

EXECUTIVE SUMMARY

Israeli Apartheid: Tool of Zionist Settler Colonialism

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Coalition Organisations

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Dedication

We dedicate this report to the Palestinian people across Palestine and in exile struggling for liberation in the face of Israel’s settler colonial apartheid regime, including activists, organisers,

human rights defenders, and practitioners who continue to expose, challenge, and resist Zionist settler colonialism and Israeli apartheid in the pursuit of justice, dignity, and liberation.

1. Overview

Much has been written about apartheid and settler colonialism in Palestine in recent years, building on decades of scholarship, activism, and advocacy for Palestinian liberation. For over a century, Palestinians have opposed the ongoing Zionist settler colonial project in Palestine. Since 1948, Palestinians have endured an ongoing *Nakba* (catastrophe) of forced displacement, refugeehood, and exile; the denial of their right to return to Palestine; and an ongoing process of domination, foreign occupation, annexation, population transfer, and settler colonisation. Throughout historic Palestine, Palestinians have been systematically fragmented, dispossessed of their land and property, and discriminated against in nearly every area of life. Palestinians have been arbitrarily deprived of their life, liberty, human dignity, freedom of movement and residence; their right to family life and family unification; their human rights to adequate housing, health, and their collective right to freely dispose of their natural wealth and resources, denied their means of subsistence and the right to determine their political status and freely pursue their economic, social, and cultural development as integral components of their inalienable right to self-determination.¹

Palestinian scholars have long understood that Zionist settler colonialism, premised on the removal and replacement of the indigenous Palestinian people from the land, is an inherently racial project, which Palestinian scholar and diplomat Fayeze Sayegh described, as early as 1965, as akin to apartheid.² Such critiques of Israeli apartheid, notably by Palestinian scholars, have since been rooted in a rejection of Zionism as a form of racism and racial discrimination and as a tool of settler colonial domination.³ Building on these critical contributions, the last two decades have seen tireless activism, organising, and campaigning by Palestinians and allies around the world to challenge Israel's regime of occupation, colonialism, and apartheid. This ongoing mobilisation, at the grassroots level and in human rights advocacy, have led to mounting recognition by states, civil

¹ Articles 1(1), 6(1), 9(1), 12(1), 17(1), and 23(1), *International Covenant on Civil and Political Rights* (adopted 16 December 1966, entry into force 23 March 1976) 999 UNTS 171 (hereinafter 'ICCPR'); Articles 1(1), 11(1), and 12(1), *International Covenant on Economic, Social and Cultural Rights* (adopted 16 December 1966, entry into force 3 January 1976) 993 UNTS 3 (hereinafter 'ICESCR').

² Fayeze Sayegh, *Zionist Colonialism in Palestine* (PLO Research Centre, 1965) 22 and 27 <http://www.freedomarchives.org/Documents/Finder/DOC12_scans/12.zionist.colonialism.palestine.1965.pdf>.

³ Noura Erakat, 'Beyond Discrimination: Apartheid is a Colonial Project and Zionism is a Form of Racism' (*EJIL: Talk!*, 5 July 2021) <<https://www.ejiltalk.org/beyond-discrimination-apartheid-is-a-colonial-project-and-zionism-is-a-form-of-racism/>>. See also UN General Assembly, Resolution 3379 (XXX), UN Doc A/RES/3379 (XXX), 10 November 1975.

society, United Nations (UN) bodies and experts, scholars, and practitioners, that Israel has established an apartheid regime over the Palestinian people. Throughout two decades of advocacy in the national and international spheres, Palestinian human rights organisations have also conducted extensive legal research to determine the applicability under international law of the frameworks of apartheid and colonialism to the situation in Palestine.⁴

In this report, we analyse Israeli apartheid as a tool of Zionist settler colonialism. We do so in order to bring forward the eliminatory and population transfer logic of Israel's apartheid system and its effort to displace and replace the indigenous Palestinian people on the land of Palestine.⁵ Palestinians have advocated applying established decolonisation praxis in countering Israeli apartheid, recognising apartheid as a form of settler colonialism rather than pursuing a notion of 'liberal equality' without decolonisation.⁶ This view was endorsed in the first report of the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, who considered that a 'holistic examination of the experience of the Palestinian people as a whole' through the apartheid framework requires recognition of the illegality of the Israeli occupation and its settler colonial root causes.⁷ A decolonisation approach is central to the present report, which situates apartheid within the broader context of Zionist settler colonialism.

While we are encouraged by the growing global recognition of Israeli apartheid, we note that Zionist settler colonialism and its eliminatory and population transfer logic remain missing from recent analyses and reports on apartheid by Israeli and international human rights organisations

⁴ WCAR, NGO Forum Declaration (3 September 2001) <<https://www.hurights.or.jp/wcar/E/ngofinaldc.htm>>; Virginia Tilley (ed), *Occupation, colonialism, apartheid?: A re-assessment of Israel's practices in the occupied Palestinian territories under international law* (Human Sciences Research Council, 2009) 22 (hereinafter 'HSRC Study 2009') <<http://www.hsrc.ac.za/en/research-data/view/4634>>. See also Al-Haq, South African study finds that Israel is practicing colonialism and apartheid in the Occupied Palestinian Territory (4 June 2009) <<https://www.alhaq.org/advocacy/7207.html>>.

⁵ Patrick Wolfe, 'Settler colonialism and the elimination of the native' (2006) 8(4) *Journal of Genocide Research* 387; see also Patrick Wolfe, *Settler Colonialism and the Transformation of Anthropology: The Politics and Poetics of an Ethnographic Event* (Cassell, 1999) 1.

⁶ Lana Tatour, 'Why calling Israel an apartheid state is not enough' (*Middle East Eye*, 18 January 2021) <<https://www.middleeasteye.net/opinion/why-calling-israel-apartheid-state-not-enough>>; Soheir Asaad and Rania Muhareb, 'Dismantle What? Amnesty's Conflicted Messaging on Israeli Apartheid' (*Institute for Palestine Studies*, 15 February 2022) <<https://www.palestine-studies.org/en/node/1652565>>; see also Rania Muhareb and Pearce Clancy, 'Palestine and the Meaning of Domination in Settler Colonialism and Apartheid' (2021) 6(6) *República y Derecho* <<http://revistaryd.derecho.uncu.edu.ar/index.php/revista/article/view/217/112>>.

⁷ UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 21 September 2022, UN Doc A/77/356, paras 9-10, see also para 74.

such as Yesh Din,⁸ B’Tselem,⁹ Human Rights Watch,¹⁰ and Amnesty International.¹¹ It is this gap that the present report seeks to fill.

In May 2021, the Unity *Intifada* (uprising) sparked renewed hope for a future free from all forms of oppression and domination in Palestine: a new chapter written by the Palestinian people themselves, ‘reuniting Palestinian society in all of its different parts; reuniting our political will, and our means of struggle to confront Zionism throughout Palestine.’¹² The Unity *Intifada* showed that despite decades of forced exile and fragmentation by the Israeli regime, the Palestinian people remain united in our struggle for liberation ‘in the face of racist settler colonialism in all of Palestine.’¹³ It is the ongoing *Nakba* of the Palestinian people that motivates this report and forms the basis of our understanding of Zionist settler colonialism and Israeli apartheid as structures of Palestinian dispersal, dispossession, discrimination, and domination. We remain convinced that without the complete and radical dismantling of Israeli apartheid and of Zionist settler colonialism, dignity, justice, liberation, and self-determination have no future in Palestine, or elsewhere on Earth.

1.1. An Ongoing Advocacy Campaign

For over two decades, Palestinian activists, organisers, and civil society have recognised and mobilised against Israel’s settler colonial apartheid regime. Since its founding in 1998, Palestinian human rights organisation BADIL has widely published and produced work on Israeli apartheid within the context of Zionist colonisation, also conducting extensive advocacy within the UN human rights system.¹⁴ In 2001, Palestinian organisations joined global civil society at the World Conference against Racism in Durban, where ‘Israel’s brand of apartheid and other racist crimes

⁸ Michael Sfard, *The Israeli Occupation of the West Bank and the Crime of Apartheid: Legal Opinion* (Yesh Din, July 2020) 26 <<https://www.yesh-din.org/en/the-occupation-of-the-west-bank-and-the-crime-of-apartheid-legal-opinion/>>.

⁹ B’Tselem, *A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid* (12 January 2021) <https://www.btselem.org/publications/fulltext/202101_this_is_apartheid>.

¹⁰ Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution* (27 April 2021) <<https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>>.

¹¹ Amnesty International, *Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity* (1 February 2022) <<https://www.amnesty.org/en/documents/mde15/5141/2022/en/>>.

¹² Open Letter, ‘The Manifesto of Dignity and Hope’ (*Mondoweiss*, 18 May 2021) <<https://mondoweiss.net/2021/05/the-manifesto-of-dignity-and-hope/>>.

