



Re: Call for inputs from civil society organizations in Israel and in the State of Palestine

Al Haq and Al-Quds Community Action Centre (CAC) welcomes the opportunity to respond to the Call for Inputs¹ and to submit written contributions on the implementation of the recommendations contained in the report of the ad hoc Conciliation Commission (CERD/C/113/3) dated 21 August 2024 (paragraph 56) in the inter-State communication Palestine v Israel. We welcome in particular CERD's determination to fulfil its role with regard to follow up on the decision. However, before responding to the particular request, we emphasise that CERD must urgently continue to address the context in which the inter-State communication arose. This relates to the conditions that have led to the current existential threat faced by the Palestinian people through Israel's genocidal campaign in Gaza, and wider policies and practices of apartheid on both sides of the Green Line, and throughout the Occupied Palestinian Territory (OPT). Israel's discriminatory policies and practices are intended to maintain domination over the Palestinian people as a whole, i.e.., Palestinians in the West Bank, including Jerusalem and the Gaza Strip, Palestinian citizens of Israel, and Palestinian refugees and exiles in the diaspora who are systematically prevented from returning to Palestine under Israel's discriminatory laws. The Palestinian group which since the Nakba has been intentionally fragmented under Israel's apartheid policies and practices on both sides of the Green Line — to prevent the group from exercising its collective right of selfdetermination — is now being erased in final acts of genocide.

Genocide

There is a growing international consensus that the situation in Gaza amounts to genocide, as concluded by the UN Special Rapporteur on the OPT,² Palestinian, Israeli and international

_

'From Economy of Occupation to Economy of Gencoide' UN Doc. A/HRC/59/23 (2025).

¹ CERD Call for inputs from civil society organizations in Israel and in the State of Palestine https://www.ohchr.org/en/calls-for-input/2025/call-inputs-civil-society-organizations-israel-and-state-palestine ² Report of the UN Special Rapporteur on the OPT, 'Genocide as Cultural Erasure' UN Doc. A/79/384 (2024);

NGOs,³ genocide scholars,⁴ the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,⁵ and a range of other sources. The International Court of Justice will finally determine this question in *South Africa v Israel*, but it has issued provisional measures orders against Israel with which Israel has refused to comply.⁶ State submissions to the International Court of Justice in the pending advisory proceedings *Obligations of Israel in relation to the Presence and Activities of the United Nations, Other International Organizations and Third States in and in relation to the Occupied Palestinian Territory* the emphasise that Israel's legislative and physical attacks on UNRWA in particular evidence genocidal intent.⁷

The ongoing and continuously escalating campaign of starvation, the weaponisation of aid distribution, the over 60,000 Palestinians killed, the many hundreds of thousands injured, the proposals to occupy and ethnically cleanse the territory, have created in Gaza a humanitarian crisis of 'horrific proportions' according to the UN Secretary-General,⁸ who also describes 'a level of death and destruction without parallel in recent times.'9

CERD cannot implement the decision in *Palestine v Israel* without addressing also the ongoing genocide in Gaza. It is to be commended for its interventions under the Early Warning / Urgent

³ See *inter alia* Al Haq, 'How to Hide a Genocide: The Role of Evacuation Orders and Safe Zones in Israel's Genocidal Campaign in Gaza' (2025) https://www.alhaq.org/publications/25781.html B'Tselem, 'Our Genocide' (2025) https://www.btselem.org/publications/202507_our_genocide Amnesty International, 'Israel's Genocide against Palestinians in Gaza' (2024)

https://www.amnesty.org/en/latest/news/2024/12/amnesty-international-concludes-israel-is-committing-genocide-against-palestinians-in-gaza/ and 'Gaza: Evidence points to Israel's continued use of starvation to inflict genocide against Palestinians' (2025) https://www.amnesty.org/en/latest/news/2025/07/gaza-evidence-points-to-israels-continued-use-of-starvation-to-inflict-genocide-against-palestinians/ Human Rights Watch, 'Extermination and Acts of Genocide: Israel Deliberately Depriving Palestinians in Gaza of Water' (2024) https://www.hrw.org/report/2024/12/19/extermination-and-acts-genocide/israel-deliberately-depriving-palestinians-gaza among many other organisations.

⁴ For an overview see Melanie O'Brien [President of the International Association of Genocide Scholars], 'Is Genocide Happening in Gaza?' *Opinio Juris* 4 August 2025 < https://opiniojuris.org/2025/08/04/is-genocide-happening-in-gaza/

⁵ Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide, Conference room paper of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 16 September 2025. https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session60/advance-version/a-hrc-60-crp-3.pdf

⁶ Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v Israel), Provisional Measures Orders of 26 January, 28 March and 24 May 2024.

