



## ‘Suspended Between Hope & the Abyss’ - UN Special Rapporteur on Palestine

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**Abby Martin (AM):** Francesca Albanese, United Nations Special Rapporteur for the occupied Palestinian territories. I can't believe I'm talking to you right now in the Empire Files. It's such a tremendous honour to have you on the show.

**Francesca Albanese (FA):** Thank you so much. It's an honour for me, too.

**AM:** You know, it really is a monumental week, Francesca. And I'm really happy to be speaking to you on the heels of the International Criminal Court issuing these arrest warrants or the application, let's just say, for the arrest warrants for Israeli Prime Minister Benjamin Netanyahu, Israeli Defence Minister Yoav Gallant. I mean, these are people who would typically be immune from this kind of process alongside, you know, Western leaders. It's been called a symbolic gesture, but it still is quite incredible to see these people standing up there, as you know, war criminals essentially on this kind of international stage. As someone who has been an expert witness in the occupied territories for so long, I mean, what was your reaction to seeing this?

**FA:** I have mixed feelings and mixed reactions. So the part of me who used to work within the system and who has been waiting for this modicum of justice to be delivered to the Palestinians, like within the framework of the proceeding started before the ICJ by South Africa, seeing Israel finally defend itself before an international court and seeing arrest warrants, at least us for by the prosecutor of the ICC, was enormous. This is a huge development, in this unjust war that we live in. And this is the problem, you know, it has taken 35,000 people – killed – the full destruction of Gaza, the burial of the future of Gaza for generations to come, for the office of the prosecutor to apply for arrest warrant – and again, of course, it's a terrific development because it's not just war crimes. There are crimes against humanity listed and there is starvation as a war crime, and there is extermination and still I know that somewhat for the Palestinians, this is so little, so late. And so this is why I have mixed feelings, to be totally honest. So the lawyer in me is in a sort of jubilant mood. But at

the same time, the lawyer who understands how deeply rooted settler colonialism is in our world, in our society, I don't see reflected this colonial bubble in this proceedings as well.

**AM:** Right, I mean, when we're talking about the scale of atrocities, we're seven months in; I mean, 35,000 dead. I'd say it's a gross underestimate, considering how many are trapped under the rubble. It does seem like the legal avenues are – it's taking too long, given the stakes that we're witnessing, Francesca, I worry that, you know, the ethnic cleansing is going to be complete before anything actually happens behind the scenes. You wrote this incredible report. It was such a monumental, historic moment when your report came out: *The Anatomy of a Genocide*. Your report came on the heels of months of investigations. And there were so many great facets of that report. But let's start with just your conclusive key findings that do prove that this is indeed a genocide, because we're being gaslit day after day by Israeli officials, media officials and US politicians telling us there's no evidence of a genocide and there's no evidence of any war crimes.

**FA:** Look, I think there is a really significant misunderstanding of what constitutes genocide. Because people really tend to think of mass murder, which it is not. This is just another crime, it is not more or less serious, it's another crime. And the crime of genocide is relevant because it's the destruction of the people in whole or in part, or that of people in the whole or in part through other criminal acts. And we know from history that this is a process. It's not an act per se. I mean, it was a revelation and a very bitter revelation for me as well, that it had been written on the wall for so long, if we only had understood, if we only had linked the dots, if we only listened to the Palestinians deeply. Because of course, this is what they were saying. This is the Nakba; what they have been saying over and over. The Nakba is still ongoing. It's still ongoing, of course, because it's the ethnic cleansing. There has been such a rupture of the palette between the Palestinian people and their land, the fragmentation of the Palestinian people, of which my own mandate is part of. You know, I deal only with the Palestinians in the occupied Palestinian territory and then the Palestinians in the diaspora and then the Palestinians inside Israel. There have been so many breaking points in the history of the Palestinian people, and still it continues. But eventually the people are being attacked through and through, in the name of a racist logic, which still goes undetected today. So when I said what Israel is doing, it is justifying its violence as legal, as self defence, and it's even using humanitarian jargon: This is just a military operation against the terrorists. Who are the terrorists? Seriously, can we assume that all Hamas affiliates, all Hamas combatants were to be killed? This is the thing. This concept has been licensed through and through in Western societies. And I'm accused of being a supporter of terrorism. Just to say, just to remind, there are rules, even in war, and to target a combatant, to kill a combatant, the combatant is to be in active combat and posing a threat, they need to be neutralised through killing. So, you know, there has been such a distortion of what is a civilian objective and a military objective. What is considered killable and what is to be protected? How protected objects like hospitals are to be particularly protected in times of conflict? All this has been erased. It has been distorted. International law has been distorted to justify the violence that Israel was inflicting on the Palestinian people. This is why it takes humanitarian camouflage.

