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Human rights situation in Palestine and other occupied Arab territories

Written statement* submitted by Al Mezan 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.

[17 August 2018]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

Gaza update: closure, attacks on demonstrations, and impunity run counter to international law

Beginning on 30 March 2018, Land Day, and slated to last until 15 May, Nakba Day, the Great Return March protests continue at the time of this statement's submission. While demonstrators have not been armed or posed a serious threat to life or injury of Israeli soldiers, the Israeli forces have routinely responded with the use of live fire and sharpshooters. The case of protesters, paramedics and journalists being lethally shot while exercising their rights to free assembly and speech indicates a bold continuation of unlawful targeting practices despite the condemnation from the international community.

Grass roots organizers launched the protests to garner international attention to Israel's illegal closure of Gaza and to stress Palestinian refugees' right of return, numbering 1.3 million in Gaza alone. The closure, considered a collective punishment, restricts the enjoyment of the basic rights of 1.9 million people. The demonstrations were also fueled by the Trump administration's recognition of Jerusalem as the capital of Israel and move of its embassy to the occupied city.

Israel's closure of Gaza, in place in its strictest form since 2007, has critically impacted access to economic rights and rights connected to economic development, such as adequate housing, standard of living, and health. The poverty rate in Gaza now stands at 53 percent, with extreme poverty resting at 33.7 percent, and unemployment at 49.1 percent. The electricity crisis continues to hamper the work of the agriculture sector as farmers can't irrigate sufficiently and endure higher operational costs, which impacts food security.¹ The electricity crisis has also contributed to the spread of pollution, now affecting 73 percent of Gaza's sea water, while 97 percent of underground water is non-potable. As a result, diarrhea has been documented in 80 percent of children under 13.²

The Israeli authorities have frequently closed Karem Abu Salem (Kerem Shalom) crossing for the passage of all items except those deemed "humanitarian", such as food, hygiene and medical supplies, and fuel since 9 July. The crossing, on the southeastern edge of Gaza, is the only official import/export point.

Between 17 July and 15 August, Israeli authorities fully closed the crossing, blocking the entry of all goods and allowing only medicines and food items to pass on a case-by-case basis. The restrictions entailed a full ban on the entry of construction materials, thus preventing the partial entry of materials for pre-approved building projects. The sluggish reconstruction efforts since 2014, a result of the failure of the Gaza Reconstruction Mechanism (GRM)—which is rooted in the illegal closure procedures—were further hampered.

At the same time, the Israeli authorities reduced the fishing zone to three nautical miles, down six and before that nine nautical miles. Any fishermen sailing beyond the permitted zone are more vulnerable to attack by Israeli naval forces. Limiting the entry of fuel undermines the living conditions of the population, which is currently living with daily blackouts of around 20 hours. These measures add to other restrictions considered collective punishment, for example the prevention of patient access to healthcare outside of Gaza who have alleged family ties to Hamas.³

The Friday demonstrations are held at five locations along the fence on the eastern edge of Gaza. The Israeli military has been deploying force against the unarmed protesters from positions behind sand dunes and inside military sites on the opposite side of the fence.

Since 30 March, 128 Palestinians have been killed in the Friday demonstrations—including 23 children, two journalists, three paramedics, and three persons with disability. Another 8,998 people have been injured, including 1,637 children, 403 women, 95 paramedics, and 84 journalists—of them 5,048 were hit by live fire.

1 For more information, please refer to, Factsheet: The Electricity Crisis in Gaza and its Effects on Agriculture, 28 January 2018. Available at: <http://mezan.org/en/post/22318>

2 For more information, please refer to Al Mezan's report published in Arabic on the situation of economic, social and cultural rights in the Gaza Strip in 2017. Available at: <http://mezan.org/en/post/22532>

3 Al Mezan and partners, Alarming spike in rejections of exit permit applications by Gaza residents for alleged "family relations to Hamas operatives". 1 August 2018, available at: <http://mezan.org/en/post/23105>

The Ministry of Health in Gaza said that between 30 March and 12 August, 18,006 people were injured; about half of them received medical treatment at hospitals and the others were treated in field clinics. These figures include 3,540 children. 69 of the injured had one or more limbs amputated: 61 people lost lower limbs and eight people lost upper limbs (including fingers).