Written Statement of the State of Palestine, 28 February 2025, para 4.88. https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-25-00-en.pdf; Written Statement Submitted by the Government of the Republic of South Africa, 28 February 2025, para 176. https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-07-00-en.pdf; Written Statement of the Republic of Tunisia, 20 February 2025, para 65. https://www.icj-cij.org/sites/default/files/case-related/196/196-20250228-wri-19-00-en.pdf; Written Statement of the Comoros, 4 March 2025, paras 112-5. https://www.icj-cij.org/sites/default/files/case-related/196/196-20250304-wri-03-00-en.pdf.

⁸ UN News, 'Guterres calls for immediate Gaza ceasefire as humanitarian crisis reaches 'horrific proportions' 27 June 2025 < https://news.un.org/en/story/2025/06/1165016>

⁹ UN News, "Peace is a choice": UN chief urges diplomacy as wars spread from Gaza to Ukraine 22 July 2025 https://news.un.org/en/story/2025/07/1165462>

Action mechanism in October and December 2023,¹⁰ which expressed grave concern as to dehumanising language and incitement to genocidal actions by Israeli officials, as well as the obligation of Israel and other State Parties to prevent genocide.¹¹ Since then, and most recently in May 2025, CERD again urged all States Parties to fully respect their obligations under both ICERD and the Genocide Convention, 'to bring an end to the violations that are taking place and to prevent war crimes, crimes against humanity and genocide, including by ceasing any military assistance if there is a clear risk that such assistance could be used in violation of international law'.¹²

Al Haq and CAC take note of the Committee's vital historic role in relation to genocide prevention. This was prompted by its experience in 1994 in relation to Rwanda, where its actions ultimately came too late, and which led to the adoption of the Early Warning / Urgent Action mechanism. In 2005 CERD adopted a Declaration on the Prevention of Genocide which recalled country situations where 'systematic violations of human rights and persistent patterns of racial discrimination could escalate into violent conflict and genocide'. The 2007 guidelines on the Early Warning / Urgent Action mechanism refer to its role in identifying 'the presence of serious, massive, or persistent patterns of racial discrimination, in some cases with genocidal dimensions.' This role is strongly supported by genocide scholarship, as summarised by the current President of the International Association of Genocide Scholars:

'As genocide scholars know, genocide is a process, not an event ... the genocide process did not begin on 8 October 2023. It was prefaced by decades of human rights abuses against the Palestinian people; extensive violations of international law involving discrimination, persecution, apartheid and more, some aspects of which have been clearly delineated by legal bodies as violations of international law. It is the decades of discrimination and persecution, creating a system of dehumanisation, that has permitted the escalation of destructive conduct against Palestinians since 7 October 2023.'13

Palestine v Israel addresses precisely the systematic and persistent patterns of violations of ICERD that have created the conditions for the current genocide unfolding in Gaza. Al Haq calls on the Committee to ensure that its process of follow up is focussed on the prevention of genocide. It believes the call on all States Parties to cease military assistance if there is a clear risk that such assistance could be used in violation of international law is not strong enough. There is a clear risk that any military assistance to Israel will breach the Genocide Convention and ICERD, and contravenes the findings of the ICJ as to third state obligations in the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem advisory opinion. As a result, Al Haq and CAC believe that the Committee should use the Early Warning / Urgent Action mechanism to immediately call for a full embargo on all military assistance to Israel by all States Parties.

Apartheid

¹⁰ CERD, 'Statement on Israel and the State of Palestine' (27 October 2023) and 'Decision on Israel and the State of Palestine' (21 December 2023).

¹¹ Ibid

¹² CERD, 'Statement on the Catastrophic Humanitarian Crisis in Occupied Palestinian Territory' (9 May 2025).

¹³ O'Brien, supra n 3.

While CERD has evolved its role and expertise in relation to genocide, its mandate in relation to apartheid is clear under Article 3 – indeed, Article 3 ICERD is the first international treaty prohibition of apartheid. The centrality of Article 3 to the situation in the OPT was emphasised in the 2024 Advisory Opinion of the ICJ in *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, in which the Court held that 'Israel's legislation and measures constitute a breach of Article 3 of CERD.'¹⁴ A number of judges considered this to be a finding of apartheid, as per Judge Tladi: 'The Court was correct to find that the policies and practices of Israel in the OPT amount to apartheid'.¹⁵

