1. WHAT IS THE GREAT RETURN MARCH?

The Great Return March is a mass grass root movement which commenced on Land Day, on 30 March 2018, coinciding with the relocation of the United States embassy from Tel Aviv to Jerusalem. Palestinians participating in the Great Return March have been protesting against Israel's 12-year imposed closure of the Gaza Strip which has brought Gaza to the brink of total collapse. The protesters have also called for the realisation of the right of Palestinian refugees to return, who were expelled and displaced following the Nakba in 1948, and who constitute
approximately 73 percent of the population in Gaza. In its essence, the Great Return March also calls for an end to Israel’s prolonged occupation, exemplified in its policies and measures to colonise and annex the Occupied Palestinian Territory (OPT). In response, Israel and its forces have relentlessly, deliberately and indiscriminately used excessive and lethal force against Palestinian civilians and protesters, including children, health workers, journalists and people with disabilities.

The body governing the March, the Higher National Council for Return, has defined the Great Return March as:

"an organised public action, based on legitimate legal foundations and clear humanitarian principles, in which the masses of refugees embark on peaceful marches to implement paragraph 11 of UN Resolution 194 and to achieve the return of the refugees who were displaced in 1948 to their land, homes and properties. They are armed with firm faith that rights are not lost if pursued and that rights do not diminish with time".

Since 30 March 2018, the Great Return March protests have been held every Friday in five main demonstrations sites, also known as “Return Camps”, located in Northern Gaza, East of Gaza City, Central Gaza Strip, East of Khan Younis and in Rafah. Protests have been held there regularly, every Friday since the initiation of the March on 30 March 2018.

2. WHY ARE PALESTINIANS PROTESTING IN THE GREAT RETURN MARCH?

The Great Return March cannot be understood devoid of its root causes. As part of the OPT, Gaza has been under brutal Israeli military occupation since 1967. Following the election of Hamas in 2007, Israel has imposed an illegal closure on the Gaza Strip at land, air and sea, as a form of collective punishment. The closure has effectively paralyzed every aspect of daily life in Gaza and resulted in mass violations of human rights. Consequently, a man-made humanitarian crisis arose which effectively led the United Nations (UN) to declare Gaza

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1 “Where we work”, UNRWA, 01.01.2018, UNRWA, www.unrwa.org/where-we-work/gaza-strip
3 Collective punishment constitutes a grave breach of international humanitarian law. Article 33, Fourth Geneva Convention (1949) affirms that “collective penalties [...] are prohibited”; Article 50, The Hague Regulations (1907) and Rule 103, ICRC Study on customary international law, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_chapter32_rule103
uninhabitable by 2020. Nonetheless, the reality on the ground illustrates that Gaza has already become uninhabitable, considering that 53 percent of its population live in poverty, 80 percent are dependent on aid, and 69 percent of its youth are unemployed. Exacerbated by Israel’s imposed closure, three major Israeli military offensives were carried out against the Gaza Strip in the past 10 years, killing thousands of Palestinian civilians and injuring thousands other, while totally destroying the infrastructure, homes and other property.

Meanwhile, the majority of Gaza’s population are refugees who were displaced following the Nakba in 1948. They have since been denied the right to return to their homes and land in what is now Israel. The right to return is mandated in international law and has been reiterated in numerous UN resolutions such as UN General Assembly Resolution 194 (III), which affirms that in accordance with international refugee law “refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so.”

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5 “Fifty-Three per cent of Palestinians live in poverty, despite humanitarian assistance”, OCHA *Occupied Palestinian Territory*, 05.06.2018, OCHA, www.ochaopt.org/content/53-cent-palestinians-gaza-live-poverty-despite-humanitarian-assistance
6 “Where we work”, UNRWA, 01.01.2018, UNRWA, www.unrwa.org/where-we-work/gaza-strip
3. WHO ORGANIZES THE GREAT RETURN MARCH?

The idea of a non-violent march was triggered by a Facebook post by the Palestinian poet and journalist Ahmad Abu Rtema. He suggested that the March should be held to draw attention to UN General Assembly Resolution 194 which affirms the right of refugees to return, and the man-made humanitarian crisis in Gaza resulting from the Israeli-imposed closure. The Higher National Committee has practically operated as the administrator of the Great Return March since then. The National Committee created 12 subcommittees, representing all segments of the Palestinian society, including civil society, student unions, women groups and representatives from different political factions. All committees adopted a unifying principle that the Great Return March should be “fully peaceful from the beginning to the end.”

4. IS THE GREAT RETURN MARCH LED AND FUNDED BY HAMAS?

The Great Return March defines itself as a mass civilian movement, organized by the Higher Committee of the March, with members representing all segments of Palestinian society who are not acting in the interest of Hamas, but of the people. The twelve General Principles of the Great Return March affirm the peaceful nature and interests of the protests as being independent from Hamas or any other political affiliation, by expressly stating that it “is a humanitarian march calling for the human right of the return of refugees [...] it has nothing to do with any political deals or offers from any side.” This is also why the General Principles stipulate that “the only flag to be raised during the March is the Palestinian flag with no partisan slogans.” Despite Israel’s continuous attempts to politicise the Great Return March, the number of protesters, diverse range of people participating and various activities are indicative of its mass civilian nature. For example, on 30 March 2018 alone, between 40,000 to 50,000 Palestinian men, women and children from all segments of society took part in the Great Return March.

