



Palestine Justice Campaign

The Palestine Justice Campaign is an international single-issue group of concerned citizens, trade unionists and human rights workers who volunteer to assist the Ziada family in their pursuit for justice.

Statement

This is the full statement prepared by Ismail Ziada to provide at the Court hearing on September 17, 2019. Given the limited time available for him to speak a shortened version of this statement was verbally delivered. That shortened statement is attached here as well.

Statements are also available online at: <http://www.nuhanovicfoundation.org/en/ziada-case/>

Your honours, it is a close to unspeakable tragedy due to which I am here with you in this court room today. The factual information about this tragedy is by now well known to you.

What I would like to add to this factual information is first of all a personal insight into the precious lives we lost. I have struggled to stand here in front of you today first of all to gain justice and accountability on their behalf. In addition I think it is crucial to also mention those left behind and last but not least about the quest I have been on since 2014 to be able to stand in front of you today.

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I attach importance to mentioning the names of those I lost in this court room; My mother, Muftia Ziada who was 70 years old at the time of her death. My eldest brother Jamil and his precious wife Bayan. Their 12 year old son Shaban. My two other brothers, Youssef and Omar.

I also would like to provide you and everyone here a glimpse into who these people were. My mother Muftia had an extremely hard life. She was expelled from her village Fallujah as a young child and grew up in a refugee camp in Gaza. She married at a young age and had 11 children. She lost one of them when he was only 2 years old and raised all of her other children single-handedly after my father died when her youngest son, Omar was only 4 years old. Her life work was raising her children and raising us out of poverty. It is an additional tragedy how she died in the 'castle' we were finally able to build in 2005, moving the family from a 4 room open courtyard structure to a building in which four of her sons had his own apartment.

My sister in law Bayan, who was like a sister to me and whose children I had the privilege to help raise for some years while in Gaza. A woman with many talents who are now lost to the world but most of all to the children she left behind. Her son Shaban, who was her first born son who died along with her on July 20, 2014.

Jamil, my bright, soft-spoken, kind-hearted eldest brother who went out to work from the age of 15 in Israel and Saudi-Arabia, doing hard labour to support my mother and his younger siblings, thereby enabling us to get an education, lifting our family out of the extreme poverty we had been locked into.

Youssef, the joker of the family and Omar our last 'little' brother. They both had wives and young children that had to continue life without them.

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But apart from the lives lost I want to also touch upon those family members of mine still here today. As the Palestinian poet and word artist Rafeef Ziada says, 'Palestinians get up every day to teach the rest of the world life'. This I think is a fair reflection of what our family is continuing to do every single day since July 20, 2014. There were daughters of Jamil and Bayan and the eldest son of my brother Youssef who graduated from high school or university. Some got married. My brother Hassan continued his work as a trauma psychologist. At the same time, like all my siblings in Gaza, doing what he could to support our nephews and nieces orphaned by the attack.

In the eyes of many I have in some way had a relative privilege, being able to live and raise my children in the safety of The Netherlands. However, I have to admit this has also come at a price, being isolated from my relatives in Gaza. This has been hard on me since I moved to The Netherlands but has become increasingly hard in the aftermath of 2014. In this context I want to mention the near impossibility for me to travel to Gaza or for my relatives to come and visit us due to the continuing blockade of Gaza.

I want to especially mention this as those representing defendants have, last minute, added a letter of the Israeli Ministry of Justice to their files, in which it presents a situation as if I could travel to Israel in 2014 and 2016 without impediment. They do so in order to substantiate their claim that as a Dutch citizen I could in fact travel to Israel to gain access to justice there. Lisa will later on describe how the misrepresentation of facts here is farcical but most of all vicious. Bottomline here is that, despite my Dutch citizenship, the Israeli authorities continue to impose identical treatment and provisions on me as they do on any Palestinian from the Occupied Territories. My wife and children travelled to Jerusalem this summer, forced to do so without me, because we know access to either Israel or the Occupied West Bank is denied to me. While I probably should know better I still find it shocking how those representing defendants try to so shamefully misrepresent this reality to your court to further their case.

But let me get back to the personal impact of what happened on July 20 2014. Just like my relatives I am personally also continuing to try to teach life every single day. To my wife, to our sons and the wider world around me. Me sitting here in front of you today bears witness to this as well. However, I would be lying if I would be denying that what happened in 2014 has not scarred me and those close to me. Without wanting to get into too much personal detail in this public setting the pain of this almost unimaginable loss has had its impact on me, my wife, our marriage and, by extension, while we try our best to shield them, on our boys.

