



THE GAZA BANTUSTAN

ISRAELI APARTHEID IN THE GAZA STRIP



مركز الميزان لحقوق الإنسان
AL MEZAN CENTER FOR HUMAN RIGHTS



Al Mezan Center for Human Rights is an independent, non-partisan and non-governmental human rights organization established in 1999. Al Mezan is dedicated to protecting and advancing the respect of human rights, with a focus on economic, social, and cultural rights, supporting victims of violations of international law through legal initiatives, and enhancing democracy, community and citizen participation, and respect for the rule of law in Gaza as part of occupied Palestine.

Main office:

5/102-1 Al Mena, Omar El-Mukhtar Street
Western Rimal
Gaza City, Gaza Strip (occupied Palestine)
P.O. Box 5270
Telfax: +970 (0)8 282-0442/7

Jabalia office:

Al Eilah Building (1st Floor), Al Trans Square
Jabalia Camp, Gaza Strip (occupied Palestine)
P.O. Box: 2714
Telfax: +970 (0)8 248-4555/4

Rafah office:

Qishta Building (1st Floor), Othman Bin Affan Street
Rafah, Gaza Strip (occupied Palestine)
Telfax: +970 (0)8 213-7120

Email: info@mezan.org

Website: www.mezan.org/en

© 2021 AL MEZAN CENTER FOR HUMAN RIGHTS
ALL RIGHTS RESERVED



EXECUTIVE SUMMARY

Pursuant to its mandate to promote the respect, protection, and fulfillment of international law in the Gaza Strip as part of the occupied Palestinian territory (OPT), Al Mezan Center for Human Rights (Al Mezan) presents this report, titled ‘The Gaza Bantustan—Israeli Apartheid in the Gaza Strip’, which analyzes the crime of apartheid in relation to Israel’s conduct towards Gaza, within the context of the State’s protracted occupation of the OPT and Zionist settler-colonialism in historic Palestine. The report considers how Israeli apartheid, experienced by all Palestinian people, is specifically visited upon the two million Palestinians living in the Gaza Strip.

While the Israeli government purports to justify the closure and related restrictions under the guise of “security”, this report will show how these policies demonstrate Israel’s intent to separate and divide Palestinians and re-engineer the demographics of the entire Palestinian population in order to assert its domination over them. As a sealed-off enclave, fragmented from the rest of the OPT and controlled by Israel within its apartheid system, Gaza is a strip of land that can be likened to a South African bantustan. Some interlocutors, as will be discussed in this report, have suggested that the comparison is in fact inexact because the Gaza Strip is *substantially worse* than the South African bantustans ever were.

The report considers the following violations of international law through the prism of the Apartheid Convention: use of excessive force and recurrent military targeting of civilians and civilian homes, killing thousands; arbitrary arrest and detention of children, patients, fishermen, and other vulnerable groups; and the sustained closure and blockade. Al Mezan concludes that these practices amount to “inhuman acts” as defined by the Apartheid Convention, including murder, infliction of mental and bodily harm, arbitrary arrest and illegal imprisonment, imposition of living conditions calculated to cause the physical destruction of the population in whole or in part, and the denial of the right to freedom of movement and to leave and return. These inhuman acts are perpetrated by the State of Israel for the purpose of establishing and maintaining domination by one racial group—Israeli Jews—against another racial group—Palestinians.

Israel’s 14-year closure and blockade, combined with a range of punitive measures and policies, allows it to maintain effective control over the Gaza Strip, which serves the purpose of consolidating its domination over the Palestinian people as a whole. This report will briefly reaffirm the occupied status of the Gaza Strip together with the legal guarantees stemming from that status which is afforded to the population of the Gaza Strip as a protected population, including in relation to protection against racial discrimination, apartheid, and persecution.

This report is issued in the context of an evolving recognition that successive Israeli governments are continuing to commit the crime of apartheid as defined by the UN Apartheid



Convention and the Rome Statute of the International Criminal Court. Based on the analysis presented, which is drawn from and develops existing relevant work by Palestinian, Israeli, and international human rights organizations, academics, and experts, this report concludes by reaffirming that Israel's institutionalized and systemic racial domination and oppression of the Palestinian people, including those residing in the Gaza Strip, contravenes Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, amounts to the crime of apartheid per the Apartheid Convention, and constitutes a crime against humanity under the Rome Statute of the International Criminal Court.