**AM:** It is. And such a crucial part of your report as well is the masking of these atrocities behind the veneer of humanitarianism, which is just so bizarre. I mean, the complete dismantling of international law and the so-called rules based order that we're browbeaten with daily from Western leaders and it's just a mockery of it. I mean, direct targeted assassinations of journalists, healthcare workers, collective punishment, indiscriminate bombing. I mean, these are all just such violations of the Geneva Conventions. It's so clear, right? Clear how international law is being violated on a daily basis. But when you just say they're using human shields or everyone is Hamas, whether they're hiding in a hospital or they're hiding in a school, somehow it just washes away what's going on. And just even the fact that collective punishment and a manufactured famine of a million children is somehow justified as a necessary weapon of war.

**FA:** Yes. There is one thing. They have targeted Hamas. For example, the second Al-Shifa hospital invasion was justified by targeting Hamas, but there were police officers and others. Because true, Al-Shifa had become a place where media was staying because it was one of the standing buildings which was still accessible. And this is also where salaries were distributed according to local sources. And again, yeah, we can continue to repeat the mantra Hamas is a terrorist organisation. But Hamas is also a party that has ruled over Gaza, like it or not. I mean, they surely largely disapprove of Hamas methods of governing over Gaza, but this is beyond the point. There were doctors, there were teachers, there were civilian personnel inside the Hamas administration, including police officers who where necessary, where essential to maintain civil orders. So, you know, the entire population has been targeted. And this is why doctors, engineers, scientists, everyone has fallen into this machinery, this assassination factory, as an Israeli journalist has called it. Sorry, I forgot the other question.

**AM:** No, I mean, I think it was just kind of a statement because it's just so beyond belief. I mean, I don't even know what to say about this kind of egregious violation of international law and this kind of unprecedented nature of where we're at today with what we've seen unfold and allowed to happen collectively. But to your point, I mean, just the fact that there was a police officer and that's retroactively what they'll point to in a video and say, Look, this guy has a gun, that means Hamas was there. That means it was justified to kill scores of doctors or bury them alive and bound them and throw them in a mass grave. You've used a really important point that I want to hone in on now, which is this notion of safe zones or humanitarian corridors. You know, I think a lot of people don't know the basic fact that you can't flee as a refugee in Gaza. It is the only place in the world that you are actually trapped. If you try to flee by boat, you're shot out of the water by Israeli warships, if you're just fishing too far out of the bounds. You can't flee into Egypt without collecting tens of thousands of dollars at this moment. I mean, we're looking at people in Gaza relying on the goodwill of American citizens to raise tens of thousands of dollars on GoFundMe, just so they can escape genocide. And then you have news agencies saying they're on the move, they're going to this corridor, they're going to that corridor. What do you think about this kind of language about safe zones and humanitarian corridors?

