



Joint Submission to the Committee on the Rights of Persons with Disabilities (CRPD) ahead of Israel's First Review

I. Introduction

A. Israel's Obligations vis-à-vis Palestinians in the occupied Gaza Strip

1. On 28 September 2012, Israel ratified the Convention on the Rights of Persons with Disabilities (CRPD). Under Article 11 of the CRPD, Israel, as the occupying power, bears obligations under both international humanitarian law (IHL) and international human rights law (IHRL) to take all necessary measures to ensure the protection and safety of persons with disabilities in situations of armed conflict, which includes belligerent occupation.¹ As noted by the United Nations Independent International Commission of Inquiry on the 2018 protests in the Occupied Palestinian Territory (hereinafter: COI)² in its report submitted to the Human Rights Council in March 2019, “that Israel bears human rights obligations in the OPT is consistently expressed in General Assembly Resolutions, in Secretary-General reports, by the High Commissioner for Human Rights, the Human Rights Council, by previous Commissions of Inquiry and Fact-Finding Missions on the OPT, and by other human rights treaty bodies.”³ The latter include, among others, the UN Committee on Economic Social and Cultural Rights,⁴ the UN Committee Against Torture,⁵

¹ Israel has been occupying the West Bank, including East Jerusalem, and the Gaza Strip since June 1967. The Israeli occupation has been recognized as such by the Security Council as of that year. Since 2007, Israel has imposed a land, air, and sea blockade and closure of the Gaza Strip that remains ongoing.

² The United Nations Commission of Inquiry on the 2018 protests in the Occupied Palestinian Territory was appointed by the Human Rights Council through resolution S-28/1 and was mandated to investigate all alleged violations and abuses of international human rights and humanitarian law during the Great March of Return demonstrations up to 31 December 2018.

³ [Report of the detailed findings of the independent international Commission of inquiry on the protests in the Occupied Palestinian Territory](#), A/HRC/40/CRP2, 18 March 2019, para. 48.

⁴ See, e.g., UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the fourth periodic report of Israel*, E/C.12/ISR/CO/4, 12 November 2019, paras. 8-9; *Concluding observations of the Committee on Economic, Social and Cultural Rights – Israel*, E/C.12/ISR/CO/3, 16 December 2011, para. 8.

⁵ See, e.g., UN Committee Against Torture (CAT), *Concluding observations on the fifth periodic report of Israel*, CAT/C/ISR/CO/5, 3 June 2016, paras. 8-9.

the UN Committee on the Elimination of Racial Discrimination,⁶ and the UN Human Rights Committee (as recently as May 2022).⁷

Suggested recommendation:

- We urge this Committee to affirm and endorse the recommendations put forth by other treaty bodies that Israel’s obligations under the CRPD apply to all territories under its effective control, which include the occupied Palestinian territory—i.e., the West Bank, including East Jerusalem, and the Gaza Strip. The Committee should therefore urge Israel to ensure that all persons with disabilities under its effective control and jurisdiction enjoy all the rights guaranteed under the CRPD without discrimination.

II. Right to Life (Article 10)

B. The Great March of Return Demonstrations

2. This section focuses on Israel's conduct in the context of the “Great March of Return” (GMR) demonstrations in the Gaza Strip. Almost every Friday from 30 March 2018 to March 2020, thousands of Palestinians participated in overwhelmingly peaceful demonstrations along the buffer zone at the separation fence between Gaza and Israel. Palestinian protesters demanded that Palestinian refugees and their descendants, living in Gaza and elsewhere, be able to return to their towns and villages of origin in present-day Israel, in accordance with UN General Assembly Resolution 194, as well as an end to Israel’s closure and blockade of Gaza.
3. The GMR demonstrations drew large and diverse crowds of participants and remained largely peaceful and non-violent.⁸ Regardless of the fact that no genuine threats were posed to Israeli soldiers or to surrounding communities, the Israeli military responded to the demonstrations with the use of lethal and other forms of excessive force—including live and high-velocity ammunition, rubber-coated metal bullets, snipers, and other types of crowd-control weapons, such as tear gas canisters, which directly targeted protesters, media, and medical personnel.

⁶ See, e.g., UN Committee on the Elimination of Racial Discrimination (CERD), *Concluding observations on the combined seventeenth to nineteenth reports of Israel*, CERD/C/ISR/CO/17-19, 27 January 2020, paras. 9-10.

⁷ See, e.g., UN Human Rights Committee (HRCttee), *Concluding observations on the fifth periodic report of Israel*, CCPR/C/ISR/CO/5, 5 May 2022, para. 7; *Concluding observations on the fourth periodic report of Israel*, CCPR/C/ISR/CO/4, 21 November 2014, para. 5; *Concluding observations of the Human Rights Committee – Israel*, CCPR/CO/ISR/3, 3 September 2010, para. 5; *Concluding observations of the Human Rights Committee – Israel*, CCPR/CO/78/ISR, 21 August 2003, para. 11; *Concluding observations of the Human Rights Committee – Israel*, CCPR/C/79/Add.93, 18 August 1998, para. 10.

⁸ Al Mezan, [Attacks on Unarmed Protesters at the “Great March of Return” Demonstrations. A Two-Year Report from the Start of Demonstrations on 30 March 2018](#), April 2020.