¹³ *Ibid.*

¹⁴ See various issues of BADIL’s magazine, al-Majdal, including, notably Issue No 15, Autumn 2002, titled ‘Racism, Refugees and Apartheid,’ Issue No 33, Spring 2007, titled ‘Occupation, Colonization, Apartheid... Defining the Conflict,’ Issue No 38, Summer 2008, titled ‘BDS and the Global Anti-Apartheid Movement,’ Issue No 47, Autumn 2011, titled ‘Israel and the Crime of Apartheid: Towards a Comprehensive Analysis,’ Issue No 48, Winter 2012, titled ‘Israel and the Crime of Apartheid: The Vision of the Anti-Apartheid Struggle,’ for more *see* <<https://www.badil.org/publications/al-majdal>>.

against humanity’ were recognised in the NGO Forum Declaration.¹⁵ In 2002, the Palestinian grassroots Stop the Wall campaign began to challenge Israeli apartheid and the construction of the Wall in the occupied Palestinian territory.¹⁶ Critically, in 2005, a broad coalition of Palestinian civil society organisations issued the call for boycotts, divestment, and sanctions against Israel for its regime of settler colonialism, apartheid, and occupation against the Palestinian people.¹⁷

Building on this longstanding work, the present report, in particular, follows nearly four years of active research and advocacy by a coalition of Palestinian and regional human rights organisations. This report is published by Al-Haq on behalf of a leading coalition of Palestinian civil society organisations: Al-Haq Law in the Service of Man (Al-Haq), Addameer Prisoner Support and Human Rights Association (Addameer), Al Mezan Centre for Human Rights (Al Mezan), Al-Quds University ‘Community Action Center’ (CAC), Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), the Jerusalem Legal Aid and Human Rights Center (JLAC), the Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH), and the Palestinian Centre for Human Rights (PCHR). This group of Palestinian civil society organisations will be referred to as ‘the Coalition’ in this report. Over the past few years, many more organisations from Palestine and around the world have joined the global campaign against Israeli apartheid and various efforts by the Coalition to seek international recognition of this reality.¹⁸

Cumulative efforts of Palestinian human rights organisations and civil society have contributed to a mounting international law recognition of the applicability of the apartheid analysis to the experience of the Palestinian people as a whole. This has included advocacy before UN human rights treaty bodies and with various other mechanisms, such as the Russell Tribunal on Palestine, which concluded in 2011 that ‘Israel’s rule over the Palestinian people, wherever they reside, collectively amounts to a single integrated regime of apartheid.’¹⁹ Previously, in 2009, a landmark study published by the Human Sciences Research Council (HSRC) of South Africa, with the contribution of Palestinian human rights organisations Al-Haq and Adalah, concluded that the

¹⁵ WCAR, NGO Forum Declaration (3 September 2001) 98 <<https://www.hurights.or.jp/wcar/E/ngofinaldc.htm>>.

¹⁶ Stop the Wall, About us <<https://www.stophthewall.org/about-us/>>.

¹⁷ BDS Movement, Palestinian Civil Society Call for BDS <<https://bdsmovement.net/call>>.

¹⁸ See, for example, Al-Haq, Global Response to Israeli apartheid: A call to the UNGA from Palestinian and international Civil Society Organizations (22 September 2020) <<https://www.alhaq.org/advocacy/17305.html>>; see also, Al-Haq, Palestinian Civil Society Calls on the UNGA to Take Immediate and Effective Action to End Israel’s Apartheid Against Palestinians (21 September 2022) <<https://www.alhaq.org/advocacy/20624.html>>.

¹⁹ Russell Tribunal on Palestine, *Executive summary of the findings of the third session of the RToP* (7 November 2011) <<http://www.russelltribunalonpalestine.com/en/sessions/south-africa/south-africa-session-%E2%80%94-full-findings/cape-town-session-summary-of-findings>>.

international law frameworks of occupation, colonialism, and apartheid concurrently apply to Palestinians in the occupied Palestinian territory.²⁰

At the UN, Al-Haq, BADIL, and other Palestinian and regional human rights organisations, engaged critically with the reviews of Israel by the UN Committee on the Elimination of Racial Discrimination (CERD) in 2007, 2012, and 2019.²¹ In its Concluding Observations following these reviews,²² CERD found that Israeli policies and practices are inconsistent with Article 3 of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),²³ of which Israel has been a state party since 1979,²⁴ and which stipulates that:

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.²⁵

The Coalition's current campaign and research for this report began in 2019,²⁶ in the lead up to the review of Israel by CERD in December 2019. In November of that year, the Coalition presented a comprehensive joint parallel report to CERD, detailing Israel's breach of its obligation to prohibit and eradicate apartheid within its jurisdiction and territory of effective control, as required by Article 3 of ICERD. The submission detailed Israel's establishment of an institutionalised regime of systematic racial oppression and domination over the Palestinian people *as a whole*, constituting the crime of apartheid.²⁷ The joint parallel report and the Coalition's subsequent engagement with CERD Committee members in December 2019, together with

²⁰ HSRC Study 2009, 277-278; *see also* Al-Haq, South African study finds that Israel is practicing colonialism and apartheid in the Occupied Palestinian Territory (4 June 2009) <<https://www.alhaq.org/advocacy/7207.html>>.

²¹ *See* BADIL Staff, 'The UN Anti-Racism Committee Questions Israel's Policy of Apartheid in Israel and the OPT and Calls for Equality in the implementation of the Right of Return' (2007) *al-Majdal* 33, 48-52 <<https://www.badil.org/publications/al-majdal/issues/71.html>>; Noura Erakat and Rania Madi, 'UN Committee Concludes Israeli System Tantamount to Apartheid in 2012 Session' (2012) *al-Majdal* 49, 9-10, <<https://www.badil.org/publications/al-majdal/issues/89.html>>; Al-Haq *et al*, *Joint Parallel Report to the United Nations Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports* (10 November 2019) <<https://www.alhaq.org/advocacy/16183.html>> (hereinafter 'CERD Report').

²² UN CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel, CERD/C/ISR/CO/13, 14 June 2007, paras 22-23, 33-35; UN CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination: Israel CERD/C/ISR/CO/14-16, 3 April 2012, paras 10 (recalling CERD/C/ISR/CO/13), 11, 15, 24-27; UN CERD, Concluding observations on the combined seventeenth to nineteenth reports of Israel, 12 December 2019, UN Doc CERD/C/ISR/CO/17-19, paras 21-24 and 44.

²³ *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').

²⁴ UNTC, 'International Convention on the Elimination of All Forms of Racial Discrimination' <https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en>.

²⁵ Article 3, ICERD.

²⁶ Al-Haq, Al-Haq and Partners Send Joint Submission to the UN Committee on the Elimination of Racial Discrimination Ahead of Israel's Review (6 September 2019) <<https://www.alhaq.org/advocacy/15010.html>>.

²⁷ CERD Report.

partners from Palestinian civil society, including Adalah,²⁸ led to further recognition by the Committee that Israeli policies and practices, on either side of the Green Line,²⁹ are inconsistent with the prohibition of racial segregation and apartheid under the Convention. Accordingly, CERD called on Israel to:

Eradicate all forms of segregation between Jewish and non-Jewish communities and any such policies or practices which severely and disproportionately affect the Palestinian population in Israel proper and in the Occupied Palestinian Territory.³⁰

Drawing on the Coalition’s submission to CERD, the present report significantly expands on the analysis presented in 2019 and builds on Palestinian civil society organisations’ decades-long advocacy on the root causes of Palestinian oppression. For over three years, the Coalition’s joint advocacy efforts, particularly in the UN system, have allowed for important discussions on Israeli apartheid to take place with key actors, including civil society, states, policymakers, and practitioners, enabling a shift in the to date largely fragmented approach adopted with respect of the Palestinian people. The Coalition’s ongoing campaign has opened up a broader discussion on the need to address the *root causes* of Israel’s widespread and systematic human rights violations, including the crime of apartheid against the Palestinian people.

As a result, the UN Human Rights Council witnessed increasing discussions on Israeli apartheid between 2020 and 2022, including the recognition of Israeli apartheid by a growing number of states, such as South Africa and Namibia, and civil society organisations.³¹ Our Coalition welcomes such recognition and wishes to pay tribute to the peoples of South Africa and Namibia in their struggle against apartheid. We recognise the deep meaning of anti-apartheid for the peoples of South Africa and Namibia in their struggle for liberation and independence.

On 27 May 2021, as campaigned for by the Coalition, the Human Rights Council established its first ever ongoing UN Commission of Inquiry to investigate the underlying root causes of systematic discrimination not only in the occupied Palestinian territory but also inside the Green

²⁸ See, notably, Adalah, ‘For first time, UN body criticizes Israel’s policies of racial segregation against Palestinians in Israel and OPT – as a single entity’ (19 December 2019) <<https://www.adalah.org/en/content/view/9873>>.

²⁹ References to ‘inside the Green Line’ or ‘within the Green Line’ are used throughout this report to identify the remaining territory of historic Palestine, outside that of the occupied Palestinian territory.

³⁰ UN CERD, Concluding observations on the combined seventeenth to nineteenth reports of Israel, CERD/C/ISR/CO/17-19, 12 December 2019, para 23.

³¹ Al-Haq, United Nations: In response to Unprecedented Recognition of Israel's Apartheid Regime, States Must Take Concrete Steps to End this “unjust reality” (18 June 2022) <<https://www.alhaq.org/advocacy/17012.html>>.

Line, as well as with respect of Palestinian refugees and exiles abroad.³² The Commission of Inquiry's first report, published in June 2022, drew attention to the State of Palestine's ratification of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid (hereinafter 'Apartheid Convention')³³ and referred to Israel's 'longstanding discrimination' against Palestinians as a root cause of recurring human rights violations in this context.³⁴ Ninety civil society organisations have urged the ongoing Commission of Inquiry to address apartheid and settler colonialism as root causes in Palestine.³⁵

In addition, following Palestinian-led advocacy efforts, the former UN Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, Michael Lynk, published a report in March 2022 detailing the Israeli authorities' commission of the crime of apartheid within the context of Israel's settler colonial project.³⁶ Lynk's report endorsed the findings of human rights organisations on apartheid and echoed the Coalition's call for the reconstitution of the UN's anti-apartheid mechanisms at the General Assembly level.³⁷ His successor, Francesca Albanese, has since drawn on the apartheid framework as part of Israel's settler colonialism 'driven by the logic of elimination' of Palestinians, in violation of the Palestinian people's right to self-determination.³⁸ These contributions followed two previous recognitions of Israeli apartheid by the former UN Special Rapporteurs on Palestine, Richard Falk and John Dugard.³⁹

³² UN OHCHR, Human Rights Council Establishes International Commission of Inquiry to Investigate Violations in the Occupied Palestinian Territory, including East Jerusalem, and in Israel (27 May 2021) <<https://www.ohchr.org/en/press-releases/2021/05/human-rights-council-establishes-international-commission-inquiry>>; Al-Haq, Palestinian Civil Society Organisations Call for a Special Session on the Escalating Israeli Attacks against Palestinians on Both Sides of the Green Line (22 May 2021) <<https://www.alhaq.org/palestinian-human-rights-organizations-council/18389.html>>.

