

Palestine and International Law

From occupation to de facto annexation?

Statement of “International Progress Organization” at United Nations meeting on Palestine

United Nations Office at Vienna, 29 November 2022 – RE/28630c-is



Prof. Dr. Hans Köchler (Photo
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In a statement delivered at a special United Nations meeting convened by the Committee on the Exercise of the Inalienable Rights of the Palestinian People, the President [Hans Köchler*] of the International Progress Organization (I.P.O.) welcomed the decision of

the *Special Political and Decolonization Committee* of the UN General Assembly to request an Advisory Opinion from the *International Court of Justice* concerning the legal consequences from the ongoing violation of the Palestinian people's right to self-determination.

“Perpetual occupation, accompanied by a policy of illegal appropriation of territory and population transfer, becomes de facto annexation”, the President of the I.P.O. said. He also reminded the States Parties to the *Fourth Geneva Convention* of their obligation to investigate and prosecute violations of international humanitarian law in the occupied Palestinian territories, and called for an independent international investigation of the brutal killing of Palestinian journalist *Shireen Abu Akleh* on 11 May 2022.

This year the commemoration of the *International Day of Solidarity with the Palestinian People* at UN headquarters in New York, Geneva and Vienna coincided with the 75th anniversary of resolution 181 (29 November 1947) of the United Nations General Assembly concerning Palestine.

The meeting at the United Nations Office at Vienna was chaired by the Permanent Representative of Namibia, Ambassador *Nada Kruger*. The Director-General of the United Nations Office at Vienna, Ms. *Ghada Fathi Waly*, delivered a message from the Secretary-General of the United Nations. *King Mohamed VI* of Morocco, Chairman of the Al-Quds (Jerusalem) Committee of the Organization of the Islamic Conference, *King Salman bin Abdulaziz* of Saudi-Arabia, *King Abdullah II* of Jordan, and *Recep Tayyip Erdoğan*, President of the Republic of Türkiye, addressed special messages to the meeting.

The Permanent Observer of the *League of Arab States* conveyed a message from Secretary-General *Ahmed Aboul Gheit*. The Permanent Representatives of South Africa and Azerbaijan delivered statements on behalf of the *African Union* and the *Non-aligned Movement*. Statements were also made by the Permanent Representatives of Algeria, Austria, Cuba, Ecuador, Egypt, Iran, Iraq, Kuwait, Malta, Oman, Pakistan, Qatar, Syria, Tunisia, and Venezuela. The delegates were un-

* Hans Köchler was born on October 18, 1948 in the town of Schwaz, Tyrol, Austria. He graduated at the University of Innsbruck (Austria) with a doctor degree in philosophy (Dr. phil.) with highest honours (sub auspiciis praesidentis rei publicae). From 1982 until 2014 he was University Professor of Philosophy (with special emphasis on Political Philosophy and Philosophical Anthropology). He holds honorary doctor degrees from the Mindanao State University (Philippines) and from the Armenian State Pedagogical University, and an Honorary Professorship in Philosophy from Pamukkale University (Turkey). From 1990 until 2008 he served as Chairman of the Department of Philosophy at the University of Innsbruck.

At his University, Professor Köchler also served as Chairman of the *Arbeitsgemeinschaft für Wis-*

senschaft und Politik (Working Group for Sciences and Politics) from 1971 until 2014. From 1974 until 1988 he was Member of the Board of *Österreichisches College* (Austrian College Society, Vienna) and member of the Program Committee of *European Forum Alpbach*. In 1998 he was Visiting Professor at the University of Malaya in Kuala Lumpur (Malaysia). In 2004, he was appointed as Visiting Professorial Lecturer at the Polytechnic University of the Philippines, Manila. Following his election as Life Fellow in 2006, he was elected as Co-President of the *International Academy for Philosophy* in 2010. From 2019 to 2021 he served as Member of the University Council of the University of Digital Science (Berlin). In 2018, he joined the Faculty of the *Academy for Cultural Diplomacy* in Berlin, Germany.

animous in their support of the right to self-determination of the Palestinian people.

The meeting was concluded by a statement of *Dr. Hans Köchler*, President of the *International Progress Organization*, on behalf of inter-

national civil society, and by the speech of Ambassador *Salah Abdel-Shafi*, Permanent Representative of the State of Palestine, who read out a message from *Mahmoud Abbas*, President of the State of Palestine.

International Progress Organization

International Day of Solidarity with the Palestinian People

Special Meeting convened by the
Committee on the Exercise of the Inalienable Rights of the Palestinian People
– In accordance with United Nations General Assembly resolution 32/40 –

Statement on behalf of civil society

by

Dr. Hans Köchler, President of the International Progress Organization

United Nations Office at Vienna 29 November 2022, 4 p.m.

*Madam Chair, Excellencies,
Ladies and Gentlemen,*

In a situation of increasing global tensions and a possible return of the East-West conflict, 2022 has already become the deadliest year for Palestinians in the occupied West Bank since the United Nations began tracking fatalities 17 years ago.

