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Agenda items 2 and 7

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the  
High Commissioner and the Secretary-General**

**Human rights situation in Palestine and other  
occupied Arab territories**

**Human rights situation in the Occupied Palestinian  
Territory, including East Jerusalem\***

**Report of the Secretary-General**

*Summary*

The present report is submitted pursuant to Human Rights Council resolution 31/34 on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem. It focuses on the recurrence and persistence of human rights violations and the underlying policies leading to such patterns.

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\* This report was submitted after the deadline in order to reflect the most recent developments.

## I. Introduction

1. This report is submitted pursuant to resolution 31/34 of the Human Rights Council, which requested the Secretary-General to report on the implementation of that resolution, with a particular focus on the recurrence and persistence of human rights violations in the Occupied Palestinian Territory and the underlying policies leading to such patterns, including those involving forcible displacement. It covers the period from 1 November 2015 to 31 October 2016. Fifty years after the start of the occupation, the patterns and persistence of human rights violations in the Occupied Palestinian Territory are clearly discernible. This report provides a non-exhaustive overview of the most pressing human rights violations in the Occupied Palestinian Territory, highlighting the connection with the Israeli occupation. The recommendations encourage all duty-bearers to comply with their obligations under international law.

2. Recent reports of the Secretary-General and from the High Commissioner for Human Rights provide a more in-depth analysis of the human rights situation in the Occupied Palestinian Territory.<sup>1</sup>

## II. Legal background

3. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory, namely Gaza and the West Bank, including East Jerusalem.<sup>2</sup>

4. Israel is a party to the majority of core international human rights treaties<sup>3</sup> and ratified the Four Geneva Conventions.<sup>4</sup> On 1 April 2014, the State of Palestine acceded – among other instruments – to the same core human rights treaties as Israel and to the Four Geneva Conventions, their Additional Protocols and The Fourth Hague Convention.<sup>5</sup>

### A. International human rights law

5. As a party to the majority of the core international human rights conventions, the State of Palestine is responsible for implementing its human rights obligations to the extent of its jurisdiction. The authorities in Gaza also bear human rights obligations, given their exercise of government-like functions and territorial control.<sup>6</sup>

6. Israel's human rights obligations within the Occupied Palestinian Territory stem from the jurisdiction and effective control exercised by Israel as the occupying power.

The scope of application of international human rights law does not only depend on a State's territorial limits, but also on the exercise of its jurisdiction or effective control, even outside of the State's sovereign territory.<sup>7</sup> Israel has rejected the applicability of its human rights obligations outside its national territory.<sup>8</sup> However, the applicability of Israel's

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<sup>1</sup> See e.g. A/71/364, A/71/355, A/HRC/34/36 and A/HRC/34/39.

<sup>2</sup> See e.g. A/HRC/31/44, para. 3; A/HRC/28/45, para.3

<sup>3</sup> Israel ratified ICERD, ICCPR; ICESR; CRC; and CEDAW and CRPD.

<sup>4</sup> Israel is not a party to the 1908 Hague Regulations (HR), nor to the 1977 Additional Protocols (AP) to the Geneva Conventions (GC).

<sup>5</sup> A/HRC/12/37, para.7 and A/HRC/8/17, para.8.

<sup>6</sup> A/HRC/8/17 para.9.

<sup>7</sup> ICJ Advisory Opinion on the Wall (*Wall case*), para. 109.

<sup>8</sup> e.g. E/C.12/1/Add.27, para.8; *Wall case*, para.112.

human rights obligations in the Occupied Palestinian Territory (i.e. the West Bank, including East Jerusalem, and the Gaza Strip) has been continuously asserted in the relevant resolutions of the General Assembly<sup>9</sup>, in reports of the Secretary-General<sup>10</sup> and the High Commissioner for Human Rights<sup>11</sup>, and by various human rights treaty bodies.<sup>12</sup>

7. As the International Court of Justice (ICJ) stated in its 2004 Advisory Opinion on the Wall, due to its exercise of territorial jurisdiction over the Occupied Palestinian Territory as the occupying power, Israel is bound by human rights obligations to the local population.<sup>13</sup> The ICJ also observed that Israel's obligations under the international Covenant on Economic, Social and Cultural Rights included "an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities."<sup>14</sup> The accession of Palestine to human rights treaties does not affect Israel's obligations under human rights law within the Occupied Palestinian Territory.<sup>15</sup>