4. Human rights organisations, including Al Mezan and Adalah, contend that the GMR demonstrations took place within a law enforcement paradigm, and that the conduct of the Israeli forces was governed by international human rights law, under which lethal force can only be used as a last resort to protect against an imminent threat to life and when other, less forceful measures have been exhausted.⁹
5. The COI also shared this view. In particular, the COI held that “[t]he demonstrations were civilian in nature, had clearly stated political aims and, despite some acts of significant violence, did not constitute combat or a military campaign. Thus, the legal framework applicable to policing the protests was that of law enforcement, based in international human rights law. This assessment did not change following the commission’s investigation into the demonstrators’ affiliation to or membership in organized armed groups.”¹⁰
6. Facts on the ground show that the Israeli military consistently used lethal and excessive force in circumstances that could not be justified under international human rights law, ultimately killing 217 Palestinians at the protests — including nine persons with disability—while wounding and traumatising thousands more.¹¹

C. Impact of Israel’s Shoot-to-kill Policy: The Killing of Palestinian Protesters with Disabilities

7. The consistent use of lethal and other excessive force by the Israeli military against all of the protesters also resulted in the killing and wounding of persons with physical, cognitive, and other types of disabilities, some of whom could not remove themselves from harm’s way. According to documentation from Al Mezan, during the Great March of Return, Israeli soldiers killed at least nine persons with disabilities, including one child, none of whom posed a threat that would warrant the use of force.
 - i. **Shadi Hamdan Ali al-Kahsef**, a 33-year-old resident of Rafah with a hearing disability, was shot in the head by the Israeli military on 30 March 2018. He died from the sustained injury on 5 April 2018. The COI found that Shadi did not pose an imminent threat of death or serious injury to Israeli forces when he was shot.¹²
 - ii. **Tahrir Mahmoud Saed Wahba**, an 18-year-old resident of Khan Younis with a hearing disability, was shot in the head by the Israeli military on 1 April 2018. He

⁹ United Nations, [Basic Principles on the Use of Force and Firearms by Law Enforcement Officials](#).

¹⁰ [Report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory](#), A/HRC/40/74, 6 March 2019, para. 32.

¹¹ Al Mezan, [Attacks on Unarmed Protesters at the “Great March of Return” Demonstrations. A Two-Year Report from the Start of Demonstrations on 30 March 2018](#), April 2020.

¹² A/HRC/40/CRP2, para. 537.

died on 23 April 2018. Also in his case, the COI found that Tahrir did not pose an imminent threat of death or serious injury to Israeli forces when he was shot.¹³

- iii. **Fadi Hassan Salman Abu Selmi (Abu Salah)**, a 29-year-old double amputee, was killed by a bullet in the chest shot by the Israeli military on 14 May 2018. Again, the COI found that Fadi posed no imminent threat of life or injury to Israeli soldiers at the time of his killing.¹⁴ (See also para. 10 below for more detailed information).
- iv. **Suhaib Abdelsalam Mohammed Abu Kashef**, a 16-year-old child and resident of Khan Younis with an intellectual disability, was shot in his neck by the Israeli military on 3 August 2018. He died on 15 September 2018. Also in his case, the COI found that Suhaib did not pose an imminent threat of death or serious injury to Israeli soldiers when he was shot.¹⁵
- v. **Hussein Fathi Hussein Mohsen «Al-Regeb»**, an 18-year-old resident of Khan Younis with an intellectual disability, was killed by a bullet in his abdomen shot by the Israeli military on 5 October 2018.
- vi. **Ghanem Ibrahim Ghanem Shurrab**, a 44-year-old resident of Khan Younis with an intellectual disability, was shot in his left leg by the Israeli military on 19 October 2018. He died on 5 November 2018.
- vii. **Maher Ateyya Mohammed Yassin**, a 40-year-old resident of Deir al-Balah with a physical disability, was killed by a bullet in his head shot by the Israeli military on 21 December 2018.
- viii. **Karam Mohammed Noman Fayyad**, a 26-year-old resident of Khan Younis with an intellectual disability, was killed by a bullet in his abdomen shot by the Israeli military on 28 December 2018. In this case, the COI found that there were reasonable grounds to believe that Karam did not pose an imminent threat of death or serious injury to Israeli soldiers.¹⁶ (See also para. 12 below for more detailed information).
- ix. **Ramzi Rawhi Hassan Abdo**, a 30-year-old resident of Deir al-Balah with a hearing disability, was shot in the head by the Israeli military on 3 May 2019. He died the following day, on 4 May 2019.

8. In cases of Palestinians with visible disabilities, the COI “found reasonable grounds to believe that the Israeli snipers shot these demonstrators intentionally, despite seeing that

¹³ A/HRC/40/CRP2, para. 537.

¹⁴ A/HRC/40/CRP2, para. 537.

¹⁵ A/HRC/40/CRP2, para. 537.

¹⁶ A/HRC/40/CRP2, para. 537.

they had visible disabilities.”¹⁷ At the same time, “Israeli forces also unlawfully shot other demonstrators with disabilities.”¹⁸

9. Overall, the statistics compiled by Al Mezan indicate that upper-body gunshot wounds were the leading cause of death, accounting for 89 percent of all fatalities during the Great March of Return demonstrations. This figure indicates a deliberate effort by the Israeli military to cause serious, and often, maximum harm to protesters targeted with live ammunition — including those with disabilities. The following two cases of persons with disabilities killed during the Great March of Return demonstrations clearly illustrate this point.
10. The date of 14 May 2018, the eve of Palestinian Nakba Day,¹⁹ was the bloodiest day in nearly two years of the Great March of Return demonstrations. On this day, the Israeli army killed 44 protesters, one of whom was a person with a disability, **Fadi Hassan Abu Selmi (Abu Salah)**, a 29-year-old double amputee residing in Khan Younis.²⁰ At least 1,860 additional persons were injured that day, including 305 children, 18 journalists, and 20 paramedics—1,427 of whom were killed by live ammunition.
11. According to Al Mezan’s documentation, Abu Salah was killed by a bullet shot into his chest by the Israeli military on 14 May 2018. As reported by the COI, Israeli snipers “shot him in the chest with live ammunition as he sat in his wheelchair under a tree approximately 250-300 m from the separation fence with two friends.”²¹ The following is an extract from an eyewitness’ affidavit regarding his killing:

“At around 8:30 am on Monday, 14 May 2018, I went with my friend Fadi Hassan Abu Selmi (Abu Salah) to the GMR protests in Khuza’a, East Khan Younis. Fadi is 29 and he’s a double amputee who had lost both legs. I rode behind him on his three-wheel handicap motorcycle ... At 12:30pm, another friend joined us and we went to Jakar Street to watch the protests, 250-300 away from the fence. I asked Fadi to stay away because I could hear heavy gunfire coming from the fence. Fadi told us he needed to pray, so we left him next to the tree and joined the protesters. I saw burning tires where people were assembling, and shortly after, I heard shooting and Fadi’s body hitting the ground. I thought the gunshot hit the motorcycle. My friend and I rushed back to him and saw his chest

¹⁷ A/HRC/40/74, para. 76.

