

Parallel report for Israel's fifth periodic review by the Human Rights Committee

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I. Introduction

1. Since its foundation as a State in 1948, the State of Israel has designed and instituted a series of discriminatory laws, military orders, policies, and practices that constitute the legal foundation of its institutionalized regime of racial domination and oppression over the Palestinian people as a whole—including Palestinians in the occupied Palestinian territory (OPT), Palestinian citizens of Israel, and Palestinian refugees and exiles abroad.¹ As a result of this discriminatory system, the Palestinian people are oppressed and segregated across various territorial and legal domains and are subjected to an array of daily and systematic abuses of their fundamental human rights.
2. To realize the objective of creating a Jewish state in Palestine, the Zionist movement pursued settler colonialism—with its inherently racist ideology—and the transfer of the Palestinian population as foundational prerequisites. These policies have become the driving force behind Israel's apartheid regime. This goal has been perpetuated through the foundation, establishment, and maintenance of a racial regime of systematic dispossession, domination and fragmentation of the Palestinian people living under Israeli effective control, while consistently denying the right of return of Palestinian refugees, exiles and other persons displaced from the very outset of the Zionist colonization project of Palestine. This regime, which ultimately aims to deprive the Palestinian people of their inalienable rights, including the right to self-determination, amounts to *inter alia* the crime of apartheid under international law.²
3. These measures, policies, and practices have continued unabated since Israel signed and ratified the International Covenant for Civil and Political Rights (ICCPR or “the Covenant”) on 19 December 1966 and 3 October 1991, respectively. Notably, the prohibition of apartheid and racial discrimination is a peremptory norm of international law (*jus cogens*),³ accepted and recognized as non-derogable by the international community as a whole. The principle of non-discrimination and equality is also a cornerstone of international human rights law and is enshrined in all core human rights instruments. Apartheid, as an aggravated case of racial discrimination, breaches Article 2 of the ICCPR, which requires all States Parties to the Covenant to respect, protect, and fulfill all rights enshrined therein to all individuals within its territory and jurisdiction without distinction of any kind, including race.
4. Apartheid also constitutes a crime against humanity under international criminal law, giving rise to individual criminal responsibility and State responsibility to bring the illegal situation to an end. Under Article II of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid, the ‘crime of apartheid’ applies to a series of “inhuman acts committed for the purpose of establishing and maintaining domination by one racial

¹ Addameer Prisoner Support and Human Rights Association, Al-Haq, Al Mezan Center for Human Rights, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies, Civil Coalition for Palestinian Rights in Jerusalem, and Habitat International Coalition, *Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports*, 10 November 2019, available at: <http://mezan.org/en/uploads/files/1573555716491.pdf>.

² Rome Statute of the International Criminal Court (‘Rome Statute’), adopted 17 July 1998, entry into force 1 July 2002.

³ UN General Assembly, Fourth report on peremptory norms of general international law (*jus cogens*) by Dire Tladi, Special Rapporteur on Peremptory Norm of General International Law (*Jus Cogens*), A/CN.4/727, 31 January 2019, paras. 91-101; UN General Assembly, Report of the International Law Commission, A/74/10, 20 August 2019, Chapter V Peremptory norms of general international law (*jus cogens*), Conclusion 1.

group of persons over any other racial group of persons and systematically oppressing them”. These inhumane acts include:

- The **denial** to a member or members of a racial group or groups of **the right to life and liberty of person** (Article II(a)).
 - The **deliberate imposition** on a racial group or groups of **living conditions calculated to cause its or their physical destruction in whole or in part** (Article II(b)).
 - Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by **denying to members of a racial group or groups basic human rights and freedoms**, including the right to work, the right to form recognized trade unions, the right to education, **the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association** (Article II(c)).
 - Any measures including legislative measures, designed to **divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups**, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof (Article II(d)).
 - **Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid** (Article II(f)).
5. Accordingly, the present organizations submit that Israel has created and maintained an apartheid regime over the Palestinian people as a whole, in violation of its obligations under international law, including Articles 1, 2, 6, 7, 9, 10, 12, 17, 18, 19, 20, 21, 22, 24, 25, and 26 of the ICCPR. Against this backdrop, the present submission analyzes Israel’s widespread and systematic violations of the civil and political rights of Palestinians within its jurisdiction or territory of effective control, thereby evidencing that the violations of the rights enshrined in the Covenant also amount to the inhuman acts that constitute the crime of apartheid under international law.

Applicability of the Covenant to the occupied Palestinian territory

6. Israel ratified the ICCPR on 3 October 1991. Under Article 2(1), Israel is obliged to respect and ensure the rights enshrined in the Covenant to all individuals within its territory and subject to its jurisdiction. As repeatedly affirmed by the International Court of Justice (ICJ) and the Human Rights Committee (“the Committee”), the criteria of territoriality and jurisdiction are disjointed and, therefore, not cumulative.⁴ On the notion of jurisdiction, in its General Comment No. 31, the Committee held that “a State party must respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State Party, even if not situated within the territory of the State Party.”⁵
7. Israel has been occupying the Palestinian territory—comprising the West Bank, including East Jerusalem, and the Gaza Strip—since June 1967. The Israeli occupation has been

⁴ See for example: International Court of Justice (ICJ), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004, ICJ Reports, p. 136, paras. 106-11 (“*Wall case*”). Human Rights Committee, General Comment No. 31 on the Nature of the Legal Obligations of States Parties, adopted on 29 March 2004, CCPR/C/21/Rev.1/Add. 1326, para. 10.

⁵ CCPR/C/21/Rev.1/Add. 1326, para. 10.

recognized as such by the Security Council as of that year.⁶ In 2005, the Israeli government unilaterally withdrew its permanent ground forces and settlers from Gaza. Since then, Israel claims that any occupation of the Gaza Strip has ended. Yet, as noted by the Special Rapporteur on the situation of human rights in the occupied Palestinian territory, “in Gaza, Israel vacated its formal presence in 2005, but its *effective control* over the Strip—through its dominance over Gaza’s land and sea frontiers and its air space—means that it retains its responsibilities as an occupier.”⁷

8. Since 2007, Israel has imposed the land, air, and sea blockade of the Gaza Strip that is still ongoing. In this regard, Al Mezan will use the term “closure” in addition to “blockade” to denote the comprehensive list of practices and policies that collectively amount to effective control of the Gaza Strip by the Israeli government and, therefore, occupation. These restrictions and enforcements include, *inter alia*, the administrative control over telecommunications, population registry, water, sanitation, and fuel. Al Mezan also notes the frequent presence of Israeli forces inside Gaza, conducting incursions and military operations. This presence attests to the Israeli forces’ ability to enter the territory at will. Notably, this legal determination also entails that Israel bears human rights obligations towards the entire population living in the Gaza Strip.
9. As noted by the Independent International Commission of Inquiry on the protests in the occupied Palestinian territory in its report submitted to the Human Rights Council in 2019, “that Israel bears human rights obligations in the OPT is consistently expressed in General Assembly Resolutions, in Secretary-General reports, by the High Commissioner for Human Rights, the Human Rights Council, by previous Commissions of Inquiry and Fact-Finding Missions on the OPT, and by other human rights treaty bodies.”⁸ The latter include, among others, the Committee on Economic Social and Cultural Rights (CESC),⁹ the Committee against Torture (CAT),¹⁰ and this Committee. Accordingly, in its Concluding observations on the fourth periodic report of Israel (CCPR/C/ISR/4), the Committee reiterated the stance according to which Israel’s human rights obligations stemming from the Covenant also extend to the OPT, including the Gaza Strip.¹¹ Notably, the Committee’s evaluation has not changed following Israel’s withdrawal from Gaza in 2005.
10. Notwithstanding the overall consensus over the extra-territorial application of the Covenant in the OPT, Israel has not taken any step to review its legal position since its last periodic review by this Committee. As a matter of fact, Israel still denies having any human rights obligation in the OPT. This position is not only in contrast to the views expressed by this Committee (see CCPR/C/ISR/CO/4, para. 5; CCPR/CO/ISR/3, para. 5; CCPR/CO/78/ISR,

⁶ UN Security Council, Resolution 237 of 14 June 1967, S/RES/237.

