



Joint Written Submission
United Nations Human Rights Council
43rd Regular Session – Item 2

Human Rights Council Must End Illegal Closure of Gaza and Ensure Accountability

Date: 3 February 2020

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 been protesting on a near-weekly basis as part of the Great Return March, calling for an end to Israel's illegal closure, which amounts to unlawful 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 calls for an end to Israel's illegal closure, which has made Gaza uninhabitable, and addresses the urgent need for justice and accountability, including the implementation of the recommendations of the United Nations (UN) Commission of Inquiry on the 2018 protests in the occupied Palestinian territory ('the Commission') without delay.

Israel's Suppression of the Great Return March

With the second-year mark of the Great Return March approaching, the Israeli occupying forces have killed 216 Palestinians in the context of the demonstrations since 30 March 2018, including 47 children, nine persons with disabilities, four paramedics, and two journalists. Moreover, by the end of July 2019, some 7,500 Palestinians had been injured by live fire during the Great Return March and at least 1,200 required limb reconstruction.¹ On 22 March 2019, the Human Rights Council adopted the Commission's recommendations in accountability resolution 40/13, including its calls on Israel to lift the Gaza closure with immediate effect, to bring Israel's rules of engagement for the use of live fire in line with international human rights law, and to fulfil the right of Palestinians to health, including through the treatment of injuries from the demonstrations.²

¹ UN OCHA, "At least 1,200 people injured in Gaza demonstrations will require limb reconstruction," 6 September 2019, available at: https://www.ochaopt.org/content/least-1200-people-injured-gaza-demonstrations-will-require-limb-reconstruction#_ftn1.

² See UN Human Rights Council, Resolution 40/13, 22 March 2019, UN Doc. A/HRC/RES/40/13; UN Human Rights Council, Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, paras. 119 and 122. See also Al-Haq, "Al-Haq Welcomes Adoption of UN Commission of Inquiry Recommendations on the Great Return March," 23 March 2019, available at: <http://www.alhaq.org/advocacy/6085.html>.

Since the adoption of the Commission's recommendations on 22 March 2019 and as of 20 January 2020, 20 Palestinians have been killed during the protests in Gaza, including six children, highlighting Israel's continued use of excessive force to suppress the Great Return March.³

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. According to documentation by Palestinian human rights organisations, 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 Great Return March 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 forces. Paramedics who provided CPR to Khaled said that the lethal injuries had left him with no vital signs, and Khaled was pronounced dead by doctors 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, while he did not pose any threat to Israeli forces. He was pronounced dead upon arrival at the Indonesian Hospital in Beit Lahia.

Since 30 March 2018, Israel has systematically suppressed the Great Return March in Gaza, using excessive and lethal force to undermine the protesters' rights-based demands. We recall that all Palestinians, including children, have a right to participate in peaceful demonstrations, and that Israel, the 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 [children] intentionally, knowing that they were children."⁴ The Council must adopt effective measures to ensure the protection of Palestinians from further Israeli assault through the implementation of the Commission's recommendations, 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.⁵ In practice, however, Gaza has already been uninhabitable for years. Attributable to the Israeli-imposed blockade and closure, Gaza is suffering from extreme economic decline, de-development, and profound and unparalleled levels of poverty, aid-dependency, food

³ Al-Haq, "Al-Haq Reaffirms Rights-Based Root Causes of Great Return March at its One-Year Commemoration in the Gaza Strip," 30 March 2019, available at: <http://www.alhaq.org/advocacy/6078.html>.

⁴ UN Human Rights Council, Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, para. 68.

⁵ See, e.g., UN Country Team in the occupied Palestinian territory, "Gaza in 2020: A Liveable Place?," August 2012, available at: <https://www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf>. UNCTAD, Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory, 6 July 2015, UN Doc. TD/B/62/3. UN Country Team in the occupied Palestinian territory, "Gaza Ten Years Later," July 2017, available at: https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

insecurity, unemployment, and collapsing public services.⁶ 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.⁷ Of particular concern is the lack of equipment and resources to properly treat sewage, wastewater, and solid waste. Accordingly, the residents of Gaza are at constant risk of suffering from water pollution-spread diseases; as these diseases further weigh down the collapsing health sector.

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 the 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 and therefore are designated as high-risk areas. 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. Farmers in Gaza are at constant risk of injury or death from unlawful live fire. In 2019, over 280 live fire and shelling attacks on farmers or farmlands were recorded, killing one farmer and injuring three. Further, to "enable optimal and continuous security operations,"⁸ Israel has been using crop-duster planes to aerially spray herbicides to kill vegetation across the perimeter fence by taking advantage of westward-blowing winds that carry the potent chemicals at least 600 metres into the Gaza Strip. In the last five years, aerial spraying damaged crops in Palestinian farmlands with a total area of 7,268 dunums. 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.⁹

In the sea, despite the Oslo Accords affording Palestinian fishermen 20 nautical miles of fishing grounds, Israeli forces use live fire to enforce a fluctuating 'permitted fishing zone' and sometimes prohibit fishing entirely. In 2019, Israel imposed a full maritime closure four times and changed the demarcation of the fishing zone over a dozen times. Gaza's fishermen endure constant harassment, arrest and detention, and 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, while further arresting 35 fishermen, including three children, and seizing 15 boats.

Israel's closure has further resulted in the steep decline of Gaza's health sector and the unavailability of specialized medical services, which have increased the need for patients to be

⁶ UN Country Team in the occupied Palestinian territory, "Gaza Ten Years Later," July 2017, p. 13, available at: https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf.

⁷ UNRWA, "Where We Work," January 2018, available at: <https://www.unrwa.org/where-we-work/gaza-strip>.

⁸ Michael Schaeffer Omer-Man, "IDF admits spraying herbicides inside the Gaza Strip," +972 Magazine, 28 December 2015, available at: <http://972mag.com/idf-admits-spraying-herbicides-inside-the-gaza-strip/115290/>.

⁹ 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, available at: <http://mezan.org/en/post/23665>.

referred for treatment to more advanced facilities outside of Gaza. In 2019, patients in Gaza 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. It is also important to note that of the 24,000 applications, at least 7,000 were submitted by oncology patients. Despite the critical nature of this category, around 25 per cent of these applications were not approved in 2019.¹⁰

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 legal framework that is designed to produce impunity and prevent Palestinians from effectively challenging Israel's regime.¹¹

In resolution 40/13, the Human Rights 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,"¹² including to lift the Gaza closure with immediate effect and to fulfil the right to health of Palestinians.¹³ Accordingly, we call on the Human Rights Council and all UN Member States to:

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 Palestinians, including children, to life, health, and freedom of expression and 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 line with Human Rights Council resolution 40/13 of 22 March 2019;
3. Pursue international justice and accountability for widespread and systematic human rights violations committed against the Palestinian people, including suspected crimes, and uphold their third State responsibility with regard to penal sanctions for grave breaches of international law committed against the Palestinian people.¹⁴

¹⁰ WHO, aggregate numbers of the 2019 monthly reports on access to health in the oPt, available at: <http://www.emro.who.int/pse/publications-who/monthly-referral-reports.html>.

¹¹ See 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, available at: <http://www.alhaq.org/advocacy/16183.html>.

¹² UN Human Rights Council, Resolution 40/13, 22 March 2019, UN Doc. A/HRC/RES/40/13, para. 11.

¹³ UN Human Rights Council, Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, para. 122.

¹⁴ UN Human Rights Council, Resolution 40/13, 22 March 2019, UN Doc. A/HRC/RES/40/13, para. 10.