



Joint Written Submission
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Human Rights Council Must End Closure of Gaza and Ensure Accountability

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Since 2007, Israel has imposed a comprehensive land, sea, and air blockade over the occupied Gaza Strip, impacting some two million Palestinians. Since 30 March 2018, Palestinians in Gaza have protested on a near-weekly basis as part of the Great Return March, calling for an end to Israel’s illegal closure, which amounts to collective punishment, and the realisation of their inalienable rights, in particular the right of return of Palestinian refugees and the right of the Palestinian people to self-determination, as mandated by international law. This submission addresses the urgent need to end the Gaza closure and ensure accountability, including through the implementation of the recommendations of the United Nations (UN) Commission of Inquiry on the 2018 protests in the occupied Palestinian territory (‘the Commission’).

Israel’s Suppression of the Great Return March

Since 30 March 2018, the Israeli occupying forces have killed 216 Palestinians in the context of the Great Return March, including 47 children, nine persons with disabilities, four paramedics, and two journalists. On 22 March 2019, the Human Rights Council (‘the Council’) adopted the Commission’s recommendations in accountability resolution 40/13, including the Commission’s calls on Israel to lift the Gaza closure, to align its rules of engagement for the use of live fire with international human rights law, and to uphold the right to health of Palestinians, including through the treatment of injuries from the demonstrations.¹ Since then and as of 20 January 2020, 20 Palestinians have been killed during the protests in Gaza, including six children, reflecting Israel’s continued resort to excessive and lethal force to suppress the Great Return March.

On 6 September 2019, two Palestinian youths, aged 14 and 17, were shot and killed by the Israeli occupying forces in the context of the demonstrations. Khaled Al-Rabi’ey, 14, was shot three times with live ammunition by Israeli snipers in his left leg, left arm, and right loin while participating in the demonstrations near Malaka return camp, east of Gaza City. At the time, Khaled was standing approximately 300 metres from the fence, not posing any threat to the Israeli occupying forces. The lethal injuries had left Khaled with no vital signs, according to paramedics who treated

¹ A/HRC/RES/40/13; A/HRC/40/74, paras. 119 and 122.

him, and he was pronounced dead at Al-Shifa Hospital in Gaza City shortly after arrival. On the same day, Ali Al-Ashqar, 17, was shot with live ammunition in the back near Abu Safiya return camp, east of Jabaliya, in the northern Gaza Strip, without posing any threat to Israeli forces. He was pronounced dead upon arrival at the Indonesian Hospital in Beit Lahia.

Since the start of the demonstrations, Israel has systematically suppressed the Great Return March, using excessive and lethal force to undermine Palestinian protesters' rights-based demands. We recall that all Palestinians, including children, have a right to freedom of peaceful assembly, and that Israel, as occupying power, is prohibited from resorting to excessive force to suppress unarmed civilian demonstrations. The Commission "found reasonable grounds to believe that Israeli snipers shot at journalists, health workers, children and persons with disabilities, knowing they were clearly recognizable as such."² The Council must adopt effective measures to ensure the protection of Palestinians from further Israeli assaults, in fulfilment of resolution 40/13.

Gaza: Uninhabitable

At the root of the Great Return March is Israel's illegal 12-year closure of Gaza. Since 2012, UN reports have repeatedly warned that Gaza will become uninhabitable by 2020 should Israel fail to lift its illegal closure.³ In practice, however, Gaza has already been uninhabitable for years. Attributable to the Israeli-imposed closure, Gaza is suffering from extreme economic decline, de-development, unparalleled levels of poverty, aid-dependency, food insecurity, and unemployment, and collapsing public services.⁴ Further, the closure hinders the ability of Palestinians in Gaza to access safe drinking water, with 95 per cent of residents not having access to clean water.⁵ At the same time, in the absence of equipment and resources to properly treat sewage, wastewater, and solid waste, Palestinians in Gaza are at constant risk of suffering from water pollution-spread diseases.