The continued occupation of the Palestinian territories, now in its 56th year, has led to an ever more desperate situation for the affected population, and has resulted in a dangerous cycle of violence.

The continued construction and expansion of Jewish settlements, expropriation of Arab land, displacement and arbitrary arrests of Palestinians continue unabated amidst a general atmosphere of lawlessness and neglect for the basic rights of the people in occupied Palestine.

Last month, the Spokesperson for the UN High Commissioner for Human Rights raised concerns about the possible resumption of unlawful targeted killings by security forces of the occupying power.

With extreme nationalism and religious Zionism now increasingly becoming mainstream in Israel, and an essentially colonial agenda being openly favored by members of the new governmental coalition, the international community must intensify its efforts to protect the people living under the yoke of occupation, and must put an end to the illegal status quo.

In a report of 14 September this year, the Independent International Commission of Inquiry, operating under a mandate of the *United Nations Human Rights Council*, identified grave breaches of international humanitarian law committed by the occupying power.

Among those breaches are mentioned: “unlawful deportation or transfer”, unlawful imprisonment, and the “extensive destruction and expropriation of property”. According to the 1949 *Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War*, the State Parties to the Convention (namely all UN member states plus the State of Palestine) have a special responsibility “to ensure respect” for the Convention “under all circumstances” (Article 1).

It obliges states to adopt penal sanctions in the case of grave breaches of the Convention. Article 146 unambiguously states that each state “shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts”.

In this regard, it is of utmost importance that the death, on 11 May 2022, of Palestinian journalist *Shireen Abu Akleh*, a citizen of the United States, will be fully investigated and that those responsible are brought to justice. Under the *Geneva Convention*, the United States Department of Justice is fully authorized to investigate and prosecute this case where an unarmed and clearly identifiable

journalist was killed while performing her duties in the West Bank area of Jenin.

Furthermore, through the continued establishment of settlements – in outright breach of Article 49 of the Geneva Convention that strictly prohibits the transfer, by the occupying power, of parts of its civilian population into the territory it occupies – Israel appears to aim at *de facto annexation* of the West Bank, “while seeking to hide behind a fiction of temporariness” (in the words of the Human Rights Council’s Independent International Commission of Inquiry).

In view of this policy of *fait accompli*, making a two-state solution ever more difficult, the initiative by the UN General Assembly’s Special Political and Decolonization Committee (Fourth Committee) to request the International Court of Justice to render an advisory opinion on the “legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination” and on the impact of Israeli policies and practices on the “legal status of the occupation” is more than justified – if one takes the international rule of law seriously and does not capitulate in the face of military might.

Perpetual *occupation*, accompanied by a policy of illegal appropriation of territory and population transfer, becomes *de facto annexation*. Also, there is a real risk of a return to the annexation plan of 2020, with the Religious Zionism bloc in the newly formed coalition intent on intensifying settlement activity, including approval of thousands of apartment units, in large parts of Area C in the West Bank. It is high time that the international community puts an end to a politics of conquest that threatens peace and stability not only in the wider Middle East but in the entire world.

We welcome the *Algiers Declaration* of the League of Arab States of 2 November 2022, re-confirming the commitment of all member states to the *Arab Peace Initiative of 2002* in its entirety, and supporting a just and comprehensive solution of the question of Palestine on the basis of the “land for peace” formula.

In their Declaration, the Arab leaders described this as a “strategic option,” aimed at putting an end to the Israeli annexation and oc-

cupation of *all* Arab territories. Renewed commitment to a *collective* Arab effort, going beyond separate agreements on a purely bilateral basis, will also be in line with the reconciliation agreement reached at the conclusion of “Palestinian unity talks” on 13 October this year in Algiers, which affirmed that the *Palestine Liberation Organization* (PLO) is the sole legitimate representative of the Palestinian people.

Allow me to conclude, Madam Chair, with the historic words the Chairman of the Executive Committee of the PLO, the late *Yasser Arafat*, addressed to the delegates of our organization’s conference on “The Legal Aspects of the Palestine Problem with Special Regard to the Question of Jerusalem,” here in Vienna, in November 1980.

His emphasis on legal principles is especially pertinent now, at this crucial juncture when political developments in Israel appear to go in the opposite direction. In his message, Chairman Arafat emphasized the value of international civil society initiatives in support of “the justness of the Palestinian cause and the right of the Palestinian people to return and to self-determination including the right to establish an independent state”. He also stressed the importance “to pinpoint the legal dimensions which confirm the illegality of the Israeli state’s aggression, assault, annexation of lands, violation of human rights, imposition of collective punishment on an entire people, and the desecration of holy Islamic and Christian places.”

After so many years, this passionate plea for justice for the people of Palestine must not continue to be ignored by the international community.

We sincerely hope that the International Court of Justice – once the UN General Assembly has formally made the request for an Advisory Opinion – will set matters straight regarding the longest occupation in recent history, and provide clear guidelines for decisive action to restore the rule of law in Palestine.

A policy of open defiance of the international community’s will, expressed in countless resolutions of the United Nations since 1967, cannot and must not stand.

Thank you, Madam Chair.