

**The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel**

**Joint briefing of the  
Independent International Commission of Inquiry on the Occupied  
Palestinian Territory, including East Jerusalem, and Israel  
and the Special Rapporteur on the situation of human rights in the  
Palestinian territories occupied since 1967**

**Friday, 10 November 2023**

**Remarks by Ms. Navanethem Pillay, Chair of Commission**

- **It has been more than one month since this monumental tragedy began, a tragedy that, in the words of the Preamble to the Universal Declaration of Human Rights, has outraged the conscience of humanity. During this period, according to the best available statistics, more than 10,800 Palestinians have been killed in Gaza, including over 4,400 children and almost 3000 women. 175 Palestinians have been killed in the West Bank including East Jerusalem. In Israel, over 1,200 people have been killed, of whom 1,162 have been identified, and 239 others have been abducted to Gaza. The Commission assesses that the vast majority of all those killed were civilians.**
- **Children have paid a particularly high price. The latest available statistics indicate that some 4,400 Palestinian children have been killed in Gaza, 46 children in the West Bank including East Jerusalem, and some 31 children in Israel. Reports indicate that 34 children were among those abducted by Palestinian armed groups to Gaza – with no indication received to date on their whereabouts, safety and security.**
- **There is absolutely no justification for the atrocities committed by Hamas and other Palestinian armed groups on 7 October, and the continuing holding of hostages in Gaza. These are crimes under international law, war crimes and crimes against humanity, and those responsible must be held accountable. At the same time, we must emphasise that, under international law, crimes committed by one party**

to the conflict do not justify the committal of crimes by the other party, in retribution or otherwise. **Engaging in “reciprocal wrongdoing” will never lead to a just resolution or rectify the initial injustice. It leads only to the commission of more war crimes.**

- **I reiterate that States have the obligation to protect their citizens. The State of Israel has this obligation under international law and is entitled to act to implement it, but it is incorrect to classify this as acting in self-defence under Article 51 of the UN Charter.** Article 51 provides for the use of force by a State in self-defence **only in the case of an armed attack by another State**, and it concerns the conditions under which States may resort to war. **This does not exempt the State from adherence to international humanitarian law which regulates the conduct of all parties during an armed conflict.** In this regard, I recall the International Court of Justice’s 2004 Advisory Opinion, which affirmed that Israel is the Occupying Power over the Occupied Palestinian Territory, and that Article 51 of the Charter is not applicable in this case – when the threat originates from a territory over which Israel exercises control.
- **The key legal point, however, is, whether the State is acting under Article 51 or under the obligation to protect its citizens, the principles of distinction, necessity, precautions, and proportionality all apply and those principles apply now to all parties to the current conflict.**
- **We are profoundly disturbed by reports that indicate numerous violations of international humanitarian law and international human rights law Hamas in Israel and by the Israeli Security Forces in Gaza. There are also clear indications that several crimes under international law have been committed since 7 October 2023.** Parties to the conflict have the obligation to take constant care to spare the civilian population and civilian objects. This obligation remains applicable throughout the conflict.
- **The Commission has received reports that Israeli aerial attacks have killed thousands of civilians and damaged in part or in whole residential neighbourhoods and critical civilian infrastructure. This includes**

**hospitals and medical facilities, refugee camps sheltering IDPs, as well as educational and UN facilities. The impact of these large-scale attacks on the civilian population has been exacerbated by the total siege of Gaza, leading to what OCHA has identified as a major humanitarian crisis. With drastically reduced access to medicines, food, water, electricity and fuel, the situation is undoubtedly more dire than ever, leaving civilians with limited access to essential services, including medical care. Protected persons have been killed, including journalists, medical personnel and aid workers, including at least 99 UN staff. This is the highest number of UN staff killed in a single conflict in the 78-year history of the UN.**

- **On 7 October, our Commission started collecting and preserving evidence with the aim of devoting every available resource to the pursuit of justice and accountability for all victims. Our next two reports to the Human Council's 56<sup>th</sup> session and to the General Assembly's 79<sup>th</sup> session will be dedicated to presenting our findings. These reports will focus on crimes under international law, violations of international humanitarian law and violations of international human rights law committed in Israel and the Occupied Palestinian Territory on and since 7 October 2023.**
- To facilitate our investigation, on 20 October, we issued a call for submissions, inviting States and individuals, groups and organisations to submit information concerning possible crimes committed by any armed actors, including both State and non-State actors, on and since 7 October 2023, including attacks against and killing and injuring of civilians, including children, attacks on civilian structures and objects, hostage-taking, use of civilians, including children, as human shields, sexual and gender-based violence, collective punishment (including denying access to and availability of essential resources and services), starvation, incitement to violence (ethnic, political and religious), the dissemination of misinformation/disinformation, and other actions constituting a crime under international law.
- As part of our investigation, we plan to address the violations and crimes, and identify individuals responsible for their commission. The Commission will also investigate the chain of command with a view to

ensuring that those responsible under the doctrine of command responsibility, such as military and civilian superiors, are held accountable. Across our investigations, **we are paying particular attention to human rights violations and abuses with a gender or child dimension.**

- **We strongly believe that, as part of our investigation and reporting, we must understand the context and history of both peoples, to begin to understand why this round of conflict was ignited and continues in such magnitude.** Our Commission is uniquely mandated to investigate all underlying root causes of recurrent tensions, instability and protraction of conflict and we intend to focus on root causes as part of our investigation.
- In this regard we have already stated **that this latest surge of violence does not come out of a vacuum, and we see a direct link to the occupation and the denial of self-determination.** In our first report to the General Assembly in 2022, we concluded that Israel's **occupation of the Palestinian territory is now unlawful** due to the permanence of the occupation and Israeli's actions to annex parts of the occupied Palestinian territory de facto and de jure.
- We wish to highlight that, **unless and until the core issues pertaining to the root causes of the recurrent tensions, instability and protraction of conflict are resolved, peace and security in the region will not be possible.** This ultimately affects civilians, including women and children, as the world is currently witnessing in disbelief. Absent any tangible action by the international community to address the root causes of the instability in the region, the 75-year-old conflict will continue in repeated cycles of death and suffering, for both Israelis and Palestinians.
- Consistent with resolution A/ES-10/L.25, passed by the General Assembly on 27 October, **we call on all parties to the conflict to comply fully with international humanitarian law and international human rights law, and to act to prevent the commission of and incitement to any crimes under**

**international law, including war crimes, crimes against humanity and genocide.**

- The Commission **stresses that it is crucial, now more than ever, for all Member States to refrain from recognizing, supporting, encouraging, aiding or assisting in any violations of international law by Israeli authorities or non-State armed groups.**
- The Commission reminds the esteemed representatives participating in this briefing of the preamble of the United Nations Charter which **highlights the paramount importance of saving succeeding generations from the scourge of war which has already brought untold sorrow to generations of Palestinians and Israelis.** On that note, the Commission urges Member States to facilitate a dialogue to build long lasting peace and security in the region in order to reaffirm faith in fundamental human rights.
- This conflict that began on 7 October 2023 stands now at the forefront of the international human rights, and peace and security agenda. The scale of the conflict and the nature of its conduct have drawn worldwide condemnation. **We urge all Member States to use their influence to encourage all parties to immediately cease hostilities.** We urge Member States to encourage parties to cooperate with international investigations, including the investigation of our Commission and of the International Criminal Court, and allow investigators access to Israel and the occupied Palestinian territory.

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