

GICJ REPORT

28th Special Session of the Human Rights Council on the Deteriorating Human Rights Situation in the Occupied Palestinian Territory, including East Jerusalem



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18 May 2017, Palais des Nations, Geneva

Introduction

The Twenty-Eighth Special Session of the Human Rights Council on the deteriorating human rights situation in the Occupied Palestinian Territory, including East Jerusalem, was held on Friday 18 May 2018 at 10 a.m. in Room XX at the Palais des Nations. This Special Session was convened to vote on Resolution S-28/1.

At the conclusion of the meeting, the resolution was passed with 29 members voting Yes, 14 abstentions and two against (United States of America and Australia).

This special session was convened due to the rapid escalation in violent attacks against Palestinian protesters during the Great March of Return demonstrations and specifically the excessive use of lethal force by Israeli's army against the demonstrators. These demonstrations began on the 30th of March 2018 and were scheduled to continue until the 15th of May, the *Nakba*. *Nakba*, Arabic for catastrophe, marks the day that Palestinians were expelled from their land due to the creation of Israel in 1948. In particular the attacks by Israeli forces on Palestinian protester, which were deemed excessive.



*Black balloons launched by Palestinian demonstrators to mark the 70th Anniversary of Nakba
[dailymaverick.co.za]*

The spark that lit the flames of the protest was caused by the United States, who chose the 14th of May, the eve of the *Nakba* to move their embassy from Tel Aviv to Jerusalem, cementing their recognition of Jerusalem as Israel's capital. Although this move has been condemned internationally, and is contrary to several UN Resolutions, the United States chose to go ahead with the move.

Demonstrations took place at tent camps around 600-700 meters from the perimeter fence. A few hundred protesters, out of tens of thousands, have approached the boundary, burning tyres, throwing rocks, and using kites to fly flaming materials into Israeli territory. According to Israeli sources, protesters have also thrown fire bombs and other explosive devices. Israeli security forces responded with lethal force, using rubber bullets, tear gas (thrown and dropped by drones), and live ammunition.



Left: A Palestinian demonstrator throws a stone amidst clashes with Israeli forces. Right: Israeli forces launch tear gas into a crowd of protesters. [dailymaverick.co.za]

The protests on the 14th of May, were the most violent yet, causing the deaths of over 60 Palestinians, including 7 children, and over 2,770 injured. After the tragic attacks on May 14th the death toll since protests began on March 30th had already amounted to 108 killed, including 13 children, two members of the press, and three persons with disabilities – additionally, nearly 12,000 were wounded including over 600 children, 208 medical team members, and 22 members of the press¹. Geneva International Centre for Justice (GICJ) joins other non-governmental organisations and the leaders of the international community, including the UN High Commissioner for Human Rights and the UN Secretary General, in condemning the use of lethal force by Israeli security forces against mostly unarmed Palestinian protesters.

¹ Source: Dr. Ashraf Al Qidra, spokesman for the Palestinian Ministry of Health/Gaza.



A Palestinian protester is injured and carried off by medical personnel. [dailymaverick.co.za]

The majority of the international community has condemned Israel's actions, and the High Commissioner for Human Rights has stated that these killings may constitute - "wilful killings" – a grave breach of the Fourth Geneva Convention. Geneva International Centre for Justice joins the High Commissioner in calling for an international, independent and impartial investigation. Those responsible must be held accountable.

Statement by the High Commissioner for Human Rights

The UN High Commissioner for Human Rights, **Mr. Zeid Ra'ad Al Hussein**, delivered a statement at the opening of the 28th Special Session. He noted the call for this session recalling the recent attacks in Gaza that resulted in 87 Palestinians killed, including children and over 12,000 injured with scores by live ammunition. He went to note that the most tragic of events took place on May 14th where "43 demonstrators were killed by Israeli forces" and over 1,300 demonstrators were shot by live ammunition in the back, head, chest, and limbs despite being unarmed.



Rubber-coated steel bullets and tear-gas canisters were also used and 17 other protesters were killed outside the context of demonstration spots.