¹⁸ A/HRC/40/74, para. 77.

¹⁹ Every year, on May 15, the Palestinian people commemorate the Nakba (“the catastrophe”), in reference to the 1948 ethnic cleansing of historic Palestine that persists to this day.

²⁰ Fadi Hassan Abu Selmi (Abu Salah) was doubly amputated following an Israeli attack directed against him on 14 May 2008. As reported by the UN Commission of Inquiry (see A/HRC/40/CRP2, para. 537), in 2008, Fadi was a member of Al-Quds Brigades. At the time of his killing ten years later, he was no longer a militant and he supported the peaceful aims of the Great March of Return.

²¹ A/HRC/40/CRP2, para. 537.

bleeding heavily. I was in total shock and disbelief for some moments. Then a few people came and carried Fadi to an ambulance. I was informed that he had been transferred to the Gaza European Hospital, so I went there around 30 minutes later, and when I arrived, I was told that Fadi had died of his chest injury and that his corpse had been sent to the hospital's morgue. I attended the funeral and burial in Abasan-Al-Kabira's cemetery."²²

12. In a second example of such unlawful attacks by the Israeli military, on 28 December 2018, the fortieth week of demonstrations in Gaza, Israeli forces killed **Karam Mohammed No'man Fayyad**, a 26-year-old resident of Khan Younis with an intellectual disability. Israeli forces shot Karam Fayyad with a live bullet in the head during a demonstration in east Khan Younis, at around 4pm. He was shot at a distance of 150 meters from the fence. At 6pm the same day, Fayyad succumbed to his wounds and was pronounced dead at the Gaza European Hospital.
13. According to Al Mezan's field documentation and witnesses' affidavits, Israeli forces shot directly at him—although it should have been clear to the Israeli forces that he was unarmed and did not pose a threat, as he was standing in an open area 150 metres from the fence. The fact that he was shot in the head in such circumstances is also demonstrative of the intent to kill. On 16 January 2019, Al Mezan submitted a request to the Israeli Military Attorney General to open a criminal investigation into Fayyad's killing. On 20 January 2019, the Military Attorney General confirmed receipt of Al Mezan's request and referred the case to its Fact-Finding Assessment Mechanism. On 2 June 2022, the Military Attorney General decided to close the file, without providing any rationale for the closure decision. No one was held accountable for Fayyad's killing.
14. Notably, the Israeli military has implemented a shoot-to-kill policy against Palestinians protesters—including those with disabilities—before, including in connection with other protests that took place in the occupied Gaza Strip. For example, on 15 December 2017, Israeli forces used lethal force against double amputee **Ibrahim Nayef Ibrahim Abu Thuraya**,²³ during a protest over the U.S. recognition of Jerusalem as Israel's capital and the U.S. plan to move its embassy there (both made in violation of international law).
15. Israeli forces shot Abu Thuraya in the forehead while he was attending a demonstration in east Gaza City at around 4:30 pm on 15 December 2017. According to Al Mezan's documentation, Abu Thuraya was about 50 meters away from the fence between Gaza and Israel at the time he was shot. He was unarmed and posed no threat to the soldiers. Therefore, Al Mezan contends that his killing amounts to a blatant excessive and disproportionate use of force and is a clear violation of the right to life under international

²² Affidavit by Nidal Abu Tair taken by Al Mezan on 16 May 2018.

²³ Abu Thuraya lost both of his legs in an Israeli airstrike in the east of Al Bureij refugee camp, Middle Gaza district, in 2008.

human rights law. On 17 December 2017, Al Mezan filed a complaint to Israel’s Military Advocate General, demanding a full criminal investigation into the unlawful killing. However, the investigation into Abu Thuraya’s killing was closed without charges; the Military Advocate General did not cite any reason for closing the case.

16. In April 2018, several human rights organisations—including Adalah and Al Mezan—submitted two urgent petitions to the Israeli Supreme Court, demanding that it order the Israeli military to cease using snipers and live ammunition to disperse the GMR protesters.²⁴ The petitioners argued that the rules of engagement employed by the Israeli military, which authorised the deadly open-fire policy against the protesters, were patently excessive and illegal, as evidenced by the high number of resultant deaths and injuries. The petitioners also argued that the Israeli military’s response to the protests constituted an arbitrary use of force for the purposes of punishing and deterring protesters, in violation of international law. They further contended that the appropriate normative framework applicable to civilian demonstrations is that of law enforcement governed by IHRL, as opposed to IHL, and thus the use of lethal force may be employed only as a last resort, contingent upon strict or absolute necessity. In the petition, the human rights organisations further stressed that, contrary to the claims of the Israeli military and government, the protesters during the GMR were unarmed civilian demonstrators who did not endanger anyone’s life during the demonstrations.
17. On 24 May 2018, the Israeli Supreme Court unanimously rejected the petitions, thereby sanctioning the Israel military’s continued blanket use of snipers and live fire against Palestinian protesters. The Supreme Court failed to intervene in the military’s discretion, and thus to provide any legal accountability or other remedy to the victims. The Court neither ordered the military to re-examine its rules of engagement, nor to open a criminal investigation into any of the killings or injuries. Rather, the Court fully adopted the state/military’s position, as advanced during the legal proceedings.
18. With this judgement, the Court’ legitimised the military’s targeting of so-called “key rioters” and “key inciters”, although these categories are not “grounded in international law”.²⁵ The use of lethal weapons against “key rioters” or “key inciters” is not in accordance with IHL, since the protesters are civilians and thus are not legitimate targets. This conduct is also not in line with the paradigm of law enforcement under IHRL, since the protesters did not pose any imminent threat to life, an assessment, as noted above, that was accepted by the UN COI.
19. In its March 2019 report, the COI examined a document entitled “Gaza Border Events: Questions & Answers”, which was published by the Israeli military in February 2019 and explains how the rules of engagement were implemented on the ground. The COI

²⁴ HCJ 3003/18 *Yesh Din, et. al v. IDF Chief of Staff et al.* and HCJ 3250/18, *Adalah, et. al v. IDF Chief of Staff, et al.* (cases dismissed 24 May 2018).