Israel's closure regime impacts all aspects of Palestinian life in Gaza, from main contributors to Gaza's economy, e.g. farmers and fishermen, to its most vulnerable residents, e.g. medical patients. Integral to Israel's closure regime is maintaining, with force, a territorial and maritime buffer zone in Gaza where access is entirely prohibited or severely restricted. On land, a 300-metre-wide no-go zone is enforced within Gaza's side of the perimeter fence, yet many attacks against civilians were documented in areas as far as 1,500 metres from the fence. It is estimated that the buffer zone engulfs about 35 per cent of Gaza's arable land, thus rendering agricultural activities a highly risky venture. In 2019, over 280 live fire and shelling attacks on farmers or farmlands were recorded, killing one farmer and injuring three. Further, Israel has used crop-duster planes to aerially spray

² OHCHR, "No Justification for Israel to Shoot Protesters with Live Ammunition," 28 February 2019, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24226&LangID=E>.

³ E.g., UNCT oPt, "Gaza in 2020: A Liveable Place?," August 2012; UNCTAD, Report on UNCTAD assistance to the Palestinian people, 6 July 2015, UN Doc. TD/B/62/3.

⁴ UNCT oPt, "Gaza Ten Years Later," July 2017, p. 13: https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

⁵ UNRWA, "Where We Work," January 2018: <https://www.unrwa.org/where-we-work/gaza-strip>.

herbicides to kill vegetation across the perimeter fence, taking advantage of westward-blowing winds carrying the potent chemicals at least 600 metres into the Gaza Strip. The most recent incidents of spraying took place sporadically from 14 to 16 January 2020, with damages to crops and soil yet to be assessed.⁶ In the sea, Gaza's fishermen endure constant harassment, arrest, shooting, and seizure of fishing boats. Israeli forces opened fire towards Palestinian fishing boats on 347 separate incidents in 2019, injuring 16 fishermen, including two children.

Israel's closure has led to a steep decline in Gaza's health sector and the unavailability of specialized medical services, which have increased the need for patients to be referred for treatment to more advanced facilities outside of Gaza. In 2019, Palestinian patients submitted over 24,000 applications (30 per cent for child patients) to exit Gaza for treatment in Israel and the West Bank, including East Jerusalem, of which at least 8,300 applications (including around 2,000 submitted for child patients) were not granted approval. Of the 24,000 applications, at least 7,000 were submitted by oncology patients. Around 25 per cent of these applications were not approved in 2019.⁷

Urgent Need to Lift the Closure and Fulfil Resolution 40/13

Within a context of prolonged Nakba and occupation, Israel's 12-year closure of Gaza denies the Palestinian people their means of subsistence and entrenches a perpetual denial of their inalienable rights, including to a life of dignity and to the highest attainable standard of health. Facilitating these illegal policies and practices is a framework that is designed to produce impunity and prevent Palestinians from effectively challenging the legal regime maintained by Israel, which amounts to apartheid within the meaning of the Rome Statute of the International Criminal Court.⁸ In resolution 40/13, the Council requested the Office of the High Commissioner for Human Rights (OHCHR) to "follow up on the implementation of the recommendations contained in the report of the commission of inquiry,"⁹ including to lift the Gaza closure with immediate effect and to fulfil the right to health of Palestinians.¹⁰ Accordingly, we call on the Council and all UN Member States to:

⁶ Gisha, Adalah, and Al Mezan, "Human rights organizations Gisha, Adalah and Al Mezan demand an immediate stop to aerial herbicide spraying by Israel over Gaza's perimeter fence," 16 January 2020: <http://mezan.org/en/post/23665>.

⁷ WHO, aggregate numbers of the 2019 monthly reports on access to health in the oPt: <http://www.emro.who.int/pse/publications-who/monthly-referral-reports.html>.

⁸ *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3, Article 7(2)(h). See also Al-Haq, "Palestinian, regional, and international groups submit report on Israeli apartheid to UN Committee on the Elimination of Racial Discrimination," 12 November 2019, para. 48: <http://www.alhaq.org/advocacy/16183.html>.

⁹ A/HRC/RES/40/13, para. 11.

¹⁰ A/HRC/40/74, para. 122.

1. Address the root causes of the Great Return March by calling for an immediate end to the Gaza closure and upholding the right of all Palestinians to life, health, and freedom of peaceful assembly;
2. Call on OHCHR to adopt effective measures and to set a clear time frame for the implementation, without delay, of the Commission's recommendations, in fulfilment of resolution 40/13;
3. Pursue international justice and accountability for widespread and systematic human rights violations committed against the Palestinian people, including suspected crimes, and uphold third State responsibility with regard to penal sanctions for grave breaches of international law committed against the Palestinian people.¹¹

¹¹ A/HRC/RES/40/13, para. 10.