Mr. Hussein also noted the response by an Israeli military spokesperson and Israeli Prime Minister Benjamin Netanyahu, who claimed that Hamas paid demonstrators and Israeli forces attempted to minimize casualties. However, he pointed out that despite the demonstrators who threw Molotov cocktails, launched stones, and flew burning kites into Israel, *"these actions alone do not appear to constitute the imminent threat to life or deadly injury which could justify the use of lethal force."*

The High Commissioner for Human Rights recalled the Council that Palestinians have the same rights as every other person in this world but are consistently deprived of the most basic of rights including their dignity and are being dehumanized – people in Gaza are fenced off and require an exit permit to enjoy some of these basic rights. He then illustrated the deteriorating human rights situation as demolitions of private property and punitive demolitions continue and vulnerable communities such as Bedouin and small villages face high risks of human rights violations. Palestinian children also face detentions by Israeli forces and Mr. Hussein said, *“I also deplore the widespread and unprincipled use of detention without trial – described as “administrative detention” – and violations of fundamental fair trial guarantees.”* He also pointed out there is a little to no confidence in the Israeli justice system as most perpetrators are not held accountable.

“Nobody has been made safer by the horrific events of the past week.”

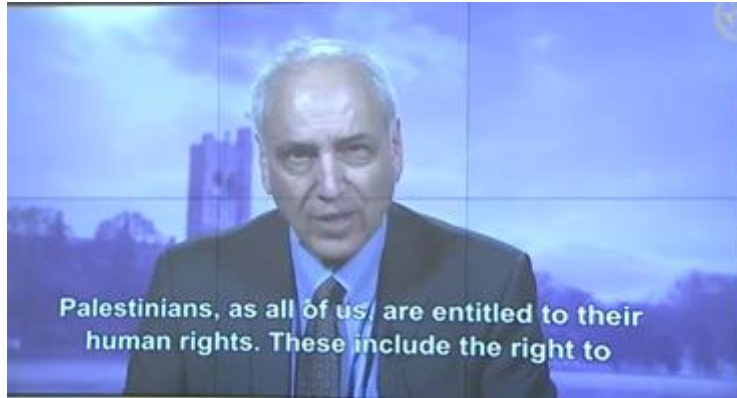
On this note the High Commissioner endorsed calls by member states for an international, independent, and partial investigation. He also put the perpetrators on notice as he questioned what type of person shoots to kill someone who is unarmed and is not an immediate threat – and to what end will fear and hatred lead to especially when manufactured into violence and human suffering.

In closing, Mr. Zeid Ra’ad Al Hussein called for an end to the occupation in order for the people of Palestine to be liberated and will put an end to the violence and insecurity. In addition, Israel must act in accordance with its international obligations while re-iterating Palestinians’ “right to life, their right to security of the person and rights to freedom of assembly and expression” and also made special mention with regards to right to health and protection and security of children.

[Video statement by Special Rapporteur on the human rights situation of human rights in the Palestinian territory occupied since 1967](#)

Mr. Micahel Lynk, the Special Rapporteur (SR) on the situation of Human Rights in the Occupied Palestinian Territory, addressed the Council via video statement also noted the recent violent events in Gaza over the past two months. He referred to the current situation in Gaza as utterly dire. He stated that the people currently living there are not met in their ‘human demands of freedom, justice and the right to enjoy the fruits of life’. Instead, they are leading lives of despair.

Regarding the recent protests, the SR reminded the HRC that the overwhelming majority of the protesters in Gaza have been committed to non-violence protests and are only armed with oldest human aspiration: to live free in one’s own land.



He places the responsibility for the 11-year-old travel (land, sea, and air) and economic blockade that has strangled the Gazan economy and society with the Israeli government, occupying force. Israel Defence Forces has ignored the repeated calls of the international community. This has led to the death of over 100 Palestinian protesters over the past seven weeks as Israeli forces fired live ammunition into crowds who were demonstrating.

“Responsibility as well rests with the international community. It is you who bears the ultimate obligation for ensuring that Israel respects all of its many unmet obligations under international law.”

Moreover, he said that Hamas, the Palestinian Authorities and Egypt are also responsible for the dire situation in Gaza; they must also fulfil their obligations to the people of Gaza. Lastly, he underlined that the international community should ensure that Israel respects international law.

Finally, he mentioned Israel’s excessive use of force, ‘willfull killing’ and ‘wilfull causing of serious injury to body and health’ in their response in the recent Palestinian protests, creating an asymmetrical situation. To this end he called for the independent and impartial investigation of the killings in these protests because impunity is not an option.