⁷ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, 23 October 2017, A/72/556, para. 56 (emphasis added).

⁸ Report of the detailed findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestinian Territory, 18 March 2019, A/HRC/40/CRP.2, para. 48.

⁹ Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the fourth periodic report of Israel, 12 November 2019, E/C.12/ISR/CO/4, esp. para. 9.

¹⁰ Committee against Torture (CAT), Concluding observations on the fifth periodic report of Israel, 3 June 2016, CAT/C/ISR/CO/5 esp. paras. 8-9.

¹¹ Human Rights Committee, Concluding observations on the fourth periodic report of Israel, 21 November 2014, CCPR/C/ISR/CO/4, para. 5.

para. 11 and CCPR/C/79/Add.93, para. 10), but also to those expressed by the ICJ on numerous occasions.¹²

II. Self-determination, non-discrimination, and freedom of movement (Arts. 1, 2, 6, 7, 9, 12, 17, 18, 24, 25, and 26)

11. Since 1948, the Palestinian people as a whole have endured an ongoing *Nakba* of prolonged and sustained refugeehood, forced displacement, land appropriation, pillage, destruction of property, destruction of their institutions, and killing, as well as, political, administrative, and geographic fragmentation, as part of Israel's attempt to eradicate Palestinians from their land and homes. Israel's 54-year occupation over the Palestinian territory, as well as the construction and expansion of settlements in the West Bank, including in East Jerusalem, the building of the Separation Wall, and the closure of the Gaza Strip, have denied the Palestinian people their inalienable and collective right to self-determination, a peremptory norm of international law that is enshrined at Article 1 of the Covenant.
12. These illegal practices form part of Israel's systematic policy to deliberately separate and fragment the OPT and the Palestinian people in order to dominate them. Indeed, the enforcement of separation and fragmentation policies *de facto* prevents the Palestinian people not only from exercising their right to self-determination, including permanent sovereignty over natural wealth and resources, but also from establishing a viable, contiguous, and stable Palestinian state.
13. With regards to Israeli policies towards the Gaza Strip, these have resulted in more than two million Palestinians living in an open-air prison, crippled by a 14-year closure and subjected to periodic barbarous military offensives and daily violations of their basic, fundamental rights. While the Israeli government purports to justify the closure and the related restrictions under the guise of "security",¹³ this treatment of more than two million Palestinians has been recognized as a situation of racial segregation and apartheid.¹⁴

Israeli-imposed closure of the Gaza Strip

14. Considered a collective punishment under international law,¹⁵ Israel's illegal land, sea, and air closure of Gaza started in 2007 and continues to this day. In his 2020 Report, the UN

¹² See for example ICJ, *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 8 July 1996, ICJ Reports 1996. At para. 25, the ICJ acknowledged that "the protection of the International Covenant on Civil and Political Rights does not cease in times of war", save through the effect of provisions for derogation.

¹³ Initially, Israel claimed that its closure policy was instituted for security reasons. In 2012, in the course of hearing arguments before the Israeli High Court of Justice, the Israeli State Attorney acknowledged that the denial of movement between Gaza and the West Bank was part of a systematic policy rather than a security measure. See Al Mezan and Gisha, *For the first time in 12 years: Israeli Supreme Court orders military to reconsider application of Gaza- West Bank student ban*, 23 May 2012, available at: <http://mezan.org/en/post/14216>

¹⁴ Al Mezan, *The Gaza Bantustan—Israeli Apartheid in the Gaza Strip*, at: <http://mezan.org/en/uploads/files/16381763051929.pdf>

¹⁵ See for example: UN Office of the High Commissioner for Human Rights (UN OHCHR), *Israel's collective punishment of Palestinians illegal and an affront to justice: UN expert*, 17 July 2020, at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26111&LangID=E>. UN Office for the Coordination of Humanitarian Affairs (UN OCHA) OPT, *The Humanitarian Impact of the Closure*, July 2015, at: http://www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_july_2015_english.pdf. International Committee of the Red Cross (ICRC), *The hardship faced by Gaza's 1.5 million people cannot be addressed by*

Special Rapporteur on the situation of human rights in the occupied Palestinian territory highlighted that “Israel continues to rely upon collective punishment as a prominent instrument in its coercive toolbox of population control.”¹⁶ This policy *de facto* segregates Gaza’s two million residents in an isolated enclave in which they are denied fundamental freedoms and in which they are trapped in a state of protracted humanitarian catastrophe. The Gaza Strip has long been deemed uninhabitable, and in 2021 it does not allow for conditions to live a life with dignity. Nevertheless, Israel imprisons two million Palestinian people in what is tantamount to a bantustan.¹⁷

15. Amongst the harshest forms of control over the Gaza Strip put in place by Israel are the restrictions on freedom of movement to, from, and within the Strip. In Gaza’s eastern, northern, and western territorial lands and waters, Israel has unilaterally imposed wide buffer zones, also known as ‘access restricted areas’, which are no-go military areas enforced by the Israeli occupation forces using all types of weapons and artillery—including live ammunition, shells, and tear gas—to target civilian individuals, properties, and objects. Palestinian farmers, fishers, and other civilians in the buffer zone suffer regular violations of their freedom of movement and to choose their residence enshrined at Article 12 of the Covenant, as well as of their rights to life, liberty and security of person, and work.
16. Israel’s enforcement of access restricted areas also undermines Palestinians from exercising their right to permanent sovereignty over natural wealth and resources—which include land and water—under Article 1(2) of the Covenant. Notably, the access restricted areas include 35% of Gaza’s agricultural land and 80% of its fishing zone, causing devastating effects on the farming and fishing sectors, which were once flourishing industries in Gaza. Palestinian farmlands near the eastern and northern perimeter of the Gaza Strip are also targeted by aerial spraying of chemical herbicides and the opening of water dams aimed at killing crops and destroying agricultural fields, with potentially devastating effects also on the environment.¹⁸
17. The right to permanent sovereignty of peoples under occupation over their natural resources has been reaffirmed as an inalienable right of the Palestinian people multiple times.¹⁹ Article 1(2) of the Covenant also reads that “in no case may a people be deprived of its own means of subsistence.” Yet, Gaza’s closure and the occupation of the Palestinian territory pose severe challenges to the population’s access to natural wealth and resources, *inter alia*, water, agricultural land, gas reservoirs, and fisheries. In his 2019 Report on natural resources, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 noted that “[t]he collapse of natural sources of drinking water in Gaza [...] has

providing humanitarian aid. *The only sustainable solution is to lift the closure*, 14 June 2010, at:

<https://www.icrc.org/eng/resources/documents/update/palestine-update-140610.html>

¹⁶ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/44/60, para 24

¹⁷ Al Mezan, *The Gaza Bantustan—Israeli Apartheid in the Gaza Strip*, at:

<http://mezan.org/en/uploads/files/16381763051929.pdf>

¹⁸ Al Mezan, *Farming in a Buffer Zone, The conditions Gaza farmers face under closure*, February 2021, available at: <https://www.mezan.org/en/uploads/files/16142371071857.pdf>

¹⁹ See for example: Report of the Secretary-General, Implications, under international law, of the United Nations resolutions on permanent sovereignty over natural resources, on the occupied Palestinian and other Arab territories and on the obligations of Israel concerning its conduct in these territories, 21 June 1983, A/38/265. UN General Assembly, Resolution 52/207, 18 December 1997.

become a potent symbol of the systematic violation of human rights in the OPT.”²⁰ At present, Israel controls over more than 85% of water sources throughout the OPT.²¹ According to the data provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), as of early 2018, 95% of Gaza’s residents do not have access to clean water.²²

