



Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies (CIHRS), and Habitat International Coalition (HIC) – Housing and Land Rights Network (HLRN)

**JOINT SUBMISSION TO THE COMMITTEE ON THE
ELIMINATION OF RACIAL DISCRIMINATION FOR THE
LIST OF THEMES ON ISRAEL'S SEVENTEENTH TO
NINETEENTH PERIODIC REPORTS**

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Table of Contents

1. Introduction.....	1
2. Institutionalised Racial Discrimination against the Palestinian People	2
3. Failure to Report on the Rights of Palestinians	6
4. Policies and Practices of Racial Segregation and Apartheid	7
5. Rights to Property, Adequate Housing, and Access to Land and Natural Resources..	10
6. Denial of Residency Rights in Jerusalem and Demographic Manipulation.....	13
7. Failure to Rescind the Gaza Closure Policy	16

1. Introduction

1. Al-Haq – Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Cairo Institute for Human Rights Studies, and Habitat International Coalition – Housing and Land Rights Network (hereinafter ‘our organisations’) present this submission to the 100th session of the Committee on the Elimination of Racial Discrimination (CERD or ‘the Committee’), highlighting our recommendations for the Committee’s list of themes on the seventeenth to nineteenth periodic reports submitted by Israel (hereinafter ‘State report’ or ‘the report’),¹ on Israel’s implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD or ‘the Convention’),² which it ratified on 3 January 1979.
2. For the Committee’s list of themes on Israel’s report, our organisations highlight Israel’s institutionalised material discrimination against the indigenous Palestinian people, resulting in Israel’s continued failure to respect, protect, and fulfil the human rights of all Palestinians throughout its territory and subject to its jurisdiction, including Palestinian citizens of Israel and Palestinians subject to Israel’s effective control, as Occupying Power, in the West Bank, including East Jerusalem, and the Gaza Strip, constituting the occupied Palestinian territory. In this submission, our organisations examine the severe denial of Palestinians’ fundamental rights, and the continued deterioration in the human rights situation, reaffirming Israel’s obligation to fully implement the Convention in good faith. In particular, our organisations argue that Israel has entrenched policies and practices of racial discrimination, racial segregation, and apartheid with respect of the Palestinian people as a whole, in violation of Article 3 of the Convention, giving rise to both State responsibility and individual criminal liability.³
3. This submission examines a number of violations raised by the Committee in its 2012 Concluding Observations on Israel,⁴ which have neither been addressed nor effectively remedied by the State Party. Notably, despite CERD’s 2012 Concluding Observations, our organisations stress that Israel has not reconsidered its planning, construction, and zoning policies, which discriminate against the indigenous Palestinian people on both sides of the Green Line, including in relation to their rights to adequate housing, property, and access to

¹ CERD, Seventeenth to nineteenth periodic reports of States parties due in 2016, Israel, 2 March 2017, UN Doc. CERD/C/ISR/17-19.

² *International Convention on the Elimination of All Forms of Racial Discrimination* (adopted 7 March 1966, entry into force 4 January 1969) 660 UNTS 195 (hereinafter ICERD).

³ The International Criminal Court (ICC) has jurisdiction in the occupied Palestinian territory with the ICC’s Office of the Prosecutor currently conducting a preliminary examination into the situation in Palestine since 13 June 2014. See further below at paragraph 13.

⁴ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16.

land and natural resources, particularly affecting Palestinian Bedouin communities of the Palestinian people in the southern Naqab and in the West Bank.⁵ Israel has also failed to eliminate its policy of demographic manipulation and population transfer against Palestinian permanent residents in the city of Jerusalem,⁶ while it has created coercive environments through house demolitions, denial of family unification, and the construction of the Annexation Wall, amongst other measures designed to drive Palestinian displacement. Finally, this submission highlights Israel's unlawful 12-year closure of the Gaza Strip, which has made Gaza uninhabitable according to United Nations (UN) reports, in violation of Israel's obligations, as Occupying Power, under international human rights law, including the Convention.⁷ Accordingly, our organisations offer a number of recommendations for inclusion in the Committee's list of themes ahead of its review of Israel's seventeenth to nineteenth periodic reports at its upcoming 100th session.

2. Institutionalised Racial Discrimination against the Palestinian People

4. Since the Committee's Concluding Observations on Israel in 2012, the human rights situation for Palestinians has continued to significantly deteriorate, as a result of sustained efforts by Israel to fragment the indigenous Palestinian people, to displace and dispossess Palestinians on both sides of the Green Line, to deepen its colonisation of the occupied Palestinian territory, and to entrench its institutionalised regime of racial segregation, domination, and oppression, amounting to the crimes of forcible transfer and apartheid. Since the foundation of the State of Israel, Israeli policies and practices have systematically sought the erasure of the indigenous Palestinian people, including through the demographic manipulation of Palestine, Judaizing the names of indigenous Palestinian villages, cities, and towns, downgrading the status of the Arabic language in practice,⁸ and imposing a second-class status on Palestinian citizens of Israel in their ancestral lands.⁹
5. Critically, Israel's parastatal institutions, including the World Zionist Organization and Jewish Agency, and its subsidiaries, as well as the Jewish National Fund, which are chartered to carry out material discrimination against persons not of Jewish faith, have historically prevented the indigenous Palestinian people on both sides of the Green Line (1949 Armistice Agreement Line) access to, and control over their means of subsistence,

⁵ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 25.

⁶ *Ibid.*

⁷ *Ibid.*, para. 26.

⁸ CESCR, Concluding observations of the Committee on Economic, Social and Cultural Rights on Israel's initial report, 4 December 1998, UN Doc. E/C.12/1/Add.27, para. 10.

⁹ *See*, more recently, the adoption of the Basic Law: Israel as the Nation-State of the Jewish People (2018); Al-Haq, "Factsheet: Israel's "Jewish Nation-State Law" and the Occupied Palestinian Territory," 23 January 2019, available at: <https://www.alhaq.org/advocacy/6115.html>.

including their natural wealth and resources, exploiting and diverting Palestinian natural resources to the benefit of colonising settlers. Our organisations recall the 1998 Concluding Observations of the UN Committee on Economic, Social and Cultural Rights (CESCR) to the effect that:

“[d]espite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews.”¹⁰

6. In 2018, as the Palestinian people marked 70 years since the mass population transfer of Palestinian refugees during the Nakba, Israel entrenched its institutionalised regime of racial discrimination against Palestinians in law with the adoption of the Basic Law: Israel as the Nation-State of the Jewish People (2018). The ‘basic law’ declares that “[t]he right of national self-determination in the State of Israel is unique to the Jewish people,” and provides that the State of Israel is “open to Jewish immigration and to the gathering of the exiled.”¹¹ As such, the Jewish-Nation State Law entirely disregards the rights of the indigenous Palestinian people and cements Israel’s regime of systematic racial domination and oppression over Palestinians. Instead, the ‘basic law’ reveals Israel’s exclusionary *raison d’état* to exclude and replace the indigenous Palestinian people, having for decades sought to deprive Palestinians of their means of subsistence.¹² In addition, the ‘basic law’ extends Israel’s racist policies and objectives to its administration of the occupied Palestinian territory, in violation of Israel’s obligation, as Occupying Power, not to extend its own domestic legislation to the territory it occupies.¹³
7. In the occupied Palestinian territory, Israel’s prolonged occupation has entered its 52nd year with no end in sight. Throughout five decades of brutal Israeli military occupation of the West Bank, including East Jerusalem, and the Gaza Strip, the Israeli occupying forces have

¹⁰ CESCR, Concluding observations of the Committee on Economic, Social and Cultural Rights on Israel’s initial report, 4 December 1998, UN Doc. E/C.12/1/Add.27, para. 11.