Concerned countries



The representative of **Israel** was given the floor and said that this Council has reverted to its worst form of anti-Israeli obsession. She claimed that this Special Session, the proposed resolution, and recommendation for a Commission of Inquiry (COI) is politically motivated and maintained that Israel did not view the people of Gaza as enemies. Moreover, she said that the occupation of Gaza is a myth as Israel disengaged from Gaza in 2005.

With regards to the outbreak of violence on May 14th, Israel accused Hamas of cynically exploiting protesters and instigating violence against Israel. She also said that member states have been fooled into believing the protests are peaceful as they carry knives and launch Molotov cocktails. This Special Session has succeeded in empowering Hamas and has rewarded their strategy of using human shields; in addition, the representative went on to provide examples of Palestinian authorities and Hamas leaders who professed the protests were non-peaceful. She maintained that Israel is defending itself

against explosives, Molotov cocktails, and armed terrorists. To this end, Israel is also conducting impartial investigations into accusations and suspicions of alleged wrong-doings.

The representative of the **State of Palestine** was then given the floor who welcomed and thanked the convening of this Special Session. To begin with he recalled the illegal declaration by the US regarding Jerusalem, which is a violation of international law, Universal Declaration, the International Covenants, and the Geneva Conventions; he also condemned the killing of protesters who demonstrated who asked for freedom from occupation. Secondly, he underlined that Palestine was initially hesitant about the special session. But after attempts with the Security Council failed, they saw no other option.



Despite calling for independent investigations into the events of 30 March nothing took place. Thus, he re-iterated the need for an investigation into the events of 14 May in which he claimed that none of the Palestinian protesters used a fire weapon or lethal weapon, which warrants an investigation to reveal the truth. He went on to point out that an Israeli authority made claims that the shootings were intentional and not in self-defence. Moreover, he calls Israel's justification of its response to the attacks (right to self-defence) a continuous attempt to attack international law.

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Interactive Dialogue

The **Organization of the Islamic Cooperation (OIC)** represented by Pakistan also expressed strong condemnation on the disproportionate use of force, use of tear gas shells and live ammunition on innocent civilians protesting decades of oppression and occupation and the illegal US embassy relocation. The OIC said this move is dangerous and contradicts international law including the Geneva Convention (IV) and against all UNSC, GA, and HRC resolutions. The US has encouraged violations against Palestinian people and these are the worst fears expressed by OIC on negative consequences regarding measures taken to strip Palestinians of their rights. The OIC urged Israel to cease the use of excessive force and urged the international community to unify and enact an effective response strategy so that liberty and justice can be accorded to the people of Palestine. Lastly, the OIC called on the international community to fulfil its responsibility towards protecting Palestinian people and ending the military occupation of Palestine.





The **Non-Aligned Movement (NAM)** represented by Venezuela expressed concern over the grave situation and condemned in the strongest terms the use of indiscriminate and unproportioned use of force and that these attacks were violations of international law, IHL, and IHRL and also condemned the illegal decision by the US to declare Jerusalem as capital of Israel and subsequently relocate its Embassy. NAM expressed further concern over future measures to further annex the city as such provocations will also heighten existing tensions. The actions by Israel violate Article 147 of the Geneva Convention (IV) including war crimes.

The African Group, represented by Togo, re-iterated its solidarity with Palestinian people and called for a long-standing solution. The African Group is deeply concerned about the situation in Gaza and encourages restraint by all parties. It also condemned the deaths on unarmed civilians including women and children and called on the International community to take up its role regarding protection of Palestinian people. Lastly, the African Group called for a Commission of Inquiry (COI) to ensure accountability and prohibit impunity.



The Arab Group, represented by the United Arab Emirates (UAE), supports the convening of this Special Session on extenuating circumstances faced by Palestinian people and strongly condemned the repression of Palestinian protesters. This situation that has been on-going for 10 years is tantamount to unlawful punishment against Palestinian people, and therefore, called on the international community to take immediate action to end the continuous massacre and hold the occupying force to account. Finally, the Arab Group expressed support to establish an international transparent inquiry.

The European Union (EU), represented by Bulgaria, expressed concern over the increase of violence and use of excessive force, especially against civilians, including live fire. The EU said that Israel should respect the Right to Assembly and the Principle of Proportionality in the use of force when defending its security interests. As well, Hamas has a responsibility to prevent provocations and ensure that the protests remain non-violent. The EU called for respect of international law, IHL, IHRL, and accountability by states and non-state actors.



