

Joint Submission to the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions on Israel's Continued Oppression of Palestinians Beyond Their Killing

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1. This submission is prepared in response to a call for inputs issued by the United Nations (UN) Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions for his upcoming report on the protection of dead persons and their human remains, including of victims of potentially unlawful killings.¹ The following joint submission places Israel's extrajudicial killings of Palestinians within the broader context of the Palestinian struggle, and examines Israeli policies and practices which systematically and institutionally oppress Palestinians, even after they are killed, namely by mutilation and withholding of their bodies, the use of mass graves especially during the ongoing genocide in the Gaza Strip, and digging of Palestinian graves.
2. Since its establishment, Israel has designed and implemented an institutionalised system of racial domination and oppression – reminiscent of apartheid – over the Palestinian people. This regime serves as a structural element in advancing Zionist settler-colonialism, blatantly violating the inalienable right of the Palestinian people to self-determination, including their right to return.² Israel's relentless pursuit of maintaining its settler-colonialism and apartheid has manifested in decades of unlawful policies and practices, including, *inter alia*, the excessive use of force and complete disregard of the Palestinian right to life, systematically undermining any form of Palestinian resistance against Israeli oppression.
3. In complete disregard of the provisional measures order issued by the International Court of Justice (ICJ) on 26 January 2024,³ Israel has continued its almost four-months-long genocide against Palestinians in Gaza, during which at least 27,365 Palestinians have been killed, the majority of whom are women and children and 66,630 Palestinians have been injured.⁴ It is further estimated that over eight thousand more are missing under rubble, presumably dead. Concurrently, between 7 October 2023 and 4 February 2024, the Israeli occupying forces (IOF) and settlers killed 373 Palestinians, including 95 children and three women, in the occupied West Bank, including eastern part of Jerusalem.⁵
4. Beyond the immediate aftermath of extrajudicial killings, Israel's policies extend to the desecration of Palestinian bodies. Over the years, Al-Haq has documented the mutilation of Palestinians by the IOF, including by slamming, picking up, and dragging Palestinians by bulldozers,⁶ and running over Palestinians.⁷ In one incident, on 28

¹ OHCHR, "Call for input: The protection of dead persons and their human remains, including of victims of potentially unlawful killings", available at: <https://www.ohchr.org/en/calls-for-input/2024/call-input-protection-dead-persons-and-their-human-remains-including-victims>.

² Al-Haq, "Israeli Apartheid: Tool of Zionist Settler Colonialism", 2022, available at: https://www.alhaq.org/cached_uploads/download/2022/12/22/israeli-apartheid-web-final-1-page-view-1671712165.pdf.

³ Al-Haq, Al Mezan, and PCHR, "Palestinian Organisations Welcome Landmark ICJ Provisional Measures Order Finding That Israel's Actions in Gaza Are Plausibly Genocidal", 26 January 2024, available at: <https://www.alhaq.org/advocacy/22548.html>.

⁴ OCHA, "Hostilities in the Gaza Strip and Israel | Flash Update #110", 4 February 2024, available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-110>.

⁵ According to the documentation of Al-Haq.

⁶ Al-Haq, "Rights Groups submit to UN Special Procedures on the Abuse of Muhammad Al-Na'em by an Israeli Bulldozer and the Injury of Palestinians in Gaza", 3 March 2020, available at: <https://www.alhaq.org/advocacy/16549.html>.

⁷ Al-Haq, "Action Alert: International Community Must Intervene to Prevent the Normalisation of Israel's Daily Killing of Palestinians", 27 January 2023, available at: <https://www.alhaq.org/advocacy/21158.html>.

September 2022, the IOF raided Jenin Refugee Camp, killed 27-year-old AbdulRahman Hazem, and reportedly used his blood to write on his body, in Hebrew, ‘the end’.⁸

