

## **Censored in Germany: Francesca Albanese, United Nations Special Rapporteur**

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**Johannes Zang:** Thank you so much. I would like to introduce our first speaker, Signora Francesca Albanese was appointed the special rapporteur on the situation of human rights in the Palestinian territories by the Human Rights Council at its 49th session and has taken up her function as of 1st May 2022 as the first woman ever in this role. Signora Albanese is an affiliated scholar at the Institute for the Study of International Migration at Georgetown University, as well as a senior advisor on migration and forced displacement for a think tank, ARDD. She has widely published on the legal situation in Israel and the state of Palestine and regularly teaches and lectures on international law and forced displacement at universities in Europe and the Arab world. Probably you have followed the news in the German papers in the last couple of days, even before this conference. I just want to quote from the Bild-Zeitung, a couple of months ago: "UN-Beauftragte mit übler Judenhetze". That was written in the Bild-Zeitung. Or Ralf Balke in the Jüdischen Allgemeinen 5 days ago, it's a Jewish newspaper. I quote in German: "Nun kann man durchaus das israelische Vorgehen kritisieren. Aber mit solchen Topoi, die zum Teil nach dem ganz kleinen Einmaleins des Antisemitismus klingen und sich ebenso in rechtsextremen Milieus großer Popularität erfreuen, hat man sich eigentlich für ein akademisches Umfeld disqualifiziert. Da kann man sich ja gleich Beatrix von Storch oder Björn Höcke einladen" - sagt ein Historiker der Uni Leipzig. [English: "Now, one can certainly criticize the Israeli approach. But with such tropes, some of which sound like the very basics of anti-Semitism and are also very popular in right-wing extremist milieus, one has actually disqualified oneself for an academic environment. You might as well invite Beatrix von Storch or Björn Höcke", – a historian at the University of Leipzig is saying that.] I am even more pleased to welcome you, Francesca, that despite all these verbal attacks, you were ready to come to Munich and talk to us. The floor is yours.

**Francesca Albanese:** Dankeschön, I think this is really the only word I know in German, so thank you very much, I understand that you do not agree with what was just read, and the thing is that I don't read this stuff, not just because it's in German – but I'm serious, look, as an Italian, and we will unpack it later, I cannot tell you how much I've suffered, and I am suffering, with cramps in my stomach, when I was told the first time that I'm an anti-Semite. Because in my country, people like my own family who raised me, being told they are an anti-Semite is a scar, and not because of what people think, but for what anti-Semitism is. It is revolting, it is disgusting, and it's appalling that it still exists in this part of the world, and instead of dealing with it, instead of dealing with the root cause of anti-Semitism, people in this country – I don't think they're stupid, they perform stupidity, and avoid seeing the injustice today like 100 years ago, but we'll get there. I was rude, I should have said thank you for inviting me, Munich Peace Conference. And I'm also very pleased to continue this discussion after my remarks and Gershon's remarks, I'm very happy to be on a panel with Gershon Baskin, because I'm, again, I'm sure that in another language, he has read pretty much the same things about me, so it's quite courageous to be sitting with someone who says "like the devil".

So as we meet here tonight, the international legal order starts at the edge of a precipice. Palestine, Israel, whatever you like to call it, lies at the center of this collapse, both as a cause and as a consequence. And I would like to convey through these remarks three points: First, peace premised solely on security is misguided, as evidenced by the situation in Palestine. Second, imperialism is today showing its true face, and we can see it, and it's necessary to see it, because only by seeing it, we will be able to address it robustly and coherently. And third, that international law can serve as the antidote to these challenges, and in the pursuit of an ethical peace, with all of us having a vital role to play in this pursuit. So let's start with why security alone, premising peace upon security alone, is misguided. In a world that has become increasingly polarized, a peace conference like this one is more crucial than ever. Nonetheless, for many, the focus remains on a state-centric conception of security, with war at its center. A seemingly perpetual state of conflict that politics either actively pursues or fails to avert, as evidenced by the emphasis of the conference, the other conference that is going on. And it's taking all the spotlight away from you. They call it security, but security for whom? Is it the security of all the people, all of us, or just a select few? Is it the security of states, or some states in particular, and their political and financial interests? And Palestine here is a case in point. Security has been used to justify the intentional, progressive, incremental destruction of a people as a whole. In Palestine, peace has become a meaningless word, used to mask decades of slow intensity, ethnic cleansing, annexation, apartheid, and racial discrimination. These policies have brutally accelerated over the past 15 months, and will not stop unless and until they will be actively opposed. Israel has been emboldened, meanwhile, to violate international law and impunity for decades, while Palestinians have endured unimaginable suffering and injustice in their existential struggle to avoid permanent erasure.