Importantly, the ICJ proceedings included submissions from states including South Africa and Namibia, states that suffered for decades under apartheid rule, which assert that Israel's conduct amounts to apartheid. As South Africa stated to the Court: 'Israel...continues to impose an institutionalised regime of systematic racial oppression and discrimination against the people of Palestine which satisfies the prevailing evidentiary standard of the international crime of apartheid'. Namibia likewise considered: 'Namibia submits that Israel is in breach of its obligations under the customary prohibition of apartheid and Article 3 of ICERD. It has imposed a system of apartheid on (i) Palestinians within the Occupied Palestinian Territory, specifically, and (ii) the Palestinian people, as a whole.' 18

The Commission's report in *Palestine v Israel* stated in its findings and recommendations: 'The [C]ommission is of the view that those acts may amount to a situation of apartheid if no action is taken by Israel to effectively address the issues raised.' We are now more than one year since the Commission's report in August 2024. In this period Israel has killed, maimed and starved the population of Gaza, destroyed over 90% of the housing, targeted schools, hospitals

¹⁴ ICJ Advisory Opinion, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem (19 July 2024) para 229.

¹⁵ Ibid, Declaration of Judge Tladi, para 5.

¹⁶ Algeria, Written Statement (July 2023), § 9, 42-3. https://www.icj-cij.org/sites/default/files/caserelated/186/186-20231025-wri-10-00-en.pdf; Bangladesh, Written Statement (July 2023) § 31(ii), available at: https://www.icj-cij.org/sites/default/files/case-related/186/186-20230724-wri-02-00-en.pdf; Belize, Written Statement (July 2023), § 63-73, available at: https://www.icj-cij.org/sites/default/files/case-related/186/186- 20230725-wri-24-00-en.pdf; Written Statement of the Plurinational State of Bolivia (July 2023), https://www.icj-cij.org/sites/default/files/case-related/186/186-20230725-wri-25-00-en.pdf, p. 4; Written Statement of the Republic of Cuba, p. 22 and 29; Written Statement of The Republic of Djibouti (25 July 2023), https://www.icj-cij.org/sites/default/files/case-related/186/186-20230725-wri-35-00-en.pdf, §5, §20-30; The Gambia, Written Statement (July 2023), § 1.9-1.15, available at: https://www.icj-cij.org/sites/default/files/caserelated/186/186-20230725-wri-22-00-en.pdf; Written Statement of the Republic of Indonesia (July 2023), https://www.icj-cij.org/sites/default/files/case-related/186/186-20230725-wri-32-00-en.pdf, §27, §37-39; Jordan, Written Statement (July 2023), § 5.13. https://www.icj-cij.org/sites/default/files/case-related/186/186-20230724wri-03-00-en.pdf; Kuwait, Written Statement (July 2023), § 33. https://www.icj-cij.org/sites/default/files/caserelated/186/186-20230725-wri-19-00-en.pdf; Lebanon, Written Statement (July 2023), §, 49-52, 57. https://www.icj-cij.org/sites/default/files/case-related/186/186-20230724-wri-06-00-en.pdf; Qatar, Written Statement (July 2023), § 4.78, available at: https://www.icj-cij.org/sites/default/files/case-related/186/186-20230725-wri-03-00-en.pdf.

¹⁷ Ibid, Written Statement of South Africa (25 July 2023), para 101.

¹⁸ Ibid, Written Statement of Namibia (21 July 2023), para 55.

¹⁹ Report of the ad hoc conciliation commission on the inter-State communication submitted by the State of Palestine against Israel under article 11 of ICERD, 'Findings and Recommendations' CERD/C/113/3/Add.2 (21 August 2024) para 11.

and cultural sites, killed and tortured doctors and other health workers, and its leadership is openly discussing occupation and annexation of the territory. Meanwhile, in the West Bank including East Jerusalem, the illegal settlement enterprise grows and systematic settler attacks continue, described recently for example in relation to Palestinian Bedouins by UN experts as 'an intentional strategy to erase their presence in key agricultural areas, undermine their food security and food sovereignty and ultimately sever Palestinians from their land'. Outside the OPT, the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel concluded in an August 2025 report that within Israel 'Some policies and laws are explicitly discriminatory [against Palestinians]. Others have a discriminatory impact, resulting in segregation.' It is clear that Israel is not taking action to address the issues raised in the 2024 Commission report, and instead has spent the past year destroying and erasing Palestinian life across the occupied territory.

