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Joint written statement* submitted by Al-Haq, Law in the Service of Man, and Al Mezan Centre for Human Rights, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

* Issued as received, in the language(s) of submission only.



Human Rights Council Must Address Root Causes of Great Return March

Since 30 March 2018, Palestinians have demonstrated weekly by the fence surrounding the Gaza Strip, calling for an end to Israel's unlawful closure and for the realisation of the right of Palestinian refugees to return, as mandated by international law. For 45 consecutive weeks, the Israeli occupying forces have systematically suppressed the Great Return March demonstrations, using lethal and excessive force, including live ammunition, against unarmed protesters, including children, journalists, and paramedics. Within this context, the United Nations (UN) Human Rights Council adopted resolution S-28/1 during its 28th special session on 18 May 2018, deciding to "urgently dispatch an independent, international commission of inquiry... to investigate all violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory... in the context of the military assaults on the large-scale civilian protests that began on 30 March 2018".¹ As the Commission of Inquiry (COI) prepares to present its written report at the 40th session of the Council, Al-Haq and Al Mezan provide this written submission, highlighting their documentation of the Great Return March and focusing on the root causes of Palestinian protesters' demands.

1. The Great Return March since 30 March 2018

In 2018, Israel escalated its use of force across the Occupied Palestinian Territory (OPT), killing 303 Palestinians, including 60 children. Since 30 March 2018, 282 Palestinians have been killed across the OPT, 180 of whom in the context of the Great Return March in the Gaza Strip, including 48 children, eight persons with disabilities, three paramedics, and two journalists.² In addition, the Great Return March has seen the highest number of injuries since Israel's 2014 offensive against the Gaza Strip, with the World Health Organization (WHO) having recorded 27,942 injuries as of 31 January 2019, including 6,386 by live ammunition.³ Since 30 March 2018, the WHO has also recorded 122 cases of amputations as a result of injuries sustained during the protests, 21 of which involved children.⁴ In addition, Al-Haq and Al Mezan's documentation shows that almost all Palestinians killed were shot with live bullets or shrapnel, while the location and severity of the injuries raises concerns that the Israeli army intentionally sought to cause life-changing injuries with long-term consequences for Palestinians.⁵

Al-Haq and Al Mezan stress that the conduct of Israeli forces during the Great Return March involved unnecessary and excessive use of force against unarmed Palestinians who posed no real threat to the lives of Israeli soldiers at the time they were shot. In addition, there is reasonable basis to believe that Israeli soldiers intended to either kill or injure Palestinians, and that they acted in accordance with rules of engagement and orders violating international human rights law, notably the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. In fact, Israel refuses to disclose its rules of engagement,⁶ while Israeli officials have made repeated statements to the effect that they had deployed snipers to the

¹ Human Rights Council, Resolution S-28/1, UN Doc. A/HRC/RES/S-28/1, 18 May 2018, para. 5.

² Al-Haq's Monitoring and Documentation Department, figures as of 7 February 2019.

³ *Ibid.*, p. 2.

⁴ *Ibid.*, p. 2.

⁵ Al-Haq, "Israel Deliberately Injures and Maims Palestinian Civilians, Prevents Evacuation of Wounded, and Denies Access to Vital Healthcare Facilities Outside the Gaza Strip", 8 April 2018: <http://www.alhaq.org/documentation/weekly-focuses/1215-israel-deliberately-injures-and-maims-palestinian-civilians-prevents-evacuation-of-wounded-and-denies-access-to-vital-healthcare-facilities-outside-the-gaza-strip>.

⁶ See, e.g., Revital Hovel, "Israeli High Court Rejects Bid to Restrict Rules of Engagement on Gaza Border" (Haaretz, 25 May 2018): <https://www.haaretz.com/israel-news/.premium-high-court-rejects-bid-to-restrict-rules-of-engagement-on-gaza-border-1.6116626>.

Gaza fence ahead of the protests and indicating that orders had been issued for the use of live fire.⁷

Recalling the COI's mandate to "identify those responsible" and "to make recommendations, in particular on accountability measures",⁸ Al-Haq and Al Mezan call on the COI to name individuals involved in and potentially responsible for the commission of violations and suspected crimes during the Great Return March, in particular high-level Israeli military and civilian officials. Notably, such a list of alleged perpetrators, even if non-exhaustive, will contribute to the preliminary examination into the situation in Palestine currently conducted by the Office of the Prosecutor of the International Criminal Court.⁹

2. Root Causes of the Great Return March

At the root of the Great Return March is Israel's systematic denial to grant Palestinians their inalienable right to self-determination, after 51 years of military occupation, and the failure for 70 years to address the right of Palestinian refugees to return. As such, the Great Return March has sought to bring the rights of Palestinian refugees back to the forefront while also calling for an end to Israel's 11-year closure of the Gaza Strip, which amounts to unlawful collective punishment,¹⁰ and which has made Gaza uninhabitable.¹¹ Israel's closure has resulted in profound and unparalleled levels of aid-dependency,¹² with poverty affecting 53 per cent,¹³ food insecurity affecting some 68 per cent,¹⁴ and unemployment reaching 53 per cent of Gaza's total population and even 69 per cent amongst its youth.¹⁵ Meanwhile, the closure has directly impacted Gaza's economy and resulted in the collapse of essential services, including healthcare, electricity, water and sanitation, while Israel has targeted Palestinians' lives and livelihoods, actively pursuing the de-development of the Gaza Strip.