³³ *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').

³⁴ UN Human Rights Council, Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, 9 May 2022, UN Doc A/HRC/50/21, para 72; *see also* Rania Muhareb, 'Addressing the 'Full Context': The First Report of the Commission of Inquiry on Root Causes in Palestine' (*Irish Centre for Human Rights Blog*, 14 June 2022) <<https://ichrgalway.wordpress.com/2022/06/14/addressing-the-full-contextthe-first-report-of-the-commission-of-inquiry-on-root-causes-in-palestine/>>.

³⁵ Al-Haq, 90 Organisations Urge the UN Independent International Commission of Inquiry on Palestine to Recognise and Address Zionist Settler Colonialism and Apartheid as the Root Causes of Israel's Ongoing Violations (28 June 2022) <<https://www.alhaq.org/advocacy/20219.html>>.

³⁶ UN Human Rights Council, Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, Michael Lynk, 21 March 2022, UN Doc A/HRC/49/87, paras 42 and 59.

³⁷ UN Human Rights Council, Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, Michael Lynk, 21 March 2022, UN Doc A/HRC/49/87, para 62.

³⁸ UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, 21 September 2022, UN Doc A/77/356, paras 10, 13, 40, 42, 66, 70, 73.

³⁹ *See*, UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk, 13 January 2014, UN Doc A/HRC/25/67, paras 51-77; UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, 29 January 2007, UN Doc A/HRC/4/17, p 3.

In light of ongoing advocacy efforts and in support of growing mobilisation against Israeli apartheid, this report and the campaign by the Coalition seek to contribute to a better understanding of Israel's apartheid regime as a *tool* of Zionist settler colonialism. This report highlights the responsibilities and obligations arising from the commission of the crime of apartheid by Israeli authorities and offers recommendations for dismantling this system of institutionalised oppression and domination over the Palestinian people.

1.2. Zionism and the Roots of Israeli Apartheid

An understanding of Zionist settler colonialism is necessary for a comprehensive articulation of Israel's apartheid regime and its root causes. The ideology that forms the basis of Israeli apartheid was expounded and institutionalised before the 'proclamation' of the State of Israel in 1948. Its roots lie in the preceding decades of Zionist settler colonisation of Palestine from the 19th century onwards.

Zionism emerged within the context of European imperial expansion in the 19th century and was modelled on racial conceptions of human sciences and the nation-state. In its quest for territorial conquest, Zionism was founded as a settler colonial movement whose ideological commitments were inherently racial.⁴⁰ Despite the ethnic diversity of Judaism's adherents through the millennia, the dual factors of European Christian persecution of Jews⁴¹ and the rise of racial theories in the 19th century⁴² sought to attribute adherence to Judaism with a single, distinct racial group. In this historical context, the late 19th century Zionist movement embraced this view of persons of Jewish faith as a distinct 'race,' enshrining it in the charters of Zionist institutions, including those of the World Zionist Organization (WZO) in 1897, the Jewish National Fund (JNF) in 1901, and the Jewish Agency (JA) established in 1921. These institutions apply this racialised distinction as a matter of unique Jewish privilege and supremacy over all others, exercised through the exclusive entitlement to 'Jewish nationality,' which is superior to mere citizens in Israeli law and policy.

In 1947–1948, the start of the *Nakba* launched by Zionist militias became instrumental in the consolidation of Zionist settler colonial domination over the Palestinian people and since 1967 of the territory of historic Palestine in its entirety. In the immediate aftermath of the mass expulsion

⁴⁰ Sayegh, *Zionist Colonialism in Palestine*; Abdul-Wahab Kayyali, 'Zionism and Imperialism: The Historical Origins' (1977) 6(3) *Journal of Palestine Studies* 98; Fayeze Sayegh, 'Zionism: A Form of Racism and Racial Discrimination' in Abdul Wahhab Al Kayyali (ed), *Zionism, Imperialism and Racism* (Croom Helm Ltd, 1979) 51.

⁴¹ Abel Mordechai Bibliowicz, *Jews and Gentiles in the Early Jesus Movement: An Unintended Journey* (Palgrave Macmillan, 2013) 180-82; Pamela Eisenbaum, 'Was Paul the Father of Mysogyny and Antisemitism?' (2000) 50(4) *CrossCurrents* 506-24.

⁴² Talal Asad, (ed), *Anthropology & the Colonial Encounter* (Humanities Press, 1973).

of indigenous Palestinians from and within historic Palestine, the foundations of Israeli apartheid, already enshrined in Zionist institutions, were operationalised through laws, policies, and practices, most notably those aimed at denying Palestinian refugees and displaced persons their right of return to their homes, lands, and properties, thereby entrenching their dispossession, fragmentation, and domination. Seventy-four years on, continued expulsions and dispossession of Palestinians from the Galilee in the north,⁴³ to Sheikh Jarrah in Jerusalem, the southern Naqab region, and every other part of historic Palestine mean that the *Nakba* is far from over. The ongoing *Nakba* is a continuous process of deprivation and exemplifies Zionism's settler colonial logic of elimination and transfer of indigenous Palestinians from their land.⁴⁴

1.3. Establishing Israeli Apartheid

In 1948, the Zionist leadership erected a regime in the newly established State of Israel to 'legalise' and, thereby, legitimise the crimes committed by Zionist militias against the Palestinian people before, during, and since the *Nakba*. These laws, policies, and related measures laid the foundations of Israel's apartheid regime, particularly in the domains of land and property rights, nationality, citizenship, and residency, and nearly every other aspect of Palestinian life. This was done by instituting a legal and institutional framework to 'obscure the issue of dispossession and refugees,'⁴⁵ while also establishing legal and structural inequalities between Zionist settlers and indigenous Palestinians.

Israeli laws, institutions, and policies dealing with nationality and land governance distinguish between the rights accorded to 'Jewish' and 'non-Jewish' persons, reflecting the Zionist movement's racist character. Within this logic, preferential treatment is granted to Jewish persons based on a constructed 'Jewish nationality' status, also referred to as 'Jewish race and descent' in Zionist doctrine and policy.⁴⁶ The resulting strategy has combined adopting laws to provide legal cover to the dispossession of indigenous Palestinians, while facilitating further annexationist land grabs to create a comprehensive system to appropriate Palestinian land and force Palestinian expulsion therefrom. This brand of Israeli apartheid enables and sustains the continued displacement, dispossession, discrimination, and domination of Palestinians.

⁴³ Khalil Nakhleh, 'The Two Galilees' (Association of Arab-American University Graduates, Occasional Paper No. 7, 1982).

⁴⁴ Patrick Wolfe, 'Settler Colonialism and the Elimination of the Native' (2006) 8(4) *Journal of Genocide Research* 387.

⁴⁵ BADIL, *Land Confiscation and Denial of Use—Working Paper No 21* (19 October 2017) 9.

⁴⁶ Joseph Schechla, 'The Consequences of Conflating Religion, Race, Nationality and Citizenship' (2010) 43 *al-Majdal* 10, 11.

A key policy in the establishment of Israeli apartheid is what Richard Falk and Virginia Tilley identified in their cornerstone 2017 report for the UN Economic and Social Commission for Western Asia (ESCWA), as the ‘strategic fragmentation’ of the Palestinian people. By fragmenting Palestinians legally, politically, and geographically, on either side of the Green Line and in exile,⁴⁷ Israel uses strategic fragmentation as a primary method to impose apartheid and deny the Palestinian people the exercise of their inalienable rights.⁴⁸ Through fragmentation, as outlined in the Coalition’s report to CERD in 2019, Israel ensures that:

Palestinians from different geographical areas of their native country are unable to meet, group, live together, share in the practice of their culture, and exercise any collective rights, including to self-determination and permanent sovereignty over their natural wealth and resources.⁴⁹

Israel has administratively divided the Palestinian people into at least four legal ‘domains,’ comprising Palestinians with Israeli citizenship governed by Israeli civil law, Palestinians with permanent residency status in the eastern part of Jerusalem, Palestinians in the occupied West Bank and Gaza Strip subjected to Israeli military laws and orders, and Palestinian refugees and involuntary exiles living outside of historic Palestine, whose right of return to their homes, lands, and properties the Israeli regime has systematically denied and obstructed since 1948.⁵⁰

1.4. Maintaining Israeli Apartheid

The Israeli apartheid regime is sustained through institutionalised impunity and by weakening the capacity of the indigenous Palestinian people and institutions to challenge the myriad human rights violations and international crimes maintaining this regime. Through this manoeuvre, the Israeli regime employs policies of visible segregation and material discrimination against Palestinians in the exercise of their individual and collective rights. These underlying policies seek to dominate and oppress the Palestinian people. Spatial separation, isolation, suppression, and concentration of Palestinian communities, on either side of the Green Line, sustain the pattern of illegal population transfer and demographic manipulation inherent to the Zionist settler colonial project.

The Israeli regime’s tactics to maintain apartheid over Palestinians include the policy of strategic fragmentation of the Palestinian people and the commission of a broad range of inhuman(e) acts

⁴⁷ Richard Falk and Virginia Tilley, *Israeli Practices towards the Palestinian People and the Question of Apartheid, Palestine and the Israeli Occupation* (ESCWA 2017) 1 UN Doc E/ESCWA/ECRI/2017/1 (hereinafter ‘ESCWA Report’) 37.

⁴⁸ ESCWA Report, 37.

⁴⁹ CERD Report, para 65.