**FA:** It's de-contextualised, de-historicist, ignorant and eventually, misleading. It is what it is. So while I do see that a number of media outlets are sharing how censorship or self-censorship has operated in different systems in the West, I also think that there is another, more dangerous element in our societies. It's our bias. We, in as much as Israel has dehumanised the Palestinians and has indoctrinated its citizens – subsequent Israeli governments have indoctrinated their citizens to a racist ideology that has led to consider the Palestinians are subhumans. I mean, this is not new in history, right? And as a European, this resonates very strongly with me, but also how dehumanised they are in Western societies. I cannot tell you how many TV programs I've been in, including in my own country, interviewed by people saying, Well, so what do you have to say? 35,000 people, killed. It's such a monstrosity. And I can see that people do not relate to that. Do not imagine that there are lives, there are dreams, that there are really existences like yours and mine and mothers and fathers and children who are dreaming to become someone important and someone simple. Everything is levelled. It's just that Palestinians do not appear in their humanity, in their individuality. And this is the basic recipe for dehumanisation to turn into this bias that then doesn't recognise a crime, even if it's really televised on an everyday basis. The youth, though, think differently. This is my hope – that we are not all numb in our society.

**AM:** Well, it's so interesting because, you know, I agree with you, of course. I mean, the dehumanisation of Palestinians has been seated for so long, it's always been conflated with the war on terror. Palestinians have always been depicted as terrorists and Israelis soldiers as the heroic good guys fighting these barbaric, you know, monsters, essentially and that's always how it's been depicted in the Western media. However, now with the advent of social media, with the fact that Palestinians are able to dictate their reality, I mean, aren't people seeing the same videos, though? I mean, even if you have dehumanised bBrown people or people in the Middle East, and you've kind of associated them with the violence that essentially, for a large part, the West has caused with the war on terror, etc., or just colonising powers and all of these things that have happened in that region, but now we can humanise and empathise, looking at the eyes of a mother wailing for her dead child, we can empathise with a little child wailing because his whole family has been blown up in an airstrike. I mean, we see them in front of us. How can people look at these victims and not change their mind? I mean, that's what is hard for me to wrap my mind around, because it's almost like out of sight, out of mind. I mean, all of these things come out with the historical archives and witness testimony, and it takes a long time to collect these things in prior atrocities, prior wars or conflicts, but this is different, Francesca. There's something very dark about what's happening now in real time and the lack of empathy in response as a result.

**FA:** I don't know if you remember when during the Rwanda genocide, somewhat the alarm had been – I mean, the Western countries had been [inaudible]. African countries had been [inaudible]. When there was the genocide, I mean, what was recognised as genocide in Srebrenica, because in my view, it was a broader genocide that has never been acknowledged as such. But the UN was there. So I think there is something deeper and more dangerous, that either we face, we accept, we need to understand that if we really want to see that never again, which is not different from what had happened during the Holocaust in Europe – in the

sense we tend to as Europeans, we tend to focus on the Holocaust, like the concentration camps. What happened through the final solution? But how the heck did we get to the final solution? Because for over a decade, and in fact, for centuries, Jewish people had been discriminated against, had been persecuted, had been mistreated, and it was totally normal, including in modern Germany and in Italy, to expel academics and doctors from their professions, from universities and other places just because they were perceived as a threat, as a social disease. You know, this is racism. We need to come to terms with the reality that— I often quote Omar Barghouti because he said that, and for me, it was very enlightening, we have to come to terms with the fact that 500 years of settler colonialism have left a huge imprint in the DNA of our Western societies. This is the reality and for me, this has been such a revelation because I knew that, but it was so crystal clear because it then also allows us to see what we, our ancestors, our European ancestors have done through centuries of colonialism. Genocide is a recurrent pattern. It's a recurrent crime in settler colonial endeavours because the destruction of the people goes with the will to take the land and the resources of those people by pushing them out. And we do not see that. We have fallen in a trap of a deep, self-indulgent colonial amnesia. And this is where I think that now the tide has changed because of probably how globalised our world is, how also the new generations are connected, how they learn. I have no idea, but something weird is brewing, something new and positive is brewing.