Most member states re-iterated further condemnation of the use of excessive force and proportionality of the attacks by Israel against Palestinian protesters, rejected the illegal US Embassy move to Jerusalem and called for an independent, international, and transparent inquiry. Some states such as **Mexico** urged that Israel comply with international law, IHL, and IHRL; **Ecuador** highlighted that Israel as an occupying power violated all UN resolutions regarding the US Embassy to Jerusalem and expressed concern over this manifestation of violence that has lasted for decades and as an occupying power needs to respect obligations regarding ensuring human rights to all peoples under

its jurisdiction and expressed concern over civilian health centres, schools, and homes that were destroyed due to this new manifestation of conflict and also said there is a need for restitution of land; **Saudi Arabia** unequivocally rejects the US Embassy move stating that this demonstrates bias against Palestinians; **Guyana** pointed out to specific resolutions including Resolution 181 of 29 November, 1947 that the US has violated regarding its Embassy move and other member states accused Israel of attacking protestors who were against living under occupation and then accusing the protestors to excuse themselves and vilifying them. They also noted that the killings were carried out without distinction of women, children, elderly, and other vulnerable groups and called for investigations into the attacks of 14 May and against Palestinian protestors since the launch of 'Great March of Return'.

Noteworthy statements:

South Africa, who has been very vocal in supporting the Occupied Territories of Palestine (OPT), said that as an international community we should hold each other accountable for our actions; therefore, condemning Israel for their actions is the legitimate stance to take and is in no way anti-Semitic. The representative from South Africa also noted that they recognize and understand the occupation as they have experienced the same plight under Apartheid rule, which was instigated by bullies who at the end of the day are cowards.

When the **United States** took the floor, they claimed that this 28th Session was siding against Israel and siding with Hamas. The representative said that Israel has a right to defend itself and condemned Hamas and other groups for instigating the violence that broke out on 14th May. They claimed that Hamas were sending burning flags with swastikas over the wall to Israel and that they are to blame for the outbreak of violence. Even still, they went to say that these attacks are small in scale as compared to other human rights situations across the globe. The US also claimed that they want peace for Israel and Palestine but the bias of this Human Rights Council prevents this outcome and that this session is a demonstration that the Council is broken.

However, several member states such as **China** maintain that the US Embassy relocation undermines peace efforts adding that the move to Jerusalem touches on national and religious feelings and highly complicates an already sensitive issue. China also laid out a 4-point proposal on settling the Palestine/Israel issue. 1. Firmly advance on a political settlement based on two-state solution. 2. Uphold the concept of a common cooperative, integrated, and sustainable security. 3. Further, coordinate the efforts of the international community and strengthen synergy in the interest of peace. 4. Take an integrated approach with regards to settlement.

Venezuela sided with the Palestinians who were demonstrating for their rights and freedoms and like several other member states also condemned the illegal move of transferring the US Embassy to Jerusalem, which among others undermines all efforts to seek peace. They also said that accountability and reparations by the occupying power are warranted. **Australia** said that Israel has legitimate security concerns and has the right to protect its population but must ensure possible restraint of use of force. With regards to an inquiry into the attacks, they mentioned that all relevant parties should cooperate but also stressed on the merits of an independent inquiry. Australia, like others, also does not support any actions that diminishes the prospect of 2-state solution.

Statements by NHRIs and NGOs

While most National Human Rights Institutions (NHRIs) and Non-Governmental Organisations (NGOs) re-iterated condemnation of attacks by Israeli forces against Palestinian protesters a number of NGOs, with a similar position as the US, blamed Hamas for instigating the attacks and seeking to kill Jews and that the HRC should commend Israel Defense Forces (IDF) for saving lives (**UN Watch, World Jewish Congress**) instead of condemning them. Most NGOs were sympathetic to the protesters and victims and expressed much concern that children were among the dead and injured. Most NGOs mentioned the disproportionate and excessive and illegal use of force, which is a violation of international law, IHL, and IHRL by Israeli forces against Palestinian protesters and called for or supported an international, independent investigation or inquiry. There was also mention of UNSC Resolution 478 with regards to the status of Jerusalem and the illegal relocation of the US Embassy to Jerusalem; the shoot to kill orders from the highest level of authority was pointed out as being unlawful and there were numerous calls for legal accountability either by the ICC or through the establishment of a COI, including an open investigation into human rights violations committed by the occupying power.