¹¹ Al-Haq, “Factsheet: Israel’s “Jewish Nation-State Law” and the Occupied Palestinian Territory,” 23 January 2019, available at: <https://www.alhaq.org/advocacy/6115.html>.

¹² Article 1(2) of the *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entry into force 3 January 1976) 993 UNTS 3 (hereinafter ICESCR) and the *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entry into force 23 March 1976) 999 UNTS 171 (hereinafter ICCPR).

¹³ Al-Haq, “Factsheet: Israel’s “Jewish Nation-State Law” and the Occupied Palestinian Territory,” 23 January 2019, available at: <https://www.alhaq.org/advocacy/6115.html>.

systematically oppressed the protected Palestinian population, denying them the enjoyment on an equal footing of the full spectrum of social, cultural, political, economic, and civil rights to which they are entitled. In violation of international law, Israel, the Occupying Power, has continued to pursue the active colonisation of the occupied Palestinian territory through illegal Israeli settlement construction and expansion, the exploitation of Palestinians' natural resources, and the serious crime of population transfer against protected persons under the Geneva Conventions of 1949, from and within the occupied territory, in violation of international human rights law, international criminal law, and peremptory norms.¹⁴ In the Gaza Strip, Israel's prolonged closure has entered its 12th year, amounting to unlawful collective punishment,¹⁵ and has resulted in the severe denial of Palestinians' rights to freedom of movement, adequate housing, life, health, human dignity, and an adequate standard of living, amongst other fundamental rights, in violation of Article 5 of the Convention and international human rights law.¹⁶ Overall, Israel continues to deny the Palestinian people their inalienable right to self-determination, including permanent sovereignty over their natural wealth and resources in violation of *jus cogens* principles of international law.¹⁷ At the same time, Israel has continued construction of the Annexation Wall in the West Bank, including in and around East Jerusalem, which the International Court of Justice (ICJ) deemed illegal in 2004 and called on Israel to dismantle.¹⁸ Fifteen years since the ICJ's authoritative Advisory Opinion, the Annexation Wall remains standing, depriving Palestinian communities of their rights to adequate housing and access to land and resources, in denial of the Palestinian people's right to self-determination. Thus, the Annexation Wall continues to contribute to Israel's policies of racial segregation, resulting in material discrimination against Palestinians, while it has led to the annexation of parts of the occupied territory and the appropriation of land for illegal settlement construction and expansion.

8. In addition to the deterioration of the overall human rights situation and the prolonged denial of Palestinians' rights, the Israeli Government also promotes repressive policies against human rights defenders, activists, and advocates for Palestinian rights. One of the most notable examples of these measures is the expansive interpretation of the Working Definition of Antisemitism of the International Holocaust Remembrance Alliance

¹⁴ Article 49, *Geneva Convention Relative to the Protection of Civilian Persons in Time of War* (adopted 12 August 1949) 75 UNTS 287 (hereinafter 'Fourth Geneva Convention').

¹⁵ Article 33, Fourth Geneva Convention.

¹⁶ See, in particular, Articles 5(d)(i) and 5(e)(iii), ICERD; Article 6, ICCPR; and Articles 11(1) and 12(1), ICCESCR.

¹⁷ Articles 1(1) and 1(2), ICCPR and ICESCR.

¹⁸ *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 136, paras. 122 and 151.

(IHRA).¹⁹ While supporting efforts to counter growing racism around the globe, our organisations note that the interpretation of the IHRA definition, actively promoted the public outreach mechanism of the Israeli Ministry of Strategic Affairs, 4IL,²⁰ dangerously conflates legitimate criticism of the State of Israel, including policies and practices of racial discrimination, with antisemitism. This has been used as part of a widespread campaign to silence organisations and individuals working to protect the rights of the Palestinian people, while it has also served as a tool to stifle criticism of Israel's policies and practices.

9. The Israeli Government, along with other groups, has led a widespread lobbying and silencing campaign targeting civil society seeking to challenge Israel's policies and practices, such as the Boycott, Divestment, and Sanctions (BDS) Movement,²¹ which aligns with the peremptory norm of non-recognition of the illegal situation, by using the mandate of the Ministry of Strategic Affairs and Public Diplomacy “to act against the delegitimization and boycott campaigns against the state of Israel.”²² Israel has also adopted laws prohibiting entry into and residence in Israel to persons who have participated in BDS activities, in violation of their fundamental rights to freedom of movement and residency, to freedom of opinion and expression, and to freedom of peaceful assembly and association.²³ The Israeli Ministry of Strategic Affairs has also carried out targeted campaigns to smear Palestinian human rights organisations and defenders by framing their legitimate criticism as antisemitic or through allegations of terrorism.²⁴ Our organisations submit that the widespread and systematic attempts to silence Palestinian civil society, human rights defenders, and groups advocating for the rights of Palestinians forms an integral part of Israel's institutionalised regime of racial domination and oppression over the Palestinian people, and is committed with the intention of maintaining this regime.

¹⁹ IHRA, “Working Definition of Antisemitism,” available at: <https://www.holocaustremembrance.com/working-definition-antisemitism>, accessed 5 September 2019.

²⁰ See, e.g., the following social media posts by the public outreach mechanism of the Israeli Ministry of Strategic Affairs, 4IL: <https://www.facebook.com/4IL.org/photos/a.1781386778839148/2221696358141519/?type=3> (dated 26 June 2019); and <https://twitter.com/4ILorg/status/1158953158149910529> (dated 7 August 2019).

²¹ BDS, “What is BDS?” <https://bdsmovement.net/what-is-bds>, accessed 5 September 2019.

²² See Israeli Government Services, “Prime Minister’s Office: Ministry of Strategic Affairs and Public Diplomacy,” available at: https://www.gov.il/en/departments/units/ministry_of_strategic_affairs_and_information, accessed 5 September 2019. See also Uri Blau “Inside the Clandestine World of Israel’s ‘BDS-busting’ Ministry,” Haaretz, 26 March 2017, available at: <https://www.haaretz.com/israel-news/MAGAZINE-inside-the-clandestine-world-of-israels-bds-busting-ministry-1.5453212>.

²³ Articles 12(1), 19, 21 and 22, ICCPR; Articles 5(d)(i), 5(d)(viii), 5(d)(ix), ICERD.

²⁴ Al-Haq, “Israeli Ministry of Strategic Affairs Campaign of Institutionalised Harassment Continues with the Alleged Closure of Palestinian NGOs’ Financial Accounts,” 19 June 2019, available at: <https://www.alhaq.org/advocacy/6039.html>.