**AM:** Well, this really stood out to me in your report because not every UN rapporteur or not every person who's analysing this conflict, Francesca, will bring up settler colonialism as the driving factor in this. Like you said, it will all be kind of ahistorical and de-contextualised not necessarily always, but a lot of the times you're just starting on October 7th and just kind of comparing and contrasting, but you are different. You know, you're an expert witness. You have as a core thesis all the time as you are right now, talking about the root of the violence. The root of the violence is settler colonialism, is apartheid. And I think it's really important that you put that in your report, because the framework of the debate today is Israel has the right to self-defence, something needs to be done about Hamas. The debate has become: Have they gone too far in the response that's necessary? And I think we need to take a step back and ask ourselves, you know, this framework is really erroneous, because why is that the parameter of the debate that Israel has the right to do anything?!

**FA:** Absolutely. Because this is the thing, you see, we force our – and this is, again the Western way of interpreting international law – we force our categories, our peace, our language upon the other. They need to understand. They need to communicate in a way that is compatible with our categories. And we only explain their behaviours to our categories. This is why, for example, everything started on the 7th of October, of course, whatever was before doesn't matter. I've heard diplomats saying, the situation was quiet before the 7th of October. Where were you? What kind of a parallel alternate reality were you living in during the 16 months of my mandate? I've reported the killing of 460 Palestinians and 60 Israelis. Is the killing of Shireen Abu Akled normal? We even have the reconstruction, the forensic reconstruction of what happened. And still it was impossible to investigate and prosecute an ordinary soldier because this is what was in the [inaudible]. It's impossible for the

Palestinians to have justice. It has always been the rule, and they have been subjugated, oppressed. There is something else that I've learned after writing the report and there is something pedagogical about violence. Violence is not just imposed as a way to control the people. It's a way to educate them, to tell them there is no hope for you. You see, we don't just kill you. We destroy everything so that you have nothing to return to. The soldiers that make eruptions, that break into Palestinian homes in the middle of the night, just to train themselves, are teaching a lesson, are making Palestinians feel hopeless. This is the thing. So this is the reality that I finally understood. And now you ask me how I managed to be their lawyer conveying deeds. So first of all, I think that there is no serious lawyer, no serious international lawyer who would argue that settler colonialism is not a criminal conduct, in a strictly legal sense, but that it's not unlawful. At the same time, not many lawyers would argue and be explicit on the fact that settler colonialism is, in fact, unlawful. And this is the thing and because of my training, because of my studies, because of what happens in life, I recognise that there is a limitation in the pursuit of rigour and specialisation that we seek as lawyers. And on the one hand, we isolate ourselves from even other legal disciplines. We are IHL [international humanitarian law] specialists or criminal lawyers or human rights lawyers, and sometimes we do not see the importance of beading, on the interplay between these disciplines or these branches of the law, to ensure full protection. But also, and even more serious, is the fact that we do not quite capitalise on other disciplines like anthropology and sociology and history. And this is why international law has become aseptic and so unable to address questions of historical injustice. So this is what I think makes me slightly different.

**AM:** You know, I feel like there's two types of videos coming out of Gaza. One is the horror and the constant suffering, obviously, of the victims of this genocide. The other are the Israeli soldiers themselves that are filming this kind of depraved barbarism. I mean, looting women's lingerie, looting children's nurseries, destroying Palestinian homes while taunting the viewers who are watching the video saying, Try to bring me to The Hague. I feel like this is unparalleled in modern history. I've never seen anything like this in terms of the sheer documentation on both sides. Is this, I mean, am I right? Is this unprecedented Francesca? Have you studied anything similar to this?

**FA:** No, not in the sense. On the one hand, I tend to see that there is a self-righteousness combined with madness, in societies which have turned genocidal in the legal sense of the term, meaning they are committing the crime of genocide, where their leaders can perpetrate crimes with intent to destroy people in full or in part. And normally there is either acquiescence or support from the society. So I've seen violent images of barbarism, as you say, and savagery elsewhere, but not with this pace, not with this intensity, not with the full access to social media, with then other parts of the population sort of boasting even more about the successes of their army. And even people around the world do not seem shocked by these images. This is one. And the other thing is that not many other situations have had this limited, almost non-existent presence of foreign correspondents of international presence on the ground. But this is just the Palestinians in Gaza being genocidal and being the storytellers of their own tragedy. It's so shocking that I really don't know how – again, I know how much this has affected me and the people around me, and the Palestinians and many Israelis who