18. Israel also maintains harsh restrictions on the freedom of movement of persons, services, and goods both in and out of the Gaza Strip. Such restrictions include, *inter alia*, the periodical closing of the Kerem Shalom/Kerem Abu Salem crossing—the only commercial crossing from/into Israel and the West Bank—and severe constraints on the import and export of goods, including basic assets such as fuel, raw materials, and various equipment needed to re-build civilian infrastructures under the pretext that Israel considers these items as dual civilian-military use. The Israeli closure policy, due to its unprecedented duration and severity, has by now undermined all aspects of life in Gaza. Already in 2012, a United Nations Country Team (UNCT) report warned that the Gaza Strip would have become unlivable by 2020.²³ This trend was further reiterated by a 2017 UNCT report which claimed that the deterioration of living conditions in Gaza accelerated following Israel’s full-scale military bombardment in 2014.²⁴
19. Furthermore, as outlined in Article 1(1) of the Covenant, the right to self-determination entitles a people to be free to determine their political status and to pursue their economic, social, and cultural development. Yet, Israel’s closure policy not only profoundly affects every aspect of the lives of the two million protected persons living in the Gaza Strip but is also a root cause of their inability to freely pursue their economic, social, and cultural rights. In Gaza, 54 years of occupation and 14 years of closure have resulted in extreme economic decline, de-development, aid-dependency, food insecurity, profound levels of poverty, and unemployment, as well as the collapse of essential services, including water and sanitation infrastructure and healthcare. As of 2020, Gaza had a poverty rate of 56%,²⁵ while the World Bank expects the rate to increase to 64% as a result of the COVID-19 crisis.²⁶ The economic impact of the current COVID-19 crisis is a severe blow to an economy already crippled, with unemployment rates rising: in 2020, Gaza’s unemployment rate was amongst the world’s highest at 45%,²⁷ while the rate of Gaza’s households receiving aid stood at 70%.²⁸

²⁰ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/40/73, 15 March 2019, para. 49.

²¹ Al Mezan et al., 10 November 2019, *Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel’s Seventeenth to Nineteenth Periodic Reports*.

²² UNRWA, *Where We Work*, available at <https://www.unrwa.org/where-we-work/gaza-strip>.

²³ UN Country Team (UNCT) in the occupied Palestinian territory, *Gaza in 2020. A liveable place?*, August 2012, at: <https://www.unrwa.org/userfiles/file/publications/gaza/Gaza%20in%202020.pdf>

²⁴ UNCT, *GAZA. TEN YEARS LATER*, July 2017, at:

https://unsco.unmissions.org/sites/default/files/gaza_10_years_later_-_11_july_2017.pdf

²⁵ UN General Assembly, *Economic costs of the Israeli occupation for the Palestinian people: the Gaza Strip under closure and restrictions*, 13 August 2020, at: https://unctad.org/system/files/official-document/a75d310_en_1.pdf

²⁶ See the World Bank, *Palestinian Economy Struggles as Coronavirus Inflicts Losses*, 1 June 2020, at:

<https://www.worldbank.org/en/news/press-release/2020/06/01/palestinian-economy-struggles-as-coronavirus-inflicts-losses>

²⁷ Palestinian Central Bureau of Statistics (PCBS), *Press Release on the Results of the Labour Force Survey Second Quarter (April – June, 2021)*, available at: <https://www.pcbs.gov.ps/site/512/default.aspx?lang=en&ItemID=4044>.

²⁸ Al Mezan, *In focus: The effects of Israel’s offensive and tightened blockade on Gaza’s patients and healthcare system – May 2021*, July 2021, available at: <https://mezan.org/en/uploads/files/16261619561305.pdf>.

III. Right to life (Arts. 2, 6 and 24)

20. Palestinians in the OPT, including the Gaza Strip, have been subjected to Israeli extrajudicial killings for years. According to Al Mezan’s documentation, between 2014 and 2021, Israel killed some 2,927 Palestinians in the Gaza Strip, including 708 children. The deliberate use of excessive and lethal force by the Israeli army, security forces, and state agents has been standard practice since Israel’s creation, continued during its occupation of the OPT, and remains part of its standard operating procedure as a tool of oppression, elimination, and domination.

Use of excessive and lethal force against Palestinians in the Gaza Strip *Targeting of civilians in the access restricted areas*

21. As previously noted, Israel has placed stringent and unwarranted access restrictions on Palestinian land and waters in the so-called ‘access restricted areas’. The Israeli military enforces these limitations by using a variety of weaponry and artillery to target civilian individuals, properties, and objects, including live ammunition, artillery shelling, and tear gas. This conduct serves the overall aim of upholding Gaza’s closure, as well as maintaining appalling living conditions and physical segregation of Palestinians in the Gaza Strip.
22. The Palestinian fishing and agricultural communities in Gaza are among the groups most affected by the enforcement of these restrictions. Access to Palestinian territorial waters remains highly unsafe for Gaza’s fishermen, who face systematic obstacles in practicing their livelihood due to the attacks carried out against them by the Israeli forces. Attacks include shooting, harassment, verbal and physical abuse, arbitrary arrest, and detention. Other regular practices include damage to and confiscation of their equipment, such as fishing boats and nets, and pumping of wastewater into their boats.
23. While the enforcement of access restrictions at sea reduced fishing areas to six out of 20 nautical miles (NM) from the coast allocated to Palestinians under the Oslo Accords, direct attacks against Palestinian fishers have taken place within 100 meters to three NM in distance from the shore. Indeed, the Israeli forces have been using live fire to enforce a fluctuating “permitted fishing zone” and to sometimes prohibit fishing entirely.²⁹ For instance, in 2002, Israel reduced the fishing zone to 12 NM; in October 2006, it was further reduced to six NM; in January 2009, following Israel’s launching of Operation Cast Lead, it was cut to three NM.³⁰ In the first six months of 2019, the Israeli authorities imposed a full maritime closure three times and changed the demarcation of the fishing zone 15 times.³¹
24. More recently, in April 2021, the Israeli Coordinator of Government Activities in the Territories (COGAT) announced the complete closure of Gaza’s fishing zone “until further notice”, framing the closure as a response to rockets fired from the Strip toward Israel, events that had no connection to the fishing population, whose livelihoods depend on access to the

²⁹ Al Mezan “Fact Sheet: The Human and Financial Losses of Fishing Under Occupation”, 15 October 2019, at: <https://www.mezan.org/en/uploads/files/15712153571134.pdf>

³⁰ Al Mezan, *Fact Sheet: Gaza Fishermen: Life with Poverty, Harassment and Suffering*, December 2010, at: <http://www.mezan.org/en/uploads/files/11209.pdf>; and

³¹ Al Mezan, *Fact Sheet: The Human and Financial Losses of Fishing Under Occupation*, 15 October 2019, at: <https://www.mezan.org/en/uploads/files/15712153571134.pdf>

sea. The arbitrary and punitive measures against the fishermen amounted to an unjustified, unreasonable, and disproportionate violation of the rights to freedom of movement and work and constituted a form of collective punishment. Al Mezan and partner organizations Gisha and Adalah sent an urgent letter to Israel's Minister of Defense, the Attorney General, and COGAT, demanding the immediate reversal of COGAT's April 26 decision to ban access to Gaza's sea space.³² The ban was reversed on 29 April and a fishing limit of 15 nautical miles was instated. Notably, Al Mezan's documentation shows that between 2014 and 2021, the Israeli navy perpetrated 1,888 attacks against Palestinian fishermen in Palestinian territorial waters, killing five.