3. Failure to Report on the Rights of Palestinians

10. Israel has once again failed to report on the rights of all Palestinians subject to its jurisdiction and effective control to CERD, systematically denying the applicability of the international human rights treaties, which it has ratified, to the occupied Palestinian territory. Our organisations recall the Committee's Concluding Observations of 2012, in which the Committee was "deeply concerned at the position of the State party that the Convention does not apply to all the territories under its effective control, which not only includes Israel proper but also the West Bank, including East Jerusalem, the Gaza Strip and the Occupied Syrian Golan."²⁵ At the time, the Committee called on Israel, the Occupying Power, to report on its implementation of the Convention in the occupied Palestinian territory and urged Israel to "interpret its obligations under the Convention in good faith and in accordance with international law."²⁶ **Our organisations stress that Israel has once again failed to report on the human rights situation in the occupied Palestinian territory in its State report under ICERD and call on the Committee to request information from Israel on its implementation of the Convention with respect of all Palestinians, including in the occupied Palestinian territory.**
11. We stress that Israel, the Occupying Power, retains effective control throughout the occupied Palestinian territory by virtue of its prolonged occupation since 1967, as recognised by CERD,²⁷ regardless of the recognition of the State of Palestine as a non-member observer State in the UN in 2012,²⁸ and its subsequent accession to international human rights treaties, including the Convention.²⁹ In particular, CERD recognised in its first Concluding Observations on the State of Palestine in August 2019 that "the Israeli occupation of the territory of the State party, the expansion of the settlements and the continued blockade of the Gaza Strip, which are considered unlawful under international law, pose severe challenges for the State party in fully implementing its obligations under the Convention."³⁰ Accordingly, Israel must respect, protect, and fulfil the rights of all individuals in its territory and subject to its jurisdiction, including in the occupied Palestinian territory as falling under Israel's effective control, as Occupying Power. Israel

²⁵ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 10.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ UN General Assembly, Resolution 67/19, 4 December 2012, UN Doc. A/RES/67/19, para. 2.

²⁹ The State of Palestine acceded to ICERD on 2 April 2014. The Convention entered into force for Palestine on 2 May 2014.

³⁰ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined initial and second periodic reports of the State of Palestine, 29 August 2019, UN Doc. CERD/C/PSE/CO/1-2.

therefore remains bound to observe the rights of Palestinians under international human rights law and international humanitarian law in the occupied Palestinian territory.

12. In addition, our organisations note that the State of Palestine acceded to the Rome Statute of the International Criminal Court (hereinafter ‘Rome Statute’)³¹ on 2 January 2015, thus activating the Court’s jurisdiction over all suspected crimes, including the crimes of forcible transfer and apartheid, committed in the occupied Palestinian territory since 13 June 2014, which give rise to individual criminal responsibility for perpetrators. The State of Palestine further acceded to the International Convention on the Suppression and Punishment of the Crime of Apartheid (hereinafter ‘Apartheid Convention’)³² on 2 April 2014, which has been in force in the occupied Palestinian territory since 2 May 2014.

4. Policies and Practices of Racial Segregation and Apartheid

13. In its 2012 Concluding Observations, the Committee urged Israel “to give full effect to article 3 and to make every effort to eradicate all forms of segregation between Jewish and non-Jewish communities,” requesting that Israel “provide information on action taken in this regard in its next periodic report.”³³ In particular, the Committee was “extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the Occupied Palestinian Territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand.”³⁴ Accordingly, the Committee urged Israel “to take immediate measures to prohibit and eradicate... policies or practices” of racial segregation and apartheid, severely and disproportionately affecting the indigenous Palestinian people, in violation of Article 3 of the Convention.³⁵ Despite the Committee’s calls, Israel’s State report failed once again to include information on policies and practices of racial segregation and apartheid or on measures taken to eradicate such practices. In fact, Israel’s report only includes one paragraph on Israel’s implementation of Article 3 of the Convention, which reads:

“[a]partheid has always been regarded as abhorrent by the [Government of Israel] and society, and continues to be so regarded. Apartheid has never been practiced

³¹ *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3 (hereinafter ‘Rome Statute’).

³² *International Convention on the Suppression and Punishment of the Crime of Apartheid* (adopted 30 November 1973, entry into force 18 July 1976) 1015 UNTS 243 (hereinafter ‘Apartheid Convention’).

³³ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 11.

³⁴ *Ibid.*, para. 24.

³⁵ *Ibid.*

in Israel. There exists in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind.”³⁶

This paragraph exposes not only Israel's failure to comply with the Committee's request for information on policies and practices of racial segregation and apartheid in violation of Article 3 of the Convention, but it has denied the existence of such practices altogether, despite the Committee's Concluding Observations in this regard. In particular, Israel's policies and practices of racial segregation have been highlighted in previous reviews under the international human rights treaties, including by CESCR, which observed over two decades ago in 1998, that Israel does not accord equal rights to Palestinians, while the “excessive emphasis upon the State as a “Jewish State” encourages discrimination and accords a second-class status to its non-Jewish citizens.”³⁷

14. Our organisations stress that since 2012, Israel's policies and practices of racial segregation and apartheid against Palestinians have only been further entrenched, resulting in the severe denial of Palestinians' fundamental rights. The most significant escalation in Israel's discriminatory policies and practices against Palestinians in recent years was the adoption, on 18 July 2018, by the Israeli Parliament (the Knesset) of the Basic Law: Israel as the Nation-State of the Jewish People (2018).³⁸ The ‘basic law’ entrenches racial discrimination against the indigenous Palestinian people, denying them their inalienable right to self-determination, by declaring that “[t]he fulfillment of the right of national self-determination in the State of Israel is unique to the Jewish people.” At the same time, the law provides that “[t]he State will be open to Jewish immigration and to the gathering of the exiled” and determines “Jewish settlement as a national value,” stating it will seek to encourage and promote the establishment and development of illegal Israeli settlements, in violation of international law.³⁹ The Jewish Nation-State Law further enshrines that “[t]he unified and complete [city of] Jerusalem is the capital of Israel,” in violation of the city's status under international law,⁴⁰ while it entrenches Israel's exclusionary *raison d'état* to

³⁶ CERD, Seventeenth to nineteenth periodic reports of States parties due in 2016, Israel, 2 March 2017, UN Doc. CERD/C/ISR/17-19, para. 54.

³⁷ CESCR, Concluding observations of the Committee on Economic, Social and Cultural Rights on Israel's initial report, 4 December 1998, UN Doc. E/C.12/1/Add.27, para. 10.

³⁸ Al-Haq, “Factsheet: Israel's “Jewish Nation-State Law” and the Occupied Palestinian Territory,” 23 January 2019, available at: <https://www.alhaq.org/advocacy/6115.html>.

³⁹ Israeli settlements in the occupied Palestinian territory are illegal under international law, as recognised by the ICJ and the UN Security Council. See, notably, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, ICJ Reports 2004, p. 136, para. 120. See also UN Security Council, Resolution 2334 (2016), 23 December 2016, UN Doc. S/RES/2334 (2016), para. 1.