In accordance with the relevant applicable instruments of international law, namely international human rights and humanitarian law, and relevant obligations of states, the report provides a set of recommendations for the international community, to the International Criminal Court, and to corporate actors:

The international community and Member States of the United Nations:

1. Recognize and condemn Israel's regime of institutional discrimination, oppression, and apartheid against the Palestinian people—including Palestinian citizens of Israel, Palestinians in the OPT, and Palestinian refugees in exile;
2. Ensure that Israel withdraws and dismantles its apartheid regime and repeals 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;
3. Ensure that Israel fulfills and facilitates Palestinian refugees' right to return to their homes, and property, including the refugees making up 70% of the Gaza Strip's population, as guaranteed under international law;
4. Ensure that Israel lifts its illegal closure and blockade imposed on the Gaza Strip immediately, fully, and unconditionally, and ends all associated unlawful restrictions imposed on the movement of people and goods to and from the Gaza Strip;
5. Ensure that Israel ends its occupation, dismantles its settlement enterprise in the West Bank, including East Jerusalem, and abolishes all military and discriminatory tools from the OPT, including the Separation Wall and other physical barriers that have disrupted its territorial contiguity and resulted in the fragmentation and isolation of Palestinians;
6. Ensure accountability and justice for widespread, gross, and systemic violations against the Palestinian people, including for the crime of apartheid;



7. Support the independence of the International Criminal Court and protect the Court against attacks or political pressure as it conducts its investigation into the Situation in Palestine, encompassing the crime of apartheid against the Palestinian people;
8. Provide political and financial support for the mandate of the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, established in May 2021, and call on the Commission to investigate Israel's apartheid and make recommendations in light of relevant obligations and responsibilities of states, international organizations, and business enterprises;
9. Allow for and facilitate the activation of universal jurisdiction mechanisms to prosecute the alleged perpetrators of Israel's crime of apartheid and its associated violations;
10. Reaffirm the commitment of the United Nations to the total eradication of apartheid as a crime that is inconsistent with the principles contained in the Charter of the United Nations, and that renders Israel in breach of its obligations as a Member of the United Nations;
11. Ratify and accede to the Apartheid Convention, especially states that have jurisdiction over private actors, including transnational corporations, charities, associations, and individuals operating in and linked to Israeli state institutions and the military;
12. Request the UN General Assembly to re-establish the UN Special Committee against Apartheid and the UN Centre against Apartheid to advocate for an end to Israeli apartheid;
13. Consider imposing individual sanctions, such as travel bans or assets freezes, on suspected perpetrators of internationally recognized crimes and grave breaches, as recommended in 2019 by the UN Commission of Inquiry on the Great March of Return, including for the crime of apartheid; condition arms sales and military and security assistance on Israel's compliance with international law and human rights norms; and review and amend or end the agreements, cooperation schemes and trade with Israel in which the funding or activities are found to facilitate the crime of apartheid, in line with international legal standards and based on legal necessity;
14. Expand the mandate of the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 to cover the Palestinian people as a whole, on both sides of the Green Line and as refugees and exiles abroad to counter Israel's strategic fragmentation of the Palestinian people;



15. Call on the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967 to report annually to the Human Rights Council and the Third Committee of the General Assembly on steps taken by Israel and the international community to comply with the terms of the 1973 Apartheid Convention in Palestine;
16. Ensure that businesses with relationships and activities linked to Israel and the OPT fully align with international law and are not involved or complicit in grave violations and international crimes, including that of apartheid. Where necessary, exclude businesses from public procurement bidding where they are unable or unwilling to respect international law within this context, in line with the UN Guiding Principles and the principles of non-recognition and non-assistance;
17. Pressure Israel to end, including through associated actors and organizations, its deliberate attacks and campaign of intimidation, smears, delegitimization, and harassment of Palestinian, Israeli, and international human rights defenders and civil society organizations; urge Israel to rescind its “terror” designation of legitimate Palestinian human rights groups; and assert support of these groups through public statements and continued cooperation, engagement, and funding.

The International Criminal Court:

18. Conduct a prompt, thorough, and comprehensive investigation of the crimes of apartheid and persecution, and other associated crimes that fall within the jurisdiction of the Court with respect to the Situation in Palestine, and accordingly prosecute relevant perpetrators;
19. Investigate the role of non-state actors in the commission of the crime of apartheid, among other crimes, in the Situation in Palestine, including private business actors, charity organizations representatives, and others.

Corporate Actors:

20. Cease all activities and relationships that are directly or indirectly linked to Israel’s military occupation, colonization and apartheid regime, and associated violations of international law;
21. Conduct ongoing and enhanced human rights due diligence, in compliance with international human rights and humanitarian law and the UN Guiding Principles on Business and Human Rights, to avoid complicity and involvement in Israeli-perpetrated violations and international crimes against the Palestinian people.