

UN Special Rapporteur on Palestine: Israel has turned all of Palestine into ‘an open-air prison’ to further annexation plans

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By Jeff Wright

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In her June report to the UN Human Rights Council, Francesca Albanese, UN Special Rapporteur on Palestine, details how, through “a system of control composed of multiple and interrelated levels of confinement,” Israel “has turned Palestinian life into a *carceral continuum*”—amounting, as she writes, to a constantly surveilled open-air prison.

Her report documents the many physical, bureaucratic, military, and surveillance means which enable Israel’s “arbitrary seizure of land and Palestinians’ forcible displacement”—features, she writes, of settler colonialism.

In her presentation of the report to the UN Human Rights Council Monday, Albanese said, “These offenses appear to be part of a plan to de-Palestinianize the territory. They threaten the existence of the Palestinians as a people, as a national cohesive group.”

The poster is for a webinar titled "FROM GAZA TO JENIN" presented by The Jerusalem Fund and The Palestine Center. It features three speakers: Yumna Patel, Palestine News Director; Tareq S. Hajjaj, Gaza Correspondent; and Mariam Barghouti, Senior Palestine Correspondent. The event is co-sponsored by Mondoweiss and is scheduled for 12 PM EDT on Thursday, July 20, 2023. A QR code is provided for registration. The Jerusalem Fund logo includes Arabic text: "مركز القدس للتعليم والتنمية الاجتماعية". The Palestine Center logo features a blue circle with a white arch. The Mondoweiss logo includes the tagline "News & Opinion About Palestine, Israel & the United States".

An expert in international law, Albanese takes the reader into the weeds to describe the relevant international humanitarian, human rights, and criminal laws, which, taken together, clearly point to the illegality of Israel’s actions related to Palestinians in the West Bank (including East Jerusalem) and Gaza.

“It is critical,” she told members of the Human Rights Council, “that the international community recognizes the illegality of Israel’s occupation naturally leading to apartheid. This cannot be rectified. This cannot be made more humane by merely addressing some of its most severe consequences. It is to be brought to an end, to restore the rule of law and justice.”

Israel has always denied that international law applies to its actions in the occupied territory, maintaining that the territory is *disputed*, not occupied. Israel’s rejection of the applicability of international law, the Special Rapporteur reports, “has led to violations of fundamental principles governing situations of occupation, including the non-acquisition of sovereignty, duties to administer the occupied territory for the benefit of the protected population, and temporariness.”

In a press conference that followed the release of the 21-page report, Albanese said that she wrote her report on the theme of arbitrary deprivation of liberty “because of the magnitude of the situation on the ground.”

Her report updates the UN’s documentation of Israeli policies and practices familiar to many: arbitrary detention and arrest without warrants; night raids apprehending children; the two-tiered legal system in the West Bank, one for Israeli citizens living in illegal settlements administered in civil courts, the other for Palestinians created, administered and adjudicated by the occupation forces; the illegal blockade of the Gaza Strip; an arbitrary permit system lacking transparency; 270 colonies and military bases encircling Palestinian cities, towns and villages, preventing expansion; the Wall, checkpoints, roadblocks and segregated roads; and the fragmentation of Palestinians into separate areas with varying laws governing almost every aspect of their lives. “The multi-layered architecture of confinement,” she calls it in her report.

One of the significant contributions of the Special Rapporteur’s report is her description of Israel’s digital surveillance. Interference with the right to privacy, such as the use of surveillance technologies, is prescribed by international law and is to be used only when strictly necessary.

Albanese writes,

Instead, digital surveillance pervasively entrenches Israel forces’ control over the space and life of the occupied population. Palestinians are constantly monitored through CCTV and other devices at checkpoints, in public places, social gatherings and protests. Their private spaces are often intruded without their knowledge, through monitoring of online platforms like Facebook, calls, and online conversations considered “threatening,” and tracking the location and connections of mobile phones to establish networks and potential associations, or even through their medical records.

“The occupation,” Albanese reports, “has advanced Israel’s development of powerful surveillance technologies, including facial recognition, drones, and social media monitoring.” She describes the use of Israeli systems—such as Blue Wolf, Red Wolf, and

Wolf Pack—that contribute to Israel’s database of imagery, personal information, and security rating of West Bank Palestinians, including those in Jerusalem neighborhoods such as Silwan and Sheikh Jarrah. They have “created a ‘gamified surveillance’,” Albanese writes, “whereby Israeli military units photograph Palestinians without consent and even engage in disturbing competitions.”

“Digital surveillance ultimately serves to facilitate colonization,” she writes.

Charged in her mandate to document “the situation of human rights in the Palestinian territories,” Albanese also lists violations of international law by Palestinian authorities that “contribute to tightening the grip of the regime imposed by the occupation.”