⁴⁰ In particular, when Israel adopted its Basic Law: Jerusalem, Capital of Israel in 1980, the UN Security Council adopted Resolution 478 (1980), censuring the enactment in the strongest terms and determining that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent “basic law” on Jerusalem, are null

exclude and replace the indigenous Palestinian people by stipulating that “Israel is the historic homeland of the Jewish people in which the State of Israel was established.”⁴¹

15. As such, the Jewish Nation-State Law amounts to a clear violation of Israel’s obligation under Article 3 of the Convention to prohibit and eradicate all policies and practices of racial segregation and apartheid in territories under its effective control, by enshrining as a constitutional principle Israel’s institutionalised racial discrimination against the indigenous Palestinian people. **Our organisations call on the Committee to include the Basic Law: Israel as the Nation-State of the Jewish People (2018) in its list of themes for Israel’s review, and to ask Israel, the State Party, how it intends to eradicate all policies and practices of racial segregation and apartheid in its territory and subject to its effective control in the occupied Palestinian territory. In particular, we urge the Committee to call on Israel to repeal the Basic Law: Israel as the Nation-State of the Jewish People (2018), which is antithetical to the object and purpose of the Convention as it has the purpose of nullifying the recognition, enjoyment, and exercise, on an equal footing, of all human rights and fundamental freedoms in the State Party.**
16. Moreover, our organisations submit that Israel has created an institutionalised regime of racial domination and oppression over the Palestinian people as a whole, as part of a widespread and systematic State policy amounting to the crime of apartheid. Notably, the Office of the Prosecutor of the International Criminal Court (ICC) reported in December 2017 that, in the context of its ongoing preliminary examination into the situation in Palestine since 13 June 2014, it has “received information regarding the purported establishment of an institutionalised regime of systematic discrimination that allegedly deprives Palestinians of a number of their fundamental human rights.”⁴² The report by the ICC’s Office of the Prosecutor followed a landmark report published in March 2017 by the UN Economic and Social Commission for Western Asia (ESCWA), examining Israeli practices towards the Palestinian people and the question of apartheid. The 2017 ESCWA report concluded that Israel has established a regime of apartheid that dominates the Palestinian people as a whole.⁴³ Critically, it highlighted the strategic fragmentation of the

and void and must be rescinded forthwith.” See UN Security Council, Resolution 478 (1980), 20 August 1980, UN Doc. S/RES/478 (1980), paras. 1-3. See also Al-Haq, “Al-Haq Condemns United States Recognition of Jerusalem, in the occupied State of Palestine, as Israel’s Capital,” 6 December 2017, available at:

<https://www.alhaq.org/advocacy/6302.html>; and Al-Haq, “Al-Haq Condemns Australia’s Recognition of West Jerusalem as Israel’s Capital,” 15 December 2018, available at: <https://www.alhaq.org/advocacy/6121.html>.

⁴¹ Al-Haq, “Factsheet: Israel’s “Jewish Nation-State Law” and the Occupied Palestinian Territory,” 23 January 2019, available at: <https://www.alhaq.org/advocacy/6115.html>.

⁴² ICC, Report on Preliminary Examination Activities 2017, 4 December 2017, para. 63.

⁴³ ESCWA, Israeli Practices towards the Palestinian People and the Question of Apartheid Palestine and the Israeli Occupation, Issue No. 1, 2017, UN Doc. E/ESCWA/ECRI/2017/1.

Palestinian people into four domains since 1967, including Palestinian citizens of Israel subject to Israeli civil law; Palestinians with permanent residency status in occupied East Jerusalem; Palestinians subject to Israeli military law in the West Bank and the Gaza Strip; and Palestinian refugees and exiles living outside of territory under Israel's control but whose right of return to their homes and property Israel continues to deny.⁴⁴

17. The ESCWA report provides a compelling analysis of Israeli apartheid over the entirety of the Palestinian people and proposes key recommendations on Israel and third party States to comply with their obligations in order to bring the illegal situation to an end and to ensure international justice and accountability, including effective remedies for Palestinian victims. **Our organisations urge the Committee to adopt the findings of the 2017 ESCWA report and to recognise Israel's institutionalised regime of racial oppression and domination over the Palestinian people as amounting to the crimes of population transfer and apartheid, giving rise to individual criminal responsibility at the ICC, and entailing State responsibility for Israel and third States to bring the illegal situation to an end.**

5. Rights to Property, Adequate Housing, and Access to Land and Natural Resources

18. In its previous Concluding Observations, the Committee urged Israel to “step up its efforts to ensure equal access to education, work, housing and public health in all territories under the State party's effective control,” highlighting the “ongoing policy of home demolitions and forced displacement of the indigenous Bedouin communities.”⁴⁵ The Committee further expressed concerns as to “the adverse tendency of preferential treatment for the expansion of Israeli settlements, through the use of “state land” allocated for settlements, the provision of infrastructure such as roads and water systems, [and] high approval rates for planning permits,” concluding that “the current Israeli planning and zoning policy in the West Bank, including East Jerusalem, seriously breaches a range of fundamental rights under the Convention.”⁴⁶ Accordingly, the Committee urged Israel to reconsider its entire planning and zoning policy in order to guarantee Palestinians their rights to property, adequate housing, and access to land and natural resources, also recommending that the State do so “in consultation with the populations directly affected by those measures.”⁴⁷
19. Since 2012, Israel has failed to end its discriminatory planning and zoning policies in the occupied West Bank, including East Jerusalem. Instead, the Israeli occupying authorities have continued to systematically discriminate against protected Palestinians, creating

⁴⁴ *Ibid.*, p. 4.

⁴⁵ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 20.

⁴⁶ *Ibid.*, para. 25.

⁴⁷ *Ibid.*

coercive environments designed to drive their forced displacement to the benefit of colonising Israeli settlers, whose mere presence in the occupied Palestinian territory is illegal under international humanitarian law.⁴⁸ Through its restrictive and discriminatory planning regime, Israel prevents Palestinians from constructing even the simplest of structures, in particular in Area C of the West Bank and in East Jerusalem,⁴⁹ placing Palestinian communities at risk of house demolitions, in violation of their right to adequate housing, and the prohibition on destruction of property not justified by military necessity.⁵⁰ According to Al-Haq's Monitoring and Documentation Department, from 2012 to 2018, the Israeli occupying authorities carried out 2,451 'administrative' house demolitions in the occupied West Bank, including East Jerusalem, resulting in the displacement of 6,473 Palestinians, including 3,348 children. Additionally, during the same period, the Israeli occupying authorities conducted a total of 85 punitive house demolitions, amounting to unlawful collective punishment,⁵¹ which resulted in the displacement of 320 Palestinians.

20. Accordingly, Israel has instituted increasingly aggressive planning and zoning policies throughout the occupied West Bank that deprive Palestinians of their rights to freedom of movement and residence, their rights to adequate housing, and access to land and natural resources, which are owed to the Palestinian people.⁵² Through its discriminatory planning and zoning policies, and house demolition practices, Israel has created an increasingly unliveable and coercive environment for the indigenous Palestinian people. This has had significant impacts on Palestinian Bedouin, pastoralist, and other herding communities, which comprise 40 per cent of the Palestinian population in the Jordan Valley, who traditionally make use of the open areas of the West Bank and the territory's water resources for livestock grazing.⁵³ In addition to the increased restrictions on their traditions of life due to the inability to access land and resources, Palestinian Bedouin and herding communities on both sides of the Green Line, in particular in the Naqab⁵⁴ and in the eastern

⁴⁸ Article 49, Fourth Geneva Convention.

⁴⁹ See also the recent mass demolitions in Silwan's Wadi Al-Hummus neighbourhood of Jerusalem, where demolitions were carried out not only on land categorised as East Jerusalem but also in Area A of the West Bank, which falls under full Palestinian civil and security control, according to the Oslo Accords. See Al-Haq, "Al-Haq Sends Urgent Appeal to UN Special Procedures and Calls for Immediate Halt to Demolitions in Wadi Al-Hummus," 22 July 2019, available at: <https://www.alhaq.org/advocacy/14686.html>.

⁵⁰ Article 5(e)(iii), ICERD; Article 11(1), ICESCR; and Article 53, Fourth Geneva Convention. See also CESCR, General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, UN Doc. E/1998/22, para. 12.

⁵¹ Article 33, Fourth Geneva Convention.