⁵⁰ ESCWA Report, 37-38.

of apartheid, within the meaning of the Apartheid Convention and the Rome Statute of the International Criminal Court (hereinafter ‘Rome Statute’).⁵¹ Key among these, and integral to both Zionist settler colonialism and its implementation as Israeli apartheid, are the commission of the serious crime of population transfer, involving: the systematic denial of the right of return of Palestinian refugees and exiles; demographic manipulation; and illegal colonial settlement construction and expansion. Within this context, the Israeli regime commits a series of inhuman(e) acts of apartheid against the Palestinian people, including, among others, arbitrary deprivation of life;⁵² arbitrary detention;⁵³ torture and other ill-treatment;⁵⁴ denial of freedom of peaceful assembly;⁵⁵ restrictions on the right to freedom of movement and residency,⁵⁶ particularly severe in the case of the 15-year illegal closure and blockade of the Gaza Strip; denial of the right to the highest attainable standard of health;⁵⁷ the denial of the right to family life;⁵⁸ expropriation of landed property;⁵⁹ and various forms of collective punishment.⁶⁰

Consistent with Article II(f) of the Apartheid Convention, the Israeli regime also persecutes individuals and organisations by depriving them of fundamental rights and freedoms because they oppose apartheid. This includes the arbitrary designation, in October 2021, of six leading Palestinian human rights and civil society organisations, including members of the Coalition, as ‘unlawful’ and so-called ‘terror organisations’ in order to undermine their work.⁶¹ Such tactics of threatening, persecuting, and criminalising Palestinian civil society have a long history both within the Green Line⁶² and in the occupied Palestinian territory.⁶³ These are intended to silence and intimidate anyone who seeks to challenge the Israeli settler colonial apartheid regime.

⁵¹ *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entry into force, 1 July 2002) 2187 UNTS 3 (hereinafter ‘Rome Statute’).

⁵² Article II(a)(i), Apartheid Convention; Article 7(1)(a) and 7(1)(b), Rome Statute.

⁵³ Article II(a)(iii), Apartheid Convention; Article 7(1)(e), Rome Statute.

⁵⁴ Article II(a)(ii), Apartheid Convention; Article 7(1)(f), Rome Statute.

⁵⁵ Article II(c), Apartheid Convention.

⁵⁶ Article II(c), Apartheid Convention.

⁵⁷ Article II(a)(ii), Apartheid Convention; Article 7(1)(k), Rome Statute.

⁵⁸ Articles II(c) and II(d), Apartheid Convention; Article 7(1)(k), Rome Statute.

⁵⁹ Article II(d), Apartheid Convention.

⁶⁰ Article II(c), Apartheid Convention; Article 7(1)(k), Rome Statute.

⁶¹ See discussion in Rania Muhareb, Elizabeth Rghebi, Susan Power, and Pearce Clancy, *Persecution of Palestinian Civil Society: Epistemic Violence, Silencing, and the Apartheid Framework* (Institute for Palestine Studies, Current Issues in Depth Series, 2022) <<https://www.palestine-studies.org/en/node/1653268>>.

⁶² Shany Payes, ‘Palestinian NGOs in Israel: A Campaign for Civic Equality in a Non-Civic State’ (2003) 8(1) *Israel Studies* 60-90; Shany Payes, *Palestinian NGOs in Israel: The Politics of Civil Society* (I.B. Taurus, 2005), <https://www.academia.edu/6474025/Palestinian_NGOs_in_Israel_The_Politics_of_Civil_Society>; Arik Rudnitzky, *Arab Citizens of Israel Early in the Twenty-First Century* (Institute for National Security Studies, 2015).

⁶³ UN Committee on the Inalienable Rights of the Palestinian People, Outraged over Israel’s Designation of Six Civil Society Groups as Terrorists, Speakers Tell Palestinian Rights Committee Harassment against Human Rights Defenders Must End (7 December 2021) <<https://www.un.org/press/en/2021/gapal1443.doc.htm>>; Al-Marsad, Arab Human Rights Centre in Golan Heights, Al-Haq, Palestinian Human Rights Organizations Council, ESCR-

The institutionalised oppression of the Palestinian people, through the commission of inhuman(e) acts, entrenches and sustains the Zionist settler colonisation of Palestine's natural and human resources. Key to this settler colonial enterprise are Zionist parastatal institutions, which have imposed both the 'race-based' notions of Jewish distinction and supremacy, as well as the correspondingly exclusive control of Palestine's natural resources.⁶⁴ Prior to 1948, the JNF assumed the task of acquiring and administering land resources essential to the formation of a Zionist state. Other similarly chartered institutions were established to capture and administer the other resources of the country. Among these was the Histadrut (General Federation of Hebrew Labor), founded in 1920. It was Histadrut that founded Haganah, the Zionist terrorist group, also in 1920, that later became the Israeli armed forces.⁶⁵ David Ben-Gurion, Histadrut's first Secretary-General, became chairman of the JA in 1935 and the first Israeli Prime Minister in 1948. Speaking of her role on the Histadrut Executive Committee, eventual Israeli Prime Minister Golda Meir recalled that 'this big labour union wasn't just a trade union organization. It was a great colonizing agency.'⁶⁶ Although Histadrut is less omnipresent today, it was the second-largest employer in Israel, owning 25 per cent of Israeli industry, before the serial privatisation of its enterprises in the 1980s and 1990s.⁶⁷ Histadrut operated as an arm of Israeli and United States foreign policy from 1958 onwards⁶⁸ and actively collaborated with the South African apartheid regime.⁶⁹

1.5. The Need for a Comprehensive Articulation of the Apartheid Framework

For far too long, the international discourse on Palestine has fragmented the Palestinian people and obfuscated the root causes of the Israeli regime's prolonged, widespread, systematic human rights violations, and extreme material discrimination. The long-prevailing 'conflict' paradigm has entrenched the fragmentation of the Palestinian people and international complicity in perpetuating Palestinian oppression. Describing the situation reductively as a 'conflict' between two parties that needs to be resolved by the parties is a misleading approach. Rather, the belligerent occupation is taking place in the context of ongoing Zionist settler colonisation and apartheid, of

Net, International Network for Economic, Social and Cultural Rights, Cornell Law School International Human Rights Clinic and Boston University Law School International Human Rights Clinic, *Report on the Repression of Human Rights Defenders in Israel the Occupied Territories of Palestine and the Golan* (January 2022) <https://www.alhaq.org/cached_uploads/download/2022/02/14/repression-of-human-rights-defenders-by-israel-special-rapporteurs-1644827668.pdf>.

⁶⁴ ESCWA Report, 5; *see also* CERD Report, para 40-42.

⁶⁵ Zeev Sternhell, *Founding Myths of Zionism* (Princeton University Press, 1998) 180.

⁶⁶ Quoted in Uri Davies, *Utopia Incorporated* (Zed Press, 1977) 142.

⁶⁷ Sawt al-Amel, *Separate and Unequal: The History of Arab Labour in pre-1948 Palestine and Israel* (December 2006) 16 <<http://www.labournet.net/world/0702/labvoice1.html>>.

⁶⁸ Benjamin Beit Hallahmi, *The Israeli Connection: Whom Israel Arms and Why* (I.B. Tauris & Co. Ltd., 1988) 39.

⁶⁹ James Adams, *Israel and South Africa: The Unnatural Alliance* (Quartet Books, 1984).

which it operates as a tool.⁷⁰ Failure by third states to recognise this key distinction disregards applicable peremptory norms of general international law and the purposes and principles enshrined in the Charter of the United Nations, including the cardinal prohibition of the use of force.⁷¹ It further disregards third-party responsibility to refrain from assisting in the maintenance of the unlawful situation and the positive duty of states to cooperate to bring it to an end.⁷²

The dispossession, fragmentation, discrimination, persecution and domination of the Palestinian people, which practitioners and civil society are increasingly understanding as apartheid, is also not the result of incremental Israeli measures and tactical responses to purported ‘security’ challenges,⁷³ nor merely a consequence of the rightward shift in Israeli politics. As this report chronicles, Israel’s institutionalised discrimination against the indigenous Palestinian people is not accidental or new; it is not a culmination or a by-product of the entrenchment of the Israeli occupation since 1967; it is instead inherent in the ideology operationalised in the founding institutions of the Zionist settler colonial project in Palestine. We concur with Noura Erakat and others who have insisted that ‘Israel did not *become* a discriminatory regime but is *defined* by such discrimination.’⁷⁴

The apartheid framework allows us to shift the international discourse on Palestine from one focused on a misleading ‘conflict’ or ‘slippery-slope’ paradigm to one centred on implementing the right of the Palestinian people to self-determination. Applying the apartheid framework aims at overcoming Israel’s foundationally-racist and settler colonial regime, including the machinery perpetrating the ongoing *Nakba*, prolonged Israeli occupation, and the blockade of the Gaza Strip. In this, we further concur with the latest report of the UN Special Rapporteur on Palestine, Francesca Albanese, that a paradigm shift is needed to realise the inalienable rights of the Palestinian people.⁷⁵

Building on the argument of Palestinian scholars such as Lana Tatour, we consider that a ‘liberal’ approach to Israeli apartheid that does not recognise settler colonialism, and thus the need for

⁷⁰ Amnesty International, *Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity* 105-108 (1 February 2022) <<https://www.amnesty.org/en/documents/mde15/5141/2022/en/>>.

⁷¹ Article 2(4), *Charter of the United Nations* (adopted 26 June 1945, entry into force 24 October 1945).

⁷² Article 41(1), International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts* (November 2001, Supplement No 10, UN Doc A/56/10) (hereinafter ‘Draft Articles on State Responsibility’).

⁷³ These have been rejected by the latest UN Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, UN Doc A/77/328, 14 September 2022, para 79.

⁷⁴ Erakat, ‘Beyond Discrimination’ (emphasis in the original).

⁷⁵ UN General Assembly, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, UN Doc A/77/356, 21 September 2022, para 70.

decolonisation, is wholly insufficient.⁷⁶ The approach recognising Israeli apartheid moves from a focus on the symptoms of Israeli oppression to the *root causes*, including its roots in long-discredited racial theory.⁷⁷ The apartheid framework defragments the Palestinian people and allows for connecting the Palestinian struggle for decolonisation with global struggles of other indigenous peoples against settler colonialism and associated forms of structural and institutionalised racism and discrimination.