Over the last 30 years, peace has been a façade for these atrocities. And on my way to this conference, I took a note. Palestine exposes the fragility of peace when premised upon the

security of some, at the expense of the rights of an entire people, often in the pursuit of unlawful goals. Right now, the situation in the occupied Palestinian territory, namely, whatever of a historical Palestine that didn't become Israel in 1948 – so the Gaza Strip, the West Bank, and East Jerusalem. And this is the territory that I'm mandated by the Human Rights Council as a special rapporteur to report on. Well, the situation there is catastrophic. The violence, displacement, and violations of international law continue unchecked. Every measure that's justified in the name of security has come at the expense of Palestinian lives and dignity. In the last 15 months alone, 70% of Gaza has been turned to rubble. 50,000 Palestinians in Gaza have been killed by Israeli bombs, artillery, and snipers. I mean, in this part of the world, sometimes, I think, if I said 50,000 dogs, people would register it more. 50,000 Palestinians do not register with many people in this part of the world. And this number doesn't capture the many still undiscovered under the rubble, and the many others who have died or will die due to the lack of medical treatment, hygiene, and adequate sustenance, or in Israeli jails. Because you know that there are no more universities. The health system has been completely decimated because it's been bombed, or it's been destroyed, or it's been raided. Even when you have the buildings still standing, Israeli soldiers have made sure to destroy every machinery that the people in Gaza had.

With the ceasefire, we need to ask ourselves: can what we see in Gaza really be called a premise to peace? Because since the beginning of the ceasefire, over 300 Palestinians have been killed in Gaza alone. Only one-third of the agreed-upon aid has been allowed to enter Gaza, 10% of the tents, and no mobile homes. So the Palestinians are still roaming around among the rubble, and the waste, and the bodies left to rot, and unexploded ordnance. The scale of the crime is known to all of us, and has been known to all diplomacies in the world, including Germany, for a long time. At any other moment, though, all this would have raised alarm and international condemnation. Today, as I said, it doesn't register with us. Palestinians remain invisible. For years, the rallying cry of international diplomacy regarding Palestine has been "negotiate peace". And yet, the approaches taken often reflect international decisions rather than mere ignorance or hypocrisy. For 30 years, the dominant strategy has involved endless negotiations, often framed around economic development, or treating the situation as a perpetual crisis, often a humanitarian crisis, to manage instead of a political disaster, to resolve in line with international law. Meanwhile, the land, resources, dreams, and aspirations of an entire people, living under military rule, no matter the limits of autonomy granted by the occupation to the Palestinian Authority in the West Bank, or to what it was, the de facto authority, still the de facto authority in Gaza, Hamas – this notwithstanding.

But mind you, not the security of the Israeli people – everything has been sacrificed in the name of Israel's security, but mind you, not the security of the Israeli people in the land taken from the non-Jewish people of Palestine 75 years ago, which we now call Palestinians, and which constitute modern-day Israel, which is a protected member of the United Nations. Rather than security of its never-associated annexation plans, in the little that remains to the Palestinians to exercise what is international consensus, has agreed to be the territorial unity over which the Palestinians have an exclusive right to exercise self-determination in the form of an independent statehood. Indeed, the policies promoted in the occupied Palestinian

territory have sidelined any form of reckoning on the imbalance between Israel and the Palestinians, and you can call it conflict, but you will be misled if you don't fully understand that this is not a conflict between two parties. And the relationship is a very asymmetric one. It's between the occupying power and the occupied, between the colonizer and the colonized – it's not ideological, what I'm saying. Advancing control over the land, taking the resources that are recognized as the right to be enjoyed by another people, is the hallmark of settler colonialism. So if Israel doesn't want to be pointed out as a settler colonial state, it should not behave as a settler colonial state in 2025.

So despite this asymmetry, which has been conveniently disregarded by the international community, Palestinians have been expected to negotiate the de facto conditions of their occupation, forced to drawing the lines of their own cell, as someone has said, while also coping with the low intensity and high intensity violence, apartheid and racial discrimination that have emanated from Israel's settler colonial project. And today, after 16 months of genocidal assault on Gaza, which is leaking out into the West Bank, peace in the Holy Land, even a simple absence of conflict, appears even more fragile due to the depraved plans of the US presidency, which amplify the criminal agenda of Netanyahu's government. While this is shocking, it is not surprising, and this is the essence of imperialism. When confronted with the deliberate human-made catastrophe in Gaza, the discussion regarding the possibility that this might constitute genocide remains a contested one, particularly in what we call the West. At most, we see broad recognition that Israel has committed war crimes and crimes against humanity, which are horrible things to do anyway. But such framings that Israel has committed war crimes and crimes against humanity, against the Palestinians – this is not new! – and this reflects no more than what Palestinians have endured for decades before the current escalation.