8. The applicability of human rights law in a situation of armed conflict or occupation concurrently with international humanitarian law has been widely affirmed. The ICJ first addressed this issue in its 1996 Advisory Opinion on the *Legality of the Threat or Use of Nuclear Weapons*, and further confirmed the concurrent application of international humanitarian law and human rights law in its Advisory Opinion on the *Wall*, including as related to the Occupied Palestinian Territory.<sup>16</sup> A situation of armed conflict or occupation does not release a State from its human rights obligations.<sup>17</sup>

## B. International humanitarian law

9. The Occupied Palestinian Territory is a territory under belligerent occupation, to which international humanitarian law applies. Israel is bound by the obligations of an occupying power set out in the 1907 Hague Regulations, the Fourth Geneva Convention and customary international law,<sup>18</sup> as confirmed by numerous international entities.<sup>19</sup> International humanitarian law applies to the entirety of the Occupied Palestinian Territory: Gaza and the West Bank, including East Jerusalem. East Jerusalem remains an integral part of the West Bank, and the Security Council has repeatedly affirmed the continued application of the Fourth Geneva Convention to East Jerusalem.<sup>20</sup>

<sup>9</sup> General Assembly Resolution 71/98 (A/RES/71/98)

<sup>10</sup> A/69/348, para.5; see also A/HRC/28/44, para.6.

<sup>11</sup> e.g. A/HRC/8/17, para.7, and A/HRC/12/37, para.5-6.

<sup>12</sup> Human Rights Committee (CCPR), General Comment 31 (2005), para.10; see concluding observations on Israel's periodic reports: E/C.12/1/Add.90, para.31; CCPR/C/ISR/CO/4, para.5; CRC/C/ISR/CO/2-4, para.3; CAT/C/ISR/CO/4, para.11; CERD/C/ISR/CO/14-16, para.10.

<sup>13</sup> *Ibid.*, para.110-113.

<sup>14</sup> ICJ *Wall* case, para.112.

<sup>15</sup> A/HRC/28/44, para.6; A/69/348, para.5.

<sup>16</sup> ICJ Advisory Opinion on *Nuclear Weapons*, para.25; ICJ *Wall* case, para.106.

<sup>17</sup> A/HRC/12/37, para.6 (with references).

<sup>18</sup> Although Israel is not a party to the Hague Regulations, the rules contained therein are applicable as they are considered customary law. While Israel has disputed the *de jure* application of the law of occupation based on an interpretation of Art. 2 Common to the GC - which has been rejected by various international entities - it has nevertheless been applying selected provisions of the Fourth Geneva Convention (GC IV).

<sup>19</sup> ICJ *Wall* case, para.101; SC resolutions (e.g. 1860(2009) and 2334(2016)); GA resolutions (e.g. 62/181, 63/98); HRC resolutions (e.g. 10/18); Secretary-General's reports (e.g. A/HRC/12/37, para.9; A/HRC/8/17, para.5); Declaration of 17 December 2014 adopted by Conference of High Contracting Parties to GC IV

<sup>20</sup> SC resolutions 478 (1980), 476 (1980); GA resolution 70/88 and 71/96 (A/RES/71/96).

10. Further norms of international humanitarian law, particularly those relating to the conduct of hostilities, must be respected by all parties to a conflict, including Palestinian armed groups.<sup>21</sup> In particular, all parties to a conflict have to respect the principles of distinction, proportionality and precaution.<sup>22</sup>

11. State parties to the Geneva Conventions have not only the duty to respect the Conventions, but also to *ensure* respect of the latter.<sup>23</sup> The obligation to ensure respect implies an obligation to take measures in case of breach of the Conventions in order to prompt violating States to act in compliance with international humanitarian law.<sup>24</sup> It is on this obligation that the Security Council, the General Assembly and the majority of the State parties to the Geneva Conventions have relied when calling upon third States to react to international humanitarian law violations by Israel.<sup>25</sup>

### III. Recurrent violations of international law in the Occupied Palestinian Territory

12. The Palestinian population of the Occupied Palestinian Territory is specifically protected by international humanitarian law.<sup>26</sup> As the occupying power, Israel has the duty to protect the population of the Occupied Palestinian Territory and to uphold public order and safety.<sup>27</sup> This obligation is commonly understood as including an obligation to ensure the welfare and well-being of the local population.<sup>28</sup> Israel bears the obligation to meet the needs of the protected population,<sup>29</sup> and is obligated to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.<sup>30</sup> It is also under an obligation to treat the protected population humanely, without any discrimination.<sup>31</sup> In all circumstances, it is obliged to respect the fundamental rights of protected persons, that is their right to physical, moral and intellectual integrity.<sup>32</sup> Israel's obligation as an occupying power to protect the Palestinian population is in line with its obligation to respect, protect and fulfil the human rights of the Palestinian population without discrimination.

