



QUARTET: INTERNATIONAL LAW MUST BE BASELINE FOR NEGOTIATIONS

Al-Haq is deeply disappointed by the Quartet's recent report. The report fails to reflect the situation on the ground, and instead attempts to equalize the roles and actions of Israelis and Palestinians. In only repeating empty condemnations and recommendations, the Quartet serves to maintain the nearly fifty-year occupation and grant Israel impunity for its violations of international law.

The report's summary begins by declaring "a negotiated two-state outcome is the only way to achieve an enduring peace..." This set the tone of the report as a biased political document, which does not accurately analyze current conditions nor consider past statements and positions by some of the Quartet's members. Al-Haq affirms that peace can only come through justice, and any negotiated solution must conform to principles of international law.¹

THE REALITY OF OCCUPATION

Throughout the report, the Quartet makes no distinction between the roles and obligations of Israel, the Occupying Power, and Palestinians, the occupied population. In equating the occupier and the occupied, the Quartet ignores the impact of this power imbalance and instead urges "affirmative steps" and for both parties to "independently demonstrate...a genuine commitment to the two-state solution."

This "balance of powers" is feigned throughout the report by disregarding any mention of international human rights law and international humanitarian law, while inserting random facts and generalizations that aim to skew the reader's opinion.

¹ See for example: "Exploring the Illegality of 'Land Swap' Agreements under Occupation," Al-Haq, available at <http://www.alhaq.org/publications/publications-index/item/exploring-the-illegality-of-land-swap-agreements-under-occupation>

In beginning with the “trends” found in the report, the Quartet disproportionately lays the blame on Palestinians for continued violence. The report spends several paragraphs condemning Palestinians for alleged attacks, and completely fails to address and make the connection to the root cause of this violence: the occupation. Notably, in discussing the escalation earlier this year, UN Secretary-General Ban-Ki Moon stated:

“Yet, as oppressed peoples have demonstrated throughout the ages, it is human nature to react to occupation, which often serves as a potent incubator of hate and extremism. So-called facts on the ground in the occupied West Bank are steadily chipping away the viability of a Palestinian state and the ability of Palestinian people to live in dignity.”²

Further, while the Quartet is quick to label actions by Palestinian’s as terrorism, Israeli terrorism, including a wide range of collective punishment measures, is swept over. Rather than call for accountability for cases of unlawful killings³ by the Israeli military, which UN experts have labeled as extrajudicial and summary executions,⁴ the Quartet chose to highlight concern raised by Israeli officials over the incidents. This “expressed concern” has had no bearing on the dismal investigation, prosecution, or conviction rates for crimes by the Israeli military and settlers.⁵

This one-sidedness continues when discussing incitement to violence, and is underscored by the Quartet’s failure to mention attacks against Israeli human rights organizations and activists by Israeli extremists.

GAZA

The third trend discussed in the report concerns the Gaza Strip. Again, the Quartet fails to acknowledge that the occupation is the root issue, and that Gaza’s “dire humanitarian situation” is man-made. Israel has launched three major military offensives on Gaza in the past six years, killing thousands of Palestinians and causing widespread destruction to infrastructure. Israel has also implemented a 9-year illegal closure of the Gaza Strip, which has effectively crippled the area and prevented it from recovering from the Israeli offensives.

While these facts are known to the Quartet and its members,⁶ and the UN Secretary-General recently deemed the closure as collective punishment and called for accountability,⁷ the report makes little connection to Israel’s role in creating and maintaining both the instability and humanitarian disaster in

² Secretary-General’s remarks to the Security Council on the Situation in the Middle East [as delivered], 26 January 2016, available at <http://www.un.org/sg/statements/index.asp?nid=9417>

³ Unlawful Killing of Palestinians by Israeli Occupying Forces, Al-Haq, 31 October 2015, available at <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/982-unlawful-killing-of-palestinians-by-israeli-occupying-forces>