Noteworthy statements:

International Commission of Jurists pointed out that the use of force is only applied strictly and when necessary to protect life and thus believes the use of force in against Palestinian protesters, contrary to Israel's statements, were wholly unjustified as excessive use of force was used against unarmed persons who did not pose a threat to life. **Cairo institute** delivered a personal story of a journalist whose both legs were amputated due to an Israeli sniper shot despite him being hundreds of meters away from a fence erected by Israel. They also called on the Council to investigate Individual perpetrators including those with command responsibilities. **Al Mezan Centre for Human Rights** pointed out that Israeli's open fire policy is illegal and excessive as evidenced by the high number of deaths and injuries. They brought to attention that in a court ruling Israel gave a response that it was to invent a new legal framework that would "*justify the killing of persons based on the fact that they are part of a crowd of protesters and regardless of whether or not they possessed an immediate threat to anyone*". They believe that the Israel is not serious about shooting of protesters and the ICC should open a full investigation. **Palestinian Return Centre** said that on the ground evidence depicted Israeli soldiers gunning down peaceful protesters on the Gaza border and believes that US Embassy move will boost Israel's land grab policy. **Al-Haq** in a joint statement, noted a statement in light of the attacks against Palestinian protesters by the IDF that said, "Nothing was carried out of control; everything was accurate and measured, and we know where every bullet landed". This along with other measures and actions demonstrates that Israel is accountable to no one.

Geneva International Centre for Justice (GICJ) delivered a [joint statement](#) with **International Organisation for the Elimination of All Forms of Racial Discrimination (IAFIRD)** and delivered one on behalf of **International-Lawyers.Org**. The statements strongly condemned the attacks against Palestinian protesters especially on March 30th and May 14th and called to attention the overall deteriorating situation in Occupied Palestine. They reminded the Council of the illegality of the US Embassy relocation from Tel-Aviv to Jerusalem according to UN resolutions and the illegal use of force against civilians according to international laws, conventions, and norms. Finally, they called on the international community to take all necessary action towards ending the illegal occupation and urged the Council to investigate whether Israel is committing genocide against the people of Palestine. The full text of both statements can be found in the Annex.



Closing Remarks by concerned countries

The President of the Council gave the floor to the countries concerned to respond to the discussion and give any closing statements – **Israel** re-iterated that Hamas is continuing to commit war crimes and atrocities and that no resolution by the HRC will be taken seriously (considering bias against Israel) and that Resolution S-28/1 is void of any sense and deserves nothing else than being “torn apart”. The representative of **Palestine** noted that law is not negotiable and that Palestine themselves are willing and ready to cooperate with investigations into the attacks carried out during the ‘Great March of Return’; they said that Israel should be modest with regards to abiding by international law and expressed regret that Israel will not cooperate and have already decided not to comply with current and future resolutions. The representative also noted that they would not be willing to allow investigations by Israel noting examples where such investigations were tarnished. They also noted by way of example that confirmed killing sprees usually enjoy impunity or are excused away and that Israel has a problem and it is up to the international community to fix their problem.

Voting and explanation of vote on Resolution S-28/1

While most countries explained would vote ‘Yes’ on Resolution S-28/1 explaining that the attacks against Palestinian protesters deserved investigations by an independent body such as a Commission of Inquiry (COI) due to reports demonstrating use of excessive force and suggesting war crimes **Australia** took the floor and said this resolution is one-sided, is bias, and prejudices the outcome; moreover, it makes no mention of Hamas and is over-reaching. Hungary also claimed that the drafting was one-sided and proposals by the EU were not taken into consideration making it unbalanced. They said the situation in Gaza must be viewed in its full context and while Palestine has the right to peaceful assembly throwing rocks and Molotov cocktails is not peaceful. The resolution must call to investigate the responsibility of all parties including non-state actors such as Hamas, which the current resolution tries to hide. The **United Kingdom** and a number of other countries also felt that the resolution was one-sided and they were concerned about the role of Hamas.

