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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by Palestinian Centre for Human Rights, Al Mezan Centre for Human Rights, Al-Haq, Law in the Service of Man, Arab Organization for Human Rights, International Association of Democratic Lawyers (IADL), 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.

[22 August 2013]

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

Closure and accountability

Collective punishment

Following the latest developments in the political crisis in Egypt and the deterioration of the security situation in North Sinai, the Egyptian authorities have frequently closed Rafah International Crossing Point. Although subject to limitations itself, the Rafah crossing has been the sole outlet for the movement of people from the Gaza Strip since the start of the Israeli-imposed closure.

The humanitarian situation in the Gaza Strip deteriorates on a daily basis. Israel, as the Occupying Power, is responsible for the wellbeing of the civilian population of the Gaza Strip. The current lack of access to Egypt highlights the critical need for the occupation to be ended and the illegal closure to be lifted.

In 1991, Israel began imposing restrictions on the movement of people and goods into and out of the Gaza Strip. This policy escalated to a total closure in mid-June 2007, cutting off 1.7 million individuals from the outside world. Palestinians are prevented from entering or leaving the Gaza Strip through Israel's border crossings, while severe restrictions have been placed on the import and export of goods.

In applying the closure, Israel has declared its intention to wage 'economic warfare'. This illegal policy constitutes a form of collective punishment of the civilian population, in violation of Article 33 of the Fourth Geneva Convention. This has been reaffirmed by human rights organizations, the International Committee of the Red Cross, and the UN International Fact Finding Mission which investigated the 31 May 2010 Israeli attack on the flotilla carrying humanitarian assistance to Gaza.

The right to freedom of movement

Article 12 of the International Covenant on Civil and Political Rights (ICCPR) guarantees the right to freedom of movement: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence and everyone shall be free to leave any country, including his own."

Despite their recognized right to move freely, Palestinians in Gaza are cut off from the West Bank and the outside world. This directly impacts on all aspects of their daily lives, including the right to education, family life, health care, and access to a court.

The state of health care facilities in Gaza continues to deteriorate under the closure policies, while severe restrictions are placed on patients seeking access to medical care in Israel or West Bank, in violation of Article 12 of the International Covenant on Economic, Social and Cultural Rights.

Students who wish to study in the West Bank are prevented from traveling there while students enrolled in programmes abroad often find themselves stuck inside Gaza due to border closures, missing out on all or part of their study. Their right to education - codified in Article 13 of the ICESCR - is blatantly violated by policies that separate them from their educational institutions.

Family is recognized as the “natural and fundamental group unit of society” by Article 23 of the ICCPR and therefore accorded protection by the Articles 17 and 23 of the ICCPR and Article 10 of the ICESCR. However, since the start of the closure, families have been separated between the Gaza Strip and West Bank, unable to visit each other, care for each other, attend funerals, or celebrate special occasions. Furthermore, in violation of the right to family life, Palestinian prisoners in Israeli jails are denied regular family visits.

Palestinians pursuing a legal claim before Israeli courts, such as the many victims of ‘Operation Cast Lead’, cannot meet with their Israeli lawyers or attend Israeli court sessions considering their claims. Israeli lawyers cannot effectively represent people from the Gaza Strip as they are unable to have their client’s signature on documents, provide advice to their clients face-to-face, gain access to the scene of the incident and collect evidence, and they cannot meet with eyewitnesses and experts in the Gaza Strip. Residents of the Gaza Strip are generally not permitted to enter Israel, even for the purpose of providing testimonies as a part of legal procedures, leading to the dismissal of cases.

According to requirements introduced in December 2012, by order of an Israeli court, a power of attorney (or any other document) for a civil case arising from the Gaza Strip is considered valid only if the signature of an Israeli diplomatic representative or consul appears on the back of the document or attached to it. Compliance with this procedure is impossible as claimants are generally prevented from travelling to Israel, and Israel does not provide any consular or diplomatic services to residents within the Gaza Strip.

Shortages

Since the June 2007 escalation of the closure, three out of five border crossings have been shut down, leaving one operating for goods (Karm abu Salem) and one for pedestrians (Erez). This has seriously decreased the potential amount of goods that can cross the border on a daily basis. Furthermore, Israel’s authorities have further restricted the number of trucks allowed to cross.

The lack of imports has led to critical shortages in basic supplies, such as medicines, construction materials, fuel, and cooking gas. Gaza suffers from frequent power outages, as there is not enough fuel to operate Gaza’s power plant. The lack of construction materials hampers the reconstruction of houses, hospitals and public service facilities, further aggravating the impact of Israel’s military offensives against the Gaza Strip.

Goods imported into the Gaza Strip through tunnels between Egypt and Gaza, especially foodstuffs, medicines, fuel, construction materials and cars, have spared the Gaza Strip the breakdown of all vital sectors.

Economic collapse

The near-total ban on exports has led to a collapse of the local economy. The unemployment rate in the Gaza Strip has reached 33% (third quarter of 2012) according to the Palestinian Ministry of Labor’s estimations. Approximately 40% of the population lives below the poverty line, leading to secondary problems such as food insecurity and malnutrition.

Freedom of movement within the Gaza Strip

In addition to the border closures, the Israeli military has imposed movement restrictions within the Gaza Strip, denying farmers, fishermen, scrap collectors and their dependents access to their sources of livelihood.

In 2009, Israel announced the establishment of a 'buffer zone' - an area out-of-bounds to Palestinians - along the land borders of the Gaza Strip. Although initially announced as extending 300 metres into Gaza, in reality this illegitimate restriction can extend as far as 1,500 meters. This is effectively an extended 'buffer zone', often enforced using live fire, which results in the loss of lives and damage to land and property. Attacks in the extended 'buffer zone' take the form of land incursions, often using bulldozers, or aerial bombardments. Due to the movement restrictions, Gaza's farmers are unable to access and benefit from 40% of the Strip's lands, 82% of its ground water, and 50% of its arable land.

At sea, Israeli naval forces ban Palestinian fishermen from fishing past six nautical miles off the Gaza shore. Palestinian fishermen are regularly attacked and/or arbitrarily detained by naval forces. In many cases of arrest, fishing boats and equipment are confiscated. Due to the imposed movement restrictions and military attacks, fishermen are prevented from carrying out their work, thereby denied access to 85% of their potential income source due to the limited fishing area.

Israel's attacks against Gaza's farmers and fishermen, who do not pose any threat to Israeli soldiers, constitute a flagrant violation of international humanitarian and human rights law, including every person's right to life, liberty and security of person - as codified in Article 6 of the ICCPR - , and the right to work – under Article 6 of the ICESCR -, despite the fact that Israel is a State Party to both Covenants.

Upholding international law

We call upon the international community to intervene to pressurize the Israeli authorities to immediately lift the illegal closure, in particular by ceasing the border restrictions imposed on imports, exports and the movement of people. It must put stop the policy of collective punishment of the civilian population.

In particular, we call upon the High Contracting Parties to the 1949 Fourth Geneva Convention – in accordance with their obligation under Article 1 of the Convention to ensure implementation of the Convention's provisions - to remind Israel, as the Occupying Power, of its obligation towards the civilian population under Article 55 of the Convention, which states: "To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate....".

We further call on the Egyptian authorities to reconsider its decision to close Rafah crossing point in order to end the suffering of thousands of Palestinian who have been trapped in the Gaza Strip, Egypt, Cairo International Airport and other countries.

Palestinian Bar Association Al-Dameer Association for Supporting Prisoners and Human Rights NGO(s) without consultative status, also share the views expressed in this statement.