Now the quest for justice and accountability that I embarked upon not long after the bombing in 2014 is in some way helpful in the sense that it is empowering and thereby uplifting to be able to do something to hold those responsible for the death of my family accountable. But here again I would be lying if I would deny that this has also come at a price. While the wound created by what happened will never completely heal I sometimes wonder if I am not continuously scratching its surface by having embarked on this process. There is not a day that goes by without us speaking or dealing with something connected to this judicial process. I hope that this ultimately helps me, helps us psychologically but, honestly, I am not entirely sure of this. Much of course also depends on the eventual outcome of this process.

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I want to mention here that it took convincing on the part of my wife, my wife's late great-uncle Henk Zanolli, my brother Hassan and Liesbeth for me to step into this trajectory. While my wife and her great-uncle shared a background in law, providing them with faith in legal recourse in The Netherlands, I have had a very different lived experience when it comes to the application and the merits of law.

2014 was not the first time I was impacted by Israeli army actions.

I was shot with live ammunition in the leg. I count myself 'lucky' that the ammunition used at that time was not the same used today at the Gaza Return Marches where people generally lose their leg due to the impact of the type of ammunition used.

I was shot at very close range with a rubber coated metal bullet in the head. I suffer from frequent, severe headaches ever since.

I witnessed another boy being shot in the head while standing right next to me. Dying on the spot.

I was beaten up severely by a group of Israeli soldiers after having been hit by numerous rubber coated metal bullets in the back.

I experienced night time raids on our home during which some of my brothers were violently arrested when I was only a very small child.

All of the aforementioned, without exception, happened to me before I reached the age of 15.

In addition I want to add that within our extended family we experienced a similar loss as we experienced in 2014 during the winter of 2009. At that time we lost my cousin, nine months pregnant at the time, her husband, their young son as well as this boy's grandmother.

And this, your honours, is just the tip of the iceberg of the experiences I personally lived through and experienced for which never, ever anyone was held accountable and for which recourse to any kind of justice was beyond imagination. I am sharing these personal and traumatic experiences with you as they jointly provide a clear and concrete example of a 'normal' pattern that Lisa later will elaborate on in her submission to your court where it concerns access to justice in Israel for Palestinians in general.

So it took some convincing for me to get onto this path, seeking justice and accountability and for me to be assured that the Dutch legal system ultimately may be something different and could potentially truly provide a lady justice whose scales are balanced.

Given this context it is extremely painful to have those representing the defendants here today arguing to deny me justice yet again, even here in The Netherlands. I personally read their entire submission. Knowing a thing or two about the Israeli legal system and the way it works for, or rather against Palestinians, I find the argumentation brought forward, with all due respect, yet again farcical as well as vicious. The manner in which the Israeli state has used, or rather abused the very concept of law to legitimize denial of basic rights to Palestinians is staggering and well documented by numerous organizations, Palestinian, international and Israeli alike and this is even recognized and described by Israeli judges that operated in the system. The documentary 'The Law in these Parts' which the lawyers included in their submission to your court contains a large number of testimonies of former Israeli judges bearing witness to this.



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I however have faith that your court will be able to recognize that the concept of law is abused here as nothing else but a fig leave to cover up what is in fact a system of oppression, inequality and consequent denial of rights.

On the matter of immunity I would like to emphasize that were the court to reward this it would effectively mean I have no recourse to justice at all. I would like to remind the court as well, while Liesbeth argues this more eloquently and precisely, that there are clear precedents denying any right to immunity in criminal cases for potential war crimes. While this is a civil case for which not as much precedent exists to date, I would argue that a criminal proceeding being of a more severe nature, awarding immunity here would be doing not only injustice in this case but would do harm to the very concept of justice as such. I am not even touching upon the morality or rather immorality of awarding immunity for a potential war crime.

Those arguing on behalf of the defendants have repeatedly expressed full faith in the Dutch legal system and have also indicated to be fully convinced of the legality of the bombing of my family's apartment building. If defendants are so firmly convinced that they have acted correctly I wonder why it is they are trying all they can to avoid your court passing judgement on the merits of the case brought forward. That is of course a question of a rhetorical nature.

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Your honours, the road I have embarked upon bringing me here today in your court has been long and difficult. It has been emotionally draining but also financially difficult to pursue this path. But we have faced various additional forms of pressure to date that I would like to also make you aware of.