are completely horrified and they want to see an end to this, who call for a decolonisation. There are not many, but they are there. So, yes, it's unprecedented. But I also think that this is, and we knew that there was something special, you know, a disturbing way in the case of Palestine, in the sense that Palestine or what remains of so-called Palestine continue to be colonised. I mean, the West Bank, the Gaza Strip and East Jerusalem were militarily occupied in 1967. So in the middle of the decolonisation process. So while other nations were liberating themselves from the yoke of colonialism, the tie around the neck of the Palestinians as a people, was becoming even stronger, more suffocating. It's not normal what we have let happen to the Palestinians as a people and as a people for those under occupation, as the people who should have been protected. I also wonder, the United Nations and in all these organisations supposedly there to advise on the conformity of Israel's conduct with international law, and I mean they have become part of an normalisation of the unlawful occupation and this is what I found myself being part of and why I decided that I had to step out.

**AM:** You bring up the UN. It's fascinating because you have Palestine's UN membership that is essentially held hostage because of the UN veto power, the Security Council. But I think it's kind of obscuring a much more important facet of this, which is Israel's membership. Israel's a member of the UN. I understand Article VI. You know, they obviously should be expelled based on the fact alone that they've slaughtered over 200 UN employees since October 7th. But of course, the US, you know, essentially controls and can veto any action that's taken against Israel. However, aren't there things that the UN can do to strip Israel of legitimacy, like prevent it from being allowed to go and parade around these props and make a mockery of the entire process here?

**FA:** There are things that can and should happen with the United Nations, but I'm afraid that for how relevant the UN system is right now, and considering the kind of power that is exerted outside the United Nations in terms of political power and financial, economic, military power, this would not be enough. I think that it's important to have the United Nations fora, particularly the General Assembly, a place where discussion can be continued, including with Israel. But meanwhile, member states have an obligation to take measures against Israel to suspend their military ties with Israel, to suspend their economic ties and this should have been done before the 7th October, frankly, and also to take a political step in expelling Israel from other political fora, cutting the diplomatic ties. This is what you do with an apartheid state, right? All the more at the time this apartheid state has committed genocide.

**AM:** Right. And you have US senators issuing literal threats against the ICC, saying, We're going to sanction you. We're going to actually use what's called The Hague Invasion Act. And, you know, they're basically threatening to invade the Netherlands if this ICC arrest warrant goes through. I mean, I don't know if you have anything to say about that, the fact that sitting US senators are actually taking these extreme measures and saying we are going to do a military action against The Hague if this goes through.

**FA:** I've often used the term hubris with regard to Israel, but then it fits as well to some American public officials and US public officials. And when I read that letter, I have to

admit, for a while I've been thinking it was a fake. I couldn't believe that people had the courage to put those threads, seriously, that thuggish language of black and white. I don't know who they believe they are, the lords of the world. But no, it's not like that. And this is why it's so important. Now there is this awakening from within the US society, maybe it is still small, but it comes from very important niches like the Ivy League universities, and the new generation, including American Jews, which has been transformative for me. I mean, I've said it from the very beginning of this military assault. I was in the US in October 2023 and after living for a few years in the US, including two major wars, 2012 and 2014, and I was in the US, so I've seen how much American Jews take part in protests, but this is nothing compared. Nothing compares to what I've seen in October and from October onward. So there is a new American Jewish society that is still growing. And therefore I think that the way it is also spreading to other universities and other corners of the global society, we need to continue that. This is a momentous turning point in history. Many colonised people have been either assimilated or have not been able to continue their struggle the way the Palestinians are, the way the Palestinians have been doing, really in a peaceful way. We forget this, but the Palestinian resistance has largely been peaceful. They've tried everything. They've tried the two state solution. They have agreed upon renouncing armed resistance in order to have a state, whatever it was, but still an independent and sovereign state, which has not come through in 30 years and frankly, frankly, I doubt that it will ever happen as it was envisaged at the Madrid conference in 1991. And they've tried the ICC and the ICJ many times, and other venues, other legal venues, the peaceful resistance in the face of armed settlers and very violent sort of soldiers. What else? So, going back to an earlier question that you had, everyone stands ready, including the ICC prosecutor who mentioned the right of Israel to defend its territory, its citizens, fine, but what about the Palestinians, the occupied people? Who have the right to exist and resist an oppressive regime under international law?! I'm not afraid of saying that because this is the law and this is what has made decolonisation possible. It could be much less painful than that. It could be more straightforward. But this is, again, Israel is protecting itself in its settler colonial ambition. And the West, together with some countries in the rest of the world, are making it happen.

