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

Joint written statement* submitted by Al Mezan Centre for Human Rights, Al-Haq, Law in the Service of Man, 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.

[12 August 2024]

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



The International Community's Deliberate Failure and Unwillingness to Enforce International Law and End Israel's Unlawful Occupation and Acts of Genocide

Over the past ten months of Israel's ongoing genocide in Gaza, at least 39,700 Palestinians have been killed and another 91,700 wounded, according to the Palestinian Ministry of Health's update from 9 August 2024. Many of those wounded are suffering from severe trauma and life-threatening conditions. Another 10,000 Palestinians are missing, presumed dead under the rubble. Over 90% of Gaza's 2.3 million residents have been forcibly displaced from their homes, with many enduring displacement for up to 10 months and having to move multiple times.

Concurrently, Israel has targeted and destroyed Gaza's key civilian infrastructures, including hospitals, schools, and water and sanitation facilities, thereby deliberately inflicting on the Palestinian population in Gaza conditions of life calculated to bring about its physical destruction in whole or in part. Notably, on 29 July 2024, the Palestinian Ministry of Health classified Gaza as a "polio epidemic zone" after traces of the virus were found in sewage samples.

The past ten months have been marked by a profound failure of States to uphold their legal obligations to prevent, end and punish genocide. Despite clear evidence of widespread atrocities and breaches of international law in the Occupied Palestinian Territory (OPT), including acts of genocide, the international community has largely remained passive. This inaction, and complicity of some States, not only undermines the principles enshrined in international law but also emboldens Israel to continue its actions with impunity.

On 19 July 2024, the International Court of Justice (ICJ) issued a landmark Advisory Opinion on the Legal Consequences Arising from Israel's Policies and Practices in the Occupied Palestinian Territory, including East Jerusalem, finding that:

- Israel's continued presence in the Occupied Palestinian Territory is unlawful;
- Israel is under an obligation to bring to an end its unlawful presence in the Occupied Palestinian Territory as rapidly as possible;
- Israel is under an obligation to cease immediately all new settlement activities and to evacuate all settlers from existing settlements in the Occupied Palestinian Territory;
- Israel has the obligation to make reparation for the damage caused to all the natural or legal persons concerned in the Occupied Palestinian Territory. Reparation includes restitution, compensation and/or satisfaction.

In clarifying the scope and meaning of the questions posed, the Court affirmed that from a legal standpoint, that the Occupied Palestinian Territory —comprised of the West Bank, including East Jerusalem, and the Gaza Strip—constitutes a single territorial unit, the unity, contiguity and integrity of which are to be preserved and respected (para. 78). The Court further affirmed that Israel's military withdrawal from the Gaza Strip does not change its legal status, which remains under occupation (para. 94), as Israel continues to exercise key elements of authority over Gaza, 'even more so since 7 October 2023' (para. 93).

The Court further noted that restitution includes Israel's obligation to return all land and immovable property, as well as any assets seized from natural or legal persons since the occupation began in 1967. This also encompasses the return of cultural property and assets taken from Palestinians and Palestinian institutions. Additionally, Israel is required to dismantle the sections of the wall constructed within the Occupied Palestinian Territory and allow all Palestinians displaced during the occupation to return to their original places of residence. Considering the nature of the question posed to the Court was limited temporally to the occupation since 1967, its finding, as such, in no way limit the right of return of Palestinian refugees since 1948, including the 70% percent of all residents of the Gaza Strip, but rather is an important step towards the realization of the collective inalienable rights of the Palestinian people.

The Court affirmed that 'Israel is not entitled to sovereignty over or to exercise sovereign powers in any part of the [Occupied Palestinian Territory] on account of its occupation. Nor can Israel's security concerns override the principle of the prohibition of the acquisition of territory by force' (para. 254). In determining the illegality of Israel's occupation, the Court looked to the manifold illegalities of Israel's policies and practices which leave no other conclusion available other than to recognise the occupation as unlawful.

In affirming that Israel's occupation is unlawful, the Court held that Israel is in violation of international law concerning the prohibition of the threat or use of force, including the prohibition of territorial acquisition resulting from the threat or use of force, as well as with the right to self-determination. The Court identified a multitude of violations constituting unlawful racial discrimination, including Israel's residence permit policy imposed on Palestinians in East Jerusalem; restrictions imposed by Israel on the movement of Palestinians; Israel's practice of punitive demolitions of Palestinian property; and Israel's planning policy in relation to the issuance of building permits. The Court ultimately concluded that Israel's legislation and measures constitute a breach of Article 3 of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), which prohibits racial segregation and apartheid.

The core character of the Israeli occupation has been the colonization of Occupied Palestinian Territory through military assault, fragmentation, and the transfer of Israeli nationals into occupied territory as settlers. Proclaimed and de facto annexation, consistently endorsed and implemented by successive Israeli governments, declare the ideology of Israel's occupation to be one of settler-colonialism in blatant violation of and disregard for the basics of international law.

Twenty years ago, on 9 July 2004, the Court issued its Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. This opinion was crucial in declaring Israel's settlement activities and the annexation and apartheid Wall's construction as unlawful, specifying Israel's legal obligations to cease these actions and make reparations, while also urging Third States to ensure Israel's compliance and to take action to stop ongoing violations. Despite this clear directive, there has been no effective enforcement. Over the past two decades, the situation has deteriorated significantly: settlements have expanded, the Wall remains in place, East Jerusalem has become increasingly isolated, the West Bank has been fragmented into Bantustans, and Gaza remains cut off from the rest of the Occupied Palestinian Territory due to Israel's closure and blockade policies. Israel's ability to ignore that Advisory Opinion, and the failure of Third States to act to enforce the Court's findings, has had a direct and grievous impact on the Palestinian people.

This new Advisory Opinion comes against a scenario where Israel's settler colonialism and apartheid has brought to the forefront its genocidal nature. Repeated and ongoing genocidal massacres of Palestinians in Gaza amidst the total destruction of infrastructure in Gaza continues without respite. The Court, following South Africa's efforts at holding Israel to account for its ongoing violations of the Convention Against Genocide, has already in 2024 established the plausibility of Israel carrying out genocide against Palestinians in Gaza. Having already in 2024 ordered Israel, on three different occasions, to take all measures within its power to stop with immediate effect all genocidal acts in Gaza, Israel has, following the precedent set subsequent to the 2004 Advisory Opinion, blatantly ignored the provisional measures orders issued by the ICJ.

Accordingly, we call on the Member States of the Human Rights Council and all members of the international community to:

- i. Uphold your legal obligation to prevent, end, and refrain from aiding or assisting Israel's ongoing genocide against the Palestinian people in Gaza;
- ii. Ensure that Israel fully and immediately complies with the three provisional measures orders issued by the ICJ in the case of South Africa v. Israel;

- iii. Fully comply with UN Human Rights Council resolution A/HRC/55/L.30 calling upon on all States “to cease the sale, transfer and diversion of arms, munitions and other military equipment to Israel [...] and to refrain, in accordance with international norms and standards, from the export, sale or transfer of surveillance goods and technologies and less-lethal weapons, including “dual-use” items”;
 - iv. Act promptly and decisively to implement the ICJ's Advisory Opinion on the Legal Consequences Arising from Israel's Policies and Practices in the Occupied Palestinian Territory, including East Jerusalem; and
 - v. Reconstitute the UN Special Committee against Apartheid and the UN Centre against Apartheid as critical steps towards ending Israel's institutionalized impunity, settler-colonialism and apartheid.
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