Al Mezan's documentation shows that three paramedics were lethally shot in the chest with live fire: Razan Al Najjar, 20, Abdullah Al-Qetati, 22, and Mousa Abu Hasaneen, 34. 99 paramedics were also injured by live fire, bullet shrapnel, or sustained direct trauma to the body from teargas canisters. Israeli forces also caused partial damage to at least 64 ambulances. Journalists were systematically targeted in Israeli shooting: Yaser Murtaja, 30, and Ahmed Abu Hasaneen, 24, were killed while working, and 84 more journalists and media staff, were injured.

The injurious targeting appeared to show an intent to maim, with injuries concentrated in parts of the body where substantial harm is unavoidable and with weapons, e.g. explosive bullets, that often cause irreversible harm. Al Mezan's documentation shows that most people who were injured by live fire, especially those wounded in the lower body, endured major fragmentation of leg bones, muscles, arteries, veins, and nerves, and often required amputation and skin grafting. Medical teams in Gaza referenced the need to address new types of injuries from ammunition that causes a small entrance hole and much larger exit wound. Each of these cases required extensive, several-hour long surgeries by medical teams comprised of doctors with diverse specializations.

The casualties requiring urgent medical treatment outside of Gaza were prohibited from accessing medical care in the West Bank, including East Jerusalem, based on their participation in the protests. The Israeli Ministry of Defense maintained this policy even when wounded protesters faced death or loss of limbs, although Al Mezan and partner organizations managed to overturn the decision in some cases.⁴

Three people, including a child, were killed when Israeli soldiers fired tear-gas canisters directly at the individuals.

Intentionally using lethal and other excessive force against people participating in the protests who do not pose an imminent threat to life or serious injury violates international human rights law and, in the context of occupation, may amount to willful killing, which is a grave breach of the Fourth Geneva Convention and could amount to a war crime (and possible crime against humanity) as codified by the Rome Statute of the International Criminal Court. The targeting of children, people with disability, journalists and medics also points to possible grave breaches of Israel's international law obligations. Palestinians' rights to *inter alia* freedom of assembly and expression are also violated when they are targeted for non-violently calling for their rights.

Armed attacks by the Israeli military in recent weeks killed a pregnant woman, her small child, and two minors⁵, and destroyed one of Gaza's few cultural outlets⁶ and two water wells⁷. These attacks raise serious questions as to Israel's compliance with the laws of war.

4 See for example joint Al Mezan and Adalah – Legal Center for Arab Minority Rights petition, Following urgent legal intervention, critically wounded man allowed to leave Gaza for life-saving care. 19 April 2018, available at: <http://mezan.org/en/post/22709>

See also, joint Al Mezan, Adalah and Physicians for Human Rights – Israel joint petition, Following urgent legal intervention, critically wounded man allowed to leave Gaza for life-saving care. 19 April 2018, available at: <http://mezan.org/en/post/22709>

5 Al Mezan, Israeli Forces Attacks on Gaza Kill Three Palestinians and Injure 18. 9 August 2018, available at: <http://mezan.org/en/post/23145>

6 Al Mezan, Al Mezan Condemns Israel's Retaliatory Flattening of Said Al-Mis'hal Cultural Center. 11 August 2018, available at: <http://mezan.org/en/post/23146>

7 Al Mezan, Israeli Forces Destroy Wells, Public Infrastructure that is Indispensable to the Basic Needs of Protected Persons in Gaza. 13 August 2018, available at: <http://mezan.org/en/post/23175>

Meanwhile, Israel's military investigatory system has repeatedly made clear that the state is unwilling to conduct genuine, independent investigations into suspected crimes and to hold those responsible to account, as required by international law.

It is therefore essential that the international community, including the Human Rights Council, take action to de-escalate the situation, provide protection to civilians and to infrastructure indispensable to the civilian population, and bring justice to victims. We urge the Human Rights Council to:

1. Support the Commission of Inquiry in carrying out its mandate;
2. Condemn the unlawful killings of Palestinian civilians by the Israeli military and the use of excessive force against unarmed protesters since 30 March 2018;
3. Demand that Israel immediately lift the closure of Gaza and cease all collective punishment measures, including by abolishing the GRM and calling for a mechanism that complies with international law and addresses the root causes of the humanitarian catastrophe; and
4. Reiterate support for the recognition of the internationally recognized right of Palestinian refugees to return.