⁵² Articles 5(d)(i) and 5(e)(iii), ICERD; Article 1(2), ICESCR and ICCPR.

⁵³ Al-Haq, *Settling Area C: The Jordan Valley Exposed* (2018), p. 39.

⁵⁴ See, e.g., Middle East Monitor, "Bedouin citizens of Israel fight plan for relocation in new Negev town," 16 May 2019, available at: <https://www.middleeastmonitor.com/20190516-bedouin-citizens-of-israel-fight-plan-for-relocation-in-new-negev-town/>.

Jerusalem periphery,⁵⁵ continue to be presented with ‘relocation’ plans by the Israeli authorities, which amount to the creation of a coercive environment precluding any free, genuine, informed, and prior consent to be given by Palestinian communities.

21. Particularly egregious is the withholding of recognition to some 49 villages where the Bedouin Palestinian communities have been forced to reside since the ethnic cleansing of the Naqab region between 1951 and 1953. This practice denies those Palestinian citizens of Israel security of tenure and access to vital services, such as water and sanitation, threatening them with further displacement and resettlement, stripping them of any relationship with their ancestral lands. This practice has revealed that the State Party applies arbitrary criteria to the recognition of human settlements in the region based solely on the “Jewish nationality” status, as distinct from, and superior to Israeli citizenship,⁵⁶ provided in the discriminatory charters of the Jewish Agency and Jewish National Fund, which dominate the spatial planning regime within the State of Israel. The World Zionist Organization and Jewish National Fund operate similarly in the occupied Palestinian territory, effectively conducting population transfer as parastatal institutions.⁵⁷
22. At the same time, Israel has continued to aggressively expand its illegal settlement enterprise in the occupied Palestinian territory and to expropriate Palestinian land and exploit natural resources, including water copiously extracted by the Israeli water company ‘Mekorot’, for the benefit of its settler population.⁵⁸ In February 2017, the Israeli Parliament passed the so-called ‘Regularization Law’, legalising 4,000 settlement housing units in 55 colonial outposts illegally built on private Palestinian land.⁵⁹ In December 2018, the Knesset’s Ministerial Committee for Legislation approved the advancement of a bill that would legalise an additional 60 Israeli settlement outposts in the occupied West Bank.⁶⁰ The construction of illegal Israeli settlements in the occupied Palestinian territory amounts to a grave breach of the Fourth Geneva Convention of 1949 and constitutes the crime of population transfer, for which there is individual criminal responsibility at the

⁵⁵ See, e.g., Tovah Lazaroff, “Khan Al-Ahmar Rejects Relocation Plan to Jericho Site,” *The Jerusalem Post*, 8 August 2018, available at: <https://www.jpost.com/Arab-Israeli-Conflict/Khan-al-Ahmar-rejects-relocation-plan-to-Jericho-site-564353>.

⁵⁶ Roselle Tekiner, “Race and the Issue of National Identity in Israel,” *International Journal of Middle Eastern Studies*, Volume 23, Issue 1 (February 1991), pp. 39–55.

⁵⁷ HIC-HLRN, *The Goldberg Opportunity: A Chance for Human Rights-based Statecraft in Israel* (Cairo, HIC-HLRN, 2010), available at: <http://www.hlrn.org/img/publications/Naqab%20FFM%20report%202010.zip>.

⁵⁸ See, e.g., Al-Haq, *Settling Area C: The Jordan Valley Exposed* (2018), pp. 35-36.

⁵⁹ Al-Haq, “PHROC Calls for Immediate Action by International Community on Israel’s “Regularization” Law,” 9 February 2017, available at: <https://www.alhaq.org/palestinian-human-rights-organizations-council/6355.html>.

⁶⁰ Jonathan Lis and Yotam Berger, “Israeli Ministers Approve Bill That Would Legalize 66 West Bank Outposts,” *Haaretz*, 16 December 2018, available at: <https://www.haaretz.com/israel-news/.premium-israeli-ministers-approve-bill-that-would-legalize-66-west-bank-outposts-1.6747792>.

ICC.⁶¹ Moreover, Israel's illegal settlement enterprise unlawfully exploits the natural resources of the occupied territory, which under international humanitarian law are protected by the rule of *usufruct*,⁶² resulting in severe racial segregation and material discrimination against the indigenous Palestinian people, in violation of Article 3 of the Convention.

23. **In light of the above, our organisations urge the Committee to call on Israel to reconsider its entire planning and zoning policy in consultation with the Palestinian people directly affected by Israel's discriminatory measures, including illegal house demolitions and destruction of property, denial of access to land and natural resources, including water, and the creation of coercive environments designed to drive Palestinian displacement from the area. We further recommend that the Committee consider Israel's discriminatory planning and zoning regime as part of a wider State policy contributing to the commission of the crimes of population transfer and apartheid, in violation of Article 3 of the Convention.**

6. Denial of Residency Rights in Jerusalem and Demographic Manipulation

24. In addition to its discriminatory planning and zoning regime, the Committee further called on Israel in 2012 to eliminate the goal of “demographic balance” from its Jerusalem master plans,⁶³ urging Israel “to revoke the *Citizenship and Entry into Israel Law (Temporary provision)* and to facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin.”⁶⁴ Israel has not only failed to implement the Committee's recommendations in this regard, but continues to carry out demographic manipulations to achieve and maintain an Israeli-Jewish demographic majority in Jerusalem through the forcible transfer of Palestinians, as part of a wider master plan for the city, including through the revocation of Palestinians' residency rights, the persistent denial of family unification, and attempts to alter the city's municipal boundaries, in violation of the status of Jerusalem under international law. In particular, our organisations recall the position by the UN Security Council, as adopted in Resolution 478 of 1980, to the effect that “all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem... are null and void and must be rescinded forthwith.”⁶⁵

⁶¹ Articles 7(1)(d) and 8(2)(a)(vii), Rome Statute.

⁶² Article 55, *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907 (hereinafter ‘Hague Regulations’).

⁶³ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 25.

⁶⁴ *Ibid.*, para. 18.

⁶⁵ UN Security Council, Resolution 478 (1980), 20 August 1980, UN Doc. S/RES/478 (1980), para. 3.

25. Since 1948, Israel has instituted a series of demographic manipulations and repeatedly altered the boundaries of the city of Jerusalem, seeking to force the transfer of Palestinians from the city by incorporating the maximum amount of land with the minimum number of Palestinians through colonisation, forced displacement, and dispossession. Despite the Committee's Concluding Observations, a series of bills seeking to establish a so-called 'Greater Jerusalem'⁶⁶ plan remain tabled before the Israeli Parliament (the Knesset).⁶⁷ These bills seek to illegally annex Israeli settlements in the eastern Jerusalem periphery to increase the Israeli-Jewish demographic composition of the city of Jerusalem. At the same time, some 130,000 Palestinians reside in Palestinian Jerusalem neighbourhoods located behind the Annexation Wall, including in Shu'fat refugee camp, 'Anata, and Kufr 'Aqab, making up about a third of the city's Palestinian population.⁶⁸ The so-called 'Greater Jerusalem' bills seek the removal of these densely populated Palestinian neighbourhoods from Jerusalem to ensure the demographic manipulation of the city.⁶⁹
26. Since 1967, the Israeli occupying authorities have revoked some 14,500 permanent residencies of Palestinians in Jerusalem, resulting in the forcible transfer of Palestinians and their families from the city.⁷⁰ Over time, Israel has continued to expand its onerous criteria in order to revoke the residency status of more indigenous Palestinians from Jerusalem. Between 1967 and 1995, 3,150 residencies were revoked for "settling outside Israel" for seven years or receiving the status of resident or citizen in another country.⁷¹ Beginning in 1995, the criteria was expanded to revoke residency of East Jerusalem Palestinians if they are unable to prove their so-called 'centre of life' is in Jerusalem even if the duration of the stay outside the city, including in the rest of the occupied Palestinian territory, was less than seven years or if foreign residency or citizenship was not obtained. Under this expanded criterion, more than 11,300 residency rights of Palestinians from Jerusalem have been revoked to date.⁷² When Israel designed the precarious 'permanent residency' status for Palestinians in Jerusalem in 1967, it did so with the ultimate goal of