Additionally, the apartheid framework exposes the inadequacy of the manner in which international law norms and UN mechanisms have been deployed in Palestine to date, in particular the failure to prevent, bring an end to, redress, and remedy institutionalised human rights violations and other breaches of international law committed against Palestinians. The present report advocates for adopting an integrated, comprehensive legal framework to end Israel's settler colonial apartheid regime, encompassing the protections of international human rights law, international humanitarian law, and international criminal law, as a necessary first step to providing legal protection to the entirety of the Palestinian people, regardless of their geographical location or legal status. This comprehensive approach seeks to overcome decades of Israel's strategic fragmentation of the Palestinian people and the UN's institutional shortcomings by examining the experience of the Palestinian people as a whole and challenging the racial domination and oppression at the heart of Israel's institutions, laws, policies, and practices since the Zionist movement began and at its apartheid core.

The comprehensive legal approach advocated for by this report seeks to overcome the inadequacy of the previous predominant focus on international humanitarian law in Palestine, often in isolation from other legal frameworks. International humanitarian law has only been applied to the situation in the territories occupied by Israel since 1967, comprising the occupied Palestinian territory (Gaza Strip and West Bank, including the eastern part of Jerusalem) and the occupied Syrian Golan. Thus, the same discriminatory Israeli practices on both sides of the Green Line have been addressed through different legal frameworks. This fragmentary approach has averted focus away from the commonalities, in policy and practice, of human rights violations across administratively constructed domains of Israeli control. By remedying fragmentation, the apartheid

⁷⁶ Lana Tatour, 'Why calling Israel an apartheid state is not enough' (*Middle East Eye*, 18 January 2021) <<https://www.middleeasteye.net/opinion/why-calling-israel-apartheid-state-not-enough>>.

⁷⁷ See Ernest Beaglehole, Juan Comas, Luiz de Aguilar Costa Pinto, Franklin Frazier, Morris Ginsberg, Humayun Kabir, Claude Lévi Strauss and Ashley Montagu, *The Race Question* (UNESCO: 1950 and revised versions in 1951 and 1967); UNESCO, *Declaration on Race and Racial Prejudice* (1978) and *Declaration of Principles on Tolerance* (1995).

framework allows for a reconsideration of these violations within one overarching legal framework. As Falk and Tilley astutely observed in their 2017 ESCWA report:

The international community has unwittingly collaborated with [Israeli fragmentation] by drawing a strict distinction between Palestinian citizens of Israel and Palestinians in the occupied Palestinian territory, and treating Palestinians outside the country as “the refugee problem”. The Israeli apartheid regime is built on this geographic fragmentation, which has come to be accepted as normative. The method of fragmentation serves also to obscure this regime’s very existence.⁷⁸

At the international level, the apartheid framework allows for an interrogation of the fragmented treatment of the ‘Question of Palestine’ within the UN system. The UN system has played a role in fragmenting the Palestinian people through the creation of various mechanisms sought to consider segments of the Palestinian people rather than the root causes. In 1949, the UN established the Relief and Works Agency for Palestine Refugees in the Near East (UNRWA),⁷⁹ which, for over seven decades, has offered vital service—but no protection—for Palestine refugees who have been forcibly expelled and exiled. UNRWA was not mandated to provide international assistance to Palestinians similarly displaced and dispossessed inside the Green Line at the hands of the Zionist movement. Moreover, the effective end of the UN Conciliation Commission for Palestine (UNCCP) in 1964⁸⁰ left all Palestinians without protection. In 1967 and thereafter, the UN political bodies focused on the territories occupied by Israel during the war and the segments of the Palestinian people in the West Bank, including the eastern part of Jerusalem, and the Gaza Strip. Eventually, the UN’s legal bodies, in particular, the human rights treaty bodies began to review Israel’s performance under international human rights treaties inside the Green Line, while considering the treaties’ application in the occupied Palestinian territory since 1967 as an addendum. From 1993 onwards, the UN Commission on Human Rights and, later, the Human Rights Council mandated Special Rapporteurs to investigate, report, and advise on human rights issues *only* in the occupied Palestinian territory since 1967.⁸¹ Only the General Assembly’s Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP),

⁷⁸ ESCWA Report, 37.

⁷⁹ UN General Assembly, Resolution 302, UN Doc A/RES/302 (IV), 8 December 1949, para 7.

⁸⁰ Michael R. Fischbach, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict* (Columbia University Press, 2003).

⁸¹ *See*, recently, Richard Falk, ‘New anti-colonial UN report gives Palestinians welcome boost in legitimacy wars’ (*Middle East Eye*, 27 October 2022) <<https://www.middleeasteye.net/opinion/israel-palestine-new-un-report-anti-colonial>>.

established in 1975,⁸² is mandated to address the human rights of the Palestinian people as a whole. Yet, it has only nominally sought to do so. Instead, the CEIRPP has largely restricted its reporting to political events and developments in the occupied Palestinian territory since 1967.

In all their diversity, the Palestinian people have shared a unitary identity and culture over centuries. The Palestinian people possess global recognition as holders of the inalienable right to self-determination, reaffirmed in countless UN General Assembly resolutions.⁸³ Yet, the institutional arrangement within the UN system has acquiesced to and administratively solidified the Palestinian people's spatial segregation and fragmentation by the Israeli regime. While the UN bears permanent responsibility for the Question of Palestine until its resolution 'in all its aspects in a satisfactory manner in accordance with international legitimacy,'⁸⁴ the world organisation has yet to begin repairing its own disarticulated approach and structural flaws that have contributed to the denial of Palestinian self-determination, the right of return, and bringing an end to the unlawful situation created through Israel's settler colonial apartheid regime and its associated international crimes.

As such, employing the apartheid framework helps bring into sharper focus the illegality of the Israeli regime itself, not only of its constitutive elements. Meanwhile, the predominant focus on international humanitarian law to date has presented clear in-built limitations given that the laws of armed conflict do not outlaw occupation in and of itself. Nor does international humanitarian law, and the law of occupation, stipulate measures through which the Israeli occupation can be ended, despite offering important prohibitions of key features of the Israeli occupation, such as the construction of Israeli settlements, exploitation of Palestinian natural resources, destruction of civilian property in the absence of military necessity, and collective punishment.

Adopting the apartheid framework does not mean abandoning any standing instruments and principles of international humanitarian law, nor rejecting its applicability to Palestine, as Palestinians at official, academic, and civil society levels have reaffirmed since 1967. The former UN Special Rapporteur on Palestine, John Dugard, notably observed in his 2007 report to the Human Rights Council that 'elements of the [Israeli] occupation constitute forms of colonialism and of apartheid, which are contrary to international law.'⁸⁵ The subsequent 2009 study published

⁸² UN General Assembly, Resolution 3376, UN Doc A/RES/3376 (XXX), 10 November 1975, para 3.

⁸³ *See* Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, UN Doc A/77/356, 21 September 2022, para 25.

⁸⁴ A/RES/57/1067, 3 December 2002 and reaffirmed annually through Committee on the Exercise of the Inalienable Rights of the Palestinian People, A/RES/74/20, 8 December 2020.

⁸⁵ UN Human Rights Council, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, 29 January 2007, UN Doc A/HRC/4/17, 3.

by the HSRC further confirmed that colonialism and apartheid apply to the occupied Palestinian territory and that these do not displace the occupation law framework.⁸⁶ Since then, the international articulation of the apartheid framework in Palestine has significantly developed to address the experience of the Palestinian people as a whole. In 2011, notably, the Russell Tribunal on Palestine confirmed the practice of apartheid by Israel over Palestinians wherever they reside, calling also on the UN General Assembly to re-establish the UN Special Committee against Apartheid and the UN Centre against Apartheid in response.⁸⁷

1.6. Individual Criminal, State, and Corporate Responsibility for Israeli Apartheid

Apartheid is absolutely prohibited under international law. International criminal law criminalises apartheid as a crime against humanity, giving rise to individual criminal responsibility for perpetrators of this crime. According to Article III of the Apartheid Convention:

International criminal responsibility shall apply, irrespective of the motive involved, to individuals, members of organizations and institutions and representatives of the State, whether residing in the territory of the State in which the acts are perpetrated or in some other State, whenever they:

- (a) Commit, participate in, directly incite or conspire in the commission of the acts mentioned in article II of the present Convention;
- (b) Directly abet, encourage or co-operate in the commission of the crime of apartheid.

The Apartheid Convention provides in Article V that persons accused of committing the crime of apartheid may be tried in the courts of states parties to the Convention or before an international tribunal. The International Criminal Court (ICC) has jurisdiction over the crime of apartheid under Article 7(1)(j) of the Rome Statute. The Court has opened an ongoing investigation⁸⁸ into the Situation in Palestine, comprising the West Bank, including the eastern part of Jerusalem, and the Gaza Strip. The ICC's Office of the Prosecutor has previously acknowledged receiving allegations

⁸⁶ HSRC Study, 277-278.

⁸⁷ The Russell Tribunal on Palestine, Summary of Findings (7 November 2011) 5 <<http://www.russelltribunalonpalestine.com/en/sessions/south-africa/south-africa-session-%E2%80%94-full-findings/cape-town-session-summary-of-findings>>.

