to honour its mandate, and to hold perpetrators of crimes accountable.

2022 has been the deadliest year for the Palestinian people for the past 15 years. It has been a year replete with unabated Israeli crimes, persecution, and an entrenched apartheid serving a settler colonial regime. A year of killing children, demolishing homes and schools, forcible transferring of families, and targeting journalists.

Shireen Abu Akleh is another victim of this exceptional impunity that Israel enjoys. The circumstances around her killing are clear, well documented, and reported to the Court, yet not a word and not an action to hold perpetrators accountable. We reiterate that allowing the atrocious assassination of Shireen to go unpunished is to sanction the killing of journalists and any justice that does not hold Israel's top officials accountable for their crimes is a compromised justice.

One could say it's not the Court's place to comment on a situation it is investigating. That is a valid argument *if* this were true in other investigations. In fact, we see an active Court in other situations, with an overabundance of statements and declared engagements.

Then, we have the right to ask why? Why is the situation in Palestine not allocated due attention and resources? Why is a situation characterized by impunity and continued crimes not a top priority for the Court? Why is the most documented and protracted situation of crimes and impunity in modern history sidelined and underfunded? Why is access to the Court restricted to Palestinian victims when the Court's door is wide open to others? Why does this unprecedented scale of Israeli crimes and clear contempt for the law and the Court remain unanswered? Why, despite the publication of several damning and highly credible reports by international experts on the commission of crimes under the jurisdiction of the Court by Israel, was the Court silent? The Palestinian people are entitled to answers.

The gravest threat to our Court is the criminalization of its work and the escalating attacks against those cooperating with it, including civil society organizations and human rights defenders. As States Parties, we have an obligation to stand up for civil society and human rights defenders and to defend their right to operate freely and independently to help fulfil the mandate of the Rome Statute.

In this connection, we reaffirm our unequivocal condemnation and rejection of Israel's criminalization of our civil society and human rights defenders, including raids on their offices, detention, and deportations. I want to also take this opportunity to salute Al Haq, Addameer, Defence for Children International, the Bisan Center, the Union of Palestinian Women's Committees, and the Union of Agricultural Work Committees, for their invaluable service to the cause of justice and accountability in Palestine.

The State of Palestine calls on the ASP, its Presidency and States Parties, to defend civil society and human rights defenders, especially those working with the Court, including the Palestinian organizations targeted by Israel. We also call on the ASP and States Parties to integrate concrete and effective responses to attacks on civil society and human rights defenders into our broader strategies for confronting attacks against the Court. We must ensure that civil society's space in Palestine and around the world is protected. This is indispensable to the Court's ability to carry out its mandate.

The State of Palestine has been consistent and clear in its firm position that accountability for the most serious crimes is essential for the integrity and sustainability of our international law-based order. For the State of Palestine, supporting the Court is a commitment borne out of principle.

This commitment was reflected during our tenure in the bureau one of the most active and engaged members in drafting OP1 of the omnibus resolution in response to threats and attacks against the Court, its officials and those cooperating with it. We have also played a central role in promoting and defending the contribution of civil society, and the activation of the Court's jurisdiction over the crime of aggression. Not the least, our stance against double standards, delayed justice, selective justice, and denied justice, is essential to ensure the sustainability and integrity of the Court.

Our commitment is unwavering. Justice must prevail. It must be blind. It must be available universally and equally to all. Palestine will not waiver or relent until justice becomes a tangible reality.