Last December we faced a severe financial crisis as the submission of defendants required the lawyers to in effect build up another case regarding the questions of access to justice and immunity. To be honest, I was seriously considering giving up as we didn't have the financial means to afford continuing. My wife and me felt we were stuck and in crisis. Right at that time the brake cable of our family car was cut while parked in front of our home. We filed a case with the police and while an investigation was done the police and public prosecutor were unable to find any leads in the context of this investigation. While we have no proof in hand, and we can therefore hold no one accountable for what happened this didn't change the fact that we experienced this event as an additional form of security pressure directed at us to provide that last nudge to convince us to stop. I would like to emphasize that we experienced that in this instance this pressure was not just directed at me and my wife but also at our children.

Some of my relatives in Gaza have urged me to drop the case because of this event and have spend sleepless nights worrying about my safety and the safety of my family. Based on our lived experience as Palestinians, cut brake cables or a bomb under your car is not something unimaginable. My wife always reassures me, and, I imagine, in some way herself too, that as a Dutch family and EU citizens we will be shielded from serious harm. Nevertheless my personal concerns over our safety have increased since this incident.

But there was more. In May the Israeli lobby organization in The Netherlands CIDI published what I would call a 'hit piece' on my wife claiming, among other things, that she is promoting, as they called it 'ending Jewish democracy' due to her work for The One State Foundation. A reference to this court case was also made in this article. It resulted in the minister of foreign affairs, for whose



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ministry she also works, being called into parliament by a Freedom Party parliamentarian who called her 'an anti-Semitic stain in the corps diplomatique' and requested the minister to fire her. I should add here that my wife is the breadwinner in our family. The scourge of anti-Semitism directed at her has infuriated me tremendously as I know her and her family, who actively stood up against fascism and anti-Semitism when it really mattered, to be anything but that.

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In case you were not yet informed about this I would also like to mention that, while this is a civil case, the defendants legal expenses are fully covered by the Israeli ministry of justice, providing them with potentially unlimited financial resources. We rely on our own limited financial means and financial support we were able to obtain at grass roots level. While we have received a tremendous amount of support of so many individuals known and unknown to us, we continue to face a situation of financial duress and uncertainty.

I want to emphasize that this is a case of principle for me. It is likely the expenses we will make will far outdo any compensation, if ever paid out by Gantz and Eshel to begin with. As I have made clear in the framework of the fundraising campaign for the case, if any compensation would be paid out it will be donated in its entirety to a cause in support of Palestinian children or in support of other victims of war seeking access to justice.

Nevertheless I want to urge the court to not award defendants financial compensation for legal expenses in the hopefully unlikely event that I would lose this case. First of all since they are effectively not making any legal expenses personally. In addition it would place my family and me under further financial pressure and provide an effective obstacle to access to justice. Most importantly, it would be adding extreme insult to extreme injury for me to have to effectively pay compensation to the Israeli Ministry of Justice, being a representative of the state that has recognized it is responsible for intentionally killing my relatives.

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All that I have shared could leave you with the impression that I, in some way, am appealing to your sense of pity or sympathy. I am not. I am here as a consequence of my relative privilege. Privilege that so many other Palestinians affected in the same manner by the systematic impunity they are exposed to do not have. If there is a parable to compare my reality with I think of David and Goliath. Those on the other end obviously representing Goliath, me David; holding my head held high and convinced of doing the right thing; seeking justice and accountability.

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I am sure this case will also put this court under both professional as well as personal pressure. There is no doubt in my mind that apart from the legal arguments being brought forward by those I am facing today there will also be additional implicit or even explicit political, diplomatic and popular pressure exerted on your court by forces supporting those individuals we are trying to hold accountable.

I embarked on this case at a time in which access to justice is under pressure globally. Your colleagues at the ICC, established here in this city of peace and justice, are under growing political pressure and the trend is pointing towards a global decrease in respect for the law in general and



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human rights in particular. Despite this global reality and despite the pressures your court will no doubt face I keep faith you will continue to balance the scales of Lady Justice and do justice in this case. The Netherlands is promoting access to justice and ending impunity for war crimes and crimes against humanity in numerous places around the world. I have faith that this is the right place for me, a citizen of this country, to obtain access to justice.

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Your honours, one more thing I would like to emphasize here is that while this is a struggle for justice by a Dutch Palestinian and his family it is ultimately a universal struggle related to very human pain and loss. It is likely that I, and the ones I loved and lost may be perceived or be painted as perpetrators of violence as opposed to victims of state sanctioned violence. As people different from 'us', practicing a religion people have become suspicious of, dressing in ways people object to, speaking a language foreign to most.

I don't doubt the objectivity of this court but given the current climate I want to emphasize the universality of humanity this case touches upon as well as the universal importance of what I am asking you for; access to justice.

Thank you.