



United Network

For Justice and Peace

In Palestine and Israel



May 12, 2020

The Right Honourable Justin Trudeau , P.C., M.P.
Prime Minister of Canada
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The Hon. François-Philippe Champagne, P.C., M.P.
Minister for Foreign Affairs
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Dear Prime Minister Trudeau and Minister Champagne:

Re: ICC Prosecutor Position Respecting the Occupied Palestinian Territory

I am writing as Chair of the United Network for Justice and Peace in Palestine/Israel ('UNJPPI'). We are a grassroots network of United Church of Canada members and friends working for a just peace in Palestine/Israel through education and advocacy.

On December 20, 2019 the CBC reported that the Prosecutor of the International Criminal Court ('ICC') had taken a major step toward opening an investigation into alleged war crimes in the occupied Palestinian territory, asking judges exactly what territory a future investigation could cover. The Prosecutor's motion is that the territory comprises the West Bank, including East Jerusalem, and Gaza.

In her announcement at that time, the ICC Prosecutor stated that there were at least four areas of investigation by her Office into the possible commission of war crimes from 2014 forward:

1. Israel's conduct of the Gaza war during the summer of 2014 (Operation Protective Edge);
2. The 240 Israeli settlements in East Jerusalem and the West Bank;
3. The lethal shooting by the Israeli military of Palestinian demonstrators at the Gaza frontier in 2018-19; and
4. The indiscriminate shooting of rockets by Palestinian armed groups into Israel.

For members and supporters of UNJPPI, many of whom have served as ecumenical companions in Palestine and Israel and observed the extreme human rights violations suffered by Palestinians living under the Israeli military occupation, the opening of an investigation by the ICC is long-overdue. The 50-plus years of the Occupation is a history of confiscation of Palestinian lands for illegal Israeli settlements and for exclusive highways serving those settlements, severe restrictions in Palestinian mobility and impairment of the Palestinian economy, and the arrest and imprisonment of Palestinians after unfair trials in military courts. All of this is in violation of international law and international humanitarian law. Objections by the international community have not stopped the violations. The violations, and suffering of Palestinians, have simply gotten worse.

The ICC was created in 1996. The Government of Canada website highlights the pivotal role Canada played in the ICC's creation. The website includes a link to the ICC technical manual which the Government of Canada sponsored two Canadian organizations to produce. The manual notes that the crimes presently within the jurisdiction of the Court are genocide, crimes against humanity and war crimes. That such crimes are presently being committed in the occupied Palestinian territory ('oPt') is well documented. The manual also notes that the ICC only intervenes where national courts are unable or unwilling to initiate or conduct their own proceedings. The history of the oPt since 1967 provides ample evidence of the inability or unwillingness of national courts to initiate or conduct proceedings to protect the inhabitants.

On February 28, a joint open letter was issued by Michael Lynk, the United Nations Special Rapporteur for the situation of human rights in the Palestinian territory occupied since 1967, and Alex Neve, the Secretary General of Amnesty International Canada. Both the Special Rapporteur and Amnesty International have for many years documented the human rights violations in the occupied Palestinian territory. They welcomed the announcement by the Prosecutor. They urged Canada:

1. To support the Prosecutor's motion before the Pre Trial Chamber that the "territory" over which the ICC may exercise its jurisdiction under the Rome Statute for the purpose of formally investigating the purported commission of war crimes in this situation comprises the West Bank, including East Jerusalem, and Gaza;
2. Should the Pre Trial Chamber rule in favour of the Prosecutor's motion on territorial jurisdiction, to support the work of the Prosecutor in conducting the formal investigation into the purported war crimes; and
3. Not to take any steps at the ICC or any other international forum that would oppose the work of the Prosecutor in this regard.

To our dismay, the day after this joint open letter there was an article in the Jerusalem Post reporting that Canada had asked the ICC not to hold hearings regarding Israeli War Crimes lawsuits. Canada's Ministry of Foreign Affairs was given as the source for this information. We did not see this news reported in any Canadian media. **Please confirm whether this report is accurate.** If it is accurate, we are interested in knowing what other remedy you understand Palestinians living under the Israeli military occupation to have for any war crimes committed against them. If it is accurate, we urge Canada to reconsider that position now that our government officials will have seen the ICC Prosecutor's submissions to the ICC Pre-Trial Chamber.

Like Amnesty International and the Special Rapporteur, we urge you to support the Prosecutor's motion before the Pre-Trial Chamber. If that motion is successful, we urge you to support the work of the Prosecutor in conducting the formal investigation into the purported war crimes and not to take any steps at the ICC that would oppose the work of the Prosecutor in this regard.

Respectfully,

George Bartlett
Chair, UNJPPPI

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