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**Human rights situation in Palestine and other
occupied Arab territories**

Joint written statement* submitted by the Al Mezan Centre for Human Rights, Al-Haq, Law in Service of Man, the BADIL Resource Center for Palestinian Residency and Refugee Rights, non-governmental organizations 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.

[23 August 2012]

* This written statement is issued, unedited, in the language received from the submitting non-governmental organizations.

Gaza: Closure, blockade & lack of remedies - recipe to abuse humans and their rights**

Al Mezan Centre for Human Rights, representing the Palestinian Human Rights Organizations Council (PHROC), would like to present this statement to stress the urgency of the situation in the Gaza Strip (Gaza) and request action by the honourable Council. Closure and blockade policies in Gaza must stop immediately, and remedy must be made available to the victims of armed attacks as well as violations resulting from arbitrary policies of occupation.

Closure of Gaza

Since the Human Rights Council (HRC) regular session, Israel has not taken any significant action to comply with the HRC's recommendations concerning its closure of Gaza or securing remedies and accountability resulting from the repercussions of actions and that infringe upon the human rights of the population. The limited easing of the restrictions on movement has not improved the humanitarian situation in Gaza. It has effectively institutionalized the closure and engendered its permanency.

The closure denies Gaza from the basic needs, including food, medicine, infrastructure materials, and access to education, family, and healthcare. As reported by the International Committee for the Red Cross in 2010,¹ such restrictions, inflicted on an indiscriminate number of persons, amount to a form of collective punishment of a civilian population in violation of the absolute prohibition included in Article 33 of the Fourth Geneva Convention.

Closure prevents the free entry of essential equipment, drugs and medical disposables indispensable for the health system. Medical professionals are denied permission to travel to other parts of the occupied Palestinian territory (oPt) for training and medical procedures cannot be carried out at the hospitals in Gaza. Consequently, patients are forced to apply the occupying authorities for permits to access hospitals in Israel and the West Bank, including Jerusalem, where such procedures are available.

Every month around 850 patients apply for permission from the Israeli authorities to travel to hospitals in Israel and the West Bank, a process which is intrusive and can result in being called for interrogation, having applications delayed and missing their appointment as a result, or having it outright denied. Israel has also arrested patients on their way to and from medical treatment at Erez crossing. From January 2009 to May 2012, there were 33,333 applications for permits from patients to travel for medical treatment outside the Gaza Strip. Of these 1,070 were denied, 4,697 were delayed out of which 1,345 patients were called by the Israeli security for interrogation. From 2009 to 2012, Al Mezan recorded 20 cases of patients or their escorting relatives being arrested at Erez crossing.

** NGOs without consultative status, also share the views expressed in this statement: Addameer Prisoners' Support and Human Rights Association, Defence for Children International - Palestine Section, Ensan Center for Human Rights and Democracy, Hurriyat - Centre for Defense of Liberties and Civil Rights, Ramallah Centre for Human Rights Studies, Al Dameer Association for Human Rights, Jerusalem Legal Aid and Human Rights Center, Women's Centre for Legal Aid and Counselling.

¹ ICRC, Gaza closure: not another year, News Release 10/103, 14 June 2010, <http://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm>.

The Israeli authorities continue to hinder effective medical access to wounded persons in the access-restricted areas near the border of Gaza with Israel. This practice is in violation of Articles 17, 27, 38 of the Fourth Geneva Convention which recognise the denial of medical treatment in times of armed conflict as a form of cruel, inhumane, and degrading treatment.

A blanket ban is imposed on students travel from Gaza to the West Bank. This ban, enforced since 2000, hinders the normal functioning of the Palestinian education system, which was conceived as unified given the assumption that personnel, students and materials could move throughout the oPt. Al Mezan and Gisha raised this subject in Israeli courts, representing four female students who wish to study in the West Bank, but no final verdict has been issued to date.²

Enforcement of restricted access areas in land and sea

The violent enforcement the Buffer Zone and a limited fishing zone on Gaza's population prohibit access to 17% of the Gaza Strip's land and 85% of fishing grounds. These zones extend deep into Gaza's land and territorial waters, The Buffer Zone, which is enforced along the ground borders of Gaza, covers 35% of the agricultural land of the Gaza Strip.³ It negatively affects the life of 113,000 people, 7.5% of the population of Gaza. Many civilians were killed and injured in the course of enforcing this zone⁴ while others were displaced as a result of the policy of house demolitions implemented in the area.⁵

In the last four years, Palestinian fishermen have been continuously subject to Israeli patrolling forces to gunfire, sabotage, and the inhumane policy of being forced to strip and swim to their own arrest. Fishermen are attacked even within the allowed "fishing zone", which is limited to three nautical miles and that was arbitrarily imposed by the Israeli authorities. From August 2008 to date, 158 fishermen have been arrested in 45 operations.⁶ Though the fishermen have all been released, their boats remain under Israeli possession, depriving fishermen of access to their livelihoods.