<sup>21</sup> Art. 3 Common to GC.

<sup>22</sup> ICRC Customary Law Study, Rules 1–15.

<sup>23</sup> Art. 1 Common to GC.

<sup>24</sup> ICRC Commentary to Art. 1 common to the GC, 2016, para.154; Declaration of the Conference of the High Contracting Parties to GC IV, 5 December 2001, para.4; ICJ *Wall* case, para. 158-159 and ICJ *Nicaragua* Case, para.220.

<sup>25</sup> See e.g. S/RES/2334(2016) and S/RES/465(1980); A/RES/70/89, OP 9 and 10; Declaration of the Conference of the High Contracting Parties to GC IV, 17 December 2014, para.4.

<sup>26</sup> Art. 4 GC IV.

<sup>27</sup> Hague Regulations Art. 43, 46

<sup>28</sup> D. Kretzmer, "The law of belligerent occupation in the Supreme Court of Israel", *International Review of the Red Cross*, Vol. 94, Nr. 885, Spring 2012, p. 216-217.

<sup>29</sup> Art. 55(1) GC IV regarding food and medical supplies; see also Art. 56 GC IV regarding duty to ensure and maintain medical services; see also Art. 50 GC IV for duty to facilitate proper working of education institutions.

<sup>30</sup> Art. 59 GC IV; ICRC Customary Law Study, Rule 55. As consent of the occupying power remains necessary, it cannot be withheld on grounds other than those set out in art.59 GC IV.

<sup>31</sup> Art. 27 GC IV

<sup>32</sup> Art. 27 GC IV and 1958 Commentary thereto, p. 201.

## A. Violations of the obligations of the occupying power

13. In the Occupied Palestinian Territory, Israel disregards the law of occupation and its obligations as an occupying power. The law of occupation is guided by the principle that the *status quo ante* has to be preserved as far as possible within the occupied territory.<sup>33</sup>

14. A central violation of the law of occupation in the present context is the construction and expansion of Israeli settlements within the West Bank. The continued expansion of settlements not only undermines the possibility of a two-State solution, but is also at the core of many human rights violations within the West Bank.<sup>34</sup>

### *Settlement expansion within the West Bank*

15. Since the early years of the occupation, Israel has pursued a policy of establishing illegal settlements in the Occupied Palestinian Territory.<sup>35</sup> With a current total settler population of at least 590,000 in the West Bank (around 386,000 in some 130 settlement in Area C, and 208,000 in East Jerusalem), the population of settlements has more than doubled since the beginning of the Oslo process in 1993.<sup>36</sup> In addition, approximately 100 illegal outposts were built without the formal approval of the Government of Israel in Area C, with efforts underway in Israel to legalize some of them.<sup>37</sup>

16. Besides the allocation of land for the purposes of constructing settlement housing and infrastructure, Israel supports the maintenance and development of settlements through the delivery of public services and the encouragement of economic activities, including agriculture and industry. Population growth in Israeli settlements is stimulated by housing, education, and tax benefits. Similar incentives are provided for settlement industries.<sup>38</sup> The development of archaeological sites, national parks and other touristic sites targeting Israeli audiences further contributes to settlement growth and Israeli control of land in the West Bank, including East Jerusalem.<sup>39</sup>

17. Moreover, Israel supports outposts considered illegal under its domestic law and other unauthorized constructions through the provision of funds, infrastructure and security.<sup>40</sup> Settlement expansion is also compounded by Israel's failure to maintain public order and ensure accountability for harassment and violence perpetrated by Israeli settlers.

18. Settlements amount to the transfer of a State's population to the territory it occupies, which is prohibited by international humanitarian law.<sup>41</sup> Any act that would facilitate population transfer is also prohibited under international humanitarian law.<sup>42</sup> Such transfer stands in violation of the Fourth Geneva Convention, and is recognized as a war crime that may lead to individual criminal responsibility.<sup>43</sup> The illegality of settlements under

<sup>33</sup> ICRC, "Contemporary challenges to IHL – Occupation: Overview" June 2012.

