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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Palestinian Centre for Human Rights, a non-governmental organization in special consultative status

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

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

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Update on the implementation of the recommendations of the Commission of Inquiry into Gaza Protests

One year ago, the United Nations (UN) Committee to Investigate the Gaza Protests, established by the UN Human Rights Council, in accordance with Resolution S-28/1 of May 18, 2018, issued its report, containing its findings and a set of recommendations.¹ The Commission, whose report was adopted by the Council on 22 March 2019 under resolution 40/13, found reasonable grounds to believe that Israeli Occupation Forces (IOF) committed serious violations of human rights and humanitarian law, some of which may constitute war crimes or crimes against humanity, during the Great March of Return (GRM) protests in the Gaza Strip, which is approaching its second year anniversary on 30 March 2020.² Despite the Commission's findings and its call on Israel to refrain from using lethal force, the IOF continued in 2019 to suppress GRM protests by targeting peaceful protestors, using live ammunition amongst other means, in complete disregard for their lives and their rights to freedom of expression and peaceful assembly.

Continued targeting of peaceful Protestors

Since the publication of the Committee's report on 28 February 2019,³ 25 civilian protestors have been killed, including 12 children, a person with disability and a paramedic, and more than 3500 civilians have been injured. This brings the total number of protestors killed since the start of the protests on 30 March 2018 to 215 civilians, including 47 children, 2 women, 9 persons with disabilities, 4 paramedics, and 2 journalists, and the number of those injured to more than 14,500 civilians.

In July 2019, Israeli media reported that rules of engagement has changed and Israeli soldiers were instructed to shoot below the knee following the realization that protestors were unnecessarily killed.⁴ While the number of protestors killed (35) and injured in 2019 (4,788) decreased in comparison with those killed (180) and injured (10,066) in 2018, this can be attributed to the lower number of participants rather than a change in the army's rules of engagement. On 27 December 2019, the Higher National Commission for the Great March of Return and Breaking the siege announced that the protests will be suspended for 3 months to prevent the Israeli army's killing and wounding of protests, and will resume on the second year anniversary of the start of the protests on 30 March 2018.⁵

Children were the most targeted vulnerable groups as 35 children killed in 2018 while 12 were killed in 2019. In addition, 3,746 children were injured since the start of the protests, among them 41 injuries documented by PCHR which resulted in 16 amputation cases as well as permanent disabilities in the upper and lower limbs including visual or hearing loss, lesion of the spinal cord, and sexual disabilities.

¹ PCHR, "PCHR Welcomes UN Investigative Report on Violations Committed during March of Return," 28 February 2019, available at: <https://www.pchrgaza.org/en/?p=12041>.

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 Territories, 25 February 2019, UN Doc. A/HRC/40/74.

³ United Nations, "UN Independent Commission of Inquiry on Protests in Gaza Presents its Findings – Press Release", 28 February 2019, available at: <https://www.un.org/unispal/document/un-independent-commission-of-inquiry-on-protests-in-gaza-presents-its-findings-press-release/>.

⁴ The Jerusalem Post, "IDF orders snipers to aim for ankles of Gazan protesters," 25 July 2019, available at: <https://www.jpost.com/Israel-News/IDF-orders-snipers-to-aim-for-ankles-of-Gazan-protesters-596784>.

⁵ Al-Monitor, "Gazans lay out new strategy for return marches," 27 December 2019, available at: <https://www.al-monitor.com/pulse/originals/2019/12/gaza-return-marches-resume-conditions-israel-siege-truce.html>.

Impunity persists

With regards to accountability, the Commission called Israel to conduct prompt and independent investigation into every-protest related killing and injury, and ensure effective remedies for those killed or injured unlawfully.⁶ To date, the Military Advocate General (MAG) announced the opening of criminal investigations into the deaths of 11 Palestinian protestors only, a number which is largely disproportionate compared to the number of deaths and injuries.⁷

Since the announcement was made in March 2019, only one soldier has been convicted for the killing of a 14-year old Palestinian child, Othman Helles, who was shot in the chest on 30 March 2018.⁸ However, the soldier was not tried for committing a serious violation of international humanitarian law and international human rights law, the killing of a peaceful demonstrator, which may amount to a war crime. Instead, he was found guilty of “disobeying an order leading to life or death” and was sentenced to one month in prison to be served through military-related labor.⁹ This comes in line with Israel's failure over years to conduct serious investigations, and hold political and military officials accountable for adopting unlawful policies and measures including the open-fire policy employed in the GRM protests.

PCHR has engaged with the investigation mechanisms since the beginning of GRM protests. Criminal complaints concerning the IOF's targeting of 182 civilian protestors were sent by PCHR to the MAG's Corps, requesting the opening of criminal investigations into the incidents. According to replies received by PCHR, to date, only 9 from 182 criminal complaints resulted in the opening of criminal investigations. In addition, 6 criminal complaints have received negative replies, meaning that they were closed by the Israeli authorities without being referred for criminal investigations. The rest of the complaints, 167, are still being examined by the Israeli investigation mechanisms.