With that in mind, Al-Haq asks the Committee when it is going to declare Israel's conduct on both sides of the Green Line as constituting apartheid? It requests that the Committee use the Early Warning / Urgent Action mechanism to set out: (i) a legal understanding of apartheid as State responsibility and a State wrong, modelled on the definition in the Apartheid Convention; (ii) acknowledge the range of UN sources, as well as NGO and civil society reports, that consider the situation as apartheid on both sides of the Green Line; (iii) consult with and consider the views of South Africa and Namibia, whose populations' fight to end apartheid were central to the adoption of ICERD and the work of the Committee in its first decades; (iv) set out the legal obligations of Israel to prevent, prohibit and eradicate its policies and practices of apartheid; (v) set out the legal obligations of all States Parties to ICERD to 'particularly condemn' apartheid as required by Article 3. The Committee should refer to its own remarkable and detailed 25 years of practice from 1970-1994 in relation to the obligations of all States Parties to ICERD to condemn apartheid in South Africa and the Southern African region.²³ This includes for example considering any military assistance which aids or assists the maintenance of an illegal apartheid regime as a breach of Article 3.

Conciliation in the context of ending the illegal occupation and dismantling the settlements

Al-Haq and CAC recognise that the Articles 11-13 inter-State communications mechanism and Commission report in *Palestine v Israel* combines aspects of conciliation with the need to uphold the standards of the Convention.²⁴ However, we emphasise that the conciliation aspects cannot be implemented without robust intervention to follow up on breaches of the standards of the Convention in particular as they relate to genocide and apartheid. If and when the Committee holds all States Parties to account to prevent genocide and condemn apartheid, the aspects of conciliation recommended in the report in *Palestine v Israel* become more workable.

²⁰ BBC News, 'Netanyahu to propose full reoccupation of Gaza, Israeli media report' 5 August 2025 https://www.bbc.com/news/articles/cpqv2qig5vvo

²¹ OHCHR, 'Israel: UN experts call for end to violence by state and settlers in the West Bank' 24 July 2025 https://www.ohchr.org/en/press-releases/2025/07/israel-un-experts-call-end-violence-state-and-settlers-west-bank

²² Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including

East Jerusalem, and Israel, A/80/337, 14 August 2025, para 83. https://docs.un.org/en/A/80/337.

²³ Discussed in detail in David Keane, 'Palestine v Israel and the Collective Obligation to Condemn Apartheid under Article 3 of ICERD' (2022) 23(2) Melbourne Journal of International Law 251-275.

²⁴ As per Article 12(1)(a) ICERD: 'the Chairman shall appoint an ad hoc Conciliation Commission ...with a view to an amicable solution of the matter on the basis of respect for this Convention.'

This requires ending the illegal occupation and annexation of Palestinian territory, and dismantling the illegal settlement enterprise. Note that this in line with recommendations of all three ICERD treaty bodies, with CERD, the ad hoc Conciliation Commission, and the ICJ unified in requiring an immediate end to the illegal occupation and annexation, including the dismantling of the settlements. Thus, CERD stated in concluding observations to Israel:

'The Committee reiterates its view that the Israeli settlements in the OPT, in particular the West Bank, including East Jerusalem, are not only illegal under international law but are an obstacle to the enjoyment of human rights by the whole population [...] The Committee is appalled at the hermetic character of the separation of the two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services, lands and water resources. Such separation is materialized by the implementation of a complex combination of movement restrictions consisting of the Wall, the settlements, roadblocks, military checkpoints, the obligation to use separate roads and a permit regime that impacts the Palestinian population negatively (art. 3).²⁵

The Commission recognised in *Palestine v Israel*:

'The continuation of the colonization through settlements and outposts in Palestinian territories is in itself an obstacle to a possible amicable solution to the Israeli-Palestinian dispute. As long as the de facto policy of colonization continues and there are no concrete steps taken for a mutually agreed and lasting delimitation of borders between the States parties, it will not be possible to ensure equal protection of the rights of Israelis and Palestinians under the Convention'.²⁶

The ICJ held in its Advisory Opinion:

'the Court reaffirms that the Israeli settlements in the West Bank and East Jerusalem, and the régime associated with them, have been established and are being maintained in violation of international law [...] the Court considers that these policies and practices amount to annexation of large parts of the Occupied Palestinian Territory [...] Restitution includes Israel's obligation to return the land and other immovable property, as well as all assets seized from any natural or legal person since its occupation started in 1967, and all cultural property and assets taken from Palestinians and Palestinian institutions, including archives and documents. It also requires the evacuation of all settlers from existing settlements and the dismantling of the parts of the wall constructed by Israel that are situated in the Occupied Palestinian Territory, as well as allowing all Palestinians displaced during the occupation to return to their original place of residence.²⁷

However Al-Haq and CAC highlight that the jurisdiction of the International Court of Justice in the above Advisory Opinion was limited to the Occupied Palestinian Territory. This forms but one part of Israel's settler colonial apartheid regime. Israel's Basic Law and founding laws are built on discriminatory laws which mass appropriate Palestinian property, including land

6

²⁵ CERD/C/ISR/CO/17-19 (2020) paras 4 and 22.