²⁵ A/HRC/40/CRP2, para. 312.

concluded in this regard that, “[i]n the law enforcement paradigm, none of the above listed activities can in themselves be lawfully met with lethal force—unless the person simultaneously poses an imminent threat to life or limb by, for instance, being armed and attacking.”²⁶ The COI also found that, “the use of live ammunition by Israeli security forces against demonstrators was unlawful”,²⁷ as the protesters did not pose any threat to the lives of Israeli soldiers or civilians or participate directly in hostilities. The COI further found that this unlawful policy was an intentional and systematic practice.²⁸

20. Several UN treaty bodies have strongly condemned the use of excessive force by Israel's armed forces, both in a broader context and specifically in relation to the Great March of Return. In its 2022 concluding observations, the Human Rights Committee expressed deep concern regarding “the continuing and consistent reports of the excessive use of lethal force by the Israeli security forces against Palestinian civilians, including children, and the lack of accountability for these acts, *which has resulted in a general climate of impunity*. It is particularly concerned about excessive force used in policing demonstrations, including the Great March of Return [...] during which [...] persons with disabilities, were shot dead.”²⁹ In its List of issues in relation to the initial report of Israel, your Committee has also further noted Israel's use of force vis-à-vis protesters as a matter of concern. In relation to the right to life protected by Article 10 of the CRPD, it requested information from the State Party regarding “measures to protect the right to life of persons with disabilities in the context of reported violence and conflicts during public demonstrations or at border controls conducted by the military.”³⁰
21. Based on the information outlined above, Israel violated its obligations under international human rights law, particularly the right to life protected under Article 10 of the CRPD, as the Israeli military deliberately shot, killed, and wounded disabled persons who did not pose a serious and imminent threat to the lives of Israeli soldiers or surrounding communities.
22. Moreover, by not complying with the principles of necessity and proportionality which regulate the use of force in law enforcement settings, the Israeli military also disregarded the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, first and foremost Articles 4 and 5. This analysis corresponds to the findings of the Commission of Inquiry that found that in all but a possible two cases of killing, “the use of live ammunition by Israeli security forces against demonstrators was unlawful.”³¹ Concurrently, the COI also stated that the seriousness of these violations is such that they may amount to war crimes and crimes against humanity.³²

²⁶ A/HRC/40/CRP2, para. 316.

²⁷ A/HRC/40/74, para. 94.

²⁸ A/HRC/40/74, para. 76.

²⁹ CCPR/C/ISR/CO/5, para. 26 (emphasis added).

³⁰ CRPD/C/ISR/Q/1, para. 8.

³¹ A/HRC/40/74, para. 94.

³² A/HRC/40/74, paras. 115 and 125.

Suggested recommendations:

- We urge this Committee to affirm and endorse the recommendations put forth by the Human Rights Committee that Israel should ensure that “prompt, thorough, effective, independent, and impartial investigations are launched into all incidents involving the excessive use of force by the Israeli military forces, that perpetrators are prosecuted and, if found guilty, punished,” guaranteeing that those responsible for the injury and death of Palestinian protesters, including protected groups such as persons with disabilities, are held accountable.
- We strongly urge the Committee to call on Israel to review its rules of engagement with the view of bringing them into compliance with international human rights standards, including the CRPD. Israel must unequivocally prohibit the use of live ammunition or any other lethal means that may cause harm to Palestinian peaceful protesters and the targeting of Palestinian protesters, while specifically taking into account the protection of vulnerable groups, such as persons with disabilities.

Additional materials:

- Adalah and Al Mezan, [Briefing Paper on Israeli Supreme Court petition challenging the Israeli military’s use of lethal force against Gaza protesters and the State of Israel’s response](#), 15 May 2018
- [Adalah response to the Israeli Attorney General’s memorandum on the lack of the ICC’s jurisdiction in relation to the “Situation in Palestine”](#), June 2020 (arguing that the Gaza Strip has become a “legal black hole” through the suspension of both international humanitarian law and Israeli law for Gaza residents)

D. Israel’s Shoot-to-maim Policy Against Palestinian Protesters

23. During the Great March of Return, the Israeli military’s systematic use of excessive force against unarmed protesters included the infliction of injuries, both physical and psychological, on protesters, journalists, and paramedics.³³ In many cases, the Israeli military caused life-altering injuries, with casualties suffering from debilitating conditions or the amputation of body parts. Given the state of Gaza’s severely impaired healthcare sector, the huge number of casualties were all channelled towards a system lacking facilities, medicine, equipment, and qualified personnel—a deficit grown from and exacerbated by the occupying power’s ongoing closure and blockade.

³³ According to Al Mezan’s documentation, during the Great March of Return, 19,237 individuals received treatment in local hospitals for injuries sustained during the demonstrations. Among them, 9,517 suffered gunshot wounds from live ammunition while the rest sustained injuries from rubber-coated bullets, teargas inhalation or direct blows to the body with teargas canisters.