25. Similarly, Palestinian farmers working in the agricultural lands close to the separation fence in the Gaza Strip have suffered repeated attacks by the Israeli military. During these attacks, Palestinian farmers risk being killed or injured, as well as suffering severe economic losses if the attacks target their agricultural lands and properties. Whilst Israel claims that it only enforces a 300-meter-wide access-restricted area westward from the separation fence into the Gaza Strip, the facts on the ground demonstrate that the Israeli military enduringly attacks farmers up to 1.5 km away from the fence.³³ According to Al Mezan's documentation, between 2014 and 2021, Israeli forces opened fire—ranging between live ammunition to artillery shells—on Palestinian farmers and farmlands 1,773 times, killing 46 farmers and injuring another 45. In the same period, Israeli forces carried out 411 incursions across the Gaza Strip, affecting hundreds of *dunums* of farmland in Gaza and causing millions in financial losses.
26. These practices primarily violate Palestinian fishermen and farmers' inherent right to life, as prescribed under Article 6 of the Covenant, as well as the rights to liberty and security of person and to liberty of movement (Articles 9 and 12). In some cases, the practices carried out by the Israeli military may also amount to cruel, inhuman, or degrading treatment or punishment (Article 7).
27. In recent years, the humanitarian catastrophe and the deteriorating socio-economic conditions in the Gaza Strip have led a significant number of residents to venture into dangerous emigration routes out of Gaza. Many Palestinians, particularly children, sought to leave the Gaza Strip by attempting to cross the access-restricted area and climb the perimeter fence. In so doing, they risk their lives because Israel considers these people to be "infiltrators" and responds by employing excessive and lethal force, resulting in deaths and injuries, including lifelong disability. According to Al Mezan's documentation, between 2014 and 2021, the Israeli military shot and killed 28 Palestinians, including nine children, trying to cross the fence, blatantly violating international human rights law.

Great March of Return

28. Roughly every Friday from 30 March 2018 to 28 March 2020, thousands of Palestinians participated in the "Great March of Return" (GMR) demonstrations along the buffer zone at the separation fence in the Gaza Strip, demanding an end to Israel's illegal closure and the

³² Al Mezan et al, *Reverse illegal decision to deny access to Gaza's sea space immediately - Human rights organizations to Minister of Defense, COGAT and State Attorney*, 28 April 2021, available at: <http://mezan.org/en/post/23966>.

³³ Al Mezan, *Farming in a Buffer Zone, The conditions Gaza farmers face under closure*, February 2021, available at: <https://www.mezan.org/en/uploads/files/16142371071857.pdf>.

right of return for Palestinian refugees. The GMR demonstrations drew large and diverse crowds of participants—including youth and children, women, elders, student groups, local community leaders, civil society, and private sector actors—and remained largely peaceful and non-violent.³⁴ Regardless of the fact that no genuine threats were posed to Israeli soldiers or to surrounding communities, the Israeli military responded to the demonstrations with the use of lethal and other excessive force—including live and high-velocity ammunitions, rubber-coated metal bullets, snipers, and other types of crowd-control weapons, such as tear gas canisters—directly targeting protesters, media and medical personnel.

29. As the GMR demonstrations took place in a law enforcement paradigm, the conduct of the Israeli forces was governed by international human rights law, under which lethal force can only be used as a last resort to protect against an imminent threat to life and when other, less forceful measures have been exhausted. This view is shared, amongst others, also by the UN Independent Commission of Inquiry (CoI) appointed by the Human Rights Council in its resolution S-28/1 and mandated to investigate all alleged violations and abuses of international human rights and humanitarian law during the GRM demonstrations up to 31 December 2018. In particular, the CoI held that “[t]he demonstrations were civilian in nature, had clearly stated political aims and, despite some acts of significant violence, did not constitute combat or a military campaign. Thus, the legal framework applicable to policing the protests was that of law enforcement, based in international human rights law. This assessment did not change following the commission’s investigation into the demonstrators’ affiliation to or membership in organized armed groups.”³⁵ Notwithstanding, facts on the ground shows that the Israeli military consistently used lethal and excessive force in circumstances that could not be justified under international human rights law, ultimately killing 217 Palestinians at the protests—including children, women, journalists, paramedics, and persons with disability—while wounding and traumatizing thousands more.³⁶
30. These figures indicate that the Israeli occupation forces indiscriminately and disproportionately attacked participants of the GMR demonstrations regardless of the fact that they were children, journalists, or paramedics. For instance, on several occasions the Israeli military fired tear gas canisters directly at protesters, launching the canisters in handheld launchers, mounted launchers, and by drone. Al Mezan’s documentation shows that, between March 2018 and March 2020, Israel’s response to the GMR resulted in the death of 48 children, nine persons with disabilities, and two women, and injury of 4,974 children and 867 women. With regards to children—in relation to whom the obligation to respect the right to life holds heavier weight—the CoI found that the Israeli military “used lethal force against children who did not pose an imminent threat of death or serious injury to its soldiers”, and that “several children were recognizable as such when they were shot.”³⁷ The CoI also found

³⁴ Al Mezan, *Attacks on Unarmed Protesters at the “Great March of Return” Demonstrations. A Two-Year Report from the Start of Demonstrations on 30 March 2018*, April 2020, at: <https://www.mezan.org/en/uploads/files/15952354571567.pdf>

³⁵ Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, A/HRC/40/74, para. 32

³⁶ Al Mezan, *Attacks on Unarmed Protesters at the “Great March of Return” Demonstrations. A Two-Year Report from the Start of Demonstrations on 30 March 2018*, April 2020, at: <https://www.mezan.org/en/uploads/files/15952354571567.pdf>

³⁷ Report of the detailed findings of the independent international Commission of inquiry on the protests in the Occupied Palestinian Territory, A/HRC/40/CPR.2, paras. 518-9.

“reasonable grounds to believe that Israeli snipers shot them intentionally, knowing that they were children.”³⁸

31. Journalists and media personnel endured 249 attacks against them, during which two were killed—photojournalist Yaser Abdelrahman Murtaja, 30, and reporter Ahmed Mohammed Ashraf Abu Hussein, 24—while 173 were injured, 43 of whom were injured more than once. The Israeli army also targeted medical personnel giving aid during the demonstrations, with at least 283 attacks on paramedics recorded and four paramedics killed, being: Abdallah Al-Qutati, 22, a paramedic with Nabd Al-Haya team; Razan Al-Najar, 20; a volunteer-paramedic with the Palestinian Medical Relief Society (PMRS); Mousa Abu Hasaneen, 34, a paramedic with the Palestinian Civil Defense; and Mohammed Subhi Al Judaili, 36, a paramedic with the Palestine Red Crescent Society.³⁹ Another 225 medical personnel were injured by live ammunition, shrapnel from live fire, and/or tear gas canisters. Also in these cases, the CoI “found reasonable grounds to believe that Israeli snipers intentionally shot health workers, despite seeing that they were clearly marked as such.”⁴⁰ Despite their blatant unlawfulness, the attacks were neither investigated according to international standards nor were perpetrators held to account.⁴¹
32. The review of tens of cases documented by Al Mezan also indicates that the Israeli forces engaged in a pattern of deliberate and systematic shooting as sharpshooters landed their fired rubber-coated metal bullets in areas of the body where an injury, if not fatal, would cause life-changing, permanent disability, including amputations and severe trauma. For instance, Al Mezan’s documentation shows that upper-body gunshot wounds were the leading cause of death, being 89% of GMR fatalities, while 30% of the injured had sustained the injuries in the upper parts of the body, which indicates a deliberate attempt by the Israeli military to cause maximum harm to Palestinian protesters.
33. Considering the facts and figures outlined above, it can be concluded that Israel violated its obligations under international human rights law, particularly the right to life protected under Article 6 of the Covenant, as the Israeli military deliberately shot, killed, and wounded persons who did not pose a serious and imminent threat to the lives of Israeli soldiers or surrounding communities. Moreover, by not complying with the principles of necessity and proportionality which regulate the use of force in law enforcement settings, the Israeli military also disregarded most of the provisions laid out in the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, first and foremost Articles 4 and 5. These conclusions also correspond to the findings of the CoI, that found that in all but a possible two cases of killing, “the use of live ammunition by Israeli security forces against demonstrators was unlawful.”⁴² Concurrently, the CoI also stated that the seriousness of these violations is such that they may amount to war crimes and crimes against humanity.⁴³

³⁸ A/HRC/40/CPR.2, para. 519.