⁸⁸ ICC Office of the Prosecutor, Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine (3 March 2021) <<https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-respecting-investigation-situation-palestine>>.

of apartheid in this context.⁸⁹ The ongoing investigation by the ICC therefore provides an important avenue for individual criminal accountability, notwithstanding the limitations of Court's personal, temporal, and geographical jurisdiction in Palestine.⁹⁰

In addition to international criminal law, apartheid is prohibited as a form of racial discrimination within general international law and international human rights law.⁹¹ Under international humanitarian law, apartheid is further prohibited as a grave breach.⁹² As a matter of customary international law binding on all states, apartheid and racial discrimination constitute a serious breach of *jus cogens* (peremptory) norms of international law.⁹³ The breach of the prohibition of apartheid therefore gives rise to an internationally wrongful act, triggering the responsibility of the state responsible, Israel. In addition, under the law of third state responsibility, all states have a responsibility to ensure they do not contribute to the unlawful situation created as a result of a serious breach of international law.⁹⁴ They must ensure that they do not recognise such a situation as lawful, do not aid or assist in its maintenance, and cooperate to bring it to an end.⁹⁵

The denial of the Palestinian people's inalienable right to self-determination invokes the Namibia Doctrine in international law, by which all states bear the obligation of non-recognition and non-cooperation with the unlawful situation,⁹⁶ in particular, arising from the occupying state's denial of

⁸⁹ ICC Office of the Prosecutor, *Report on Preliminary Examination Activities* (4 December 2017) para 63: 'in addition to allegations directly related to settlement activities, the Office has also 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' <<https://www.icc-cpi.int/news/report-preliminary-examination-activities-2017>>.

⁹⁰ See, for example, Pearce Clancy and Rania Muhareb, 'Putting the International Criminal Court's Palestine Investigation into Context' (*Opinio Juris*, 2 April 2021) <<http://opiniojuris.org/2021/04/02/putting-the-international-criminal-courts-palestine-investigation-into-context/>>.

⁹¹ Articles 1(3) and 55, UN Charter; Article 3, ICERD.

⁹² Article 85(4)(c), *Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts (Protocol I)* (adopted 8 June 1977, entry into force 7 December 1978) 1125 UNTS 3 (hereinafter 'Additional Protocol I').

⁹³ ILC, *Draft Articles on State Responsibility*, p 112.

⁹⁴ Article 41(2), *Draft Articles on State Responsibility*.

⁹⁵ Articles 41(1) and 41(2), *Draft Articles on State Responsibility*.

⁹⁶ International Court of Justice, *International Court of Justice, Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, ICJ Reports 1971, 21 June 1971, p 16, 'para 123: 'Member States, in compliance with the duty of non-recognition imposed by paragraphs 2 and 5 of [Security Council] resolution 276 (1970), are under obligation to abstain from sending diplomatic or special missions to South Africa including in their jurisdiction the Territory of Namibia, to abstain from sending consular agents to Namibia, and to withdraw any such agents already there. They should also make it clear to the South African authorities that the maintenance of diplomatic or consular relations with South Africa does not imply any recognition of its authority with regard to Namibia'; and para 133(2): 'that States Members of the United Nations are under obligation to recognize the illegality of South Africa's presence in Namibia and the invalidity of its acts on behalf of or concerning Namibia, and to refrain from any acts and in particular any dealings with the Government of South Africa implying recognition of the legality of, or lending support or assistance to, such presence and administration.'

the subject people's right to self-determination.⁹⁷ By virtue of this, third states have a responsibility to end Israel's apartheid regime, including through effective, coercive measures. These have been advocated for by a broad coalition of Palestinian civil society organisations since at least 2005, who have urged sanctions, divestments, and boycotts of Israel—inspired by the anti-apartheid movement in South Africa and occupied Namibia.⁹⁸ States should take effective measures to bring the unlawful situation arising from Israeli apartheid to an end, notably through economic and targeted sanctions, implementation of a comprehensive and mandatory arms embargo, and the downgrading of diplomatic relations. Moreover, states should pursue accountability through the activation of universal jurisdiction mechanisms to hold individual perpetrators to account, including on the basis of the Apartheid Convention.

Businesses and other corporate entities also have a responsibility to respect international law and human rights, must avoid violating human rights, and address 'adverse human rights impacts' associated with their operations.⁹⁹ This responsibility has been broadly recognised with respect of corporate entities operating in Palestine, particularly those involved with and complicit in Israel's illegal settlement enterprise in the occupied Palestinian territory.¹⁰⁰ Recognition of Israeli apartheid must broaden the scope of discussion around corporate responsibility and accountability for gross human rights abuses and violations, namely the crime of apartheid and associated inhuman(e) acts, across historic Palestine, including within the Green Line. To this end, at a minimum, business enterprises must conduct ongoing enhanced human rights due diligence and responsibly cease all activities and relationships with and disengage from Israel's apartheid and settler colonial

⁹⁷ *Ibid.*, para 52: '...the subsequent development of international law in regard to non-self-governing territories, as enshrined in the Charter of the United Nations, made the principle of self-determination applicable to all of them. The concept of the sacred trust was confirmed and expanded to all "territories whose peoples have not yet attained a full measure of self-government" (Art. 73). Thus, it clearly embraced territories under a colonial régime. Obviously, the sacred trust continued to apply to League of Nations mandated territories on which an international status had been conferred earlier. A further important stage in this development was the Declaration on the Granting of Independence to Colonial Countries and Peoples (General Assembly resolution 1514 (XV) of 14 December 1960), which embraces all peoples and territories which "have not yet attained independence." Nor is it possible to leave out of account the political history of mandated territories in general. All those which did not acquire independence, excluding Namibia, were placed under trusteeship. Today, only two out of fifteen, excluding Namibia, remain under United Nations tutelage. This is but a manifestation of the general development which has led to the birth of so many new States.'

⁹⁸ BDS, What is BDS? <<https://bdsmovement.net/what-is-bds>>.

⁹⁹ UN OHCHR, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2011) Principle 11, p 13.

¹⁰⁰ See, notably, Marya Farah, *Business and Human Rights in Occupied Territory: Guidance for Upholding Human Rights* (Al-Haq and GLAN, 2020) <https://www.alhaq.org/cached_uploads/download/2020/04/27/business-and-human-rights-in-the-opt-interactive-1587981596.pdf>; see also, UN Human Rights Council, Database of all business enterprises involved in the activities detailed in paragraph 96 of the report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, UN Doc A/HRC/43/71, 28 February 2020, para 31.

enterprise.¹⁰¹ Third states, namely home states of multinational corporations with activities or relationships in Palestine, must also ensure that corporate entities domiciled within their territory and/or jurisdiction respect international law and human rights in Palestine, including by taking the necessary effective measures relevant to states' obligations under international law—at domestic and regional levels—toward corporate and other private actors.¹⁰² In this regard, the Apartheid Convention requires that 'States Parties... declare criminal those organizations, institutions and individuals committing the crime of apartheid.'¹⁰³ It is incumbent upon all states to hold corporate entities, including Zionist institutions operating abroad as so-called 'charities,'¹⁰⁴ to account for their role in contributing to the commission of the crime of apartheid in Palestine.

1.7. Dismantling Israeli Apartheid

Apartheid in South Africa and occupied Namibia was met with successive condemnations by UN bodies, including the General Assembly, Security Council,¹⁰⁵ and the International Court of Justice (ICJ). South Africa's apartheid regime prompted the establishment of specialised anti-apartheid mechanisms within the UN, the criminalisation of apartheid through the adoption of the Apartheid Convention, and the adoption of sanctions and arms embargos against the South African apartheid regime.¹⁰⁶ International political will and effective measures played a central role in driving the process toward the suppression of the crime of apartheid in South Africa and occupied Namibia. Such effective, coercive measures are essential to support Palestinian resistance to Israel's settler colonial apartheid regime and ensure the realisation of Palestinians' inalienable rights to self-determination and return. Further recognition of the commission of the crime of apartheid in Palestine, including by the ongoing UN Commission of Inquiry,¹⁰⁷ an ICC investigation into the crime of apartheid in Palestine, the reconstitution of the UN's anti-apartheid mechanisms, and further measures recommended by this report would provide key institutional support to the

¹⁰¹ See, for example, UN Working Group on the issue of human rights and transnational corporations and other business enterprises, Statement on the implications of the Guiding Principles on Business and Human Rights in the context of Israeli settlements in the Occupied Palestinian Territory, 6 June 2014, pp 9-11 <<https://www.ohchr.org/sites/default/files/Documents/Issues/Business/OPTStatement6June2014.pdf>>.

¹⁰² Al-Haq, Al-Haq Submits Legal Position Paper to European Union on the Membership of Mr Haim Bibas, Mayor of Modi'in-Maccabim-Re'ut, in the Euro-Mediterranean Regional and Local Assembly (ARLEM) (2 March 2020) <<https://www.alhaq.org/advocacy/16547.html>>.

¹⁰³ Article I(2), Apartheid Convention.

¹⁰⁴ See Karen Pennington and Joseph Schechla, 'Israel's Para-state Institutions Operating in the United States' (2009) 41 al-Majdal 25; see also Joseph Schechla, 'The Consequences of Conflating Religion, Race, Nationality and Citizenship' (2010) 43 al-Majdal 10.

¹⁰⁵ See, e.g., UN General Assembly, Resolution 2074 (XX), 17 December 1965, UN Doc A/RES/2074 (XX), para 4; UN Security Council, Resolution 392, 19 June 1976, UN Doc S/RES/392 (1976), para 3.

¹⁰⁶ UN General Assembly, Resolution 1761 (XVII), 6 November 1962, UN Doc A/RES/1761, para 4; UN Security Council, Resolution 418, 4 November 1977, UN Doc S/RES/418 (1977), para 2.

¹⁰⁷ Middle East Monitor, 'UN to investigate apartheid charges against Israel' (*Middle East Monitor*, 28 October 2022) <<https://www.middleeastmonitor.com/20221028-un-to-investigate-apartheid-charges-against-israel/>>.

Palestinian liberation struggle in the face of Israel's settler colonial apartheid regime. It was only through such concerted international action that the South African apartheid regime was formally brought to an end. Israel's apartheid regime over the Palestinian people requires a similar, urgent and proactive response.