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5. DO VIOLENT ACTIVITIES TAKE PLACE DURING THE GREAT RETURN MARCH?

To reiterate, according to the declared General Principles governing the Great Return March, it is first and foremost “a fully peaceful march from the beginning to the end.”

It aims to establish “a normal life near the separation fence” by hosting cultural activities such as baking traditional bread, dancing the traditional Dabka and organising reading chains. Even marriages have been celebrated in the five Return Camps, where people are invited through social media to participate in the festivities.

Throughout the Great Return March, some protesters have ignited tires as a tactic to blur the vision of Israeli snipers located behind the fence and who pose a serious threat to the lives of Palestinian protestors. Some protestors have thrown stones at the soldiers behind the fence, while others have attempted to cut the barbed wires of the fence and to cross over. These protestors have been immediately met with lethal force by the Israeli forces. Furthermore, incendiary kites, have been used at times throughout the protests, although such use has been refuted by the Higher Committee of the March, which defines itself peaceful.

The question of claimed violent activities undertaken during the Great Return March was extensively examined by the UN Commission of Inquiry on protests in the OPT since 30 March 2018 (Commission of Inquiry), concluding that “demonstrations were civilian in nature, had clearly stated political aims and, despite some acts of violence, did not constitute combat or a military campaign.”

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11 ibid
12 ibid
13 Al-Naji, Fadi, “Great Return March becomes ‘theater’ of resistance”, We Are Not Numbers, wearenotnumbers.org/home/Gallery/Great_Return_March_becomes_theater_of_resistance
6. DOES ISRAEL HAVE THE RIGHT TO RESPOND WITH EXCESSIVE FORCE AGAINST PROTESTERS?

Under international law, Israel has the status of Occupying Power. As such, it is bound by its obligations under international humanitarian law and international human rights law to protect the life and health of the protected occupied population. Given that the protests are led by Palestinian civilians and peaceful in nature, they do not constitute active hostilities. Therefore, the law enforcement paradigm under international human rights law governs the Great Return March protests.

Under Article 6 of the International Covenant on Civil and Political Rights (ICCPR), Israel is obliged to protect the right to life of the occupied Palestinian population, including in Gaza, and not use lethal force unless absolutely necessary in defence of an imminent threat to life. Moreover, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials provide that force may...
only be used “when strictly necessary” and in cases of “imminent threat of death or serious injury.”

Since 30 March 2018, the Israeli Occupying Forces (IOF) have deliberately violated such principles in their attacks against Palestinian protesters. In over one year of protests, the IOF have directly targeted Palestinian protestors, who posed no imminent threat to the life of Israeli soldiers or others, with live ammunition, tear gas canisters and rubber-coated metal bullets, mostly targeting the upper body area.

Between 30 March 2018 and 1 May 2019, Israel’s excessive use of force and lethal force in the Great Return March has resulted in the killing 204 and injury of more than 9,000 Palestinians. The targeting of unarmed civilians standing hundreds of meters away from the fence with high velocity weaponry represents an unnecessary, disproportionate and excessive use of force and lethal force. Additionally, it may amount to the grave breach and war crime of wilful killing, incurring individual criminal liability. The UN Commission of Inquiry stated it had reasonable grounds to believe the IOF’s use of lethal force may constitute wilful killing amounting to war crimes and crimes against humanity.

7. HOW MANY CHILDREN HAVE BEEN SHOT AND KILLED DURING THE GREAT RETURN MARCH?

The Great Return March is a national march for Palestinians of all ages, representing all segments of society, including children. The March therefore undertakes many activities that are family-oriented, and organised for children such as plays and kite flying. Children should therefore be able to safely attend the March, as provided for under Article 21 of the ICCPR which affirms the right to peaceful assembly, without fear from being killed or injured.

According to Al-Haq’s documentation, between 30 March 2018 and 31 March 2019, the IOF killed 43 children during the Great Return March. The youngest child killed, Ahmad Yasser Abu-Abed, was four years old. He suffered several shrapnel hits to the right eye and abdomen, causing severe internal bleeding in the abdomen, and fragments in the intestine and brain. He fell into a permanent coma and died on 11 December 2018.