24. As one doctor on the scene described, “[o]n Monday 14 May, despite 12 theatres working flat out throughout the afternoon and evening, at 10pm there were still 70 major orthopaedic cases waiting for surgery—most of those with gunshot wounds. By 8am the following morning, 40 of these were still waiting, many in agony due to the unavailability of sufficient pain medications. Even basic supplies—gauze, syringes, surgical gowns—were running out.”³⁴
25. One of the consequences of this severe lack of adequate medical supplies and other healthcare services in Gaza is that some wounds and other injuries that could have been more minor have become life-long and life-threatening injuries. The Head of the Nursing Staff at Nasser Hospital’s limb reconstruction unit reported, “we have faced challenges with a lack of antiseptics used to prepare the surgical site before an operation, which increases the risk of surgical site infections after an operation. Also, we currently have a low level of infection marker lab reagents which further complicates the infection follow up process.”³⁵ He further reported that there were shortages in necessary medications and medical supplies that are “essential to prevent and eradicate bone and soft tissue infections that patients going through limb reconstruction treatment are subject to developing.”³⁶ As of 2021, because of the severely overburdened healthcare sector in Gaza, hundreds of individuals were still awaiting surgical treatment for injuries sustained during the GMR.³⁷
26. Despite the poor state of the Gaza health care system, a review of tens of cases documented by Al Mezan also indicates, gravely, that Israeli forces engaged in a pattern of deliberate and systematic shooting, as sharpshooters fired their bullets in areas of the body where an injury, if not fatal, was certain to cause life-changing, permanent, and life-long disabilities, including amputations and severe trauma. According to UN OCHA, one in five of those injured during the GMR were hit by live ammunition, and more than 85% of those caused limb injuries.³⁸
27. According to Al Mezan’s documentation, during nearly two years of weekly protests, the Israeli army’s use of excessive force left at least 178 Palestinian protesters disabled, including 106 men, 64 children, and eight women. Israeli snipers wounded at least 100 Palestinians who required amputations as a result, including 21 children. Another 19 Palestinians developed visual disabilities, 12 speech disabilities, 14 motor disabilities, 1 intellectual disability, and 12 developed sexual dysfunction due to direct injuries in the genital area. The great majority of people made disabled, other than by amputations, were children.

³⁴ Medical Aid for Palestinians (MAP), [Saving lives and limbs in Gaza](#), 13 December 2018.

³⁵ MAP, [Five years on from the Great March of Return wounds are still unhealed](#), 30 March 2023.

³⁶ MAP, [Five years on from the Great March of Return wounds are still unhealed](#), 30 March 2023.

³⁷ MAP, [Not just a painful memory: Continuing to treat the Great March of Return’s gunshot wounds](#), 8 April 2021.

³⁸ UN OCHA, [Two years on: people injured and traumatized during the “Great March of Return” are still struggling](#), 6 April 2020.

28. During the protests, Dr. Mahmoud Mattar, Head of the Orthopaedic Department in Gaza's largest hospital, Al Shifa, commented: "The number of injuries we deal with every Friday is huge, so we are always in need of more limb reconstruction equipment. If we were to only use our local resources, we wouldn't be able to properly manage the treatment patients require."³⁹
29. Significant international support is therefore required to equip Palestinian surgeons and hospitals with the skills and resources needed to treat those injured during emergencies. In 2022, Medical Aid for Palestinians (MAP) reported that, during a limb reconstruction surgery mission sent to Gaza, "[o]ver a quarter of the patients seen suffered from severe gunshot wounds, largely caused by the systematic use of excessive force by Israeli forces during the 'Great March of Return' demonstrations in Gaza in 2018 and 2019. Several years on, the long-term impact of the injuries they sustained is still having a palpable impact on their lives."⁴⁰
30. Those protesters who sustained severe injuries face hardships for the rest of their lives. For example, MAP reported on one man in Gaza in his early 20s who was shot in the right leg while attending the protests in March 2019: "As well as the direct injury, [he] was one of the 25 – 40% of gunshot victims to develop a bone infection, which left him with a significant bone gap requiring additional surgery and medication [...] he had already undergone five surgeries. He was fitted with a frame to stabilise the wound that was removed more than a year after his injury [...] Despite the intensive treatment he has so far received, [...] [h]is injured leg healed several centimetres short and slightly misaligned, meaning that he may require further surgery in future."⁴¹
31. Such severe subsequent infections and other secondary effects of gunshot wounds are, unfortunately, not rare. Since the Great March of Return began (through November 2020), "[o]ver 150 limb injuries have resulted in amputation, and, if you think that cutting the limb off represents the end of the suffering, then you have not heard about patients who have to endure more surgeries or sometimes further amputations. At least 94 patients needed secondary amputations due to subsequent bone infections."⁴² Rates of bone infection from gunshot injuries are exceptionally high, and an increasing number of patients are showing signs of antibiotic resistance, which increases the chance of amputation and the risk of infection to other patients.⁴³
32. Receiving dedicated and extensive follow-up treatment is rare, and takes a long time. It requires extensive medical support, including a "multidisciplinary team made up of orthopaedic and plastic surgeons, nurses, physiotherapists along with psychosocial

³⁹ MAP, [Watch: MAP supported surgeons treat Gaza's wounded](#), 4 October 2018.

⁴⁰ MAP, [MAP sends largest limb reconstruction surgery mission to Gaza since COVID-19 outbreak](#), 13 April 2022.

⁴¹ MAP, [Not just a painful memory: Continuing to treat the Great March of Return's gunshot wounds](#), 8 April 2021.

⁴² MAP, [Treating gunshot injuries in Gaza amid the pandemic](#), 23 November 2020.

⁴³ World Health Organisation (WHO), [Limb Reconstruction Centre launched to assist patients with gunshot injuries in Gaza](#), 5 March 2020.

support professionals. It also involves countless check-ups, complicated surgeries, heavy metal frames, frequent dressings and bloods, strong medicines, pain, insomnia, a sense of helplessness and disability [...].”⁴⁴ MAP’s data shows that only 7.4% out of 458 patients at the dedicated limb reconstruction unit at Nasser Hospital who had complex limb injuries as a result of the GMR, have so far been discharged from the limb reconstruction services.