So let me pause for a second and explain what is genocide, because especially in this country, like in my own country, and trust me, while somewhat you have, wrongly, but you have processed what you have done, the Italians have lived with it. And indeed, this is why, probably this has also facilitated the resurgence of right-wing forces. Ah no, because you have that too, so the problem is the same. So what constitutes genocide is not defined by personal opinions, nor by personal histories, regardless of how painful and horrific they are. What constitutes genocide is defined by international law. And it comes as a surprise to many in our part of the world, that you can have genocide even if you don't have a crematoria. And you can have genocide even if you don't have extermination, because in fact genocide is – according to the 1948 Convention on the prevention and punishment of the crime of genocide – genocide is a series of acts that include: killing, infliction of severe bodily or mental harm, creation of conditions of life calculated to bring about the physical destruction of the group in total or in part, or the transfer of children and prevention of birth. So as you see, one out of five acts includes killing. And we'll come back to this. But what characterizes these acts as genocidal is the intent, what is called the *mens rea*. So the intention to destroy in whole or in part a group as such, a national, religious, ethnic or racial group. And this is the thing, it's not complicated to identify the genocidal intent when it's so obvious and it's so direct. It's complicated to find intent, because normally people don't go around inciting to commit

genocide. And in 2025, you would expect that someone wouldn't post, wouldn't create an online accessible archive documenting genocidal statements and genocidal acts. But like many genocidal societies, what the Israeli society – and I'm sorry to say that, because there are so many Israelis who don't want this, so many Israelis who are against this, so many Israelis who are horrified because they stand firmly against occupation, apartheid and genocide – the majority of the Israeli society have called for the erasure of Gaza and have sustained a genocidal call, which is the destruction of a people as such. And you know, for the Palestinians, like for many indigenous people, the concept of the land is critical. This is why I'm saying it's not about killing them all, although we have not killed them all, it doesn't matter. What you have done is enough and might nonetheless lead to the death of many more, because 50,000 people have been killed, but 200,000, according to the most authoritative medical journal in the world, the Lancet, might have died because of lack of access to a health care system. So those who had leukemia, cancer or other curable diseases have died. Or think of the women who couldn't deliver in hospitals, or think of the others who have gone sick or the malnourished kids and elderly.

However, the question is that the reason why we do not understand genocide, what genocide is, is because of what many of us call colonial amnesia. I mean, your country has committed two genocides in the span of 30 years. And this is, of course, the Jewish people, the Roma and Sinti, there were many others who have been killed, who have been exterminated, because they didn't conform to the idea of the superior race. And as my dear friend, Raz Segal – who's a very, very important Israeli genocide scholar, he's also Israeli, but that doesn't matter, he's a genocide scholar – and he says, unfortunately, the idea of the superior race didn't die with Israel. And what I know is that it was not even conceived by Israel, this is something that we as the Western society need to deal with. 500 years of colonialism have left a huge, huge mark in our DNA. Racist we were, racist we are. And if we don't see that, the horrors of the past will not be a memory anymore, and this is my deepest fear. In the case of Palestine, it's not just that genocide has been overlooked, genocide has been justified, enabling Israel to continue it, and third states have evaded their responsibility under the Genocide Convention. And in this case, Germany is the valedictorian. Not even the case brought by Nicaragua at the ICJ against Germany has led to a review of its policies vis-a-vis Israel. You know, I think that ultimately the problem that we have in understanding the relationship between Israel and the Palestinians and the current genocide is that we do not easily understand what self-determination is. It's a very convoluted concept in our mind. But self-determination is very simple, in fact. It's the right of a people to exist as a people. To determine themselves freely, not to be erased from a land. In fact, to enjoy the resources that that land has. And it doesn't mean that self-determination has to manifest or to be realized necessarily as independent statehood. I mean, self-determination in international levels was first and foremost protected as minority rights. So that minorities were not erased but protected as different from the majority but still having rights in the land where they were. To determine themselves according to their religion, tradition, etc. So if we fail to recognize the fact that the Palestinians are still struggling for their existence as a free people under Israeli rule, clearly we cannot understand this genocide because we have not seen what has happened during the 30 years of the negotiations. As they were negotiating, Israel has

continued to build colonies. The colonies have tripled during the so-called "peace process". And the genocide we witness today is a direct consequence, unfortunately, of this long trajectory of the Israeli colonial project in Palestine.