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16 Article 3, UN Code of Conduct for Law Enforcement Officials (1979) and Special Provision 9, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990)
17 Figures on file with Al-Haq as of 1 May 2019; See (n 14), 2019 Report of International Commission of Inquiry
19 (n 14) 2019 Report of International Commission of Inquiry
20 Article 21, International Covenant on Civil and Political Rights (1966)
21 Affidavit No 801/2018 (17 December 2018), on file with Al-Haq.
Children are afforded special protection under international law. The main responsibility in protecting the children who are taking part in the March lies on Israel, as Occupying Power, which is responsible for the life and safety of the protected population, with special protection for children, and as the offender and user of lethal force. The killing and injury of children as a direct result of the IOF’s use of excessive and lethal force violates international humanitarian law and human rights law, namely the Fourth Geneva Convention\(^{22}\) and Article 38 of the Convention on the Rights of Child.\(^{23}\)

8. HAVE MEDICAL PERSONNEL AND JOURNALISTS BEEN TARGETED DURING THE GREAT RETURN MARCH?

Yes. Since the beginning of the Great Return March, three paramedics and two journalists have been killed by the IOF.\(^{24}\) At the time shot, they were all distinctively marked, dressed according to their profession, and on duty. The two journalists, were wearing a blue bullet-proof vest with PRESS imprinted upon it and a helmet with TV written across. They were on duty covering the March. Likewise, the three paramedics killed were wearing medical white

\(^{22}\) See specific articles in: “Practice Relating to Rule 135”, IHL Database Customary IHL, ICRC, ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule135


\(^{24}\) (n 14) 2019 Report of International Commission of Inquiry
coats and jackets with the crescent logo. They were all on duty, attempting to treat or evacuate wounded when shot.


**9. HAVE PEOPLE WITH DISABILITIES BEEN TARGETED DURING THE GREAT RETURN MARCH?**

Yes. Since the beginning of the Great Return March, nine persons with disabilities were killed, including four with visible disabilities.26 Two of those were walking with crutches, while one was using a wheelchair as both his legs were amputated, and another had difficulties walking.

International law provides special protection for people with disabilities. The nine persons with disabilities killed, irrespective of their disabilities, were unarmed civilians posing no imminent threat to the life of Israeli soldiers. Their killings therefore constitute a breach of the Fourth Geneva Convention, Statute of the International Criminal Court (ICC), the UN Code of Conduct for Law Enforcement Officials and UN Basic Principles on the Use of Firearms by Law Enforcement Officials.27 It also breaches customary international law which establishes that disabled persons affected by armed conflict are entitled to special respect and protection.28

The killing persons with disabilities further violates Article 11 of the International Convention on the Rights of Persons with Disabilities which states: “State Parties shall take, in accordance with international humanitarian law and international human rights law, all

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necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict.”

10. IS THE IOF’S USE OF EXCESSIVE AND LETHAL FORCE IN RETALIATION TO ROCKETS BEING FIRED INTO ISRAEL?

Israel’s use of excessive and lethal force comes in response to the Great Return March that has been taking place across the five different governorates of Gaza. In its report, the Commission of Inquiry on Gaza found that the IOF is not responding in retaliation against Hamas firing ‘rockets’, as the homemade incendiary kites are fired by self-declared units and not recognized by the body administrating the March, the Higher National Committee, which expressly defines itself as a peaceful mass movement.

It should be noted that throughout the Great Return March, the IOF had continued to launch airstrikes on various sites in the Gaza strip, killing civilians and causing damage to their property.30 One such example were the Israeli airstrikes carried out in August 2018, where

more than 120 rockets were fired, resulting in the killing of three Palestinians, including a pregnant woman and her 18-month old baby. A cultural centre, a mosque, an electricity generator and water wells were amongst the civilian structures destroyed. The excessive use of force and targeting of civilian objects and people violates Israel’s obligation, as occupying power, to distinguish between civilian and military objectives and to take all necessary measures to protect the civilian population.  

11. WHICH STATE IS RESPONSIBLE FOR ENSURING THE RIGHTS OF THE PROTESTERS ARE REALISED?

The protests of the Great Return March, as specifically stated in their General Principles, are against the prolonged occupation of Palestine, closure of Gaza and demand the fulfilment of the right of return to reclaim the unalienable human rights of the Palestinian people, for all of which, Israel, as Occupying Power, is responsible to respect, protect and fulfil. Israel, as Occupying Power, bears the main responsibility for respecting, protecting and fulfilling Palestinian human rights and the unbearable living conditions in Gaza. However, this does not absolve other duty bearers, including Egypt and the Palestinian Authority, from their responsibility, which have contributed to the closure and humanitarian crisis in Gaza. For example, Egypt has closed the Rafah Crossing since 2015, thus preventing access to health care and limiting the flow of goods, among other things. In addition, the Palestinian Authority has implemented a series of measures against the de facto authority in Gaza, including by decreasing the salaries of public sector employees by 30-35 per cent and halting the supply of electricity to Gaza’s power plant.

12. HOW MANY ISRAELIS HAVE BEEN KILLED AND INJURED DURING THE GREAT RETURN MARCH?

Since the beginning of the Great Return March, no Israeli soldiers or citizens have been killed as a result of the March, whereas four Israeli soldiers have been injured by stones and primitive explosives.  