

To: Ms. Francesca Albanese, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; hrc-sr-opt@un.org
The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel; coi-opt@un.org

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Your Excellencies Ms. Francesca Albanese, Ms. Navanethem Pillay, Mr. Miloon Kothari, Mr. Chris Sidoti,

I am addressing this correspondence to you amidst the echoes of a longstanding conflict that has tangled the destinies of Israel and Palestine. The ongoing hostilities since October 7 have exacerbated the exigent need to re-evaluate and elucidate the principles of self-defense and self-determination in the framework of international law. This letter seeks to bring to the forefront the pivotal discourse surrounding the right to self-defense, particularly for the Palestinian people, in their quest for self-determination and peace.

The recent reports indicate a devastating human toll of the conflict. Over 10,000 Palestinians, including more than 4,000 children, have lost their lives, and thousands are injured. The ongoing siege has critically hampered access to basic necessities and medical care, exacerbating the humanitarian crisis. This alarming escalation in casualties highlights the immediate need for international intervention to protect civilians and uphold human rights.

The resignation of Craig Mokhiber, a former senior UN human rights official, accentuates the international community's failure to effectively respond to the escalating crisis. His description of the situation as a 'text-book case of genocide' and his criticism of the UN's inaction reflect a profound concern about the adequacy of the international response to the ongoing humanitarian and human rights crisis in Gaza.

Secretary-General António Guterres, in his recent address, condemned the acts of terror by Hamas and highlighted the dire humanitarian situation in Gaza. He called for an immediate ceasefire and emphasized the need for a massive international response to the humanitarian crisis. This appeal underscores the urgency of addressing the humanitarian and human rights situation in the region.

Yet, despite the unfolding situation, which has been characterized by some as a textbook case of genocide, the United Nations human rights protection machinery has not been adequately responding. Notably, no special session of the Human Rights Council on the situation in Gaza has been called or announced, and there is a surprising silence in the office of the UN Special Adviser of the Secretary-General on the Prevention of Genocide and Special Adviser of the Secretary-General on the Responsibility to Protect. This lack of action and engagement from key UN bodies and officials is deeply concerning and raises questions about

the effectiveness and commitment of the international community in addressing such grave human rights and humanitarian issues.

The deliberations on the right to self-defense have been exemplified in the contrasting international stances. Notably, in 2004, the International Court of Justice (ICJ) posited that Israel, as an occupying power, does not possess the right to self-defense in the context of the construction of the wall in the occupied Palestinian territory, a sentiment that has been echoed by various international actors. Nonetheless, many prominent global players including the United States, Italy, Spain, the United Kingdom, and Canada, have recognized Israel's right to self-defense, albeit with the caveat that this right does not extend to the infliction of harm upon civilians.

The disparity in the recognition and application of the right to self-defense significantly impacts the narrative surrounding the Israel-Palestine conflict. It is apparent from the ICJ's judgment that while Israel's right to self-defense was acknowledged in other contexts, the right to self-determination was primarily accorded to the Palestinians. This biased recognition has fostered a scenario where the support for Palestine, Gaza, or Hamas is misconstrued as an endorsement of terrorism, thereby stifling the voices advocating for the rights of the Palestinian people.

For instance, recently we have submitted evidence to the UN Special Procedures and High Commissioner underscoring the UK Government's abuse in targeting peaceful political protesters and critics of state policy related to the situation in Palestine who are engaged in non-violent expression, protest, and political advocacy by applying Schedule 7 of the Terrorism Act 2000. We are appalled to learn that similar cases are taken place throughout all Western European Group of Countries.

The road leading to the global recognition of Hamas as a terrorist organization is one punctuated with acts of violence and warfare. However, it is a road that also tells the tale of a people in a relentless pursuit of self-determination, a tale that is, regrettably, often overshadowed by the violent acts of a few. As the elected authority in Gaza, Hamas represents a people whose right to self-defense has long been a topic of global discourse, a discourse that has, unfortunately, often tilted in favor of Israel.

The aftermath of this imbalanced recognition is a world where the peaceful support for Palestine, Gaza, or even Hamas is perceived and prosecuted as an endorsement of terrorism or extremism. The legal framework of terrorism, especially as encapsulated in the western countries' terrorism and security related legislation, unfortunately, provides a fertile ground for the aforementioned perception to thrive. While such legislation criminalizes expressions of support for terrorism, it fails to delineate between expressions of support for legitimate acts of self-defense and expressions of support for actual acts of terrorism.

This failure births a scenario where individuals and organizations, in their bid to stand in solidarity with the people of Palestine, find themselves ensnared in the legal web of terrorism-related offenses. Furthermore, the narrative perpetuated by the disparate treatment of violent acts by Israel and Palestine not only muddies the water of the global terrorism discourse but also creates a chilling effect on the peaceful support for the people of Palestine. The disproportionate military responses, the rampant human rights abuses, and the violent suppression of dissenting voices are realities that the Palestinian people have had to grapple with.

Yet, the lack of a recognized right to self-defense significantly hampers their fight for self-determination. Your Excellencies, it is against this backdrop that I request you and the respected office you occupy to champion the cause for a thorough examination of the existing legal frameworks governing the right to self-defense and terrorism, especially as they apply to the Israel-Palestine conflict. The importance of a nuanced, equitable, and universally accepted interpretation of these frameworks cannot be overstated.

It is imperative to highlight that Hamas, as the elected authority in Gaza, embodies the aspirations of the Palestinian people for self-determination, a principle enshrined in UN Resolution 181. The right to self-defense is an intrinsic aspect of self-determination, and an equitable recognition on equal footing of this right for both Israel and Palestine is crucial for fostering peace and justice. The designation of Hamas as a terrorist organization undermines the democratic choice of the people of Gaza and their inherent right to self-defense, thereby exacerbating the conflict.

Moreover, the prosecution and stigmatization of individuals and entities expressing solidarity with the Palestinian cause further entrench the cycle of violence and mistrust. The narrative that equates support for the Palestinian self-determination with terrorism deterrence hinders diplomatic efforts aimed at achieving a peaceful resolution. I would like to urge you to call on the UK Government and other Western European Group of Countries to refrain from applying any security and terrorism-related legislation as a basis for prosecuting peaceful political protesters and critics of state policy who are engaged in non-violent expression, protest, and political advocacy.

Your Excellencies, it is in this light that I implore you and the esteemed mandate you hold to advocate for a balanced and equitable recognition of the right to self-defense for both Israel and Palestine. This includes revisiting the categorization of Hamas and acknowledging its position as a representative of the Gazan people's aspiration for self-determination and self-defense. Such a stance will not only align with the principles of international law but will also significantly contribute to fostering a conducive environment for peace negotiations and humanitarian support. Importantly, in this context and due to the devastating human toll of the conflict, I would like to call on Your Excellencies to urge the UN Human Rights Council to initiate immediately a special session on the situation in Gaza.

I extend my deepest gratitude for your attention to this grave matter and remain at your disposal for any further information or discussions on this subject.

Yours sincerely,



Sharof Azizov

Founder and Secretary of the Board

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