5. The encroachment upon Palestinian dignity is further exemplified through Israel’s policy of withholding Palestinian bodies, including children, to be used as bargaining chips. Since 1967, Israel has applied an inconsistent policy of withholding the bodies and remains of hundreds of Palestinian and Arab combatants. The dead were buried in what Israel refers to as “cemeteries for enemy combatants,” mass graves located in areas designated by Israel as closed military zones.⁹ Palestinians refer to these gravesites as the “cemeteries of numbers” for their shared characteristic of numbered placards meant to mark each corpse. According to the Jerusalem Legal Aid and Human Rights Center, 256 Palestinians are buried in the ‘cemeteries of numbers’, including one child, four women, and one prisoner.
6. In 2004, Israeli Attorney-General Menachem Mazuz issued a directive, stating that there may be “exceptional justifications” for withholding corpses including “a concrete prisoner exchange deal with enemy groups”. For almost ten years following that directive, Israel temporarily halted the policy of mass withholding of bodies. Nonetheless, the policy to withhold bodies *en masse* resurfaced in October 2015.
7. The practice was further institutionalised towards the end of 2016 as the Israeli government scrambled to formulate a specific policy before any court decision on the issue. On 1 January 2017, the Israeli Ministerial Committee on National Security Affairs (the Cabinet) formally adopted the “uniform policy” on handling the corpses of Palestinians. Despite efforts contesting the constitutionality of Israel’s practice of withholding Palestinian bodies as bargaining chips based on the cabinet decision, in September 2019, the Israeli High Court of Justice decided, in a 4-3 majority, that Regulation 133(3) authorises the Israeli military to withhold bodies as bargaining chips, greenlighting the continued implementation of the cabinet decision. Similarly, in 2018, the Israeli Parliament passed a new amendment to the Israeli Counterterrorism Law (Amendment No. 3 2018), which was later upheld by the Israeli Supreme Court, granting Israel the power to withhold the bodies of Palestinian citizens of Israel and Palestinian Jerusalemites killed by the IOF.
8. As such, not only does Israel punish their families, in what amounts to prohibited collective punishment, and to torture and ill-treatment, as concluded by the Human Rights Committee,¹⁰ but further punishes the dead “by deeming their bodies disposable, ungrievable, [unmournable] and unworthy of a dignified treatment, [which constitutes]

⁸ Watan, “A Hebrew word written by the occupation on the body of the martyr Abdul Rahman Hazem with his blood”, 28 September 2022, available in Arabic at:

<https://www.watanserb.com/2022/09/28/%D9%83%D9%84%D9%85%D8%A9-%D8%B9%D8%A8%D8%B1%D9%8A%D8%A9-%D9%83%D8%AA%D8%A8%D9%87%D8%A7-%D8%A7%D9%84%D8%A7%D8%AD%D8%AA%D9%84%D8%A7%D9%84-%D8%B9%D9%84%D9%89-%D8%AC%D8%AB%D8%A9-%D8%A7%D9%84%D8%B4%D9%87/>.

⁹ Hanadi Qawasimi, “Cemeteries of numbers: Israel takes revenge on Palestinian corpses,” The New Arab, 28 November 2014, available at: <https://www.newarab.com/analysis/cemeteries-numbers-israel-takes-revenge-palestinian-corpses>.

¹⁰ Human Rights Committee, “Concluding observations on the fifth periodic report of Israel”, 5 May 2022, UN Doc CCPR/C/ISR/CO/5, para. 32.

a form of cruel dehumanization and othering that targets the erasure and expropriation of their memory and the disciplining of their community”.¹¹

9. Currently, the Israeli occupying authorities are withholding the bodies of 205 Palestinian residents of the West Bank, including 26 children, two women and 17 prisoners or detainees; indefinitely depriving them of dignified burial.¹² In addition, 28-year-old Waseem Abu Al-Heija, a Palestinian with Israeli citizenship, was killed on 29 January 2024, and his body has been withheld by the Israeli authorities since then.
10. Notably, upon releasing the bodies of Palestinians, Israel enforces restrictive measures that impede the proper burial process upon their return. These limitations extend to dictating the size, location, timing, and attendance of the burial ceremony, further exacerbating the already profound injustices imposed on the bereaved Palestinian families.
11. Moreover, Israel has, since 7 October 2023, been withholding the bodies of hundreds of killed Palestinian residents of the Gaza Strip, with the exact count remains unverifiable, given the constraints imposed by Israel. Notably, as of time of writing, a total of 291 unidentified, decomposed bodies of Palestinian residents of Gaza who were killed and their bodies withheld, have had their bodies released by Israel and were consequently buried in Gaza in mass graves.¹³
12. Furthermore, especially in IOF-deployed areas, where danger is compounded, the bodies of thousands of killed Palestinians, including women and children, remain trapped under the rubble, as the IOF prevents rescue and medical teams from reaching these areas, leaving the bodies to decompose. PCHR documented the killing of 36 members of Abdel-Ghafour family in Al-Satar Al-Gharbi in Khan Younis by an Israeli airstrike on their house on 7 December 2023. As of the time of writing, medical and rescue teams are unable to reach the area, in another manifestation for the lack of respect for the dignity of the dead and their families.¹⁴ Moreover, Palestinian bodies that could be retrieved from beneath the rubble or fatally shot by the IOF had to be buried in the closest available locations – such as gardens, marketplaces and roadway medians (central reservations).¹⁵
13. The burial of Palestinians, often unidentified, in mass graves remains a common practice in Gaza since 7 October 2023, due to the extensive and unprecedented level of Israel’s killing.¹⁶ Hospital courtyards have been transformed into grim scenes of mass burial. For example, Al-Shifa Hospital’s staff dug a mass grave for the remains of 179

¹¹ Al-Haq, “Joint submission to EMRIP and UN experts on the Israeli policy of withholding the mortal remains of indigenous Palestinians”, 22 June 2020, available at: <https://www.alhaq.org/advocacy/17033.html>.

