

Statement of the Special Rapporteur – OPT – Michael Lynk

UN Human Rights Council Special Session

27 May 2021

I have the honour to address your Excellencies today on behalf of my mandate and on behalf of the Coordination Committee of Special Procedures. In light of the subject matter of the session today, the Committee has asked me to deliver our joint statement.

Excellencies

The events over the past month in Gaza, East Jerusalem, the West Bank, and also across Israel, are a calamitous repetition of what we have all previously witnessed in 2018, 2014, 2012, 2008-09, 2000, 1987 and further and deeper into the tragic history of the Palestinians. With his compassionate eye for humanity, Edward Said spoke of his people as “the victims of the victims”. He wondered whether the Palestinians would always be fated to suffer from an orphaned political status, with the universal rights to which they are inherently entitled to enjoy always being withheld, with always a further goal post to have to reach.

Excellencies

What we have witnessed in **Gaza** these past few weeks haunts the conscience of the world. Approximately 240 Palestinians killed, the majority of whom were civilians and at least 63 who were children. Almost 2,000 were injured. There has been massive property destruction. All of this at the hands of one of the best equipped militaries in the modern world. Rockets from Palestinian armed groups have killed 12 civilians in Israel. Many Israeli civilians have lived through a state of fear and suffered damage to their properties. Along the way, the

strict prohibitions of international humanitarian law which bind all of these combatants have almost certainly been breached.

Among the dead in Gaza was Dr. Ayman Abu Alouf, the head of internal medicine at Al-Shifa Hospital, Gaza's largest medical centre. He was killed last week by an Israeli missile strike on his apartment building along with 12 members of his extended family, including his parents, his wife, and his 17 year old son and 13 year old daughter. Dr. Abu Alouf was also in charge of the hospital's response to the Covid-19 pandemic, which has ravaged Gaza during the past several months. The valiant but badly under-equipped health care staff that he has left behind have vowed to redouble their efforts to fight the pandemic in his memory.

Gaza is a tiny sliver of land, holding more than two million people under occupation, cut off from the outside world by a comprehensive and illegal air, sea and land blockade. These Palestinians are living in an utterly dire situation that the United Nations has called unsustainable, unlivable and a form of collective punishment. They lack jobs, electricity, clean water, affordable housing, a functioning economy and decently-stocked hospitals, and without hope or the freedom to experience the wider world.

Gaza has been often called the world's largest open-air prison, with the occupying power having complete authority to determine who and what enters and leaves the Strip. There is no other comparable situation in the modern world where an alien power has enclosed and penned off an entire community of people. When intensive violence revisits the Palestinians in Gaza, as it regularly does, there is no escape. That this medieval restriction on basic freedoms has gone on for 14 years, and counting, is a harrowing stain on our humanity.

Excellencies

What we have witnessed in occupied **East Jerusalem** these past few weeks – with intense confrontations over the exercise of religious rights on the Harem al-Sharif, and a sustained campaign by Israeli settler organizations to continue to evict Palestinian families from their homes in Silwan and Sheikh Jarrar – was the ember that ignited the latest violence.

But this ember has been smoldering for many years. The Israeli government and the Municipality of Jerusalem have been demographically engineering the creation of Israeli settlements throughout annexed East Jerusalem since 1967, in order to ensure that its facts on the ground establish a permanent, and illegal, claim of sovereignty. The United Nations has demanded repeatedly over the years that Israel comply with its international legal obligations and remove its settlements, stop its evictions, end the unlawful annexation, and halt the demolitions and forced removal of Palestinians from their homes in East Jerusalem. Defiance by the occupying power has been the answer.

Excellencies

What we have witnessed in the **West Bank** these past few weeks have been large scale demonstrations by Palestinians to protest the carnage in Gaza and the crack-down on rights in East Jerusalem. 27 Palestinians have been killed since May 10th by Israeli forces, and 6,800 have been injured.

The 2.7 million Palestinians on the West Bank live in 167 fragmented islands of land, separated from the world and each other by Israeli checkpoints,

walls, settlements and settler-only roads. Their collective future is being devoured before their eyes by the 240 Israeli settlements expanding on their lands.

Excellencies

This is not a Palestinian state in the making. This is an occupation that has become indistinguishable from annexation. The European Union has called this subjugation “a one state reality of unequal rights”. Respected human rights organizations are now calling this apartheid.

Excellencies

Last week, I joined a number of other Special Rapporteurs in calling for the violence of the past weeks in Palestine to be investigated by the International Criminal Court. I repeat that call today.

Excellencies

Over the past dozen years, the Human Rights Council has commissioned four major independent reports on the human rights situation in occupied Palestine, all initiated in the shadow of another round of extreme violence, with the casualties overwhelmingly on the Palestinian side. The constant theme in each of these four reports has been the serious violations of human rights and humanitarian laws by Israel, along with a prevailing culture of exceptionalism and impunity.

Time allows me to cite only one of these reports. The report on the violence in Gaza in 2008 and 2009 – sometimes known as the Goldstone report – stated that: “Justice and respect for the rule of law are the indispensable basis for peace. The prolonged situation of impunity has created a justice crisis in the Occupied Palestinian Territory that warrants action”.

Twelve years later, those words sting because they describe so acutely today that which has been allowed to continue to fester unchallenged and unchanged.

All four of these reports have asked: “Where is accountability?” I ask: “Do we not have enough evidence, and enough reports, to conclude that Israel will not end its occupation without decisive international action, grounded in the framework of rights?”

Excellencies,

Now that the last missiles and rockets have been fired, and the tears from the last funerals are slowly drying, accountability must rise to the top of the international agenda and of this Council. We must insist upon a brand-new diplomatic playbook to end the Israeli occupation, one that is centred on rights, rather than *Realpolitik*.

The various peace initiatives over the past three decades – from the 1993 Declaration of Principles to the 2020 Trump Peace for Prosperity Plan – have all been conducted largely or entirely outside of the framework of international law and human rights. This has allowed Israel to make the core issues of self-determination, annexation and settlements negotiable issues, rather than issues of profound illegality from which Israel must completely desist. This has enabled Israel to negotiate from the strength of its many illegal ‘facts on the ground,’ rather than from the framework of fundamental rights and legal duties. And this is the overriding reason why all of these many peace initiatives have failed.

The simple reality is that the occupation has become as entrenched and as sustainable as it has because the international community has never imposed a meaningful cost on Israel for acting as an acquisitive and defiant occupying power. Accordingly, I urge that the Human Rights Council's future work on the Israeli occupation must be guided by these three principles:

1. The diplomatic framework for fully ending the occupation is to be found within the framework of international law and human rights, not in Realpolitik;
2. Israel has been a bad-faith occupier, and it is magical thinking to believe that its occupation will end unless and until meaningful accountability measures have been imposed; and
3. Because of the vastly asymmetrical differences in power between Israel and the Palestinians, active international intervention is indispensable.

Excellencies

In conclusion, if we are not to have to meet again in yet another special session in a year or three years from now, to lament yet another round of appalling violence in Palestine, then decisive steps must be taken now to fully end the occupation. Accountability is the key that alone can unlock the titanium cage that is the occupation.

On behalf of the Coordination Committee and myself, I wish you every success in your indispensable work