



General Assembly

Distr.: General
XX February 2021

English only

Human Rights Council

Forty-six session

22 February–19 March 2021

Agenda item 7

Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by Al Mezan Centre for Human Rights, ADALAH - Legal Center for Arab Minority Rights in Israel, Al-Haq, Law in the Service of Man, Cairo Institute for Human Rights Studies, Women's Centre for Legal Aid and Counseling, 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.

[01 February 2021]

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

Israel must uphold responsibilities as Occupying Power vis-à-vis the two million Palestinians in the Gaza Strip

Since 2007, Israel has maintained a comprehensive land, sea, and air blockade and closure over the occupied Gaza Strip, impacting over two million Palestinians. The closure, which constitutes an unlawful collective punishment, has undermined all aspects of life in Gaza, denying Palestinians the enjoyment of their rights and freedoms—including their inalienable right to self-determination and the right of return of Palestinian refugees—and has resulted in profound levels of poverty, aid-dependency, food insecurity, and unemployment, as well as the collapse of essential services, including healthcare.

Access to COVID-19 Vaccine in Gaza

Israel, as the Occupying Power, has the legal duty to provide essential health services to the Palestinian people in the occupied Palestinian territory (oPt), including in Gaza (1); Thus, UN human rights experts have called on Israel “to ensure swift and equitable access to COVID-19 vaccines for the Palestinian people under occupation”(2); Notably, this obligation also applies to the prevention, treatment, and control of pandemics, such as COVID-19 (3).To fulfill its legal duties, the Israeli occupying authorities should provide Gaza’s population with medical supplies, including as needed to respond to the ongoing COVID-19 pandemic, such as testing kits and devices, ventilators, and vaccines.

The Israeli healthcare system is currently leading the global vaccine roll-out per capita, having vaccinated more than twenty percent of the population, including Jewish settlers living in illegal settlements in the West Bank. Although Palestinians with Israeli citizenship and with permanent residency status in occupied East Jerusalem have been vaccinated, the Israeli occupying authorities continue to falsely maintain that the responsibility to vaccinate the rest of the population of the oPt lies with the Palestinian Authority (PA). The control Israel exerts through its occupation renders the State legally obligated to provide the vaccine to all Palestinians in the West Bank and Gaza Strip, according to international law. Further, should the PA procure doses of the vaccine, Israel must ensure their entry to the oPt. In recent months, the COVID-19 pandemic has severely impacted Palestinians in the oPt, where cases continue to rise at the expense of containment measures implemented by local authorities, especially in Gaza, which accounts for fifty-one percent of all active cases in the oPt (4).

In Gaza, a full-scale outbreak of COVID-19 would overwhelm the healthcare system, which is enduring significant shortages of equipment, medicines, and qualified personnel as a direct consequence of thirteen years of Israel’s illegal closure restrictions, repeated military attacks and bombardments directly targeting health infrastructure, and chronic lack of water and electricity (5).By restricting the movement of people and goods, including under the pretext of items being “dual-use,” the Israeli occupying authorities are blocking access to trained personnel, supplies, and medicines that Gaza’s healthcare system desperately needs.

Denial of Access to Healthcare for Palestinian Patients in Gaza

The restrictions imposed by Israel as part of its closure policy have left Gaza’s healthcare system on the brink of collapse. Gaza completely lacks radiotherapy treatment, while chemotherapy treatment is available but very limited both in terms of supply and variety. As a direct consequence of the closure, every year thousands of Palestinian patients from Gaza struggle to receive adequate medical treatment, forcing them to seek treatment outside the Strip. To do so, patients and their companions are required to obtain Israeli-issued exit permits. Yet, patient applications to travel via the Israeli-controlled Erez crossing—the only one connecting Gaza with other parts of the oPt—are continuously arbitrarily delayed or rejected, without a clear justification.

This situation became even more critical in May 2020 when, in response to Israel’s plans to formally annex parts of the occupied West Bank, the PA suspended all coordination with Israel, including cooperation on medical permits. Although the PA has now resumed this coordination, Israel’s systematic arbitrary denial of permits persists. By implementing this

permit denial policy, Israel is failing to fulfill its obligation to ensure access to health facilities, goods, and services on a non-discriminatory basis to Palestinians under its effective control, ultimately violating Palestinians' right to the highest attainable standard of health, and in the most extreme cases, their right to life.