⁶⁶Jeffrey Heller, "U.S. Pressure Delays Israel's 'Greater Jerusalem' Bill: legislator," Reuters, 29 October 2017, available at: <https://www.reuters.com/article/us-israel-palestinians-settlement/u-s-pressure-delays-israels-greater-jerusalem-bill-legislator-idUSKBN1CY0CB>.

⁶⁷ Al-Haq, "The Occupation and Annexation of Jerusalem through Israeli Bills and Laws," 5 March 2018, available at: <https://www.alhaq.org/advocacy/6263.html>.

⁶⁸ Al-Haq, "15 Years Since the ICJ Wall Opinion: Israel's Impunity Prevails Due to the Third States' Failure to Act," 9 July 2019, available at: <https://www.alhaq.org/advocacy/14616.html>.

⁶⁹ Al-Haq, "Documents from Diplomatic Briefing 'Emboldening Full Annexation: Three Months Since the Trump Declaration on Jerusalem,'" 19 March 2018, available at: <https://www.alhaq.org/advocacy/6255.html>.

⁷⁰ Al-Haq, "Punitive Residency Revocation: The Most Recent Tool of Forcible Transfer," 17 March 2018, available at: <https://www.alhaq.org/advocacy/6257.html>.

⁷¹ *Ibid.*

⁷² *Ibid.*

forced population transfer and demographic manipulation of the city of Jerusalem, in violation of its status under international law and the inalienable rights of Palestinians.

27. While Israel's State report maintains that "[t]here exists in Israel no restrictions of any kind as to place of residence nor is there any segregation of any kind,"⁷³ on 7 March 2018, the Israeli Knesset passed Amendment No. 30 to the Citizenship and Entry into Israel Law (Temporary provision) 5763 – 2003, codifying into law its punitive residency revocation practice, which amounts to unlawful collective punishment,⁷⁴ based on the vague and illegal ground of 'breach of allegiance' to the State of Israel. Based on such vague criteria, the Israeli Minister of Interior has been granted a broad discretion to revoke Palestinians' residencies, thereby further threatening Palestinian transfer from Jerusalem. The Israeli Ministry of Interior has already revoked permanent residency rights and family unification permits from family members of alleged Palestinian attackers. According to the Ministry of Interior, there have been 13 cases of residency revocation due to 'breach of allegiance' since 1967.⁷⁵ In accordance with Article 45 of the Hague Regulations of 1907, international humanitarian law prohibits the Occupying Power from compelling the civilian population in occupied territory to swear allegiance to the Occupying Power.
28. In addition to the revocation of permanent residency status of Palestinians in Jerusalem, Israel has further prevented family unification for Palestinians throughout the occupied Palestinian territory, as recognised by the Committee.⁷⁶ Palestinians from the West Bank and Gaza Strip face significant challenges in receiving family unification permits when they marry a Palestinian resident of Jerusalem. This is the result of Israel's unlawful annexation of and implementation of its domestic legislation in occupied East Jerusalem, in violation of international law, in addition to the physical isolation of Jerusalem through a system of road closures, checkpoints, and the Annexation Wall and its associated regime, and the imposition of a precarious 'permanent residency' status on Palestinians in the city, subject to revocation at any time by the Israeli occupying authorities.⁷⁷ Over one-third of family unification applications coming from East Jerusalem residents were denied between

⁷³ CERD, Seventeenth to nineteenth periodic reports of States parties due in 2016, Israel, 2 March 2017, UN Doc. CERD/C/ISR/17-19, para. 54.

⁷⁴ Article 33, Fourth Geneva Convention.

⁷⁵ See Al-Haq, "The Occupation and Annexation of Jerusalem through Israeli Bills and Laws," 5 March 2018, available at: <https://www.alhaq.org/advocacy/6263.html>. Al-Haq, "Urgent Appeal: Israel Must Suspend and Repeal Recent Legislation Allowing for the Revocation of Permanent Residency Status from Palestinians in Jerusalem for 'Breach of Allegiance'," 8 March 2018, available at: <https://www.alhaq.org/advocacy/6262.html>.

⁷⁶ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 18.

⁷⁷ Al-Haq, "Engineering Community: Family Unification, Entry Restrictions and other Israeli Policies of Fragmenting Palestinians," 13 February 2019, p. 8, available at: <https://www.alhaq.org/advocacy/6106.html>.

2000 and 2013.⁷⁸ This year, the Israeli Ministry's Population and Immigration Authority has begun rejecting family unification requests based on "intolerable workload" rather than the merits of the request itself.⁷⁹ This creates a coercive environment of instability and fear for Palestinians in Jerusalem and serves Israel's demographic manipulation aims for the city. In particular, Israel's 2050 master plan for Jerusalem intends to radically alter the character, status, and demographic composition of the city as a matter of State policy.⁸⁰

29. **In light of the above, our organisations recommend the Committee further examine Israel's policies with regards to demographic manipulation as a manifestation of the crimes of population transfer and apartheid, in violation of Article 3 of the Convention, through its precarious permanent residency regime and the denial of family unification for Palestinians in Jerusalem, in violation of the right of Palestinians to freedom of movement and residence, as enshrined in Article 5(d)(i) of the Convention.**

7. Failure to Rescind the Gaza Closure Policy

30. In 2012, the Committee called on Israel to rescind its Gaza blockade policy, which has isolated the Gaza Strip and fragmented the occupied Palestinian territory and its people.⁸¹ Our organisations note that Israel's failure to end its prolonged 12-year closure of the Gaza Strip,⁸² which amounts to unlawful collective punishment in violation of international humanitarian law,⁸³ has resulted in profound and unparalleled levels of poverty, unemployment, aid-dependency, and food insecurity in the occupied Gaza Strip, constituting severe denials of the rights enshrined under Article 5 of the Convention, spanning the full spectrum of social, political, cultural, economic, and civil rights owed to the Palestinian people under international law. Since 2012, UN reports have repeatedly warned that Gaza will become unfit for human inhabitancy by the year 2020 should Israel

⁷⁸ Al-Haq, "Living Under Israeli Policies of Colonization in Jerusalem," 4 February 2017, available at <https://www.alhaq.org/advocacy/6359.html>; Official Israeli papers specifically relate to the "demographic balance" in Jerusalem (see for instance: Jerusalem Local Outline Plan 2000, Report No. 4 – The Suggested Plan and the Planning Policy, August 2004, p. 202).

⁷⁹ Nir Hasson, "Israel Seeks to Block All East Jerusalem Family Reunification Hearings Over 'Workload'," Haaretz, 1 May 2019, available at: <https://www.haaretz.com/israel-news/.premium-israel-seeks-to-block-all-e-jerusalem-family-reunification-hearings-over-workload-1.7188984>.