U.N.C. 2019

L.1 as orally revised - Violations of international law in the context of large-scale civilian protests in the Occupied Palestinian Territory, including East Jerusalem

	AFGHANISTAN	ABST	GERMANY	ABST	RWANDA
YES	ANGOLA	ABST	HUNGARY	YES	SAUDI ARABIA
NO	AUSTRALIA	YES	IRAQ	YES	SENEGAL
YES	BELGIUM		JAPAN	ABST	SLOVAKIA
YES	BRAZIL	ABST	KENYA	YES	SLOVENIA
YES	BURUNDI	YES	KYRGYZSTAN	YES	SOUTH AFRICA
YES	CHILE	YES	MEXICO	YES	SPAIN
YES	CHINA		MONGOLIA	ABST	SWITZERLAND
YES	COTE D'IVOIRE	YES	NEPAL	ABST	TOGO
ABST	CROATIA	YES	NIGERIA	YES	TUNISIA
YES	CUBA	YES	PAKISTAN		UKRAINE
YES	DEMOCRATIC REPUBLIC OF CONGO	ABST	PANAMA	YES	UNITED ARAB EMIRATES
YES	ECUADOR	YES	PERU	ABST	UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
YES	EGYPT	YES	PHILIPPINES	NO	UNITED STATES OF AMERICA
ABST	ETHIOPIA	YES	QATAR	YES	VENEZUELA (BOLIVARIAN REPUBLIC OF)
ABST	GEORGIA	ABST	REPUBLIC OF KOREA		

Voting – 2: NO; 29: YES; 14: ABSTENTION

Annex:

Joint statement of

**International Organisation for the Elimination of All Forms of Racial Discriminations (EAFORD)
and Geneva International Centre for Justice (GICJ)**

Delivered by Mr. Mutua K. Kobia

Thank you Mr. President,

EAFORD and Geneva International Centre for Justice strongly condemns the attacks on Palestinian protesters by the Israeli occupying forces and we urge the Council to launch an independent and transparent enquiry into these attacks.

It should be well noted that the plight of the Palestinian people did not begin on May 14th or March 30th but has been long-standing for several decades. This is due to non-compliance by Israel with UN resolutions.

We, therefore, call on the UN Security Council to institute Chapter 7 of the UN Charter with regards to the Israel-Palestine conflict, especially considering the severity and longevity of the occupation and the insistence of Israel of violating previous resolutions.

We also urge the Council and all other relevant stake-holders to recall Resolution 181 and Resolution 36/120 among others with regards to the US and other Embassy moves to Jerusalem in relation to the character and status of the Holy City of Jerusalem. This move is in violation of UN resolutions and its timing during the 70th Anniversary of Nakba only adds insult to injury to the plight and suffering of the people of Palestine.

To this end, we call on the international community to put pressure on Israel to comply with UN resolutions and ensure the protection of the human rights of the Palestinian people including the right to return and the right to association and peaceful assembly.

Finally, we urge the Council to take all necessary measures and action towards ending the illegal occupation and guaranteeing the Palestinian people their right to self-determination.

Thank you.

Statement of International-Lawyers.Org

Delivered by Ms. Madeleine Cowper - Geneva International Centre for Justice

Mr President, International-Lawyers.Org welcomes this special session investigating the situation in the Occupied Palestinian Territory.

The massacre that occurred on the 14th of May is another example of the war crimes committed by Israel against the Palestinian people during this long occupation. Under international law, people have the right to peaceful assembly and expression. In addition, international law prohibits the use of lethal force against civilians unless they participate directly in acts of hostility or pose a concrete risk to life. Participation in a demonstration does not, in and of itself, constitute an act of hostility or direct endangerment of life, and therefore does not justify the use of live bullets.

Palestinians have been subject to a variety of abuses of their human rights including extrajudicial killings and detentions, inhumane and violent treatment, denial of medical care, denial of free-movement and expression, the destruction of property, and unfairness in judicial proceedings. The shocking lack of

accountability for the crimes committed in Palestine is what has allowed and will allow these crimes to continue throughout the decades, unless urgent and definitive action is taken. Therefore, we urge the council to investigate whether Israel is committing genocide against the people of Palestine.

None of the violations can be adequately addressed without ending the illegal occupation and guaranteeing the Palestinian people their right to self-determination. Therefore, we reiterate our recommendations to the international community to spare no efforts to establish a just, comprehensive and lasting peace in the region by granting the Palestinian people their right to self-determination and to independence in their State of Palestine, with East Jerusalem as its capital, and their right to freely determine their political status and advance their economic, social, and cultural development.

Thank you, Mr President.

Geneva International Centre *for* Justice

Independent non-governmental organization



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