33. As also noted by the COI, “[t]he shooting by Israeli security forces of Palestinian demonstrators with high-velocity weaponry at distances under 200 meters resulted in killings and long-term, life-altering and life threatening injuries, including paralysis and amputations. Although this was well known as early as April 2018, Israeli forces continued this practice throughout the period under review. Using such weaponry at short range and justifying it by the need for accuracy at long range, indicates a disproportionate use of force.”⁴⁵

34. The following testimony is an extract from an affidavit taken from **Jumaa Ramadan Al-Najjar**, aged 31, whose right leg was amputated due to a gunshot injury:

“At approximately 4:30pm on Friday, 12 April 2019, I went to the GMR camp in Khuza’a, Khan Younis, to participate in the demonstrations as I normally did. When I arrived, I saw hundreds of other protesters including women, children, families, and old people. I walked to the fence and stood 30 meters away for almost 30 minutes. I heard multiple gunshots. Moments later, I felt tremendous pain in my right leg that knocked me to the ground. My leg was bleeding, so I screamed for help but the protesters who tried to help me had to retreat because the Israeli soldiers fired tear gas canisters. Some paramedics came a couple of minutes later and carried me to the ambulance on Jakar Street. I was then taken to the field clinic where I received first aid before they transferred me to the European Hospital in Khan Younis. I passed out upon arrival and woke up at around 10pm. To my immense shock, my right leg was amputated. I screamed in denial and was completely traumatized. The doctors told me I suffered from a gunshot wound that resulted in the tearing of tissues and arteries as well as in bone splintering. That’s why I had undergone a surgery and doctors decided to amputate my right leg below the knee. My whole life has changed because of this incident. I feel like I’m a huge burden on my family and siblings who have to help me move around. I don’t know how I’m supposed to continue my life this way.”⁴⁶

⁴⁴ MAP, [Treating gunshot injuries in Gaza amid the pandemic](#), 23 November 2020.

⁴⁵ A/HRC/40/CRP2, para. 699.

⁴⁶ Affidavit by Jumaa Ramadan Al-Najjar taken by Al Mezan on 19 May 2019.

35. In light of their largely peaceful and non-violent nature, the Great March of Return demonstrations represented a legitimate exercise of the rights to freedom of expression, peaceful assembly, and association that all Palestinians are entitled to under international human rights law, including Articles 19, 21, and 22 of the International Covenant on Civil and Political Rights, as well as Article 21 of the CRPD and that Israel, as the occupying power, is obliged to protect and respect. Yet, from the start of the protests in March 2018, Israeli forces systematically suppressed the Great March of Return demonstrations using excessive and lethal force to undermine Palestinian protesters' rights-based demands.⁴⁷
36. In conclusion, the organizations contend that the information presented above shows that, during the Great March of Return demonstrations, the Israeli forces carried out repeated lethal attacks on peaceful protesters, in general and against those with disabilities, which amounts to gross violations of the right to life under Article 10 of the CRPD, and unlawful killing and injury under international humanitarian law, and further, may amount to war crimes and crimes against humanity under the Rome Statute.

III. Situations of Risk and Humanitarian Emergencies (Article 11)

A. Israel's Policy of Prohibiting Injured Persons from Accessing Medical Treatment

37. In its List of issues in relation to the initial report of Israel, this Committee sought information from the State Party concerning the "treatment of injuries in the context of reported violence and conflict between the State party armed forces and armed groups in the Gaza Strip."⁴⁸ Accordingly, this section focuses on Israel's conduct during the Great March of Return demonstrations in the Gaza Strip (for more information, see Paragraph 2 above).
38. The devastating consequences of the Israeli military's shoot-to-kill and shoot-to-maim policies against the GMR protesters were compounded by the Israeli authorities' decision to deny the wounded persons access to urgent medical treatment outside Gaza. In the context of the GMR demonstrations, the international law violations committed by the Israeli government, military, and courts that both directly caused and permitted the above policies and practices, are systemic and grave.
39. In Gaza, Israel's 56 years of occupation, 16 years of closure, and repeated military attacks have undermined and de-developed essential services, including in the healthcare system, to the point of being unable to meet the needs of its population.
40. This lack of the most basic medical supplies and other public services has a disproportionate, negative effect on persons with disabilities. For example, the limited and unstable electricity supply prevents "those with physical disabilities from using lifts

⁴⁷ [Joint written statement to the Human Rights Council submitted by Al Mezan et al.](#), 3 February 2020, A/HRC/43/NGO/181.

⁴⁸ CRPD/C/ISR/Q/1, para. 26(b).

to exit their homes and charging electrical wheelchairs. Those with hearing impairments also find it difficult to charge their hearing aids, limiting their ability to communicate with family and friends. Limits on the entry of fuel are often increased during times of conflict, further restricting electricity supply.”⁴⁹