²⁶ Report of the ad hoc conciliation commission on the inter-State communication submitted by the State of Palestine against Israel under article 11 ICERD, CERD/C/113/3 (21 August 2024) para 48.

²⁷ ICJ Advisory Opinion, supra n 11 paras 155, 173 and 270.

and monetary wealth, and which prevent millions of Palestinians from entering and returning to their homes as part of a demographic engineering policy. Palestinian lands on both sides of the Green Line have been settled by Israeli Jews, and Palestinians are discriminated against as a matter of State policy which extends to the occupied territory under military order, to prevent the Palestinian people from exercising self-determination and ensuring the return of their territory and lands. This discriminates against, affects and fragments the Palestinian group to maintain Israeli Jewish domination both in Israel, and in the OPT, and affects all Palestinians including those in the diaspora who continue to be discriminated against and denied family unifications and return under the contemporaneous application of these laws. That the overarching framework applying to the Palestinian people is that of the settler colonial apartheid, which underpins the current genocide, and must be addressed appropriately – the consequence of the failure to address the apartheid in full, is the continued erasure and genocidal of the Palestinian people.

Al Haq and CAC considers that all action taken under ICERD must be with the goal of preventing genocide; ending Israel's settler colonial apartheid regime; and ending the illegal occupation, annexation and colonization through settlements. It notes that the situations of genocide and apartheid flow from the illegal occupation, annexation and colonization of Palestinian territory. It considers these obligations must be implemented in relation to Israel and all 182 States Parties to the Convention. It calls on CERD to urgently consider how its mechanisms are best used to achieve these goals, without which no efforts at conciliation can succeed.

Regarding the particular request raised by the Committee to implement the Commission report recommendations in relation to:

- (a) Create a joint platform with Israeli and Palestinian human rights defenders to address questions of racial discrimination and hate speech in both communities;
- (b) Promote common activities towards peace and reconciliation within the territories of both State parties and in the diaspora.

Al-Haq and CAC would bring to the Committee's attention that on 19 October 2021, in an attack of unprecedented repression against Palestinian human rights civil society organisations, Israel's then Minister of Defense, Benny Gantz issued a decision designating six leading Palestinian organizations as "terror organizations," namely, Addameer Prisoner Support and Human Rights Association, Al-Haq Law in the Service of Man, Bisan Center for Research and Development, Defense for Children International-Palestine, the Union of Agricultural Work Committees and the Union of Palestinian Women's Committees. The decision had the effect of effectively criminalizing the organizations, their staff members and their work under Israeli domestic law. On 4 September 2025 following continued lobbying by Israel, the United States placed Al-Haq, Al Mezan and the Palestinian Centre for Human Rights on the United States sanctions list for legal work supporting the International Criminal Court, which includes Al-Haq's communications on the crime of apartheid. The sanctions were denounced by the UN

https://www.alhaq.org/advocacy/19179.html.

²⁸ Alert: Israel Takes Alarming Steps to Enforce its Persecution of Six Palestinian Organisations in the West Bank, International Community Must Intervene, 7 November 2021.

²⁹ Al-Haq, PCHR, and Al-Mezan Condemn US Sanctions and Call for Global Solidarity to End the Genocide in Gaza and the Oppression of Palestinians, 5 September 2025. https://www.alhaq.org/advocacy/26662.html.

Experts 'Sanctioning organisations for denouncing human rights violations is a blatant violation of the rights to freedom of expression and association."³⁰

Such actions by Israel, actions which clearly meets the conduct included at Article 2(f) of the Convention Against Apartheid i.e., Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid, must be condemned by the Committee as Israeli state action aimed at precluding the capacity for Palestinian or Israeli human rights defenders to make freely informed choices in determining whether or how to establish joint platforms or to consider undertaking common activities.

The capacity for Palestinian human rights defenders to continue challenging Israeli apartheid has again been dramatically reduced by the designations and sanctioning of Palestinian human rights organisations. This attempt at silencing Palestinian voices is the latest in the relentless, decades-long campaign by Israel and its allies to erase the Palestinian people, to prevent the collection of evidence, to entrench apartheid, and to systematically deny Palestinians their collective right to self-determination and return, a campaign carried out under the cover of international impunity.

-

³⁰ UN OHCHR, UN experts dismayed by US sanctions against Palestinian human rights organisations (22 September 2025), https://www.ohchr.org/en/press-releases/2025/09/un-experts-dismayed-us-sanctions-against-palestinian-human-rights