¹² According to the documentation of Jerusalem Legal Aid and Human Rights Center.

¹³ According to the documentation of Jerusalem Legal Aid and Human Rights Center.

¹⁴ PCHR, “This is the story of 40 days of siege in which I lost 36 members of my family,” 22 January 2024, available in Arabic at: <https://pchrghaza.org/ar/%D9%87%D8%B0%D9%87-%D9%82%D8%B5%D8%A9-40-%D9%8A%D9%88%D9%85%D9%8B%D8%A7-%D9%85%D9%86-%D8%A7%D9%84%D8%AD%D8%B5%D8%A7%D8%B1-%D9%81%D9%82%D8%AF%D8%AA-%D9%81%D9%8A%D9%87%D8%A7-36-%D9%81%D8%B1%D8%AF%D9%8B/>.

¹⁵ Al-Haq, Al Mezan, and PCHR, “Civilians Trapped Under the Rubble: Medical and Rescue Teams Denied Access to IOF-Deployed Areas”, 17 December 2023, available at: <https://www.alhaq.org/advocacy/22385.html>.

¹⁶ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #48”, 23 November 2023, available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-48>.

Palestinians whose bodies were decomposing.¹⁷ On 24 January 2024, it was reported that medical staff of the Nasser Hospital, which remains besieged under Israeli fire as of time of writing, are compelled to dig graves within the hospital premises to cope with the anticipated surge in killings and the need to manage burials.¹⁸ Similarly, the Palestine Red Crescent Society reported on 1 February 2024, that they had buried five people in Al-Amal Hospital's courtyard, bringing the total number of Palestinians buried in the hospital courtyard to 15 since the start of the ongoing siege of the Hospital, as this was necessitated due to their inability to move to the cemetery amid continued bombardment nearby.¹⁹

14. The Israeli military have also excavated and exhumed a mass grave in Kamal Adwan Hospital where 26 Palestinian bodies had been buried.²⁰ In an interview with CNN, Hossam Abu Safiya, Head of Paediatric Services at Kamal Adwan Hospital, recalled, “[t]he soldiers dug up the graves this morning and dragged the bodies with bulldozers, then crushed the bodies with the bulldozers . . . I have never seen such a thing before”.²¹
15. This practice was not isolated, as on-the-ground reports expose consistent occurrences across the Gaza Strip during Israel's genocidal military campaign, as the targeting of Palestinian lives and memories is evident through, *inter alia*, the bombing and bulldozing of graveyards and cemeteries. As of 14 December 2023, Israeli ground forces, during their incursion into the northern Gaza Strip, have either damaged or completely destroyed a minimum of six cemeteries, according to satellite imagery and video analysis by The New York Times.²² Since then, such targeting has continued. For example, it was reported that the IOF exhumed graves in the Khan Younis cemetery, southern Gaza, on 22 January 2024.²³
16. This pattern of desecrating Palestinian cemeteries is not a new practice, as Israel had previously engaged in similar actions in al-Yousofiyya Cemetery in Jerusalem in 2021 for the purposes of establishing a national park over parts of the cemetery;²⁴ underscoring a disturbing trend of disregarding the sanctity of Palestinian lives and memories.

¹⁷ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #40”, 15 November 2023, available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-40>.

¹⁸ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #102”, 25 January 2024, available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-102>.

¹⁹ X, @PalestineRCS, 1 February 2024, available at: <https://twitter.com/PalestineRCS/status/1753125875690709409>.

²⁰ Al-Haq, Al Mezan, and PCHR, “Palestinian Human Rights Organisations Condemn the Serious Israeli Violations at Kamal Adwan Hospital in Northern Gaza”, 21 December 2023, available at: <https://www.alhaq.org/advocacy/22388.html>.

²¹ CNN, “Doctors accuse Israeli troops of desecrating bodies and shooting civilians at hospital Israel says was Hamas ‘command center’”, 23 December 2023, available at: <https://edition.cnn.com/2023/12/23/middleeast/kamal-adwan-hospital-gaza-israel-abuse-allegations-intl-cmd/index.html>.

²² New York Times, “Satellite Imagery and Video Shows Some Gazan Cemeteries Razed by Israeli Forces”, 14 December 2023, available at: <https://www.nytimes.com/2023/12/14/world/middleeast/gaza-cemeteries-damage-israel.html>.