41. As a consequence of the Israeli blockade, occupation, assaults, and such overall attacks on basic services, every year, thousands of Palestinian patients in Gaza struggle to receive adequate medical treatment and are forced to seek urgent and lifesaving medical treatment outside the Strip by being referred to hospitals in the West Bank, including East Jerusalem, in Israel, and abroad. Their access to such treatment is, however, contingent on receiving approval to travel through Israel’s discriminatory permit regime.
42. During the Great March of Return, Israel most often denied medical exit permits to injured Palestinian protesters, leading to deaths and permanent disabilities, as a punitive measure. According to the World Health Organizations (WHO), from 30 March 2018 (the beginning of the GMR) to 31 December 2019, 604 persons injured during the protests submitted applications to Israeli authorities to exit Gaza via Erez/Beit Hanoun crossing to access healthcare. Of those applications, the Israeli authorities approved a mere 17%; denied 28%; delayed the majority of applicants, 55%.⁵⁰
43. Adalah and Al Mezan filed a petition to the Israeli Supreme Court on 8 April 2018, challenging the denial of such medical treatment permits in the case of two young Palestinians—**Yousef Al Kronz**, aged 20, and **Mohammad Al-'Ajouri**, aged 17.⁵¹ The Israeli military shot and injured these young Palestinians during Land Day protests in the Gaza Strip on 30 March 2018, and both were admitted to Gaza’s Shifa Hospital in critical condition, at immediate risk of losing their legs to gunshot wounds. As Shifa hospital did not have the necessary medical equipment to save their legs, doctors referred Al Kronz and Al-'Ajouri to Al-Istishari Arab Hospital in Ramallah on 1 April 2018. On the same day, Al Mezan submitted a request to the Coordinator of Government Activities in the Territories (COGAT) of the Israeli army to grant Yousef and Mohammed exit-permits to leave Gaza and transfer them to Ramallah. On 5 April 2018, COGAT rejected the requests.
44. While the State delayed its response to the petition for three additional days, until 11 April 2018, the deterioration in the patients’ condition forced Gaza doctors to amputate one leg of each of the petitioners, while Al Kronz continued to face an imminent risk of losing his second leg.
45. In its response, the State revealed that the Defense Ministry set a policy to categorically deny medical exit treatments to all Palestinians who took part in the protests during the

⁴⁹ MAP, [Input to the report of the UN Special Rapporteur on the rights of persons with disabilities Protection of Persons with Disabilities in the Context of Armed Conflict](#), 8 June 2021.

⁵⁰ WHO, [Health Access Barriers for patients in the occupied Palestinian territory – Monthly Report](#), December 2019.

⁵¹ Case citation: HCJ 2777/18, *Yousef Al-Kronz v. Commander of Israeli forces in Gaza* (decision delivered 16 April 2018). The decision [in Hebrew] is available [here](#).

Great March of Return, even if it led to the amputation of limbs or other permanent disabilities. The State explicitly stated that the decision to deny the application of the petitioners “came in light of the Defense Minister's policy, according to which entrance to Israel will not be allowed for any person injured during participation in the violent disturbances organized by Hamas. Furthermore, the state asserted that the medical circumstances do not justify granting an exception to the rule, as neither petitioner's life is in immediate danger.”⁵²

In its judgement dated 16 April 2018, the Israeli Supreme Court alarmingly upheld COGAT's wide discretion to refuse medical exit permits, noting that “the Minister of Defense is authorized to exercise his discretion and prevent the issuance of entry permits to Israel, even for medical treatment, considering, among other things, Israel's security interests, political interests, and diplomatic interests.” However, the Court determined that in the exceptional circumstances of the individual case before it, specifically when no security risk was posed by the petitioner’s passage from Gaza to receive medical treatment in Ramallah, and considering that the possibility of Al Kronz losing his remaining leg posed a “a complete change in the essence of his life”, the Court accepted the petition and ordered that Al Kronz must be allowed to exit Gaza for medical treatment.⁵³ This case marked the first time that the Israeli Supreme Court ruled to allow a resident of Gaza to transfer to the West Bank via the Erez crossing.

46. In another example, a patient told MAP regarding his initial injury: “I was left to bleed for more than two hours by the perimeter fence. I woke up from the surgery to find an external fixator [used to stabilise shattered bone] on my leg. They told my father to try to get me outside Gaza for medical treatment, but I couldn’t get out...”⁵⁴
47. In another case, a young man was shot in the leg with live ammunition and had to wait an hour for an ambulance to reach him. He underwent multiple surgeries at a Gaza hospital in an attempt to save his leg from amputation. Despite the follow up care he received in Gaza, his leg did not respond well, so he was referred for medical care in Egypt. Both the Egyptian and Israeli authorities denied his repeated requests for permits to exit to receive medical care on three separate occasions.⁵⁵
48. In its March 2019 report, the COI examined several case studies in which Israel's refusal to issue permits resulted in permanent disabilities or deaths of Palestinian protesters. The report thus recommended that Israel must “[e]nsure that all those injured at

⁵² See [Translation of selected sections of Israeli Supreme Court decision and the state's response re: Yosef Al-Kronz and Mohammed Al-'Ajouri case](#). The State's response dated 11 April 2018 is available [in Hebrew] [here](#) (see paragraph 7).

⁵³ The court held that, given Mohammed Al-'Ajouri's medical situation—where his leg was already amputated—there is no need to address his case further.

⁵⁴ MAP, [Watch: MAP supported surgeons treat Gaza's wounded](#), 4 October 2018.

⁵⁵ MAP, [First steps towards recovery: How MAP is helping Hosam walk again after he was shot](#), 6 February 2020.

demonstrations are permitted prompt access to hospitals elsewhere in the Occupied Palestinian Territory, in Israel, or abroad."⁵⁶

Suggested recommendations:

- We call on the Committee to urge Israel to cancel the harsh, devastating and illegal medical exit permit system and allow Palestinian residents of Gaza to receive medical treatment outside of Gaza.
- We strongly urge the Committee to recommend that Israel immediately put an end to the practice of denying medical exit permits for punitive reasons and take all necessary measures to hold accountable those responsible for causing permanent disabilities or deaths as a result of medical permits denial.

IV. Access to Justice (Article 13)

49. Israel has imposed a complete ban on civil remedies to Palestinian residents of Gaza, denying them access to any compensation for injuries, permanent disabilities, or any other adverse effects caused by Israel's military or other actions in the Gaza Strip. By doing so, Israel continues to illegally evade its responsibility to compensate the victims of its military assaults and/or other actions. This prohibition on access to justice encompasses the thousands of deaths and injuries of Palestinians killed and injured by Israeli forces during the 2018 Great March of Return, as well as in military bombardments against Gaza and any and all incidents of daily violence occurring outside the conduct of hostilities.