As a result of the naval blockade on Gaza's coastline which has created insufficient space in which to fish as well as the threat of attack and arrest from the Israeli navy, the annual fishing catch has fallen dramatically. A total of 65,000 people rely on the fishing industry in Gaza for their livelihood and in 2010 the poverty rate among this group stood at 90%, up from 50% in 2008.

Accountability

Operation Cast Lead, the 18-day-long military offensive by the Israeli military in December 2008-January 2009 on the Gaza Strip resulted in the death of 1,410 people and the injury of another 4,009. In addition, there was massive destruction of homes and infrastructure: 11,148 housing units were destroyed. In the aftermath of the offensive, there was some hope for bringing justice for victims and accountability for the well-documented crimes committed by Israel, including by the Fact-Finding Mission appointed by the Council.

² Four master's students from the Gaza Strip who have been prohibited from completing their Birzeit University degrees submitted a joint lawsuit in Israeli courts with the assistance of GISHA and Al Mezan. See <http://www.mezan.org/upload/14407.pdf>.

³ Al Mezan Centre for Human Rights, Factsheet: Displacement in the "Buffer Zone" Three Years after Operation Cast Lead, 1 January 2012, <http://www.mezan.org/upload/13210.pdf>.

⁴ OCHA, *Between the Fence and a Hard Place: the Humanitarian Impact of Israeli-imposed Restrictions on Access to Land and Sea in the Gaza Strip*, August 2010, 13.

⁵ Al Mezan Centre for Human Rights, Factsheet: Displacement in the "Buffer Zone" (N. 6).

⁶ Al Mezan Database of compiled affidavits and reports.

However this has not materialised and Israeli human rights abuses of the Gazan population have continued with perpetrators remaining exempt from criminal and civil liability. Recently, an Israeli soldier accused of killing a mother and daughter during the offensive, who were carrying a white flag at the time of the incident, was given a meaningless 45-day sentence for the charge of 'illegal use of a weapon', a downgraded charge from manslaughter.

In addition to a pervasive, total lack of accountability and justice for victims of this offensive and the continued armed attacks on Gaza by the Israeli army, Gaza's population continues to suffer from the effects of the of more than five years of closure and naval blockade. The closure/blockade measures violate human rights each day; while no effective remedies are available to the population.

So far, no individual, including either military and political leaders, or state institution has been held accountable for violations of international law. Civilian victims of Israeli military attacks and other abuses are only rarely able to secure justice or remedy for death, injury, and destruction sown, and have never seen policymakers at the military or political level held to standards of criminal liability. In the absence of accountability at the state level, it becomes the responsibility of international institutions as well as institutions of every individual state to guarantee justice through taking practical and judicial measures; but here, too, there has been a void of political will to establish legal responsibility.

The failure of the international community to take effective action against Israel's unlawful acts allows these violations of international law to continue unabated. Justice may be slow, but when international inaction remains an unbroken pattern over the long term, it becomes in effect, if not intent, a grant of immunity for continuous breaches of international law.

The HRC is called to strongly condemn Israel's continued violations of international law in its treatment of the Gaza Strip and its manifest failure to ensure accountability for the international crimes perpetrated during and after 'Operation Cast Lead' as established by international bodies. The Council is called to urge the Security Council to refer the situation in the oPt to the Prosecutor of the International Criminal Court.

The HRC is also called to condemn the prolonged closure and naval blockade that Israel is imposing on Gaza as a form of collective punishment and urge Israel to lift this illegal regime and guarantee the unrestricted access of goods and individuals in and out of the Gaza Strip. Additionally, Israel must ensure the freedom of movement between the West Bank and Gaza; including access to essential services. The blanket ban on the movement of Gazan students to universities in the west Bank must be repealed immediately.