³⁹ Al Mezan et al, *Chronic Impunity: Gaza’s health sector under repeated attack*, at: <http://mezan.org/en/uploads/files/chronic-impunity-gazas-health-sector-under-repeated-attack.pdf>

⁴⁰ A/HRC/40/CPR.2, para. 526.

⁴¹ Al Mezan et al, *Chronic Impunity: Gaza’s health sector under repeated attack*, at: <http://mezan.org/en/uploads/files/chronic-impunity-gazas-health-sector-under-repeated-attack.pdf>

⁴² A/HRC/40/74, para. 94.

⁴³ A/HRC/40/74, paras. 115 and 125.

Israel's May 2021 offensive against the Gaza Strip

34. Since its unilateral imposition of the total closure and blockade, Israel has carried out four full-scale military offensives against the Gaza Strip,⁴⁴ killing some 5,201 Palestinians, including 1,208 children, over a period of 13 years (2008-21).⁴⁵ The bombardments disproportionately affected civilians and civilian infrastructure and left hundreds of thousands of Palestinians in Gaza homeless and internally displaced, further exacerbating the already dire socio-economic conditions. Al Mezan's documentation shows that between 2014 and 2021, Israeli forces targeted 40,296 housing units in the Gaza Strip, of which 9,778 were destroyed and 30,518 were partially destroyed.
35. The latest Israeli offensives against the Gaza Strip took place between 10 and 21 May 2021. During the 11 days, 240 Palestinians were killed by Israeli forces, of whom at least 151 were civilians, including 59 children.⁴⁶ Another 1,968 Palestinians in Gaza were injured, including 630 children. During the offensive, Israel targeted, damaged, and destroyed homes and entire buildings—including residential buildings, factories, agricultural fields, and roads. As it was the case in all previous offensives over the last 14 years, family homes and civilian targets were attacked indiscriminately and systematically. Of the civilian casualties in the May offensive, 113 were killed inside their homes.

Chronic impunity for Israeli violations

36. Israel continues to maintain a criminal investigative system that fails to uphold the international standards requiring thorough, effective, independent and impartial investigations of suspected perpetrators, including in particular of persons in positions of command, and prosecutions that are commensurate with the gravity of the acts committed (Article 14).⁴⁷ Al Mezan's long engagement with the system and the output of the system itself long evidences its primary function to shield Israeli troops, military commanders and government leaders from criminal responsibility, making the State decisively unwilling or unable to act in accordance with international law.
37. Concerning the Israeli military's use of force against protestors, journalists and medics within the Great March of Return demonstrations, Al Mezan submitted 391 well-substantiated complaints of criminal conduct, in particular involving killing and serious injury, to the Israeli Military Advocate General (MAG), among complaints submitted by partner organizations.⁴⁸ Only one prosecution was pursued and concerned the killing of unarmed child Othman Al Hillis, for which the soldier was convicted of abuse of authority in a manner that endangers

⁴⁴ In addition to these four major military offensives, throughout the years, Israel has routinely and sporadically attacked the Gaza Strip by raids, missiles, and artillery shells. See, for example, Al Mezan, *Israeli Forces Launch Over 100 Raids on Gaza, Kill Eight Persons and Destroy Public and Private Property*, 5 May 2019, at: <http://mezan.org/en/post/23521>.

⁴⁵ Al Mezan, *The Gaza Bantustan—Israeli Apartheid in the Gaza Strip*, at: <http://mezan.org/en/uploads/files/16381763051929.pdf>

⁴⁶ According to Al Mezan's joint fieldwork and upcoming statistical report on the escalation.

⁴⁷ Adalah, *Challenging the Israeli Attorney General's Conception of Sovereignty: The Issue of Jurisdiction concerning the 'Situation of Palestine' before the International Criminal Court*, June 2020, available at: https://www.adalah.org/uploads/uploads/Adalah_AG_ICC_Report_June_2020_Final.pdf.

⁴⁸ B'tselem and PCHR, *Unwilling and Unable: Israel's Whitewashed Investigations of the Great March of Return Protests, December 2021*, available at: https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf

human life and given a 30-day prison sentence to be served through military-related labor.⁴⁹ The sentence, woefully inadequate, amounts to another form of impunity. Another prosecution at around the same time—which was considered by the MAG to be within the context of the Great March of Return, although factually involved a Palestinian fisherman who was killed while working in circumstances entirely disconnected from any protests—resulted in a similar 45-day community service sentence, wholly disproportionate to the gravity of the crime.⁵⁰

38. Following the 51-day military assault on Gaza in July-August 2014,⁵¹ Al Mezan submitted 125 well-substantiated complaints of criminal conduct to the MAG (in some cases jointly with partners).⁵² The evidence in these cases suggested that the attacks were carried out in violation of the principles of distinction and proportionality and appeared to amount to grave breaches of international humanitarian law. Zero indictments were issued following Al Mezan's complaints. Concerning the overall ~400-500 criminal complaints submitted to the investigative mechanism following the 51-day military assault, zero indictments were issued for serious violations of international law—namely for killing and serious injury. The only indictments that were issued concerned a case of three soldiers convicted of theft, a low-level crime.
39. Further, Israel maintains a justice system that continues to ensure, largely through Amendment No. 8 to the Israeli Civil Wrongs (Liability of the State) Law of 1952,⁵³ that Gaza's victims and their families are denied effective remedies, including equal and effective access to justice and reparations (Article 14). Amendment No. 8 continues to directly affect Palestinians from the Gaza Strip in particular by expressly blocking liability for damages vis-à-vis persons who are not citizens or residents of Israel and are residents of a territory outside Israel that has been declared an 'enemy entity', and allows Israel to avoid liability for its military conduct against the Strip. Al Mezan is not aware of any cases where Palestinians from Gaza have been granted civil remedy and compensation since the amendment became law in 2012.
40. A petition on the constitutionality of the amendment is currently at Israel's High Court of Justice, brought by Al Mezan and partner organization Adalah – The Legal Center for Arab Minority Rights in Israel.⁵⁴ The appeal concerns the case of Attiya Nabaheen—a student in Gaza who was shot at 15 years old in the spine near the separation fence by Israeli forces. He became a paraplegic as a result of the attack. The case was initially rejected by the Beersheva District Court in 2018 under Amendment No. 8. Numerous claims in the lower court will be decided by the decision of the High Court in this case.

⁴⁹ Al Mezan, *Israeli Soldier Sentenced for Failure to Follow Orders Instead of Killing of Child: Leniency Attests to Entrenched Impunity*, 31 October 2019, available at: <http://mezan.org/en/post/23599>

⁵⁰ Al Mezan, *Israeli Soldier Given Derisory Sentence for the Unlawful Killing of a Palestinian Fisherman: Appalling Leniency Attests to Entrenched Impunity*, 22 June 2020, available at: <http://mezan.org/en/post/23760>

⁵¹ During Israel's full-scale bombardment on Gaza in July-August 2014, 70% of the total 2,219 Palestinians killed were civilian and 556 were children. See: <https://www.mezan.org/en/uploads/files/14598458701382.pdf>.

⁵² Al Mezan and Adalah, *Gaza 3 Years On: Impunity Over Accountability – Israel's unwillingness to investigate violations of international law in the Gaza Strip*, 28 August 2017, available at: <https://www.mezan.org/en/uploads/files/15039098601678.pdf>.

⁵³ See Civil Wrongs (Liability of the State) Law 5712 (1952) Amendment No. 8 (2012).