⁸⁰ See Al-Haq, "The Occupation and Annexation of Jerusalem through Israeli Bills and Laws," 5 March 2018, available at: <https://www.alhaq.org/advocacy/6263.html>.

⁸¹ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 26.

⁸² CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the combined initial and second periodic reports of the State of Palestine, 29 August 2019, UN Doc. CERD/C/PSE/CO/1-2.

⁸³ Article 33, Fourth Geneva Convention.

fail to reverse its discriminatory policies and practices.⁸⁴ In July 2018, the UN Conference on Trade and Development (UNCTAD) reported that Israel's prolonged blockade has "eviscerated Gaza's economy and productive base and reduced the Strip to a humanitarian case of profound aid-dependency," adding that "[t]he past quarter of a century was not only lost but has been one of ongoing de-development."⁸⁵

31. According to UNCTAD, over two million Palestinians in Gaza living under full blockade, are confined to a territory with the third-highest population density in the world.⁸⁶ In 2017, poverty affected an equivalent of about 1.01 million Palestinians in Gaza, some 53 per cent of the population, including over 400,000 children.⁸⁷ Food insecurity, primarily the result of poverty and a lack of economic access to food, affects some 70 per cent of Gaza's Palestinian refugee population, who make up 1.4 million Palestinians in the Gaza Strip, about 996,000 of whom receive food assistance from the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).⁸⁸ In May 2019, UNRWA warned that more than a million Palestinians in Gaza would not have enough food by June.⁸⁹ Over the past 12 years of Israel's unlawful closure, the Israeli occupying authorities have further controlled the quantity of food allowed to reach Palestinians in the Gaza Strip, even calculating their per-capita calorie intake.⁹⁰ At the same time, unemployment has continued to rise from 44 per cent in 2017 to 52 per cent in 2018, especially affecting Gaza's youth.⁹¹ Overall, UNCTAD reported in 2018 that:

"[t]he destruction of the productive base relegated Gaza to poverty and leaves half the population food-insecure, even though 80 per cent of the populace receive social assistance. The enduring pressure and deprivation of basic human, social

⁸⁴ UNCTAD, Report on UNCTAD Assistance to the Palestinian Developments in the Economy of the Occupied Palestinian Territory, 23 July 2018, 23 July 2018, UN Doc. TD/B/65(2)/3, para. 27.

⁸⁵ *Ibid.*

⁸⁶ *Ibid.* para. 26.

⁸⁷ OCHA, "53 per cent of Palestinians in Gaza live in poverty, despite humanitarian assistance," 5 June 2018, available at: <https://www.ochaopt.org/content/53-cent-palestinians-gaza-live-poverty-despite-humanitarian-assistance>.

⁸⁸ *Ibid.*

⁸⁹ UNRWA, "More than One Million People in Gaza – Half of the Population of the Territory – May Not Have Enough Food by June," 13 May 2019, available at: <https://www.unrwa.org/newsroom/press-releases/more-one-million-people-gaza-half-population-territory-may-not-have>.

⁹⁰ BBC News, "Israel forced to release study on Gaza blockade," 17 October 2012, available at: <https://www.bbc.com/news/world-middle-east-19975211>; Amira Hass, "Haaretz Exclusive – 2,279 Calories per Person: How Israel Made Sure Gaza Didn't Starve," Haaretz, 17 October 2002, available at: <https://www.haaretz.com/.premium-israel-s-gaza-quota-2-279-calories-a-day-1.5193157>; Coordination of Government Activities in the Territories, "Food Consumption in the Gaza Strip – Red Lines," 1 January 2008, at.

⁹¹ ESCWA, Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, and of the Arab population in the occupied Syrian Golan, 13 May 2019, UN Doc. A/74/88–E/2019/72, para. 95.

and economic rights inflict heavy toll on Gaza's psychological, social and cultural fabric as manifested by widespread psychological trauma, post-traumatic stress disorder, desperation, high suicide rates and drug addiction. In 2017, 225,000 children (more than 10 per cent of the population) required psychosocial support (Office for the Coordination of Humanitarian Affairs, 2017).⁹²

32. The Gaza Strip also faces a severe water and sanitation crisis. According to the World Health Organization (WHO), 97 per cent of water from Gaza's single coastal aquifer is contaminated and unfit for human consumption.⁹³ Israel's water administration continues to unlawfully exploit Palestinians' natural resources, massively over-pumping and pre-empting the mountain aquifer flowing to the coastal Strip.⁹⁴ According to UNCTAD:

“Gaza's coastal aquifer, its sole water source, has been virtually depleted by over extraction and the intrusion of seawater. This leaves only 4 per cent of the groundwater in Gaza fit for human consumption. In 2000, 98 per cent of the people had access to safe drinking water through the public water network, but this dropped to less than 10 per cent by 2014, and the situation has been getting worse since. This forced the population to rely on costlier alternatives such as water containers and bottled water, which now account for 90 per cent of consumption of potable water (United Nations, 2017b).”⁹⁵

33. In addition, Israel's prolonged closure has led to an acute electricity crisis in the Gaza Strip, particularly affecting Gaza's hospitals.⁹⁶ In August 2019, Gaza only had ten hours of electricity on average, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA).⁹⁷ UNCTAD reported that “[d]espite increasing demand, fuelled by the need for reconstruction, in early 2018, the Gaza power plant covered just 6 per cent of demand as it operated at less than one fifth of its 140-megawatt capacity, given the fuel

⁹² UNCTAD, Report on UNCTAD Assistance to the Palestinian Developments in the Economy of the Occupied Palestinian Territory, 23 July 2018, 23 July 2018, UN Doc. TD/B/65(2)/3, para. 32.

⁹³ OCHA, “Study Warns Water Sanitation Crisis in Gaza May Cause Disease Outbreak and Possible Epidemic,” 16 November 2018, available at: <https://www.ochaopt.org/content/study-warns-water-sanitation-crisis-gaza-may-cause-disease-outbreak-and-possible-epidemic>.

⁹⁴ UNDP, Human Development Report 2006: Beyond Scarcity: Power, poverty and the global water crisis (New York, 2006), Chapter 6 “Managing transboundary waters,” p. 217, available at: <http://hdr.undp.org/sites/default/files/reports/267/hdr06-complete.pdf>.

⁹⁵ UNCTAD, Report on UNCTAD Assistance to the Palestinian Developments in the Economy of the Occupied Palestinian Territory, 23 July 2018, 23 July 2018, UN Doc. TD/B/65(2)/3, para. 35.

⁹⁶ See, for example, Maureen Clare Murphy, “Gaza hospitals about to run out of fuel,” 18 January 2019, available at: <https://electronicintifada.net/blogs/maureen-clare-murphy/gaza-hospitals-about-run-out-fuel>.