²³ OCHA, “Hostilities in the Gaza Strip and Israel | Flash Update #99”, 22 January 2024, available at: <https://www.ochaopt.org/content/hostilities-gaza-strip-and-israel-flash-update-99>.

²⁴ Al Jazeera, “Palestinians vow to defend graves in Jerusalem cemetery”, 31 October 2021, available at: <https://www.aljazeera.com/features/2021/10/31/palestinians-vow-to-defend-graves-in-jerusalem-cemetery>.

17. Mass graves stand as a grim testament to Israel's colonial oppression against Palestinians since its establishment. During the 1948 *Nakba*, Zionist militias and the Israeli military engaged in mass executions, resulting in the burial of thousands of Palestinians in mass graves scattered throughout historic Palestine. A notable incident occurred in the Palestinian village of Tantura, where several mass graves were discovered following the massacre carried out by Zionist militias on 22-23 May 1948.²⁵
18. While Israel bears the foremost legal obligation to thoroughly investigate and prosecute alleged international crimes and human rights violations committed by its military, extrajudicial killings, as well as other crimes, are perpetuated by a system of impunity, which shields Israeli perpetrators from accountability. Israel's investigatory framework falls short of meeting the universally recognised international legal standards of independence, effectiveness, promptness, and impartiality, casting a shadow over the pursuit of justice. As a way of example, the Military Advocate General (MAG), the key figure within the Israeli investigatory mechanism, "performs a 'dual role': It provides the military with legal advice prior to and during military operations and subsequently decides whether to initiate a criminal investigation".²⁶
19. MAG's handling of the hundreds of criminal complaints submitted by organisations regarding the killing, and serious injury, of Palestinians by the IOF during previous military aggressions on Gaza or the Great March of Return, as well as the effective sanctioning of violations of peremptory norms of international law by Israeli courts, underscore Israel's unwillingness and inability to undertake genuine and meaningful investigations into the alleged commission of serious international crimes.²⁷ Moreover, Palestinians subjected to arrest undergo prosecution in military courts, where the conviction rate is almost 100%,²⁸ while the likelihood of a complaint regarding harm inflicted on Palestinians by an Israeli occupying soldier resulting in an indictment is a mere 0.87%.²⁹ Indeed, it is clear that the Israeli judicial system is itself a tool by which the pervasive impunity imposed by Israel is maintained and entrenched.³⁰
20. In the words of the former Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967, Mr Michael Lynk, "[t]he enemies of accountability are impunity and exceptionalism".³¹ In a context of institutionalised

²⁵ Adalah and Forensic Architecture, "Execution and Mass Graves in Tantura, 23 May 1948", 24 May 2023, available at: <https://forensic-architecture.org/investigation/executions-and-mass-graves-in-tantura-23-may-1948>

²⁶ Al Mezan and Adalah, "Gaza 3 Years On: Impunity Over Accountability – Israel's unwillingness to investigate violations of international law in the Gaza Strip" 28 August 2017, available at: <http://mezan.org/en/uploads/files/15039098601678.pdf>.

²⁷ PCHR and B'Tselem, "Unwilling and Unable Israel's Whitewashed Investigations of the Great March of Return Protests," 1 December 2023, available at: <https://pchr.org/en/unwilling-and-unable-israels-whitewashed-investigations-of-the-great-march-of-return-protests/>.

²⁸ OHCHR, "'Non-Visit' to the occupied Palestinian territory", available at: <https://www.ohchr.org/sites/default/files/documents/countries/palestine/sr-selfdetermination/2023-02-27-Non-Visit-TPs.pdf>.

²⁹ +972 Magazine, "The odds of a violent Israeli soldier facing charges? Under 1 percent", 29 December 2022, available at: <https://www.972mag.com/israeli-soldiers-impunity-yesh-din/>.

³⁰ Al-Haq, "Palestinian, Regional, and International Human Rights Organisations Submit Joint Report on Accountability to UN Special Rapporteur", 3 June 2020, available at: <https://www.alhaq.org/advocacy/16931.html>.

³¹ OHCHR, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", 21 October 2019, UN Doc A/74/507, para 29.

Israeli impunity, Third States act as direct enablers of serious breaches of international law by treating Palestine as an exception to the implementation of international law.

21. In light of the above, we urge the Special Rapporteur to:

- Recognise that Israel's systematic and institutionalised excessive use of force and withholding of bodies contribute to the maintenance of Israel's settler-colonialism and apartheid;
- Address the ongoing Israeli genocide against Palestinians in Gaza, including the high level of killings, which forced the reliance on mass graves, denying Palestinians safe and dignified burial, and the Israeli military's digging of cemeteries; and
- Urge UN Member States to reconstitute the UN Special Committee against Apartheid and the UN Centre against Apartheid as critical steps towards ending Israel's institutionalised impunity, settler-colonialism and apartheid.