⁵⁴ Al Mezan and Adalah, *Israel gives itself immunity from all damage claims filed by Gazans harmed by Israeli troops; Adalah, Al Mezan appeal to Supreme Court*, 10 January 2019, available at: <http://mezan.org/en/post/23370>.

41. In addition to Amendment No. 8, Israel has long imposed procedural and financial barriers impeding Palestinian victims' access to justice, reparation, and remedy for Israel's violations against them that include prohibitively high court fees, failure to provide interpretation and translation services, and an unduly short limitation period,⁵⁵ making compensation claims virtually futile.⁵⁶ To that end, the 2019 CoI recommended that Israel "[a]mend the law on civil liability to provide a remedy to Gazans through Israeli courts for breaches of international human rights law or international humanitarian law by the Israeli security forces."⁵⁷
42. The lack of accountability and justice in Israel for the State and its military's repeated apparent grave violations of international human rights and humanitarian law fosters a culture of impunity that ensures the repetition of its devastating military assaults and use of force, and the continuation of its prolonged occupation and apartheid regime.

IV. Prohibition of torture and other cruel, inhuman, or degrading treatment or punishment, right to liberty and security of person and treatment of persons deprived of their liberty (Arts. 7, 9, 10, 12, 17, 23 and 24)

Arbitrary Arrests in the Access Restricted Areas

43. People who attempt to cross the access restricted areas and the fence, considered by Israel as illegal "infiltrators", face the immediate risk of arrest by the Israeli military. Between 2014 and 2021, the Israel army apprehended at least 377 Gaza residents attempting to cross the perimeter fence between Gaza and Israel. Al Mezan's documentation shows that many of them underwent some form of torture or ill-treatment while in Israeli detention.
44. In 2020, Al Mezan interviewed 91 of the 96 children arrested by Israel between 2015 and 2019, who reported "use of gunfire and attack dogs, physical or verbal abuse, the use of stress positions and sleep deprivation, psychological interrogation techniques, and discrimination or neglect" during arrests and transfer to detention.⁵⁸ Children—who were arrested in relation to security matters, thus allowing for interrogators from Israel's secret service to interrogate them—reported practices such as prolonged blindfolding, sleep deprivation, physical and verbal violence, denial of basic necessities, and denial of basic legal guarantees, including the right to an attorney and family visits.⁵⁹ These practices as implemented by Israeli authorities constitute prohibited ill-treatment and torture.

⁵⁵ A statute of limitations of two years, compared to the seven years allotted for other tort suits in Israel. See: Al Mezan, Update: No reparations in Israel for Palestinians: How Israel's amendment No. 8 leaves no room for recourse, December 2015, available at: <http://mezan.org/en/uploads/files/1456314749526.pdf>.

⁵⁶ For the extensive list of barriers, see: Al Mezan, *Update: No reparations in Israel for Palestinians: How Israel's amendment No. 8 leaves no room for recourse*, December 2015, available at: <http://mezan.org/en/uploads/files/1456314749526.pdf>.

⁵⁷ Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, A/HRC/40/74, para. 125(c).

⁵⁸ Al Mezan, *The Torture and Abuse of Children Fleeing Gaza's Humanitarian Catastrophe*, 26 October 2020, available at: <http://mezan.org/en/uploads/files/1603696499136.pdf>, p. 17.

⁵⁹ *Ibid.*, p. 18.

45. As regards fishing and agricultural communities, in addition to the physical risks to their right to life as highlighted above, they also endure regular and ongoing violations of their right to liberty and security. According to Al Mezan’s documentation between 2014 and 2021, Israeli authorities arbitrarily arrested 436 fishermen, including 43 children. Many fishermen reported that Israeli forces arrested them and forced them to strip off their clothes and swim towards Israeli gunboats.⁶⁰ Palestinian farmers are also exposed to similar treatment by Israeli authorities, which have arbitrarily arrested one farmer working in the access restricted areas during the reporting period.

Arbitrary arrest of medical patients and their carers

46. Israel’s closure policy and related restrictions, decades of occupation, repeated military incursions, and regular military bombardments have crippled Gaza’s healthcare system to the point of being unable to meet the needs of its population. By limiting the movement of people and goods, the Israeli authorities impose severe restrictions on the import of supplies and medical equipment under the pretext of their ‘dual-use’ and blocks access to essential medicines and specialized personnel. As a consequence, every year thousands of Palestinian patients from Gaza struggle to receive adequate medical treatment—especially cancer patients, as radiotherapy and chemotherapy treatments are largely unavailable in Gaza—and are forced to seek urgent and lifesaving medical treatment outside the Strip by being referred to hospitals in the West Bank, including East Jerusalem, in Israel, and abroad.
47. Palestinian residents of the Gaza Strip seeking to travel via Israeli-controlled crossings must first obtain the requisite Israeli-issued exit permit through the complex, arbitrary, and discriminatory permit regime maintained by Israel under the guise of “security” justifications and requirements. This also applies to medical patients and their carers, who are required to obtain Israeli-issued exit permits to access essential health services in hospitals outside Gaza. Yet, patient applications to travel via the Israeli-controlled Erez crossing are continuously delayed or denied without any clear justification.⁶¹ For patients who are denied or deferred permission, consequences can be fatal: Al Mezan’s documentation shows that between 2014 and 2020, 68 medical patients died after Israel denied or deferred their permits to receive medical treatment outside of Gaza.
48. Since the imposition of the closure in 2007, the Israeli authorities have occasionally increased restrictions on the issuance of medical permits. In 2017, Israel issued the lowest number of medical permits since the imposition of the closure (only 54% of those who applied), with 54 patients dying (46 of whom had cancer) following the denial or delay of their permits.⁶² Although the approval permit rate has now gone up, during and following its May 2021 full-scale military assault and ensuing increased closure measures, Israel completely banned patient access to healthcare outside of Gaza from 11-22 May, while after the ceasefire, it

⁶⁰ Al Mezan, *Fisherman Killed by Israeli Naval Forces, Two Others Injured and Detained*, 27 February 2018, at: <http://mezan.org/en/post/22452>

⁶¹ Al Mezan, *Fact Sheet: Torture and Cruel, Inhuman and Degrading Treatment. Gaza, Occupied Palestine, 1 Nov. 2015 - 31 Oct. 2016*, at: <http://www.mezan.org/en/post/21654>

⁶² Al Mezan, Amnesty International, Human Rights Watch, Medical Aid for Palestinians, and Physicians for Human Rights Israel, *Israel: Record-Low in Gaza Medical Permits*, at: <https://www.mezan.org/en/post/22378>

approved only 13% of patient permits.⁶³ In May 2021 alone, at least four people died, including two children, while waiting for Israel to issue them permits.⁶⁴

49. For patients who are given access to Erez crossing, most are subjected to interviews as part of their permit application process, during which they become particularly vulnerable to coercion and other forms of torture and ill-treatment by Israeli authorities. During these interviews—which do not guarantee the issuance of a permit once completed—medical patients and their companions are subjected to hours of interrogation and asked questions about their family, friends, and acquaintances, with the Israeli authorities attempting to blackmail and coerce them into collaborating, while sometimes resorting to physical and psychological violence.⁶⁵ At times, patients and carers, even when granted exit permits, are arbitrarily arrested and detained by Israeli authorities when attempting to cross the Erez checkpoint. Between 2014 and 2021, Al Mezan documented 152 cases of arrest at Erez, including of 18 patients and 20 carers.
50. These practices violate a broad spectrum of fundamental rights, including the rights to health, liberty (Article 9), and freedom of movement (Article 12). As this policy specifically targets the occupied Palestinian population in the Gaza Strip, already vulnerable and dependent for the reasons described in this report, it is considered an act of discrimination.⁶⁶ Accordingly, the denial or delay of access to medical care for Palestinian patients by the Israeli authorities and physical and psychological pain that patients and their companions endure while attempting to access healthcare outside of the Gaza Strip amount to a form of cruel, inhuman, and degrading treatment (Articles 7, 10) and, in the most extreme cases, to a violation of the right to life (Article 6).