<sup>34</sup> A/HRC/34/39; A/71/355, para. 34.

<sup>35</sup> S/13450 Report of the Security Council Commission established under resolution 446(1979)

<sup>36</sup> Quartet report, 2016, p.4.

<sup>37</sup> A/HRC/34/39, para.33; A/71/355, para.10-14; Quartet report, 2016, p. 5.

<sup>38</sup> A/68/513, para. 24; A/71/355, para. 4; see also A/HRC/22/63 para. 19, 22 and 97.

<sup>39</sup> A/69/348 para. 33-35; A/70/351 para. 33-36, A/71/355, para. 4.

<sup>40</sup> A/68/513, para.15-16; see Talya Sasson, "Summary of the opinion concerning unauthorized outposts", 10 March 2005.

<sup>41</sup> Art. 49(6) GC IV.

<sup>42</sup> See 1958 Commentary to Art. 49(6) GC IV, p.283.

<sup>43</sup> Art. 147 GC IV and Art. 8 (2) (b) (viii) Rome Statute of the ICC.

international law has been confirmed by various international bodies, including the ICJ, the Security Council, the General Assembly and the Human Rights Council.<sup>44</sup>

19. In addition to Israel's violation of its obligations as an occupying power, settlements or related activities have repercussions on human rights. The ongoing expansion of settlements severely impedes the exercise by the Palestinian people of its right to self-determination and seriously deprives it of its natural resources.<sup>45</sup>

***Unlawful Seizure and Destruction of Property***

20. According to the Fourth Geneva Convention, the occupying power must administer public property according to the rules of usufruct. It can thus use and enjoy it, but the character of the property shall not be altered.<sup>46</sup> Private property must be respected and cannot be confiscated,<sup>47</sup> and the destruction of property by the occupying power is expressly prohibited by international humanitarian law.<sup>48</sup> The seizure of property, as well as the demolition of Palestinian houses, infrastructure and orchards, in order to establish, develop and maintain settlements and access to the latter are a flagrant violation of these rules.

21. Exceptions to these rules are only permitted if those rules specifically provide for them. . In the absence of active hostilities in the West Bank, any exception to the rule prohibiting the alteration or destruction of private and public property appears difficult to invoke.<sup>49</sup>

***Demolitions and Forcible Transfer of Palestinians in the West Bank***

22. International humanitarian law not only prohibits the transfer of the population of the occupying State into the occupied territory, but also individual or mass forcible transfer or deportation of the population of an occupied territory regardless of the motive.<sup>50</sup> Such transfer amounts to a grave breach of the Geneva Convention and is also considered a war crime.<sup>51</sup>

23. Over the years, my predecessor reported on cases where forcible transfer of Palestinians may have taken place within the West Bank, and on the situation of individuals and communities at risk of forcible transfer, primarily Bedouins and other herder communities within Area C of the West Bank. Cases of forcible transfer are generally documented after demolition of homes and infrastructure that lead to forced evictions,<sup>52</sup> in violation of international humanitarian law and international human rights law.<sup>53</sup>

24. With 986 structures destroyed or seized in 2016 as of 31 October (more than twice as much as for the same period in 2015), the Israeli authorities demolished more Palestinian-owned structures in the West Bank, including East Jerusalem, than in any year since 2009, when the United Nations began to systematically monitor the issue. The

<sup>44</sup> ICJ *Wall* case, para. 120; SC resolutions 2334 (2016) and 465 (1980), GA resolution 70/89 and HRC resolution 31/36, and earlier resolutions; Declaration of 17 December 2014 of the High Contracting Parties to GC IV, para. 8.

<sup>45</sup> ICJ *Wall* case, para.122 ; General Assembly Resolution 71/247 (A/RES/71/247) ; and A/HRC/22/63, para. 38.

<sup>46</sup> Art. 55 HR, Art. 53 GC IV; see ICRC Study on customary IHL, Rule 51

<sup>47</sup> Art. 46 and 56 HR, Art. 53 GC IV; see ICRC Study on customary IHL, Rule 51.

<sup>48</sup> Art. 53 GC IV; see ICRC Study on customary IHL, Rule 51.

<sup>49</sup> 1958 commentary to GC IV, Art. 53, p.302.

<sup>50</sup> Art. 49(2) GC IV for exceptions.