PCHR's views that the Israeli law enforcement system, in its current form, is not designed to adequately address allegations of breaches of international law by the IOF including its actions concerning the GRM protests in the Gaza Strip.¹⁰ This is due to the fact that investigations focus only on “exceptional incidents”, examining only the conduct and responsibility of low-ranking soldiers and commanders, i.e. whether they have followed the given instruction and rules of engagement, instead of investigating senior military and political officials who are responsible for making and authorizing operational policies and decisions. Moreover, even in the rare instances that soldiers are indicted, they are not charged with crimes that reflect or are proportionate to their actions. In addition, the MAG's dual role gives rise to a conflict of interest, as he provides legal counsel to the military before and during military operation, and, at the same, he is responsible for deciding whether to open criminal investigations into soldiers' conduct. Therefore, if a soldier is suspected of breaching orders during the GRM protests, then the MAG, who is responsible for legally authorizing

⁶ 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 Territories, 25 February 2019, UN Doc. A/HRC/40/74, para. 125.

⁷ 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 Territories, 25 February 2019, UN Doc. A/HRC/40/74, para. 125.

⁸ PCHR, “In Disregard for Justice: Israeli Soldier, Killer of Palestinian Child, Receives One Month Prison Sentence,” 30 October 2019, available at: <https://pchr.org/en/?p=13462>.

⁹ The Times of Israel, “In first, soldier convicted over killing of Gaza rioter, gets 1-month sentence,” 29 October 2019, available at: <https://www.timesofisrael.com/in-first-soldier-convicted-over-killing-of-gaza-rioter-gets-1-month-sentence/>.

¹⁰ See, e.g., PCHR, “PCHR Condemns Israel's Closure of Investigation into Killing of Abu Thorayah Without Taking any Judicial Proceedings”, 18 May 2019, available at: <https://www.pchr.org/en/?p=12497>.

the conduct, is charged to initiate investigation into his own conduct or that of his subordinates.

Gaza blockade must be lifted

It should be recalled that the main reason for the launch of the protests is the worsening humanitarian and economic situation caused by 13-year long suffocating Israeli blockade imposed on Gaza strip.¹¹ The blockade, which severely restricts freedom of movement of people and goods, has devastated Gaza's economy¹² and cut off its 2 million residents from the rest of the world. According to United Nations Conference on Trade and Development (UNCTAD), the unemployment rate in Gaza is above 50% (more than 70 percent among Gaza's youth), while poverty level reached 53%, even though most of the people classified as poor receive aid from the government and international organizations.¹³ As a result, over 67 percent of households, or about 1.3 million people are severely or moderately food insecure, which constitutes a rise of 9 percentage points from 2014.¹⁴ In addition, public services such as health care, water and sanitation, are in constant deterioration, despite recent improvements, and are unable to meet the needs of two million people and are vulnerable to political contingencies.¹⁵

The GRM protests should be addressed from their root causes by lifting the 13-year unlawful and illegal blockade, as demanded by the Committee. Therefore, unless Israel lifts the blockade, Palestinians in Gaza will continue to demonstrate weekly to vent their deprivation with the worsening situation as has been proven in the weeks following the organizing Committee's decision to hold protests on a monthly basis.

Conclusion

Israel has failed to take any measure towards implementing the recommendations contained in the Committee's report. As explained above, the IOF continued to target protestors by resorting excessive lethal force killing peaceful civilian protestors including children. Neither low-ranking nor high ranking Israel military or political officials have been held accountable for committing serious violations of international human rights and international humanitarian law. Moreover, Israel has failed to lift the blockade or ease restrictions that leads to a change in the lives of Palestinians in Gaza. Accordingly we call on the international community, including Member States of the Human Rights Council to:

- Pressure Israel to immediately implement the recommendations contained in the Committee's report including lifting the unlawful and inhumane 13-year blockade, refraining from using lethal force against Palestinian protestors, and holding perpetrators of serious violations of international humanitarian law and human rights law committed in the context of GRM protests accountable.

¹¹ PCHR, "Question and Answer: 1st Year Anniversary of the March of Return Protests," 28 March 2019, available at: <https://pchrgaza.org/en/?p=12225>.

¹² See World Bank, "Economic Monitoring Report to the AD Hoc Liaison Committee," September 2018, available at: <http://documents.worldbank.org/curated/en/413851537281565349/pdf/129986-REVISED-World-Bank-Sept-2018-AHLC-Report-final.pdf>.

¹³ UNCTAD, "Report on UNCTAD assistance to the Palestinian people: Development in the economy of the Occupied Palestinian Territory," 22 July 2019, UN Doc. TD/B/EX(68)/4, paras. 8 and 12, available at: <https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2180>.

¹⁴ OCHA, "Food insecurity in the oPt: 1.3 million Palestinians in the Gaza strip are food insecure," 14 December 2018 available at: <https://www.ochaopt.org/content/food-insecurity-opt-13-million-palestinians-gaza-strip-are-food-insecure>.

¹⁵ UN Country Team in the occupied Palestinian territory, "Gaza: Ten Years Later," July 2017, p.18, available at: <https://www.un.org/unispal/document/gaza-ten-years-later-un-country-team-in-the-occupied-palestinian-territory-report/>.

- Remind Israel of its obligation under international law as an Occupying Power to respect human rights of Palestinians in Gaza, including their rights to life, freedom of expression and peaceful assembly.
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