50. In 2012, the Israeli Parliament (the Knesset) enacted Amendment No. 8 to the Civil Wrongs Law (Liability of the State) of 1952, which introduced, *inter alia*, Article 5/B-1. Amendment No. 8 provides that the State is exempted from providing any civil remedies with respect to “subjects of a state that is an enemy, or a person who is not an Israeli citizen and resides in a territory outside of Israel that the government has declared, by order, as an enemy territory.”⁵⁷ On the basis of this amendment, and relying on the 2007 Israeli declaration of Gaza as an “hostile territory”, on 7 October 2014, the Israeli government issued an order declaring the Gaza Strip an “enemy territory” for the purpose of the Civil Wrongs Law, applicable retroactively beginning 7 July 2014.⁵⁸ While for years, Israel has imposed a myriad of obstacles and barriers to bar damages, since these

⁵⁶ A/HRC/40/CRP2, para. 797.

⁵⁷ See Hamoked, [The Knesset approved Amendment No. 8 of Civil Wrongs \(Liability of the State\) Law: Israel continues to exempt itself from liability for damage caused by its soldiers in the OPT and raises additional obstacles on the way of Palestinians to sue compensation for the damage sustained by them](#). Also see [an English translation] of Amendment No. 8 [here](#).

⁵⁸ See the announcement on Israel's declaration of Gaza as hostile territory, dated 19 September 2007, available [here](#). See also the Civil Wrongs Order (State Liability) (Declaration of Enemy Territory – Gaza Strip), 2014. See the unofficial English translation available [here](#) and the original Hebrew version available [here](#).

legislative changes, Israel has completely prohibited Palestinians from Gaza from seeking any form of compensation in Israeli civil courts for damages resulting from Israeli actions in the occupied Gaza Strip.

51. Adalah and Al Mezan challenged the constitutionality of Article 5/B-1 before an Israeli district court and then twice before the Israeli Supreme Court, in the case of Gaza resident Attiya Fathi al-Nabaheen.⁵⁹ On 16 November 2014 — almost three months after the 2014 war on Gaza, and outside of the conduct of hostilities — Israeli forces opened fire on then-15-year-old Attiya Fathi al-Nabaheen, while he was in the yard of his family’s house near Al-Bureij Refugee Camp in the Gaza Strip, just 500 meters from the fence between Israel and Gaza. The attack left him quadriplegic for life.
52. In July 2022, the Supreme Court issued its decision, upholding Article 5/B-1. The Court unanimously concluded that the law serves two “legitimate” purposes: first, preventing “economic or moral assistance to the enemy”; and second, adapting the laws governing damages to the exceptional conditions prevailing during wartime. With this ruling, the Supreme Court granted comprehensive immunity to the Israeli military and the State of Israel for illegal, and even criminal, actions taken during the course of military and non-military operations in Gaza, leaving their victims without any recourse, compensation, or other remedies from Israel.
53. On 25 August 2022, Adalah and Al Mezan filed a request to the Supreme Court for an additional hearing, arguing that the Court's decision contradicted previous Supreme Court precedent and established a new legal precedent that warrants further review. On 15 February 2023, Chief Justice Esther Hayut rejected the request and upheld the constitutionality of the law.⁶⁰
54. Coupled with Israel's deliberate policy during the 2018 Great March of Return, which aimed to permanently maim protesters, this decision has resulted in barring thousands of Palestinians who have been disabled by the Israeli military from seeking civil remedies. In the Supreme Court judgement of July 2022, Justice Grosskopf even referred to “civilian protest near the border” as an event closely linked to the conflict, thereby justifying state immunity from civil liability.⁶¹
55. Regarding this specific case, the COI concluded in its March 2019 report that, at the time, the law itself (Amendment No. 8) and the District Court judgement denied Palestinian

⁵⁹ Israeli Supreme Court, Civil Appeal 993/19, *Anonymous [Nabaheen] v. Israeli Defense Ministry* (decision delivered 5 July 2022). See Supreme Court judgment [Hebrew], [here](#) and the summary of the judgment in English [here](#). Additional Civil Hearing (SCT) 5653/22 *Attiya Nabaheen v. Israeli Defense Ministry* (decision delivered on 15 February 2023), the [Hebrew] decision is available [here](#).

⁶⁰ Additional Civil Hearing (SCT) 5653/22 *Attiya Nabaheen v. Israeli Defense Ministry* (decision delivered on 15 February 2023), the [Hebrew] decision is available [here](#).

⁶¹ See Justice Grosskopf's opinion in the Supreme Court decision of July 5, 2022, on page 87, paragraph 18, available [here](#).

victims in Gaza of violations the primary avenue to exercise their right to effective legal remedy from Israel, a right which is guaranteed to them under international law.⁶² In particular, the COI noted that “[t]he importance of this ruling is thus difficult to overstate. Even though in its submission to the Supreme Court the Government of Israel does not classify the GMR as ‘combat activity’, but rather law enforcement, the thousands wounded in this context will be excluded from Israeli courts in seeking compensation for their lifelong injuries if the view taken by the Court prevails.”⁶³

Additional materials:

- **Case Analysis by Adalah and Al Mezan** (July 2023) [*Israel's Self-Granted Immunity From Civil Liability for the Killing and Injuring of Palestinians in Gaza: The Case of Attiya Fathi al-Nabaheen*](#)

Suggested recommendations:

- We request that the Committee determine that the State of Israel cannot evade its responsibility and liability for the damages inflicted upon Palestinians in Gaza and cannot strip victims of their right to seek civil remedies before Israeli courts for the injuries or deaths caused by Israel.
- We urge the Committee to recommend that Israel immediately repeal the 2012 amendment to the Civil Wrongs (Liability of the State) Law, remove any barriers to seeking remedies, and ensure that victims are afforded the right to an effective remedy.

⁶² A/HRC/40/CRP2, paras. 754-757.

⁶³ A/HRC/40/CRP2, para. 756.