<sup>51</sup> Art. 147 GC IV; Art. 8(2)(b)(viii) Rome Statute.

<sup>52</sup> See e.g. A/HRC/25/40 para. 18-21; A/69/347 para. 26; A/67/372, para. 36-37.

<sup>53</sup> Art. 53 GC IV; Art. 11 ICESCR and Art. 17 ICCPR.

majority of demolitions affected vulnerable Palestinian Bedouin and herding communities. Overall, 1,596 Palestinians were displaced in 2016, including 759 children, and 6,398 others affected, including 2,007 children, by the demolition of residential and livelihood-related structures. According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), official data released by the Israeli authorities indicates that over 11,000 demolition orders in Area C were outstanding as of 2014, concerning an estimated 17,000 Palestinian-owned structures.<sup>54</sup>

25. Most structures were demolished due to the absence of building permits issued by the Israeli authorities, which are near impossible for Palestinians to obtain. In previous reports, my predecessor noted that, “the Israeli zoning and planning policy in the West Bank, which regulates the construction of housing and structures in Area C, is restrictive, discriminatory and incompatible with requirements under international law.”<sup>55</sup> Provided that international humanitarian law is otherwise respected,<sup>56</sup> territorial planning has to be undertaken to enhance the life of the protected population, which is not the case here. The implementation of the zoning and planning regime cannot be invoked by Israel to justify any violation of international law.

26. Destruction of donor-funded humanitarian assistance to vulnerable communities spiked in 2016, with 292 donor-funded structures demolished or seized by the Israeli authorities in Area C - a rate over 165 per cent higher than in 2015. Affected relief items included shelters and tents, water cisterns, animal barracks and other basic structures for survival and livelihoods. These actions are irreconcilable with the occupying power’s obligations to allow and facilitate humanitarian access for civilians in need.<sup>57</sup>

27. Forcible transfer does not necessarily require the use of physical force by authorities, but may be triggered by specific circumstances that leave individuals or communities with no choice but to leave; this is known as a coercive environment.<sup>58</sup> Such transfer is considered forcible, except where the affected persons provide their genuine and fully informed consent. However, genuine consent to a transfer cannot be presumed in an environment marked by the use or threat of physical force, coercion, fear of violence, or duress.<sup>59</sup>

28. Palestinians have been forced to move due to a coercive environment within Area C of the West Bank<sup>60</sup> and the area of the city of Hebron, which is under Israeli control (H2).<sup>61</sup> Coercive factors have also been reported in East Jerusalem, such as home seizures and demolitions leading to forced evictions, movement and access restrictions, instances of excessive use of force by Israeli Security Forces, and settler violence.<sup>62</sup> Forcible transfer has also been documented following the revocation of residency permits in East

<sup>54</sup> OCHA, Official data on demolitions orders in Area C (<http://data.ochaopt.org/demolitions.aspx>).

<sup>55</sup> A/HRC/31/43, para. 45, referring to A/HRC/25/38, paras. 11-20; see also A/68/513, para. 30-34. The implementation of the Israeli planning and zoning regime is problematic with regard to the prohibition of discrimination enshrined in human rights law and the right to adequate housing (art. 11 ICESCR), including the prohibition on forced evictions and on unlawful or arbitrary interference with privacy, family and home (CESCR, general comment 7 (1997), para. 3).

<sup>56</sup> In particular, the Israeli planning and zoning regime may violate the obligation of the occupying power under international humanitarian law to ensure public order and safety while respecting the laws in force in the occupied territory (Art. 43 HR).

<sup>57</sup> Art. 59 GC IV; see also ICRC Customary Law Study, Rule 55.

<sup>58</sup> A/HRC/34/39.

<sup>59</sup> A/67/372, para. 37; see also A/HRC/24/30 para 29.

<sup>60</sup> A/HRC/31/43, para. 46; A/69/348, para. 16; See also A/67/372, para. 37.

<sup>61</sup> A/71/355, Section IV.

<sup>62</sup> A/70/351, para. 25-51 and A/HRC/16/71, para. 20-22.