In January 2019, Gaza received on average nine hours of electricity a day,¹⁶ particularly affecting its hospitals, which are forced to run on generators and are in immediate need of 217 essential drugs,¹⁷ prohibited from entering the Strip by Israel, the Occupying Power. At the same time, Israel severely restricts travel out of the Gaza Strip for patients in need of medical treatment, including those injured during the Great Return March, amongst whom the approval rate for medical travel stood at around 17 per cent as of January 2019.¹⁸ In addition, some 1.4 million Palestinians in the Gaza Strip are registered as refugees with the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), whose plight has further deteriorated this past year following funding cuts that have targeted UNRWA, which is the second biggest employer in the Gaza Strip.¹⁹ The dire economic

⁷ See, e.g., Alex Fishman and Yossi Yeshohua, "Eisenkot says Israel deployed 100 sharpshooters on Gaza border for Palestinian protests" (Ynet, 28 March 2018): <https://www.ynetnews.com/articles/0,7340,L-5204745,00.html>.

⁸ See supra note 1, para. 5.

⁹ ICC, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, regarding the worsening situation in Gaza", 8 April 2018: <https://www.icc-cpi.int/Pages/item.aspx?name=180408-otp-stat>; ICC, Report on Preliminary Examination Activities (2018), paras. 262-267.

¹⁰ Article 33, Fourth Geneva Convention (1949).

¹¹ UNCTAD, "Report on UNCTAD assistance to the Palestinian people", 6 July 2015, para. 43: https://unctad.org/en/PublicationsLibrary/tdb62d3_en.pdf.

¹² *Ibid.*, para. 27.

¹³ OCHA, "53 per cent of Palestinians in Gaza live in poverty, despite humanitarian assistance", 5 June 2018: <https://www.ochaopt.org/content/53-cent-palestinians-gaza-live-poverty-despite-humanitarian-assistance>.

¹⁴ *Ibid.*

¹⁵ OCHA, "2018: More casualties and food insecurity, less funding for humanitarian aid", 27 December 2018: <https://www.ochaopt.org/content/2018-more-casualties-and-food-insecurity-less-funding-humanitarian-aid>.

¹⁶ OCHA, "Gaza Strip electricity supply", January 2019: <https://www.ochaopt.org/page/gaza-strip-electricity-supply>.

¹⁷ See WHO, supra note 3, pp. 1-3.

¹⁸ *Ibid.*, p. 3.

¹⁹ UNCTAD, "Report on UNCTAD assistance to the Palestinian people", 23 July 2018, para. 37:

situation has also been compounded by punitive measures imposed by the Palestinian Authority on public sector employees in the Gaza Strip, who have been subjected to abrupt salary cuts, apparently motivated by discrimination on political and geographic grounds.²⁰

3. Conclusion and Recommendations

Within this context, Palestinians in the Gaza Strip have reached a point of despair that motivates them to continue the demonstrations along the Gaza fence. It is now up to the international community to address the root causes of the Great Return March, without which no genuine accountability and justice can be delivered to the Palestinian people. Accordingly, Al-Haq and Al Mezan call on the COI, and the Human Rights Council, to:

- i. Address the Great Return March within the context of Israel's prolonged occupation and closure of the Gaza Strip, in addition to the widespread and systematic violations, including international crimes, committed against the Palestinian population, notably by providing practical steps towards bringing Israel's unlawful closure to an end;
- ii. Identify and list high-level Israeli military and civilian officials whose individual criminal responsibility arises as a result of the perpetration of suspected international crimes in the OPT, notably in the occupied Gaza Strip since 30 March 2018, for the purposes of international criminal prosecutions; and
- iii. Create an effective follow-up mechanism to ensure the violations and suspected crimes, including those at the origin of the Great Return March, are remedied and brought to justice, in light of Israel's long-standing impunity for widespread and systematic violations committed against the Palestinian people.

Finally, Al-Haq and Al Mezan welcome the written report of the COI to be submitted at the Council's 40th session and call on Member States to support the investigation by the COI and to renew its mandate so as to address the ongoing nature of the Great Return March protests in the Gaza Strip, until Palestinians' rights-based demands are realized.

https://unctad.org/en/PublicationsLibrary/tdb65_2_d3_en.pdf

²⁰ Al Mezan, "Al Mezan Warns of Continued Cuts of Salaries of Public Sector Employees", 6 February 2019: <http://www.mezan.org/en/post/23368/Al%20Mezan%20Warns%20of%20Continued%20Cuts%20of%20Salaries%20of%20Public%20Sector%20Employees>.