



Open letter to UN Secretary-General António Guterres

Facing Israel's New Government Requires a Fundamental Change in Strategy

Amman, 24 January 2023

Dear Secretary-General,

On 12 January 2023, you [informed](#) the Security Council that you were “very concerned” by “unilateral initiatives” by the new Israeli government. You added that “the rule of law is at the heart of achieving a comprehensive peace (...) in line with UN resolutions, international law and previous agreements.” As members of the [Global Network on the Question of Palestine](#), we share your concerns and believe that the deteriorating situation in Palestine calls for a fundamental change in vision and approach coupled with bold and courageous leadership from you, Sir, as Secretary-General of the United Nations. In the spirit of your remarks, the new strategy must address the root causes and core of the unresolved Palestine question and re-establish the primacy of international law.

A heightened threat to Palestinians and peace

The new Israeli coalition government, sworn in on 29 December 2022, is widely characterized as the most “[hard-right and religious](#)” since Israel’s establishment, both in terms of composition and declared intent. Returning Benjamin Netanyahu for a sixth term as prime minister, it [includes](#) as powerful ministers Kahanist hardliners Itamar Ben-Gvir, leader of the ultranationalist Jewish Power party and Bezalel Smotrich, leader of the hardline Religious Zionism Party, both holding racist and supremacist views.

The coalition has been clear in its manifesto. Beside measures aimed at curbing independence of the judiciary and policy changes beneficial exclusively to certain segments of Jewish citizens of Israel, the new government has [declared](#): “The Jewish people have an exclusive and inalienable right to all parts of the Land of Israel. The government will promote and develop the settlement of all parts of the Land of Israel—in the Galilee, the Negev, the Golan and Judea and Samaria.” This is without precedent—even going beyond the 2018 [Nation State Law](#)—notably with the reference to the exclusivity of Jewish rights “in all parts of the Land of Israel” and making the occupied Palestinian territory (OPT) indistinguishable from Israel within the 1967 lines. It thereby denying the right to [self-determination](#) of the Palestinian people, recognized as a peremptory norm of international law. It also effectively proclaims the government’s intention to continue its policies towards annexation, a serious breach of the Geneva Conventions and a war crime, while abandoning the internationally recognized formula for resolving the Question of Palestine based on relevant UN resolutions.

This new political reality constitutes an unprecedented threat to the Palestinian people, who find themselves in the most precarious situation since the start of *Al-Nakba*, the ‘catastrophe’ that saw the forced displacement and exile of three quarters of the Palestinian people as Israel was established. The new government represents a grave threat also to Jordan, which key ministers in the new Israeli government see as an alternative Palestinian homeland—a longstanding position of the Israeli right. With a [significant increase](#) in violence already before the arrival of the new government, there is a real risk of an era of unprecedented escalation in the OPT, Israel, and beyond.



The Palestinian people's lived reality

Seventy-five years ago, the UN recommended partition as the political solution for the land of Palestine, against the explicit wish of the Palestinian people and violating their right to self-determination, already recognized at the time. Today, the Palestinian people are subjected to widespread and systematic human rights violations by an Israeli regime of apartheid, occupation, and settler colonialism, in contravention of the most fundamental norms of international law—with the two-State option largely beyond reach, as the new Israeli government's policy statements further underscore. As a former Israeli negotiator, Daniel Levy, recently observed in a [statement](#) to the Security Council, “[t]alk of [this] is neither alarmist nor farfetched, rather, it is a sober and probably behind-the-curve rendering of the lived reality.”

The new Israeli government's manifesto and its policies and actions lend further credence to the increasingly accepted assessment by Palestinians since the mandate period of Israel as a settler colonial state. Israel's occupation of the Gaza Strip, the West Bank, including East Jerusalem, and the occupied Syrian Golan, has evidently become permanent, amounting to illegal annexation both *de jure* and *de facto*. Under the UN Charter, this makes Israel responsible for an act of aggression. The International Court of Justice has recently been requested to render an Advisory Opinion on the subject.

Authoritative and well received reports from UN experts, human rights organizations, and legal scholars, besides decades of activism by Palestinians at the grassroots level, have concluded that Israel is committing the international crime of apartheid against the Palestinian people—including the Palestinian refugees denied their right to return. This has far-reaching implications, both in terms of the prospect of holding Israeli authorities and officials accountable, and in terms of the approach to a resolution of the root causes of systematic discrimination in this context.

A failed approach

Well before these developments, it was clear that the international community's approach to the question of Palestine had failed. Past peace efforts started from the premise of a false equivalence between two vastly unequal parties. The expectation was that if given enough time and effort, these parties would be able to negotiate an end to the conflict in good faith. The historical record is clear, however, that this vast power asymmetry has only resulted in a consolidation of the position of the coloniser, in violation of the most fundamental norms of international law. According to the international normative framework that emerged from the Second World War, ending the systematic violation of the Palestinian people's rights to self-determination, freedom from foreign military occupation, colonialism, and apartheid should be inherent in any solution and cannot be a matter for [negotiation](#).

The western focus on the development of Palestinian State-like institutions ignored the reality that there could be no effective sovereignty under the ongoing Israeli occupation and regime of apartheid. Similar focus on the development of the Palestinian economy ignored the fact that Israel exercised a stranglehold on that economy in the absence of a political solution grounded in the fulfilment of individual and collective human rights. A humanitarian approach was taken to the Palestinian refugee question, and the need for durable solutions—for which the UN had assumed a particular responsibility since 1948—was ignored.