Jerusalem,<sup>63</sup> as well as the transfer of Palestinian detainees into Israeli prisons.<sup>64</sup> Human rights may also be violated within the context of forcible transfer, such as the rights to freedom of movement, privacy and family life,<sup>65</sup> as well as a range of economic, social, and cultural rights.<sup>66</sup>

### *Collective Punishment*

29. In June 2007, following the takeover of Gaza by Hamas, and in the context of continued attacks against Israeli civilian targets emanating from Gaza, Israel significantly tightened restrictions on movement by land to and from the Gaza Strip, adding to its prevention of all access via the air and the sea since 1967. Despite a gradual easing of some restrictions since 2010, Israel continues to maintain a tight closure policy,<sup>67</sup> leaving 1.9 million Palestinians locked into Gaza, largely unable to access the West Bank, including East Jerusalem, and the outside world. The impact of this blockade is exacerbated by Egypt's almost continuous closure of the Rafah passenger crossing – which has seen some loosening of restrictions over the past year – and by Jordan's increasing refusal to grant passage to Palestinians from Gaza through the Allenby crossing.<sup>68</sup>

30. The closures imposed on Gaza are contrary to international law and may amount to collective punishment, as it penalizes the entire population without regard to individual responsibility.<sup>69</sup> It has a serious impact on the right to freedom of movement and economic, social and cultural rights.

31. Following an attack against Israelis, Israeli authorities frequently employ measures that may amount to collective punishment that affect the members of the family or the community of the attackers or alleged attackers.<sup>70</sup> These have increased in the past three years in the context of heightened violence, and have included: punitive demolitions; cancellation of travel and work permits and other administrative action; withholding of bodies; and closure of Palestinian towns and villages.<sup>71</sup>

32. Collective punishment is expressly prohibited by international humanitarian law.<sup>72</sup> This prohibition does not only apply to criminal sanctions but also to harassment of any sort, including administrative measures, carried out by the police or the military.<sup>73</sup> In addition to the right to a fair trial and other due process guarantees, including the principle of individual responsibility and the presumption of innocence, several human rights are negatively affected by such practices.<sup>74</sup>

<sup>63</sup> A/67/372 para. 39 and A/HRC/16/71, para. 23-24.

<sup>64</sup> Art. 78 GC IV; the transfer of prisoners into the territory of the Occupying Power is forbidden by Art. 76 GC IV.

<sup>65</sup> Art. 12 and 17 ICCPR.

<sup>66</sup> A/HRC/16/71, para. 24.

<sup>67</sup> The term "blockade" is used here to describe Israel's imposition of prolonged closures and economic and movement restrictions in the Gaza Strip (see A/71/364 para. 5, A/HRC/24/30 para. 21 to 23, A/69/347 para. 30-34 and A/RES/69/93).

<sup>68</sup> A/71/364, para. 28.

<sup>69</sup> A/HRC/31/40 para. 36, A/HRC/24/30, para. 22 with references.

<sup>70</sup> A/HRC/34/36; A/HRC/31/40.

<sup>71</sup> A/71/364, para. 25-26; A/HRC/34/36, para. 31-33; A/HRC/31/40, para. 29-33; <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20082&LangID=E>.

<sup>72</sup> Art. 50 HR, Art. 33 GC IV.

<sup>73</sup> ICRC Study on Customary IHL, Commentary to Rule 103.

<sup>74</sup> Art. 11, 12, 14 and 17 ICCPR; see also Art. 71-73 GC IV.



***Settler harassment and violence (including impunity)***

33. Settler harassment and violence against Palestinians, and the failure of Israel to ensure accountability for perpetrators, has been an ongoing issue in the Occupied Palestinian Territory.<sup>75</sup> Such instances include verbal harassment, physical attacks causing casualties, as well as damage to or destruction of Palestinian property, with Palestinian-owned trees (mainly olive trees) being specifically targeted.<sup>76</sup>

34. The phenomenon has been directly linked to the continued existence and expansion of illegal settlements throughout the West Bank, as documented cases of settler attacks, trespassing and forceful takeover of land suggest that violence is often carried out as part of an effort by settlers to push Palestinian farmers off their land.<sup>77</sup>

35. As the occupying power, Israel is obliged to uphold public order and safety within the Occupied Palestinian Territory and to protect its inhabitants, notably from all acts of violence, threats and insults.<sup>78</sup> Harassment and violence by settlers impedes the enjoyment of numerous human rights by the affected Palestinian population, including the right to life and physical integrity, the right to privacy, family and home, and the right to an adequate standard of living.<sup>79</sup>