2. Recommendations

2.1. To All States

1. Recognise and condemn, including through regional and international organisations and fora, that Israel's discriminatory laws, policies, and practices have cumulatively established and continue to maintain an apartheid regime of systemic racial oppression and domination over the Palestinian people as a whole, as part of the Zionist settler colonial project, using strategic fragmentation as its primary tool, giving rise to individual criminal responsibility in addition to engaging Israel's state responsibility for internationally wrongful acts;
2. Uphold the Namibia Doctrine under peremptory norms of international law by formally recognising the inalienable right of the Palestinian people as a whole to self-determination and bring an end to efforts aimed at denying that right;
3. Take positive action to ensure the full realisation of the right of the Palestinian people to self-determination, including under Article 1 of the ICCPR and ICESCR, and cooperate toward the full realisation of complete freedom and independence of the Palestinian people, who are subjected to ongoing settler colonialism, in accordance with their freely expressed will and desire;
4. Refrain from recognising any legitimacy of the unlawful situation created by Israel's settler colonial apartheid regime and ensure they do not contribute, directly or indirectly, toward the maintenance of Israeli apartheid, in line with extraterritorial obligations;
5. Cooperate to bring the unlawful situation created by Israel's settler colonial apartheid regime to an end, including by taking effective measures toward the dismantlement of Zionist parastatal institutions, including the WZO/JA, and JNF, and by implementing economic sanctions nationally and multilaterally and by severing diplomatic, cultural, and trade ties with Israel as required by international law and suspend existing trade and cooperation agreements with Israel, including at the national and regional levels;

6. Pressure Israel to cease all measures and policies and practices that contribute to the fragmentation of the Palestinian people, including the denial of the rights of return and self-determination, the denial of family unification, the closure and blockade of the Gaza Strip, the construction and maintenance of the Annexation Wall and its associated regime, and other movement and access restrictions, as core elements of Israel's apartheid regime;
7. Demand Israel cease conferring public functions of the state to the WZO/JA, JNF, and affiliated Zionist institutions, which are chartered to carry out material discrimination against non-Jewish persons and have historically prevented the Palestinian people from exercising control over their means of subsistence, including their natural resources, by exploiting and diverting these for the benefit of Zionist settler colonisation;
8. Rescind 'charitable' and other tax-exempt or 'non-governmental' status of parastatal institutions and their affiliates operating within domestic jurisdiction, recognising instead their actual status as foreign agents;
9. Demand Israel cease forthwith and lift with immediate effect the ongoing closure and blockade of the Gaza Strip, including lifting restrictions on dual use items and access to essential services, including healthcare, for Palestinians;
10. Call on the Israeli regime to release all Palestinian political prisoners, to end its widespread and systematic use of arbitrary detention and commission of torture and other ill-treatment in Israeli prisons and detention centres, as well as to end the trial of Palestinian civilians, including children, in the Israeli military court system;
11. Recognise that the Israeli civilian and military court systems are complicit in Israel's settler colonial apartheid regime and have normalised and entrenched the pervasive impunity enjoyed by Israeli military and state officials, including for systematic torture and other ill-treatment by state bodies in the unlawful extraction of information for use in judicial proceedings;
12. Impose travel bans and asset freezes on Israeli political, military, and government officials as well as settlers associated with Israel's apartheid regime, its illegal settler colonial enterprise, and related international crimes;
13. Demand that Israel immediately cease any and all practices of intimidation, harassment, smear campaigns, and other forms of silencing of human rights defenders and civil society

organisations for their opposition to apartheid, including by repealing with immediate effect the unlawful October 2021 designations of the six Palestinian human rights and civil society organisations both under Israeli domestic law and under military orders;

14. Ensure that in their own laws, policies, and practices, the rights to freedom opinion, expression, freedom of assembly and association, of Palestinians and anyone advocating for the rights of the Palestinian people are respected, protected, and fulfilled, including their right to engage in boycotts and, where relevant, to immediately repeal all legislation and other measures that aim to criminalise boycotts of Israel;
15. Implement a mandatory and comprehensive arms embargo nationally or multilaterally against Israel that includes:
 - (i) Prohibition of the provision to Israel of arms and related matériel of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, security equipment, paramilitary equipment, and spare parts for the aforementioned;
 - (ii) Termination of all existing and forthcoming contractual arrangements with and licenses granted to Israel relating to the manufacture and maintenance of arms, ammunition, military equipment, vehicles, and security and surveillance equipment;
 - (iii) Prohibition of any cooperation with Israel in the manufacture and development of nuclear weapons;
16. Demand that Israel ensures the immediate and full realisation of the inalienable rights of Palestinian refugees, displaced persons, and involuntary exiles, including to return to their homes, lands, and properties in their villages, towns, and cities of origin, as well as to restitution of their property and compensation for the damages inflicted upon them as a result of the ongoing *Nakba*, as integral to realising the Palestinian people's right to self-determination;
17. Demand that Israel repeal all domestic legislation and military orders enshrining racial discrimination, domination, and oppression over the Palestinian people as a whole, including the Law of Return (1950), the Absentee Property Law (1950), the Citizenship Law (1952), the Status Law (1952), the Citizenship and Entry into Israel Law (1952), the Legal and Administrative Matters Law (1970), the Jewish Nation-State Basic Law (2018),

the Citizenship and Entry into Israel Law (Temporary Order) (2022), and all other laws and measures imposing material discrimination against the Palestinian people;

18. Demand an immediate end to Israel's discriminatory planning and zoning policies as manifestations of the crimes of population transfer and apartheid, including illegal house demolitions, the destruction of Palestinian property, and denial of access to land and other natural resources;
19. Warn against the direct and indirect legal risks and consequences of carrying out and maintaining business activities and relationships with Israel's settler colonial apartheid regime, including through public advisories and notices disseminated among businesses, financial institutions, and other private actors;
20. Declare as criminal organisations, institutions, and individuals committing and/or complicit in the crimes of apartheid and population transfer against the Palestinian people;
21. Activate universal jurisdiction mechanisms to try suspected perpetrators of grave breaches and other international crimes, including the crimes of population transfer and apartheid, against the Palestinian people in their own domestic courts, including on the basis of the Apartheid Convention;
22. For states who have not already done so, ratify relevant international treaties, including the Apartheid Convention, Rome Statute, and international human rights law instruments; and
23. Support the Prosecutor of the ICC in conducting a prompt, thorough, and comprehensive investigation into the Situation in Palestine and urge the investigation and prosecution of perpetrators of the crimes of apartheid and population transfer, among other international crimes.

2.2. To the High Contracting Parties to the Geneva Conventions

24. Consider individual, joint, and collective measures to implement common Article 1 of the Geneva Conventions, which requires the High Contracting Parties 'to respect and ensure respect' for the Conventions in all circumstances by undertaking practical measures of enforcement and effective measures available under the Fourth Geneva Convention to

bring an end to Israel's settler colonial apartheid regime and other breaches of international humanitarian law, including but not limited to:¹⁰⁸

- (i) Engaging the enquiry procedure under Article 149 of the Fourth Geneva Convention;
- (ii) Dispatching an International Humanitarian Fact-finding Commission to report back to the High Contracting Parties;
- (iii) Appoint a 'Protecting Power' in the territories occupied by Israel since 1967, in light of Israel's long-standing refusal to recognize the ICRC or any High Contracting Party in that role;
- (iv) Applying corresponding domestic adjudication obligations, in particular, through the application of universal jurisdiction mechanisms;
- (v) Putting an end to the Israeli closure and blockade of the Gaza Strip, recognising its illegality, not rendering aid or assistance in maintaining it;
- (vi) Divesting from and imposing economic and military sanctions on Israel and other states abetting grave breaches of international humanitarian law;
- (vii) Downgrading diplomatic relations with Israel and other states abetting grave breaches;
- (viii) Freezing the assets of legal and natural persons responsible for gross violations and grave breaches;
- (ix) Recognising Israel's parastatal institutions (WZO/JA, JNF, United Israel Appeal, and affiliates) as organs of the Israeli state where they operate in the territory of a High Contracting Party and claim 'non-governmental,' private, 'charitable' and/or other tax-exempt status, while engaging in population transfer, including the implantation of settlers and settlements in the occupied Palestinian territory and the occupied Syrian Golan;

¹⁰⁸ These recommendations were put forward in 2010 by civil society from Palestine and other countries in a letter to Switzerland for convening the High Contracting Parties. *See* NGO Joint Letter to Switzerland on HCP Conference (5 February 2010) <<http://www.hlrn.org/activitydetails.php?title=NGO-Joint-Letter-to-Switzerland-on-HCP-Conference&id=o29tYw==#.Y4MchezP23I>>.

- (x) Applying international and, as appropriate, domestic law to sanction Israel's parastatal institutions and other organizations where they are found to engage in grave breaches of international humanitarian law, including population transfer, and other humanitarian and criminal breaches of international law;
- (xi) Refraining from supplying Israel with any weapons and related equipment, and suspending any military assistance that Israel receives from them;
- (xii) Refraining from acquiring any weapons or military equipment from Israel;
- (xiii) Suspending economic, financial and technological assistance to and cooperation with Israel; and
- (xiv) Ensuring that the specialised agencies and other international organisations conform their relations with Israel to these remedial terms.