Treatment of Palestinian detainees in Israeli facilities

51. Israel regularly holds Palestinians from the OPT in detention facilities located within its borders, contrary to the prohibition under international humanitarian law on transferring protected persons outside the occupied country. Incarceration in Israel causes a serious violation of the right to family life of both detainees and their families (Articles 17 and 23), which has been further exacerbated by the COVID-19 pandemic.⁶⁷ Since the outbreak of the pandemic, 250 Palestinian detainees from Gaza are kept in almost complete isolation from the outside world, since Israel has banned family visits and only allows for sporadic, short phone calls between inmates and their families. Notably, Gaza inmates associated with Hamas have been denied visits since 2017 as part of Israel's sanctions on the Gaza Strip, and those detained as "security internees" are generally denied all phone contact with the outside world.

⁶³ WHO, *Health Access Monthly Report*, May 2021, at:

http://www.emro.who.int/images/stories/palestine/documents/pdf/May_2021_Monthly_v1.1.pdf?ua=1.

⁶⁴ Al Mezan, *In focus: The effects of Israel's offensive and tightened blockade on Gaza's patients and healthcare system – May 2021*, July 2021, available at: <https://mezan.org/en/uploads/files/16261619561305.pdf>.

⁶⁵ Al Mezan, *Fact Sheet: Torture and Cruel, Inhuman and Degrading Treatment*, at, <http://www.mezan.org/en/uploads/files/14525988961548.pdf>. Al Mezan, *Medical Care Under Siege – Israel's Systematic Violation of Gaza's Patient Rights*, February 2018, available at: <http://mezan.org/en/uploads/files/15174966411875.pdf>

⁶⁶ See Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/HRC/37/75, 15 March 2018.

⁶⁷ Al Mezan and HaMoked, *Cut off from their families for 21 months: HaMoked and Al Mezan petitioned the High Court of Justice to renew family visits to 250 Palestinian inmates from Gaza who are held inside Israel*, at: <http://mezan.org/en/post/24092>

In December 2021, Al Mezan and HaMoked petitioned Israel's High Court of Justice to demand the Minister of Public Security and the Israel Prison Service (IPS) put an end to the complete isolation of Palestinian inmates from the Gaza Strip unlawfully incarcerated inside Israel, the outcome is pending.⁶⁸

Withholding of Palestinian bodies

52. Several Israeli laws and decisions have put in place the domestic legal conditions to withhold the bodies of Palestinians killed by Israeli forces or who have died in Israeli prisons and detention centers, including the Combating Terrorism Law (Amendment No. 3) amended on 7 March 2018. Prior to that, in January 2017, the Israeli Security Cabinet issued an explicit decision on the “uniform policy for the treatment of terrorist bodies,” followed by a September 2019 High Court of Justice decision on withholding and temporarily burying bodies to be used as bargaining chips. Most recently, the High Court determined that the Israeli military has the authority to withhold bodies without governmental authority.⁶⁹ These decisions do not comport with international law, and in June 2016, the UN Committee Against Torture called on Israel to take all necessary steps to return bodies to families for burial as soon as possible.⁷⁰
53. Since 2015, the bodies of 325 Palestinians have been withheld by Israel, with 26 bodies being of Palestinians from Gaza.⁷¹ This practice is a collective punishment of family members for crimes they did not commit, amounts to a violation of the right to family life (Articles 17 and 23), and falls within the scope of cruel, inhuman, or degrading treatment or punishment (Article 7).

V. Freedom of expression, assembly, and association (Arts. 19, 20, 21, and 22)

Intimidation and targeting of human rights defenders and organizations

54. One of the core elements of the crime of apartheid is the intention of maintaining the regime.⁷² Among the measures used by various Israeli governments to achieve this goal is the silencing of those who oppose its widespread and systematic human rights violations committed against the Palestinian people through institutionalized and systematic intimidation, attacks, and harassment.⁷³ These measures include death threat,⁷⁴ arbitrary arrest,⁷⁵ travel ban and

⁶⁸ Ibid.

⁶⁹ Al Mezan, *Israel continues to withhold the bodies of seven Palestinians who died in custody, among hundreds of Palestinian bodies held and denied proper burial*, at: <https://www.mezan.org/en/post/24047>.

⁷⁰ CAT, Concluding observations on the fifth periodic report of Israel, CAT/C/ISR/CO/5, 3 June 2016.

⁷¹ Al Mezan, *Israel continues to withhold the bodies of seven Palestinians who died in custody, among hundreds of Palestinian bodies held and denied proper burial*, at: <https://www.mezan.org/en/post/24047>.

⁷² Rome Statute, Article 7(2)(h). Article II(f) of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid recognises the “[p]ersecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid” as an element of the crime of apartheid.

⁷³ Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports, para. 122.

⁷⁴ See, for example, Al Haq, *Al-Haq Under Attack – Staff Member's Life Threatened*, 3 March 2016, at: <https://www.alhaq.org/advocacy/6432.html>, Al Mezan, *Al Mezan Condemns Continued Death Threats to Staff Members and Calls on the International Community to Intervene*, 11 August 2016, at: <http://www.mezan.org/en/post/21475/>, Frontline Defenders, *Death Threats Against Staff Members of Al Mezan Organisation*, 16 August 2016, at: <https://www.frontlinedefenders.org/en/case/death-threats-against-staff-members-al-mezan-organisation>.

⁷⁵ See, for example, Al-Haq, *Israel's Policy of Arbitrary Arrest of Human Rights Defenders Continues*, 24 July 2008, available at: <http://www.alhaq.org/advocacy/7256.html>, and Al-Haq, *Israeli Attacks on Human Rights Defenders Must End*, 16 February 2010, available at: <http://www.alhaq.org/advocacy/7161.html>.

severe restriction on freedom of movement,⁷⁶ punitive residency revocation,⁷⁷ forcible transfer and deportation,⁷⁸ harassment and intimidation (also on UN premises),⁷⁹ raid on offices,⁸⁰ cyber-attack and hacking,⁸¹ online/offline defamation campaign,⁸² and false designation as ‘terrorists’ and misuse of counter-terrorism laws, ultimately creating a climate of fear and intimidation for Palestinian human rights defenders and organizations.

55. To shrink civil society space, delegitimize, oppress, and dominate them, the Israeli government, through its former Ministry of Strategic Affairs (now merged into the Ministry of Foreign Affairs) and its affiliated actors and organizations consistently engage in a smear and defamation campaign aimed at deliberately intimidating, harassing, and delegitimizing human rights defenders, activists, organizations, and experts who advocate for Palestinians’ human rights, particularly of those pursuing international accountability for Israel’s widespread and systematic violations of human rights and humanitarian law and apartheid regime over the Palestinian people. One of the intended purposes of this campaign is to hinder the allocation of funds from international donors to Palestinian organizations, thereby inevitably undermining their key human rights and accountability work.
56. Since 2015, when the Prosecutor of the International Criminal Court (ICC) opened a preliminary examination into the situation in Palestine, the attacks and campaigns of harassment against Palestinian human rights organizations actively engaged with international justice mechanisms increased dramatically. As part of this campaign, in October 2021, Israeli Minister of Defense, Benny Gantz, designated six Palestinian human rights and civil society groups as “terrorist organizations” without providing substantiating evidence and with no due process. The intimidation and harassment of human rights defenders and organization is not an isolated phenomena but is a function of Israel’s effort to maintain its regime of racial

⁷⁶ See, for example, Al Mezan, *PHROC Condemns Israeli Imposed Movement Restrictions and Travel Ban against Amnesty International Staff Laith Abu Zeyad*, 6 November 2019, at: <http://mezan.org/en/post/23601>, PHROC *Condemns Israel’s Policy of Silencing Those Who Raise the Voice of Justice*, 8 June 2020, available at: <http://www.alhaq.org/palestinian-human-rights-organizations-council/16957.html>.