Notably, Israel's unlawful restraints on access to healthcare for Palestinian patients from Gaza form part of the discriminatory policies and practices that are inherent in Israel's commission of the crime of apartheid. These practices, coupled with Israel's refusal to provide COVID-19 vaccines to Palestinians in the West Bank and Gaza, not only illustrate Israel's intention to punish the Palestinian civilian population of Gaza but to ultimately consolidate its entrenched fragmentation of the Palestinian people, amounting to the crime of apartheid.

"Access Restricted Areas" in Gaza

In addition to the closure, since 2008 Israel has enforced a maritime and land "buffer zone", widely known as "access restricted areas" (ARA). The ARA is a no-go military zone located on Palestinian land and maritime territory, enforced by the Israeli military using live fire to target civilians, properties, and objects. At sea, the enforcement of access restrictions by Israel reduces the fishing area to six out of the twenty-four nautical miles from the coast of Palestine's territorial sea as declared in accordance with the UN Convention on the Law of the Sea (6). On land, the ARA runs along the entire northern and eastern perimeter of Gaza and extends up to 1.5 meters into Palestinian territory, covering approximately 62.6 square kilometers, about fifteen percent of its total area and thirty-five percent of agricultural land.

Due to almost daily attacks by Israeli occupation forces (IOF), the ARA has been designated a high-risk zone, and this is especially true for those residing or working there. Notably, incidents of excessive force in the ARA occurred during demonstrations, such as the Great March of Return—during which 217 Palestinians were killed, including children, women, journalists, paramedics, and persons with disability—as well as in everyday situations, as in the case of violence against fishers and farmers.

Access to Palestinian territorial waters remains unsafe for Gaza's fishers, who face systematic obstacles while practicing their livelihoods, due to the attacks carried out against them by the IOF. Attacks include shooting, harassment, verbal and physical abuse, arbitrary arrest and detention, damage and confiscation of their equipment, including fishing boats and nets, and the pumping of wastewater into their boats.

Likewise, IOF also engage in regular attacks against the farming community in the ARA. Such practices include the deliberate attack of residents or persons present in the area through various means, including live ammunition; raids and the incursion of Palestinian farmland with tanks and bulldozers aimed at leveling and destroying private property and resources, and aerial spraying of herbicides on fields; and the opening of water dams, causing flooding. Between 2018–2020, IOF in the ARA killed four farmers who were working their fields and injured seven civilian residents and four farmers, including a child. During the most recent raids that occurred in December 2020 and January 2021, the IOF also left placards urging Palestinian farmers to uproot their own crops, thereby creating a heightened state of fear among the agricultural community of Gaza.

Israel's pervasive impunity is among the root causes of the State's continued widespread and systematic violation of Palestinians' rights, including in Gaza. Third States have a legal responsibility to ensure Israel's compliance with international law, also by pursuing international justice and accountability. Accordingly, we call on the Council and UN Member States to:

1. Call on Israel to fully, immediately, and unconditionally lift its illegal closure and blockade of Gaza; end all forms of collective punishment imposed on the Palestinian people; and address root causes entrenching apartheid over the Palestinian people.

2. Support international accountability mechanisms, including universal jurisdiction and an investigation by the International Criminal Court into the Situation in Palestine.
3. Urge Israel to uphold its moral and legal obligations concerning the right to health of Palestinians, including by supplying the entire population under its effective control with the COVID-19 vaccine.
4. Pressure Israel to stop targeting civilians, properties, and objects throughout the Gaza Strip, particularly in the ARA; to end all military actions against the fishing and agricultural communities; and to compensate and redress victims of such violations.

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- 1) IV Geneva Convention, Articles 55, 56, 59; 1907 Hague Regulations, Article 43.
 - 2) UN OHCHR, “UN experts call on Israel to ensure equal access to COVID-19 vaccines for Palestinians”, 14 January 2021, at:
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26655>
 - 3) International Covenant on Economic, Social and Cultural Rights, Article 12.
 - 4) UN OCHA, “COVID-19 Emergency Situation Report 26 (31 December 2020 - 13 January 2021)”.
 - 5) Al Mezan et al., Joint Urgent Appeal to the United Nations Special Procedures on the escalating water and sanitation crisis in the Gaza Strip, occupied Palestinian territory, at:
<http://mezan.org/en/uploads/files/1605008575924.pdf>
 - 6) Declaration of the State of Palestine Regarding its Maritime Boundaries in Accordance with UNCLOS, 24 September 2019, at:
https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/PSE_Deposit_09-2019.pdf
- Note: Israel has also not met the standard explicitly agreed under the Oslo Accords—of 20 nautical miles of sea space—since shortly after signing the agreement.