⁴ See: UN rights experts express deep concern about ongoing bloodletting in the Occupied Palestinian Territory, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16759&LangID=E#sthash.IJxlVRRj.dpuf>, and Hebron killing: “All the signs of an extrajudicial execution” – UN expert expresses outrage, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18544&LangID=E#sthash.29HASSA5.dpuf>

⁵ See for example: Institutionalized Impunity: Israel’s Failure to Combat Violence in the Occupied Palestinian Territory, Al-Haq, available at <http://www.alhaq.org/publications/publications-index/item/institutionalised-impunity-israel-s-failure-to-combat-settler-violence-in-the-occupied-palestinian-territory>

⁶ See for example: “[T]he situation in Gaza is unsustainable and calling for the policy of closure to be changed”, Council of Europe Statement, Press Release, 14 June 2010, available at http://europa.eu/rapid/press-release_PRES-10-175_en.htm.

⁷ “The closure of Gaza suffocates its people, stifles its economy and impedes reconstruction efforts. It is a collective punishment for which there must be accountability.” In Jerusalem and Gaza, Ban urges ‘courageous steps’ for lasting two-State solution, UN News Centre, 28 June 2016, available at <http://www.un.org/apps/news/story.asp?NewsID=54341#.V5nAVNJ97IU>

Gaza. Instead, Hamas and the absence of a unity government are emphasized as the key issues.

If the Quartet aims to serve as a genuine broker, it must accurately and fairly examine the core source of violence, instability, and humanitarian issues in the OPT. It must further do so by using the framework of international human rights law and international humanitarian law to understand where such obligations lie. The Quartet's disproportionate focus on alleged Palestinian attacks, incitement and "militant build-up" attempt to depict Palestinian society as a whole in a certain light. In contrast, Israel's violations of international law (which are not even framed as such) are essentially portrayed as poor policy choices by Israel.

SETTLEMENTS AND PALESTINIAN DEVELOPMENT

Indeed, while the Quartet does detail issues related to settlement expansion and other issues in Area C under the second "trend," Al-Haq is dismayed that the unquestionable illegality of settlements is never mentioned. The Quartet's detached review of Israel's comprehensive occupation and settlement policy diminishes the severity of the situation and its impact on every aspect of Palestinian life. Israel, as occupying power, has not only created an untenable situation for the livelihood of Palestinians, but also one where war crimes and crimes against humanity are occurring.

Accordingly, Al-Haq assures the Quartet that there are no "legitimate questions about Israel's long-term intentions." For nearly 50-years, Israel's intention to occupy and exploit the Occupied Palestinian Territory has been clear and recognized by Israel itself as well as by the international community.

UNITED NATIONS

Notably, the UN, through its various bodies, agencies, and experts, have repeatedly condemned the unlawful situation arising from the prolonged occupation of the Occupied Palestinian Territory and called on Israel to respect international law and put an end to all violations, including those related to its illegal settlement enterprise. Given the absence of an international law framework from the report, Al-Haq further calls on the United Nations to withdraw from the Quartet until fair, lawful positions are taken by the body. By continuing to participate in the Quartet, the UN is undermining one of its core purposes: "to maintain international peace and security...and to bring about by peaceful means, and in conformity with the **principles of justice and international law**...settlement of international disputes or situations."⁸

In conclusion, Al-Haq reiterates that the onus should not be on the occupied Palestinian people to "demonstrate...a genuine commitment to the two-state solution." While Al-Haq continues to monitor and document violations of human rights by Palestinian authorities throughout the OPT, Israel remains the primary duty-bearer under international law. Accordingly, Al-Haq criticizes the Quartet's recommendation to continue "security coordination" which further compels the Palestinian Authority to cooperate with Israel's occupation.

While a political solution may ultimately be reached, Al-Haq urges the Quartet, the Palestinian Liberation Organization, Israel and others involved in the negotiation process to adhere to principles of international law. A lasting solution can only be achieved through accountability, remedy and reparations for human rights violations.

⁸ Emphasis added. Article 1 of the UN Charter, available at <http://www.un.org/en/sections/un-charter/un-charter-full-text/index.html>