Israel/OPT: UN expert says ICC war crimes probe would be a “momentous step for accountability”

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A UN human rights expert has hailed the International Criminal Court's decision to consider a formal criminal investigation into allegations of war crimes in Palestine as a "momentous step forward in the quest for accountability" in the five-decade-long Israeli occupation.

"Accountability has, until now, been largely missing in action throughout the 52-year-old occupation," said Michael Lynk, the Special Rapporteur for the situation of human rights in the Palestinian territory occupied since 1967.

"Over the years, the international community has adopted hundreds of resolutions through the United Nations condemning various features of Israel's entrenched occupation of the Palestinian territory. Yet rarely has it ever combined criticism with consequences for Israel. Now, the possibility of accountability is finally on the horizon."

ICC Prosecutor Fatou Bensouda announced on 20 December that she was "satisfied that there is a reasonable basis to proceed with an investigation into the situation in Palestine". She has spent the past five years reviewing the initial evidence as part of a preliminary investigation in the 2014 war on Gaza, the IsraeIi settlements and, more recently, the killing and wounding of Palestinian demonstrators near the Gaza frontier.

Bensouda said that before a formal investigation by her office is initiated, she will ask for a ruling by the Pre-Trial Chamber on the issue of territorial jurisdiction. Specifically, she is seeking confirmation that the 'territory' over which the Court may exercise its jurisdiction comprises the West Bank, including East Jerusalem, and Gaza.

"In a world that proclaims its devotion to human rights and a rules-based international order, it is vital that the international community defend the decision of the ICC Prosecutor to advance her investigation and to seek a favourable ruling from the Pre-Trial Chamber on the issue of territorial jurisdiction," said the Special Rapporteur.

"International law must be the basis for seeking justice for the victims of war crimes in this interminable conflict, and the international community must resolutely support the laws and the institutions that it has created and nurtured."

The Special Rapporteur noted that the Prosecutor also intended to investigate whether members of Hamas and other Palestinian armed groups had committed war crimes in the period since June 2014. "If the evidence gathered by the ICC Prosecutor leads her to make findings against these organizations, then her efforts must also be supported," said the Rapporteur. "The Rome Statute is meant to be applied dispassionately; indeed, this is the only way to build the necessary political and popular support for its mission."

Addressing the long-standing concern about how slowly the wheels of justice have turned in this matter, the Special Rapporteur urged that the territorial jurisdiction issue be presented and resolved as expeditiously as possible by the Pre-Trial Chamber.

"Justice delayed is justice denied. Should the allegations of war crimes then proceed to the formal investigation stage, every effort must be made to advance the work of the Prosecutor's office in a reasonably speedy manner consistent with legal fairness, so that the many victims of this conflict can realistically hope that justice might yet prevail within their lifetimes."