36. Under its duty to respect, protect and fulfil the human rights of all individuals within its jurisdiction, without any discrimination, Israel has the obligation to exercise due diligence to prevent, investigate, prosecute, punish and remedy any harm sustained by Palestinians, whether it is caused by officials or private persons.<sup>80</sup>

37. Moreover, Israel should do its utmost to ensure prompt and effective investigations into alleged violations and to prosecute suspected perpetrators.<sup>81</sup> However, it is very rare that police complaints filed by Palestinians in the West Bank lead to an investigation, let alone an indictment.<sup>82</sup> The Israeli authorities have recently made efforts to address the issue of settler violence, including through intensified law enforcement activity and increased presence of the Israel Defense Forces (IDF).<sup>83</sup> These measures have been linked to a steady decline in recorded incidents of settler violence over the past three years. This trend nevertheless contrasts with the exceptional degree of violence of some attacks in 2015.<sup>84</sup>

***Application of Israeli Law in the West Bank***

38. In the West Bank, Israeli domestic law is applied extraterritorially to Israeli settlers, while Palestinians are subject to Israeli military law in addition to the Palestinian legal system. The resulting differentiation is particularly problematic as regards criminal matters.<sup>85</sup> While Israeli settlers are tried under Israeli penal law in civilian courts in Israel, Palestinians are prosecuted under Israeli military law for security offences and other crimes

<sup>75</sup> e.g. A/71/355, A/HRC/31/43, and numerous previous reports; see also Talya Sasson, Summary Opinion, 2005.

<sup>76</sup> OCHA, "Israeli settler violence in the West Bank", November 2011.

<sup>77</sup> See case studies in Yesh Din, "The road to dispossession", February 2013, and A/69/348, para. 39; see also Kerem Navot, "Israeli settler agriculture as a means of land take over in the West Bank", August 2013.

<sup>78</sup> Art 27(1) Geneva Convention IV; see Art. 46 HR.

<sup>79</sup> e.g. Art. 7 and 17 ICCPR; Art. 11 ICESCR and 5 CERD.

<sup>80</sup> ICJ *Wall* case, para. 110; CCPR concluding observations on Israel, para. 11, 2003 (CCPR/CO/78/ISR); CCPR, General Comment 31, para. 8.

<sup>81</sup> A/71/355, para. 19 and A/HRC/25/38, paras.42-43.

<sup>82</sup> Yesh Din, Data Sheet, October 2015, referred to in A/71/355 para. 19.

<sup>83</sup> A/71/355 para. 20, A/HRC/31/43 para. 40-43.

<sup>84</sup> A/HRC/34/39, A/71/355 para. 18.

<sup>85</sup> A/HRC/28/44 para. 53, A/HRC/22/63 para. 41, 46.

as defined by military orders. It is notable that, Israeli domestic law provides more procedural guarantees to the suspect and defendant than Israeli military law for the same offence.<sup>86</sup>

39. The application of two different legal systems in the same territory, on the sole basis of nationality or origin, is inherently discriminatory.<sup>87</sup> It also violates the principle of equality before the law which is central to the right to a fair trial.<sup>88</sup> The application of Israeli domestic law to settlers and of Israeli military law to Palestinians in the West Bank also raises concerns as to the obligation of the occupying power to respect the laws in force in the territory it occupies, unless absolutely prevented.<sup>89</sup>

## B. Obligations of all parties related to the conduct of hostilities

40. Since 2007, there have been three major escalations in Gaza which resulted in 3,808 Palestinian fatalities, including 928 children.<sup>90</sup> During the latest escalation of hostilities in July-August 2014, 1460 civilians, including 556 children were killed, and 82 hospitals and 295 schools destroyed or damaged. In total 90 Israelis, including 11 civilians, were killed.<sup>91</sup>

41. More than two years after the 2014 escalation of hostilities, serious concerns persist concerning the lack of accountability by the Israeli and Palestinian authorities with regard to alleged violations of international humanitarian law – including alleged war crimes – and violations and abuses of international human rights law. No meaningful investigation has been announced by the Palestinian authorities so far.<sup>92</sup> A high number of cases involving the IDF will not be subject to criminal investigation as they were closed by the Office of the Israeli Military Advocate General for lack of reasonable grounds for suspicion of criminal behaviour, despite serious allegations.<sup>93</sup> When investigations are opened, concerns remain as to whether they meet human rights standards, especially in view of the small number and the low rank of alleged perpetrators that are eventually brought to justice, facing mainly lenient indictments and sentences.<sup>94</sup> As for civil remedies, victims have no prospect for compensation either.<sup>95</sup> This overall lack of accountability contributes to fuelling the conflict.