“Arbitrary arrests and detention carried out by the Palestinian Authority in the West Bank and the *de facto* authorities in the Gaza Strip have contributed to stifling Palestinians’ rights and freedoms,” she writes. “Human rights groups have documented abusive practices, taunts, solitary confinement and beatings often to elicit confessions, punish and intimidate activists,” she reports.

Albanese describes how the security coordination between the Palestinian Authority and Israel “has pioneered a direct connection between Palestinian and Israeli detention apparatuses.” Palestinian victims, she writes, refer to a “revolving door policy”—a cycle in which “Palestinians are first arrested, interrogated, detained and often subjected to ill-treatment by the Palestinian Authority and then, upon release, by the occupation forces, or vice versa.”

While the Palestinian Basic Law, amended in 2003, is expected to protect fundamental rights and freedoms, Albanese writes that other Palestinian laws still “define some crimes broadly [and] may include insulting or slandering a public official or a higher authority, libel in print, or establishing ‘sectarian strife’.”

“Palestinians suspected of collaborating with Israel face even more severe treatment,” she writes, “and in the Gaza Strip they can be punished with the death sentence.”

The Special Rapporteur points as well to how the Palestinian Authority has mirrored Israel’s repression of students on Palestinian campuses, “detaining students and others for dissenting political opinions, including those shared on social media.”

Among the conclusions in her report:

- “Under Israeli occupation, generations of Palestinians have endured widespread and systematic arbitrary deprivation of liberty, often for the simplest acts of life....”
- “By depriving Palestinians of the protections afforded by international law, the occupation reduces them to a ‘de-civilianized’ population, stripped of their status of protected persons and fundamental rights. Treating the Palestinians as a collective, incarcerable threat erodes their protection as ‘civilians’ under international law, deprives them of their fundamental freedoms, and expropriates their agency and ability to unite, self-govern and develop as a polity....”

- “By shifting from ‘the security of the occupying power’ to ‘the security of the occupation itself’, Israel has disguised ‘security’ as the permanent control over the territory it occupies and tries to annex.... This has entrenched segregation, subjugation, fragmentation and, ultimately, the dispossession of Palestinian lands and Palestinians’ forced displacement.”
- “...Under the UN Charter and international law, particularly the law of state responsibility, third States have a duty not to contribute or condone Israel’s settler-colonial apartheid....”

Albanese cites several ways to achieve the first of her report’s two recommendations: that “Israel’s system of arbitrarily depriving Palestinians of their liberty in the occupied Palestinian territory... be abolished *tout court*.” The second recommendation calls on the Prosecutor of the International Criminal Court to examine, as part of the investigation into the Situation in Palestine, the possible commission of the international crimes she has described.

Asked by *Mondoweiss* to respond to the Special Rapporteur’s report, Jonathan Kuttub, international law expert and human rights activist, said, “Unlike other commentators, Ms. Albanese applies international law with directness and specificity and does not allow her observations to be skewed by the silence of others or their apparent acceptance of the continued violations of international law by Israel. Others act as if such continued and lengthy silence have somehow normalized or legitimized what is clearly illegal behavior and blatant violations of the norms mandated by international law to be applicable for the behavior of an ‘occupying power’ towards a ‘protected civilian population’.”

Having been refused entrance to the occupied territory by Israel, the Special Rapporteur conducted her six-month study remotely, including visiting Jordan, virtual meetings and tours, reviewing primary and public sources, and reports from Palestinian civil society organizations.

As of the writing of this piece, we have yet to see a response from the State of Israel. But criticism is expected unless, as at the Human Rights Council meeting Monday, Israel simply ignores the report.

In a piece published earlier this month, Avi Shlaim, Professor Emeritus of International Relations at the University of Oxford, defended Albanese following charges against her of antisemitism in response to her September report. Shlaim wrote that Israel’s approach toward the UN, often defined by disdain, turns to “derision [which] gives way to relentless vilification” of those who investigate Israel practices and seek to hold it to account.”

“Albanese is an outstandingly competent and conscientious international expert,” Shlaim wrote. “She deserves nothing but credit for the courage and commitment that she has demonstrated in discharging her UN mandate. She can even wear most of the attacks on her from Zionist quarters as a badge of honor.”

“The three main pillars of Judaism are truth, justice, and peace,” Schlaim wrote. “Albanese personifies these values to a remarkably high degree. And there will be many Jews worldwide, disturbed by Israel’s betrayal of these core Jewish values, especially since the formation of the aggressively anti-Palestinian, far-right, xenophobic, homophobic, and openly racist coalition government headed by Benjamin Netanyahu, who may have reason to thank her for upholding these values at a critical moment in Israel’s history.”

Advocates for a just peace may want to print the Special Rapporteur’s report, add a brief personal note, and mail highlighted copies to their elected representatives and local media.