⁹⁷ OCHA, “Gaza Strip electricity supply,” August 2019, available at: <https://www.ochaopt.org/page/gaza-strip-electricity-supply>, accessed 5 September 2019.

shortage and lack of imported parts.”⁹⁸ Meanwhile, Israel has mostly closed off Gaza's Maritime Zone, allowing Gaza's 35,000 fishermen a mere three to six nautical mile fishing zone, rather than the 20 nautical miles stipulated in the Oslo Accords, thereby severely undermining the employment and livelihood of Palestinian fishermen in Gaza, and denying Palestinians in the Gaza Strip a much-needed source of nutrition.⁹⁹

34. Since 30 March 2018, due to the unliveable situation created in the occupied Gaza Strip as a result of Israel's 12-year closure, Palestinians have peacefully demonstrated on a weekly basis by the Gaza fence, calling on Israel, the Occupying Power, to bring its unlawful closure to an end, and demanding the realisation of their inalienable rights, in particular the right of Palestinian refugees to return to their homes and property, as mandated by international law.¹⁰⁰ Despite the rights-based root causes of the Great Return March demonstrations,¹⁰¹ ongoing since 30 March 2018, the Israeli occupying forces have systematically suppressed the peaceful assemblies, resorting to excessive use of force, including live ammunition, against unarmed Palestinian civilians. Between 30 March 2019 and 1 August 2019, Al-Haq documented the killing of 208 Palestinians during the Great Return March demonstrations, including seven persons with disabilities, four paramedics, and two journalists, amounting to serious violations of international human rights and humanitarian law, which may amount to war crimes and crimes against humanity.¹⁰² In particular, our organisations recall that denial of the right to life and liberty of person to members of a racial group through acts of murder forms part of the definition of the crime of apartheid under Article II(a)(i) of the Apartheid Convention, applicable in the occupied Palestinian territory.
35. After Israeli forces killed 59 Palestinian protesters on 14 May 2018,¹⁰³ the UN Human Rights Council met in its 28th special session on Friday, 18 May 2018, to address the deteriorating human rights situation in the occupied Palestinian territory, in particular within the context of the Great Return March.¹⁰⁴ Addressing the Human Rights Council,

⁹⁸ UNCTAD, Report on UNCTAD Assistance to the Palestinian Developments in the Economy of the Occupied Palestinian Territory, 23 July 2018, 23 July 2018, UN Doc. TD/B/65(2)/3, para. 33.

⁹⁹ *Ibid.*, para. 30.

¹⁰⁰ See, e.g., Al-Haq, “30 March: 15 Palestinians Killed, More than a Thousand Injured, as IOF Violently Suppress Palestinian Protestors in the Gaza Strip,” 31 March 2018, available at: <https://www.alhaq.org/advocacy/6252.html>.

¹⁰¹ See Al-Haq, “Al-Haq Reaffirms Rights-Based Root Causes of Great Return March at its One-Year Commemoration in the Gaza Strip,” 30 March 2019, available at: <https://www.alhaq.org/advocacy/6078.html>.

¹⁰² See, e.g., Al-Haq, “Diplomatic Briefing: ‘The Great Return March: One Year On’,” 15 March 2019, available at: <https://www.alhaq.org/advocacy/6090.html>.

¹⁰³ Al-Haq, “Great Return March: 101 Palestinians Killed by IOF Since 30 March 2018, 59 Killed on 14 May, including Seven Children, One Disabled Man, and 1,861 Injured,” 14 May 2018, available at: <https://www.alhaq.org/advocacy/6216.html>.

¹⁰⁴ Al-Haq, “Al-Haq Attends 28th Special Session of the UN Human Rights Council on the Situation in Palestine, Calls for Accountability,” 21 May 2018, available at: <https://www.alhaq.org/advocacy/6203.html>.

UN Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Mr. Michael Lynk, referred to Gaza's peaceful protesters as "armed with the oldest and most human of aspirations: to live free in one's own land." In his statement to the Council, he stressed: "[t]his is a profoundly asymmetrical situation. Thousands of unarmed demonstrators, shorn of hope, but marching with dignity, living in one of the poorest societies of the region, up against the most powerful military and economically advanced society in the region. Israel has been exacting an eye for an eyelash, because it can. Any condemnation of these recent events would be empty unless it is accompanied by the pursuit of justice and accountability."¹⁰⁵ At the close of the 28th special session, the Human Rights Council adopted Resolution S-28/1, deciding to urgently dispatch an independent, international commission of inquiry to investigate all violations of international humanitarian law and international human rights committed in the occupied Palestinian territory, particularly "in the context of the military assaults on the large-scale civilian protests that began on 30 March 2018."¹⁰⁶

36. On 18 March 2019, the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory submitted its findings and recommendations to the Human Rights Council, which were adopted by Member States on 22 March 2019.¹⁰⁷ In particular, the Commission of Inquiry's findings confirm that the Israeli occupying forces "killed and maimed Palestinian demonstrators who did not pose an imminent threat of death or serious injury to others when they were shot," violating their inherent right to life.¹⁰⁸ As such, the Commission found "reasonable grounds to believe that during the Great March of Return, Israeli soldiers committed violations of international human rights and humanitarian law," stating "[s]ome of those violations may constitute war crimes or crimes against humanity, and must be immediately investigated by Israel."¹⁰⁹ In addition, the Commission of Inquiry highlighted the urgent need to bring Israel's prolonged closure to an end, calling on Israel, the Occupying Power, to lift its blockade of the Gaza Strip with immediate effect.¹¹⁰ In particular, the Commission highlighted Israel's obligation to "[e]nsure that all those injured

¹⁰⁵ *Ibid.*

¹⁰⁶ Human Rights Council, Resolution S-28/1, Violations of international law in the context of large-scale civilian protests in the Occupied Palestinian Territory, including East Jerusalem, 18 May 2018, UN Doc. A/HRC/RES/S-28/1, para. 5.

¹⁰⁷ See Al-Haq, "Al-Haq Welcomes Adoption of UN Commission of Inquiry Recommendations on the Great Return March," 23 March 2019, available at: <https://www.alhaq.org/advocacy/6085.html>.

¹⁰⁸ UN Human Rights Council, Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, paras. 96-97.

¹⁰⁹ OHCHR, "No Justification for Israel to Shoot Protesters with Live Ammunition," Press release by the UN Independent Commission of Inquiry on the 2018 Gaza protests, 28 February 2019, available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24226&LangID=E>.

¹¹⁰ Human Rights Council, Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, 25 February 2019, UN Doc. A/HRC/40/74, para. 122(a).

at demonstrations are permitted prompt access to hospitals elsewhere in the Occupied Palestinian Territory, in Israel or abroad,” to “[e]nsure timely access of medical and all other humanitarian workers to Gaza, including to provide treatment to those injured in the context of demonstrations,” and to “[e]nsure efficient coordination for entry of medical items and equipment into Gaza, and remove the prohibition of entry applied to items with legitimate protective and medical uses, including carbon fibre components for the treatment of limb injuries.”¹¹¹

37. Our organisations stress the dire need for justice and accountability for widespread and systematic human rights violations committed in the occupied Palestinian territory, including in the occupied Gaza Strip, in order to hold perpetrators to account and ensure victims can exercise their right to an effective remedy. **Accordingly, we urge the Committee to request information from Israel, the Occupying Power, on measures taken to implement the recommendations of the UN Commission of Inquiry on the 2018 protests in the occupied Palestinian territory, and in particular in relation to the Committee’s recommendations on fulfilling the right of Palestinians to the highest attainable standard of physical and mental health, and with regard to lifting the Gaza blockade with immediate effect. We stress that Israel’s policies and practices amount to the crime of apartheid, have already made the Gaza Strip uninhabitable, and violate the full spectrum of rights owed to Palestinians in the Gaza Strip, denying them the enjoyment on an equal footing of fundamental rights and freedoms, in violation of Articles 3 and 5 of the Convention.**

¹¹¹ *Ibid.*, paras. 122(b), 122(c), and 122(d).