⁷⁷ See, for example, Al Haq, *Punitive Residency Revocation: the Most Recent Tool of Forcible Transfer*, 17 March 2018, at: <https://www.alhaq.org/advocacy/6257.html>

⁷⁸ See, for example, Human Rights Watch, *Israel Expels Human Rights Watch Director Today*, 25 November 2019, at: <https://www.hrw.org/news/2019/11/25/israel-expels-human-rights-watch-director-today>, Al-Haq, *PHROC Condemns Israel’s Order to Deport Human Rights Watch Director, Omar Shakir, as a Grave Violation of Right to Freedom of Expression, and Systematic Shrinking of Civil Society Space*, 23 May 2018, available at: <http://www.alhaq.org/advocacy/6199.html>.

⁷⁹ See, for example, Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, 15 March 2019, A/HRC/40/73, para. 24.

⁸⁰ See, for example, Addameer, *Israeli Occupation Forces Raid Addameer’s Office and Steal its Belongings*, 19 September 2019, available at: <https://www.addameer.org/news/israeli-occupation-forces-raid-addameers-office-and-steal-its-belongings>; Al-Haq, *Al-Haq Condemns Israeli Occupation Forces Raid on Addameer Prisoner Support and Human Rights Association*, 20 September 2019, available at: <https://www.alhaq.org/advocacy/15199.html>; Amnesty International, *Israel ramps up assault on civil society with chilling raid on Palestinian NGO Addameer*, 19 September 2019, available at: <https://www.amnesty.org/en/latest/news/2019/09/israel-ramps-up-assault-on-civil-society-with-chilling-raid-on-palestinian-ngo-addameer/>, and Al-Haq, *Al-Haq condemns Israeli raids against Palestinian organisations in Ramallah*, 11 December 2012, available at: <https://www.alhaq.org/advocacy/6806.html>;

⁸¹ See, for example, Report of the Special Rapporteur on the situation of human rights in the Palestinians territories occupied since 1967, Michael Lynk, 16 March 2017, A/HRC/34/70, para. 39, and Al Mezan, *Al Mezan Condemns Continued Death Threats to Staff Members and Calls on the International Community to Intervene*, 11 August 2016, at: <http://www.mezan.org/en/post/21475/>.

⁸² See, for example, Al Mezan, Addameer, and Al Haq, *Three Palestinian Civil Society Organisations Send Submission to UN Expert on Israel’s Smear Campaigns and Disinformation*, at: <https://www.mezan.org/en/post/23925>

domination and oppression, including by creating a climate of fear and intimidation and preventing Palestinian human rights organizations from carrying out their advocacy work.

Great March of Return

57. In light of their largely peaceful and non-violent nature, the Great March of Return demonstrations represented a legitimate exercise of the rights to freedom of expression, peaceful assembly, and association that all Palestinians are entitled to under Articles 19, 21, and 22 of the Covenant and that Israel, as the Occupying Power, is obliged to protect and respect. Yet, from the start of the protests in March 2018, Israeli forces systematically suppressed the Great March of Return demonstrations using excessive and lethal force to undermine Palestinian protesters' rights-based demands.⁸³ In its report, the CoI recalled that "international human rights law protects demonstrations under the freedoms of expression, of peaceful assembly and of association. While not all demonstrators were peaceful, the commission found reasonable grounds to believe that the excessive use of force by Israeli security forces violated the rights of the thousands who were."⁸⁴ Indeed, as reported above, the Israeli military repeatedly opened fired against crowds of participants in the Great March of Return demonstrations, unlawfully killing and wounding thousands of protesters—including children, women, and persons with disabilities—as well as medical and media personnel.
58. Notably, international human rights law also contains provisions aimed at protecting individuals engaged in journalism—including reporters, camera operators, photojournalist, and those covering protests. In particular, Article 19§2 of the Covenant provides that the right to freedom of expression "shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Nevertheless, over the span of nearly two years of demonstrations, the Israeli military perpetrated 249 attacks against journalists and other media personnel who were documenting the Great March of Return, ultimately killing two—despite them being clearly marked as such. In doing so, not only did the Israeli forces violate their right to life, but also flagrantly violated their right to freedom of expression under Article 19§2 of the Covenant.

VI. Conclusions and recommendations

59. Since the Committee issued its Concluding Observations in 2014, Israel has failed to adopt its recommendations and continues to violate a wide range of human rights enshrined in the ICCPR as highlighted in this report. Our organizations ask the Committee to address these violations in the context of Israel's aim to maintain and advance its apartheid regime on the Palestinian people as a whole.
60. In its 2019 Concluding Observations on the combined seventeenth to nineteenth reports of Israel, the Committee on the Elimination of Racial Discrimination (CERD) urged Israel "to give full effect to article 3 of the Convention to eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices which severely and

⁸³ Joint written statement to the Human Rights Council submitted by Al Mezan et al., 3 February 2020, A/HRC/43/NGO/181.

⁸⁴ A/HRC/40/74, para 101.

disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory.”⁸⁵

61. Against this backdrop, our organizations urge the Committee to:

- i. Recognize that Israel has imposed a regime of institutionalized discrimination, oppression, and apartheid against the Palestinian people—including Palestinian citizens of Israel, Palestinians in the OPT, and Palestinian refugees in exile—in violation of the ICCPR (Arts. 1, 2, 6, 7, 9, 10, 12, 17, 18, 19, 20, 21, 22, 24, 25, and 26).
- ii. Demand that Israel withdraws and dismantles its apartheid regime and repeal all legislation, laws, and policies that result in its institutional discrimination and systemic oppression of the Palestinian people and that are instrumental in maintaining a dominant Jewish Israeli composition in historic Palestine (Arts. 1, 2, 6, 7, 9, 10, 12, 17, 18, 19, 20, 21, 22, 24, 25, and 26).
- iii. Recognize and condemn Israel’s strategic fragmentation of the Palestinian people as a primary tool to maintain its apartheid regime and to prevent Palestinians from exercising their collective rights, particularly the right to self-determination. Call on Israel to cease all measures and policies that contribute to the fragmentation of the Palestinian people, including the denial of Palestinian refugees’ right to return to their homes and property (Arts. 1, 2, 12, and 23).
- iv. Call on Israel to immediately, fully, and unconditionally lift its illegal closure and blockade of the Gaza Strip, to end all associated unlawful restrictions imposed on the movement of people and goods to and from the Gaza Strip, and to recognize that Israel’s discriminatory policies and practices amounting to the crime of apartheid have already made the Gaza Strip uninhabitable and violate the full spectrum of rights owed to more than two Palestinians in the Gaza Strip by denying them the enjoyment on an equal footing of fundamental rights and freedoms (Arts. 1, 2, 6, and 12).
- v. Request information from Israel on measures taken to implement the recommendations of the Independent International Commission of Inquiry on the protests in the occupied Palestinian territory, in particular in relation to the Commission’s calls on Israel to lift the blockade on Gaza with immediate effect, to fulfill the right to health of all Palestinians, to bring Israel’s rules of engagement for the use of live fire in line with international human rights law and to refrain from resorting to excessive and lethal force in violation of international standards.
- vi. Urge Israel to immediately and unconditionally cease all practices and policies intended to harass, intimidate, and silence human rights defenders and organizations, not only through disinformation campaigns, but also through arbitrary detention,

⁸⁵ CERD, *Concluding observations on the combined seventeenth to nineteenth reports of Israel*, 27 January 2020, para. 23, CERD/C/ISR/CO/17-19, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fISR%2fCO%2f17-19&Lang=en.

torture and other ill-treatment, institutionalized hate speech and incitement, residency revocation, deportation, and other coercive or punitive measures (Arts. 9, 12, 19, 20, 21, and 22).

- vii. Call for accountability and access to justice for widespread, gross, and systemic violations against the Palestinian people, including for the crime of apartheid.