A new strategy is needed

A fundamental shift in strategy by the UN and its Member States is therefore necessary to ensure the full realization of the Palestinian people's inalienable rights. A just resolution of the plight of the Palestinian people has never been more urgent. Without it, in our view, there is no prospect of a peaceful co-existence of the two peoples.

As underscored by the new Israeli government's statements, under the current reality it is hard to envisage any progress towards a negotiated two-State solution. While there remains an international consensus in favor of this solution, the new strategy must correct the flaws and failures of the past approaches. This does not necessarily mean departing from the two-State approach, but the emphasis on a *negotiated* settlement not only contravenes international law, as discussed earlier, but has enabled Israel to further entrench its control over the Palestinian people and their land and other resources. Western governments and others are [reluctant](#) to publicly recognize this reality, rather continuing to hope that a two-state solution can still be negotiated despite the evidence to the contrary. For its part, Israel will continue to conflate criticism of its unlawful actions spuriously and aggressively with antisemitism, which also has the effect of undermining the struggle against the increase in genuine antisemitism and other forms of racism.

Against this backdrop and with a paralyzed Security Council and a General Assembly with limited power to change the status quo, bold and courageous leadership from you, Mr. Secretary-General, is required to prevent unprecedented bloodshed and instead chart a different, more feasible path to a peaceful and just resolution.

The UN must lead

We recommend that you reassert the leading role of the United Nations in view of the Organization's [permanent responsibility for the Question of Palestine](#). Past peace efforts made determination of the future of Palestine into an essentially bilateral process between two unequal parties, with Israel in a position to block progress while continuing to consolidate its occupation and annexation of the Palestinian land, in violation of international law, as amply documented by the UN. Only the UN has the authority and responsibility to change this, guided by international law and the extensive body of UN resolutions and other directives that address the various aspects of the unresolved question of Israel/Palestine. We thus respectfully suggest that you direct the relevant parts of the UN Secretariat and broader UN system to immediately develop both operational and policy responses to the evolving situation in Israel/Palestine.

Operationally, with the increase in military oppression since the beginning of 2022 and a likely further escalation, there appears to be an urgent need to put in place measures similar to those taken following the outbreak of the first Palestinian *intifada*, when the Security Council in 1987 called on the Secretary General for "his recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation" (UNSC res. 605 (1987)). With the Council's repeated encouragement, the then Secretary-General spearheaded the introduction of an innovative protection scheme that circumvented Israel's objection to UN observers in the OPT and that successfully operated until the introduction of limited Palestinian self-rule following the Oslo Accords. The deployment of a [protective presence](#) along similar lines, also suggested in [response](#) to a request from the General Assembly in 2018 (UNGA res. [ES-10/20](#)), is worth considering. It should include special protective measures for Palestinian children, with 2022 having been the [deadliest year](#) for Palestinians in the West Bank since the UN began documenting the casualties in 2005.



In terms of policy responses, the new Israeli government's manifesto and other policies make it abundantly clear that it considers its control of *all* of the OPT both *exclusive*—i.e. subject to a system of racial discrimination and apartheid—and *inalienable*—i.e. permanent, in violation of its obligations as Occupying Power—with the implied threat of further forcible transfer of the Palestinian people. Both the General Assembly and the Security Council have denounced the prolonged Israeli occupation, with the General Assembly declaring the [occupation illegal as early as 1977](#). In anticipation of the upcoming Advisory Opinion of the International Court of Justice, the policy of the UN must be realigned to henceforth prioritize respect for international law, not negotiations.

The same applies to ending the system of apartheid. Although the situation in South Africa was different from that of Palestine, it has taught us that apartheid is not something that can be *reformed* through negotiations; it needs to be *dismantled* in its totality. In South Africa this entailed doing away with all manifestations of racial oppression and domination, including white supremacy, colonial privilege, and exclusivity, whether in laws, policies, and practices. Only after the last supremacist South African government accepted the inevitable, did negotiations about a new constitution commence in earnest.

A new approach for Palestinian refugees

As an important component of this urgent action, we recommend that you encourage a new approach to the Palestinian refugee question, reintroducing the pursuit of durable solutions—first and foremost by reasserting the right of the refugees to return, restitution and compensation—through an expanded focus on protection. This approach should take advantage of opportunities offered by the 2016 New York Declaration on Refugees and Migrants, drawing on the expertise and experience of both UNRWA and UNHCR, as several of us have recently proposed (see [here](#) and [here](#)). This would give new impetus to international action in favor of Palestinian refugees. It does not need to wait—and could help advance—a more positive outlook for the broader political process. It would also help move UNRWA onto a sounder financial footing.

Conclusion

At this critical junction for Israel and Palestine and the wider region, bold and proactive UN leadership is called for. International law and the UN's permanent responsibility for the question of Palestine make the international community legally, politically, and morally obligated to support the UN in responding effectively and comprehensively to the threats and actions of the new Israeli government and the consequent probable further deterioration of the situation in Palestine.

We recognize that this initiative will undoubtedly encounter significant pushback from Israel and those other Member States that prefer the oppressive status quo. We would urge you to resist these pressures and re-establish the UN's independence of action in seeking a just resolution of this, for over seven decades the most enduring question on the agenda of the Organization. The longer-term benefits for the UN's credibility worldwide will be considerable.

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