**AM:** People of our generation, Francesca, we remember the crime of the century at the time. That was the invasion of Iraq, the post war on terror, bloodlust that the US waged across the Middle East. You know, it's an untold amount of misery and death and destruction. What Israel is doing today seems to take the worst crimes out of that era and increase them tenfold. I mean, I have never seen the scale and scope of war crimes. You know, the stories that we hear coming out of Gaza, it's hard to wrap your mind around the levels of cruelty. And I, as a lawyer, as someone who works on the international stage with international law, what kind of world are we entering into if Israel is not held accountable? Because we already saw the world that we have lived through for the last 20 plus years, with the United States not being held accountable for its crimes and atrocities in the Iraq War era, but this seems to be taking that to a new, more dangerous level.

**FA:** Yeah, it's taking it to a different level, because in some ways, in many ways, Israel has replicated both the narrative and the methods of that awful war on terror that was launched 20



years ago by the United States and which has harmed resistance so much. Because, again, this interpretation of self-defence is the most absurd way that Israel has proposed, that has a precedent. And it leads back to the war of terror started by the United States 20 years ago. And also this like lawless surprises with the architecture, with the engineering of a modern style concentration camp, I mean, it reminds me of Guantanamo. What has come out from that CNN report, it is re-appalling. And even more shocking is that in the face of all this, you don't even hear member states in the West calling for restraint, calling for a halt of the operations. Europe has lost its soul, while the US politically has lost its mind. This is what I see happening. How is this going to turn?! I don't know. We are suspended in between hope and the abyss. I keep on seeing the abyss and then every now and then I turn my head and one day there is South Africa. Oh my God, I feel tears in my eyes every time I think of South Africa. Then there's this young generation, I keep on saying, but also there are the Palestinians. It's incredible. And this is not rhetorical. I'm shocked at how peaceful they remain in the face of this ferocity and peaceful in the sense that they should be completely, many of them are devastated. I've seen walking ghosts coming out of Gaza, but others are not. Others keep on praying. People who have lost, I don't know, 30 family members and they say, I'm here. And if God spared me, it means that I have something to do. I have something good to do. And I want to be like you. And so I get hope, and I also get hope from the few, but they are there, Israelis who are coming out, who have always been against the apartheid, not just the occupation, against apartheid and for decolonisation. And there's so many that come to mind and they shouldn't be left alone. They have two different struggles to conduct. One, I mean, the Israelis within their own society, the Palestinians for their liberation, vis-a-vis Israel, but also it's a sort of emancipation vis a vis the world, vis a vis the West. And then from outside, I think we need to act, as I said, always with compassion and wisdom, without fuelling the flames. Us, the Western countries in particular, who have been moving over the past months.

**AM:** You're waging such a necessary and important struggle on the legal front. And, you know, all of the tens of millions of people around the world standing in solidarity with the Palestinians, building that pressure, that necessary pressure at home, especially in the heart of the US empire here. We need to keep it up. Francesca Albanese, I cannot thank you enough for everything that you do and for taking the time to talk to me today. I really appreciate it.

**FA:** Thank you.

**END**

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