The amnesia I was referring to surrounding European colonial history, which has led to the political shape and demographic whiteness of most of the current liberal democracies, the US, Canada, Australia, New Zealand, and it was South Africa, have forgotten what they've done in terms of settler colonial powers in Latin America and Namibia to the aboriginal people in Australia, or the Natives, the indigenous people, the Métis, the Inuit, the First Nations in North America. This denial is not accidental. The invisibility of past colonial victims is functional in sustaining current forms of colonialism and imperialism. And this is why Palestine today lays at the crossroad, at this intersection. Palestine, after being Israel's laboratory for decades, in the words of investigative journalist Antony Loewenstein, that was already mentioned – and by the way, he has written a fantastic book *The Palestine Laboratory*, and there are four podcasts and a two-part documentary, which is brilliant and I really recommend it to everyone. It serves as a litmus test for examining these global infrastructures and interests. In the face of the devastation inflicted upon the land and its people in the occupied Palestinian territory, a minority of powerful states like Germany, on whose soil we stand today, have shockingly provided military, economic, and political support to Israel in the commission of its atrocities. Such actions reveal the scale of our collective struggle. Palestine highlights how colonial violence is not an instance of the past and it's enduring. And intertwines – when I say imperialism and capitalism, it's because, again, I know it might sound complicated, but look at the exploitation of natural resources. The role of arms proliferation, surveillance, technology, fossil fuel extraction, in perpetuating and sustaining the domination of other people. This is the essence of empire, and we are so unused to thinking in these terms. We don't see it, even when it rises and becomes brutal, even when it shows its teeth, as it's happening these days in the United States. Palestine highlights how colonial violence intertwines with capitalism, especially through the exploitation of these resources. The conjecture has not been missed by many in the younger generation struggling for environmental justice, who see Palestine as central to their own struggle.

And here's the last point I wanted to raise. Such a sad state of affairs must not deter us from seeking change from those who have the influence to act decisively. International law should be the cure to these horrors. International law and the mechanism to ensure enforcement and accountability do exist. But they, and this is the bad news, depend on political will to defend and use them. And if politicians do not do what is necessary, it is the role of responsible citizens, civil society, academics, students, young people, journalists, anyone from all walks of life who do not want to sit idle in the face of this grotesque injustice, to act as the antibody within a healthy rule of law system. International law says that in the face of an injustice, of an illegal act or a series of illegal acts, the responsibility of a state like Germany or a state like my own is not to recognize the illegal situation, not to recognize as legal the consequences of the illegal act. So, for example, the occupation has been declared illegal. We all knew. I mean, my predecessor and his predecessor, all special rapporteurs, have pointed to

Israel since 2005 as committing apartheid, but no one noticed. Practicing settler colonialism and maintaining an illegal occupation. Little by little we have become more accurate and Israeli human rights organizations have joined Palestinian human rights organizations in documenting it. Apartheid and even now genocide and still the world doesn't move. In the face of this, but again, now we have the International Court of Justice, the highest court in the world that says the occupation is unlawful. Not because it commits violation of international law here and there, but because the very presence of Israel in the occupied Palestinian territory, so the West Bank, the Gaza Strip and East Jerusalem, is to be dismantled because it violates the right of self-determination of the Palestinian people. It precludes them the opportunity to live free as a people and it amounts to racial discrimination and apartheid and leads to annexation, which is a form of aggression. So you see, it's a collection, it's a potpourri of crimes, in the face of which a state should not aid and assist. And so cut all ties that might lead to detrimental effects. So political ties have to be reviewed, economic ties, no trading with a state that commits illegal acts. And instead, everything has continued business as usual. The first settlement itself, in 1967, should have been the trigger to change relations with Israel. And instead it has been tolerated and impunity has become the rule instead of the exception. Yes, I'm done.

And today, Israel has committed and continues to commit genocide despite what the German Chancellor thinks. The ICJ has affirmed – and this is key: I do not expect any politician in this country to agree with me or with Amnesty International or with Israeli historians who have courageously pointed, at great cost and suffering for them, to the fact that Israel has committed genocide in Gaza. They do not have to believe us. But the International Court of Justice in January 2024 has recognized the plausible risk of genocide. And in another case, Nicaragua vs. Germany, has reminded all states of their duty to ensure that weapons they export are not used to commit violations of international law, including genocide and war crimes. Your state cannot say that it didn't know what it was doing. And let me skip it. Today we have to speak accurately and coherently in calling this what it is. A genocide, an unlawful occupation, apartheid and act accordingly. Hope is a discipline. And it's a discipline that we must practice together. And the way forward to resolve the question, the Israeli-Palestinian conflict, in line with international law is end the genocide and the occupation and the apartheid. And I would close by saying, let there be justice for everyone.

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