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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

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

[10 February 2019]

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



The deteriorating situation in Gaza

The human rights situation in the Occupied Palestinian Territories continues to deteriorate. This statement will particularly focus on the Gaza situation. The escalation of violence perpetrated by Israeli soldiers against Palestinian demonstrators along with the Gaza blockade are affecting fundamental human rights of Palestinians and constitute grave breaches of international human rights and humanitarian law.

The Gaza blockade started in 2007 and the longstanding restrictions on the movement of people and goods to and from Gaza have undermined the living conditions of 1.9 million Palestinians in Gaza, one of the most densely populated areas in the world. The Palestinians in Gaza have endured a brutal siege and have been suffering and struggling with the psychological and physical consequences of Israeli raids and attacks, shortages of food and power outages, and the day-to-day obstacles threatening the functioning of essential services including serious damage to the health system.

The blockade is rendering it impossible for Palestinians in the enclave to develop their economy and, as the UN has pointed out, the place will arguably become uninhabitable by 2020.

Violence against Palestinian protesters in Gaza by Israeli forces

During the ongoing demonstrations by Palestinians in Gaza close to the Gaza-Israel border, the Israel Defence Force employed unjustified violence and excessive force against Palestinian demonstrators.

The protests are part of the Great March of Return, which started on 30 March 2018 for the Land Day commemoration. Although it was originally planned to last until 15 May 2018, the 70th anniversary of the Nakba, it has continued to occur every Friday for nearly eleven months. Since the protests have started, more than 250 Palestinians have been killed in the Gaza Strip, including vulnerable people, namely children, women, persons with disabilities, as well as journalists and paramedics. Thousands of people have been injured, mostly hit by live fire from Israeli forces.

Demonstrators are demanding an end to the siege of Gaza by Israel, as well as, the implementation of UN resolutions concerning their legitimate right to return to their homes and land, based on international law.

The individual right of return is a recognized principle under customary international law. It is therefore binding on States, which must assure and facilitate its implementation. It is also explicitly stated by several instruments of international human rights law, international humanitarian law, law of State succession and international refugee law. The legitimate right of Palestinian people to return to their land and properties represents a core issue in the Israeli-Palestinian peace process but has never been adequately addressed. Israel denies the right of return of Palestinian people although the right has been clearly recognized by the UN on several occasions, among those in UN General Assembly Resolution 194/48. The right of Palestinian people to peacefully protest for the implementation of their right of return is therefore more than justified and legitimate.

The action of Israeli officials responsible for issuing unlawful open-fire orders against unarmed demonstrators is against the right to peaceful protest and the right to freedom of expression of Palestinian people and constitutes a breach of international humanitarian law and human rights law. Although the United Nations General Assembly, on 13 June 2018, condemned the use of lethal, disproportionate and indiscriminate force by the Israel Defence Force, the violence has not decreased.

A Special Session of the Human Rights Council was held on 18 May 2018 concerning the deteriorating human rights situation in the Occupied Palestinian Territory, in response to the escalation in violent attacks against Palestinian protesters during the Great March of Return. The Human Rights Council adopted Resolution S-28/1, establishing a Commission

of Inquiry in order to investigate the alleged violations calling upon Israel for an immediate cessation of all attacks. Israel, again, has completely ignored it.

The wilful killing of Palestinians in Gaza, as an occupied people, constitutes a war crime for which the Israel Defence Force must be accountable. According to the Rome Statute of the International Criminal Court, every grave breach of the Geneva Conventions of 12 August 1949 constitutes a War Crime, namely any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: wilful killing, wilfully causing great suffering, or wilfully causing serious injury to body or health.

The killing and wounding of Palestinians by soldiers are actions against basic human rights and international humanitarian law that also remain unpunished. We are hopeful that the final report of the “Commission of Inquiry on the 2018 protests in the Occupied Palestinian Territory” will establish the facts and circumstances of those violations and help determine responsibility in order to end impunity. We are also hopeful that the Preliminary Examination by the International Criminal Court Prosecutor regarding the alleged crimes committed in the Occupied Palestinian Territory will ultimately bring justice for the victims.

Gaza’s health system is in crisis

The blockade has caused devastating effects upon Gaza’s health system and therefore a serious medical crisis. Indeed, the restrictions imposed by Israel have caused long-lasting shortages of essential medicines and hospital equipment, as well as, power outages, shortages of fuel to run hospital generators, and the cancellation of all elective surgery. Due to the lack of resources many hospitals may need to close.

The state of Gaza’s health system has deteriorated significantly also due to US funding cuts to United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and USAID, the Palestinian Authority’s policy of suppressing funding for the Gaza Strip, and the impact of the Great March of Return on hospitals. The almost complete closure of the area also resulted in the denial of permits for patients to leave the Strip to receive medical attention elsewhere.

The situation poses a clear violation of the Fourth Geneva Convention that guarantees unlimited access to medical facilities for conflict-affected populations. This principle is stated in several articles, among those Article 16 affirms that the wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect. In addition, Article 23 clearly affirms that the free passage of all consignments of medical and hospital stores must be allowed and that shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

Economic situation and unemployment

The blockade of Gaza has created an unsustainable economic situation which is aggravated by the failure to make progress toward a peace-agreement. The disastrous state of the economy has mainly been generated by Gaza’s isolation due to Israeli control over the territory’s border, coastline and airspace. Therefore, the catastrophic economic situation in the area is the result of a planned policy carried out and intended by Israel, despite its security concerns.

Poverty rate is extremely high, and the majority of the people rely on humanitarian aid. The unemployment rate has now reached more than 50% and is even higher among young people, who are not allowed to study or work abroad.

Agriculture is an important sector of the Gaza’s economy and before the blockade the population significantly relied on it. Now, farmers are facing many obstacles since more than a third of Gaza's agricultural land is located on the Israeli buffer zone and a lack of water prevents the proper functioning of the irrigation system.

The creation of an environment for sustainable development is therefore necessary and crucial for the inhabitants. However, this will not be feasible until Israel reduces the restrictions imposed on trade and allows the movement of goods and people.

Recommendations

- The international community must strongly condemn the indiscriminate use of lethal force on unarmed demonstrators by Israeli Forces.
- We restate the fundamental right to freedom of assembly and freedom of expression of the Palestinian people, and we call upon the international community to take appropriate measures against the impunity of Israeli soldiers' actions clearly violating international law.
- We call for the establishment of an effective mechanism to monitor closely the increasing acts of violence against civilians in the West Bank and Gaza Strip and effectively implement the recommendations of previous Commissions.
- We call upon all UN bodies, especially those competent in health care issues, to work urgently towards assuring the fulfilment of Palestinians' right to a better standard of health.
- We call on the UN to again urge Israel to respect its Fourth Geneva Convention obligations regarding the protection of civilians.
- We call on the international community for an immediate crisis response to the economic situation in Gaza, as well as, their cooperation and support in the creation of an environment for sustainable development.

Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm), Association Maonah for Human Rights and Immigration, NGO(s) without consultative status, also share the views expressed in this statement.