2.3. On States' Duty to Ensure Corporate Accountability

- 25. Ensure that individuals, corporate actors, and other for-profit and non-profit organisations involved in and/or complicit in the commission of the crime of apartheid, other crimes against humanity and war crimes, and grave human rights violations are held to account through all available mechanisms at national, regional, and international levels;
- 26. Provide political and financial support for the annual update of the UN Database on corporate entities involved in illegal Israeli settlements and take effective steps to ensure that the list of companies continues to be updated, as mandated, and as a comprehensive and living tool for corporate accountability, and to broaden the scope to include all business entities and for-profit and non-profit organisations that are complicit in apartheid;
- 27. Legislate, in domestic legal systems, for mandatory human rights due diligence procedures for all corporate entities and for-profit and non-profit organisations engaged in activities within and outside their jurisdictions, with special attention afforded to conflict-affected areas, occupied and annexed territory, where enhanced mandatory human rights due diligence is necessary. Such legislation should align with the UN Guiding Principles on Business and Human Rights, the Organisation for Economic Co-operation and Development (OECD) Guidelines, and relevant provisions of international human rights law and international humanitarian law, as applicable;

28. Adopt legislation, domestically and regionally, to prohibit the import of goods and services from illegal settlements, including in Palestine, and ban trade with and economic support for the illegal settlement enterprise; as Israel's largest trade partner, the EU should lead by example in this regard;
29. Apply public procurement law in line with relevant obligations and responsibilities for states under international law, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines, which entails denying public contracts to companies involved in grave violations of international law;
30. Investigate and prosecute private enterprises and individuals 'charities' that materially or otherwise support the Israeli settler colonial apartheid regime; and
31. Incorporate legislation to give effect to the principle of universal jurisdiction domestically for the prosecution of business entities, financial institutions, for-profit and non-profit organisations, and individuals for the crimes of apartheid and population transfer, grave breaches of the Geneva Conventions, and other international crimes to ensure perpetrators are held to account.

2.4. To Palestinian Officials

32. Continue to recognise and condemn, including through regional and international organisations, that Israel's discriminatory laws, policies, and practices have cumulatively established and continue to maintain an apartheid regime of systemic racial oppression and domination over the Palestinian people as a whole, as part of the Zionist settler colonial project, using strategic fragmentation as its primary tool, giving rise to individual criminal responsibility in addition to engaging Israel's state responsibility for internationally wrongful acts;
33. Ensure that they do not render direct or indirect assistance to Israel's settler colonial apartheid regime, including by not contributing to the Israeli policy of strategic fragmentation; and
34. Ensure a comprehensive representation of the Palestinian people as a whole, including Palestinian refugees and exiles abroad and Palestinian citizens inside the Green Line, through functional and democratic institutions, in pursuing the realisation of the collective right of the Palestinian people to self-determination.

2.5. To Member States of the Human Rights Council

35. Adopt a resolution recognising that Israel has established and maintains an apartheid regime over the Palestinian people as a whole and adopt effective measures to dismantle the regime;
36. Continue to mainstream and mobilise support against Israel's settler colonial apartheid regime by delivering statements recognising and condemning this regime in national capacities as well as through cross-regional statements;
37. Ensure the ongoing Commission of Inquiry on root causes of systematic discrimination on both sides of the Green Line is provided with sufficient funding, resources, and staffing to conduct its investigations, work, the compiling of a list of suspected perpetrators, and the preservation of evidence and documentation;
38. Adopt a resolution to expand the mandate of the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 to encompass the human rights of the Palestinian people as a whole, including Palestinian citizens inside the Green Line and Palestinian refugees, displaced persons, and exiles abroad; and
39. Ensure the UN Database of businesses involved in Israel's illegal settlement enterprise is updated annually and broaden the scope of the Database to include businesses entities and other for-profit or non-profit organisations that are complicit in Israeli apartheid on both sides of the Green Line.

2.6. To UN Special Procedures

40. Continue to examine the detrimental human rights impacts of Israel's settler colonial apartheid regime and build on the mounting recognition that Israeli laws, policies, and practices amount to the commission of the crime of apartheid over the Palestinian people as a whole as well as other war crimes and crimes against humanity;
41. Adopt a comprehensive approach that places violations of the human rights of the Palestinian people as a whole within the wider context of Zionist settler colonialism and Israeli apartheid, focusing on the need for states to adopt effective, coercive measures toward ending Israel's institutionalised regime of systematic racial oppression and domination and the colonial subjugation of the Palestinian people; and

42. Provide meaningful support for the work of Palestinian civil society and human rights organisations and defenders, in their monitoring, documentation, and reporting on widespread and systematic human rights violations and international crimes committed on both sides of the Green Line.

2.7. To UN Treaty Bodies

43. Examine and recognise Israel's settler colonial apartheid regime as an underlying root cause and determinant of the widespread and systematic human rights violations committed against Palestinians in their concluding observations on Israel; and
44. Build and take note of the previous concluding observations and reporting by CERD, CESCR, and the Human Rights Committee, among others, who have made determinations regarding Israel's systematic and institutionalised discrimination against Palestinians.

2.8. To the Ongoing UN Commission of Inquiry

45. Examine Israel's settler colonial apartheid regime in its investigations into the root causes of systematic discrimination in the occupied Palestinian territory and in Israel, including material racial discrimination carried out by Zionist parastatal institutions in their effort to displace, dispossess, and replace the indigenous Palestinian people on the land.

2.9. To the CEIRPP and Other UN Bodies

46. Address the Palestinian people as a whole in investigations, reporting, statements, and deliberations, in order to de-fragment the UN's treatment of those subjected to Israel's settler colonial apartheid regime; and
47. Recognise and condemn Israel's settler colonial apartheid regime in its reporting, events, and other relevant activities and work to counter the fragmentation of the Palestinian people in its research, work, dissemination, and recommendations.

2.10. To the UN General Assembly

48. Adopt effective, coercive measures under the Uniting for Peace resolution and take other necessary steps to ensure international justice and accountability and an end to Israeli impunity for the crime of apartheid and other international crimes and wrongful acts; and

49. Adopt a resolution to reconstitute the UN Special Committee against Apartheid and the UN Centre against Apartheid to address Israeli authorities' commission of the crime against humanity of apartheid and its elements against the Palestinian people as a whole and empower these bodies to proactively pursue the dismantlement of Israel's settler colonial apartheid regime.

2.11. To the International Court of Justice

50. Address Israel's settler colonial apartheid regime targeting the Palestinian people as a whole and legal responsibilities arising therefrom in its consideration of 'the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures.'¹⁰⁹

2.12. To the UN Security Council

51. Restore legal and operational integrity by implementing a mandatory and comprehensive arms embargo under Chapter VII of the UN Charter, similar to the one imposed on the former South African apartheid regime, including:
 - (i) Prohibition of the provision to Israel of arms and related materials of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, security equipment, paramilitary equipment, and spare parts for the aforementioned;
 - (ii) Termination of all existing and forthcoming contractual arrangements with and licenses granted to Israel relating to the manufacture and maintenance of arms, ammunition, military equipment, vehicles, and security and surveillance equipment; and
 - (iii) Prohibition of any cooperation with Israel in the manufacture and development of nuclear weapons.

¹⁰⁹ UN General Assembly, Fourth Committee, Draft Resolution, 10 November 2022, UN Doc A/C.4/77/L.12/Rev.1, para 18(a).

2.13. To Parliamentarians

52. Incorporate language in relevant statements, resolutions, and relevant internal and external documents that recognise the context of Israel's settler colonial apartheid regime and its strategic fragmentation of the Palestinian people;
53. Put forward parliamentary resolutions recognising and condemning Israel's settler colonial apartheid regime over the Palestinian people as a whole. Such legislation should call on the corresponding state to adopt effective measures and end complicity in Israel's settler colonial apartheid regime, including but not limited to filling any legislative gaps necessary to apply universal jurisdiction domestically for the prosecution of gross violations, grave breaches, war crimes, crimes against humanity, and violations of peremptory norms of international law; and
54. Adopt legislation prohibiting the import of illegal settlement goods and services into their jurisdiction.

2.14. To Local and Other Sub-national Spheres of Government

55. Declare municipal jurisdictions to be 'Apartheid-Free Zones' and facilitate public deliberations and learning events to inform the public about Zionism, Israel's settler colonial apartheid regime, and its dire consequences on the Palestinian people, the region, and the world;
56. Exercise extraterritorial obligations as organs of the state under international human rights law treaties and peremptory norms of international law to avoid recognition of, cooperation, and transaction with entities supporting or otherwise benefitting from Israel's settler colonial apartheid regime, including through selective-procurement resolutions and other responsible mechanisms; and
57. Expand engagement and cooperation with Palestinian municipalities and local councils to foster exchanges and practical solidarity.

2.15. To the Office of the Prosecutor of the ICC

58. Ensure that the current ICC investigation into the Situation in Palestine proceeds without undue delay and involves a full, thorough, and comprehensive examination of suspected international crimes, including war crimes and crimes against humanity, comprising, *inter*

alia, the crimes of apartheid, population transfer, appropriation and destruction of property, pillage, persecution, wilful killing, murder, torture, and other inhumane acts, including the denial of the right to return, committed by Israeli military and state officials and associated actors, including representatives of private entities, businesses, and other for-profit and non-profit organisations.

2.16. To Corporate Entities and Financial Institutions

59. Responsibly cease and disengage from all business activities and relationships that may render them complicit, or otherwise contribute to the maintenance and entrenchment of Israel's settler colonial apartheid regime, including its illegal enterprise in the occupied Palestinian territory;
60. Respect all applicable provisions of international law in all activities and relationships linked to Israel and the occupied Palestinian territory;
61. Use the UN Database to bring their business activities, conduct, and relationships in line with relevant international responsibilities;
62. Introduce and commit to undertaking ongoing, rigorous enhanced human rights due diligence to ensure that operations and relationships are in full compliance with relevant responsibilities, namely under international human rights law, international humanitarian law, and the UN Guiding Principles on Business and Human Rights; and
63. Introduce appropriate reparations and remedial processes, in consultation with those directly affected, i.e., the Palestinian people, to provide for redress and effective remedy for violations and harm caused by direct and indirect business relationships or activities linked to Israel's settler colonial project in Palestine.

2.17. To Civil Society Organisations

64. Adopt organisational positions that recognise and condemn Israel's settler colonial apartheid regime over the Palestinian people as a whole, including Palestinians in the occupied Palestinian territory, Palestinians inside the Green Line, and Palestinian refugees, displaced persons, and exiles around the world; and
65. Call upon their respective governments, representatives, and state agencies to adopt immediate effective, coercive measures, including the aforementioned recommendations

for states, toward dismantling Israel's settler colonial apartheid regime and ensuring the full realisation of the inalienable rights of the Palestinian people as a whole to return and self-determination.