<sup>86</sup> Differences notably pertain to the authority to arrest, the maximum period of detention before being brought before a judge, the right to meet with an attorney, protections for defendants during trial, maximum punishment, and release before sentence completion; Israeli military law also provides for additional offenses that are not part of Israeli criminal legislation, such as stone throwing or assaulting a soldier (ACRI “One Rule, Two Legal Systems: Israel’s Regime of Laws in the West Bank”, November 2014 and B’Tselem, “Dual system of law”, January 2011 ).

<sup>87</sup> Art. 2 ICCPR.

<sup>88</sup> Art. 14 ICCPR.

<sup>89</sup> Art. 43 HR and Art. 64 GC IV. The possible passage of a Bill in the Knesset that would enable the retroactive legalization of outposts built on Palestinian-owned land is of additional concern, as it would be the first time that the Knesset enacts legislation to be specifically applied in the West Bank.

<sup>90</sup> Figures from OCHA

<sup>91</sup> A Thai national was also killed.

<sup>92</sup> The report of the Palestinian Independent National Committee established to follow up on the recommendations addressed to the Palestinian Authority by the Independent International Commission of Inquiry (A/HRC/29/52) was reportedly handed over to the Palestinian President on 8 January 2017.

<sup>93</sup> IDF MAG, decisions regarding exceptional incidents that allegedly occurred during operation ‘Protective Edge’; see A/71/364 para. 38-41.

<sup>94</sup> A/71/364, para. 40.

<sup>95</sup> A/71/364, para. 56-57.

## C. Further recurrent human rights violations in the Occupied Palestinian Territory

### *Impunity as a driver of violations*

42. Despite various measures taken by Israel to address impunity,<sup>96</sup> the failure to ensure accountability creates an environment of impunity where victims and families have little or no redress, which may encourage further abuses on all sides.

43. Accountability for violations committed by all parties would be key to breaking the cycle of violence.<sup>97</sup> Few Israeli security personnel are indicted for their actions. Incitement to violence remains an issue. Palestinians committing attacks against Israelis are glorified by parts of the population and representatives of ruling parties.<sup>98</sup>

### **Excessive Use of Force by Law Enforcement Officials**

44. Since September 2015, there has been a new escalation of violence in the West Bank, with attacks committed by Palestinians against Israelis. In this context, there has also been a sharp increase in apparent incidents of excessive use of force, both in the context of clashes and in response to attacks or alleged attacks by Palestinians against Israelis.<sup>99</sup> In many instances it appears that Israeli security forces do not reserve the use of firearms against Palestinians as a last resort, even where there is no imminent threat to life or of serious injury.<sup>100</sup> Similar concerns of unlawful killing arise in the context of the access-restricted areas in Gaza – with the IDF routinely using firearms against bystanders and protestors – along the Israel-Gaza fence, and at sea against small fishing vessels.<sup>101</sup>

45. Such use of firearms and the large number of resulting casualties raise serious questions as to whether the rules of engagement of the IDF comply with international law, whether they are properly implemented and respected, and whether appropriate sanctions are imposed for non-compliance.

46. In law enforcement operations, the use of lethal force has to be limited to situations when it is strictly necessary and in accordance with the principle of proportionality. It should be restricted to situations of last resort, i.e. as a response to an imminent threat of death or serious injury.<sup>102</sup> Use of force that does not comply with those principles and results in the death of the suspect amounts to an arbitrary deprivation of life.<sup>103</sup> Under international humanitarian law, this may constitute an act of wilful killing.<sup>104</sup>

47. My predecessor expressed serious concern regarding the excessive use of force and unlawful killing by Israeli security forces, including apparent extrajudicial executions.<sup>105</sup> Concerns remain regarding accountability in law enforcement operations.<sup>106</sup> Since the escalation of violence in September 2015, only one case among the 169 Palestinians killed

<sup>96</sup> See CAT/C/ISR/5; A/71/364 para. 61-63.

<sup>97</sup> A/71/364, para. 71.

<sup>98</sup> Quartet report, p. 3.

<sup>99</sup> A/HRC/31/40.

<sup>100</sup> A/71/364 para. 8-10, A/71/355 para. 38-43.

<sup>101</sup> A/70/421, para.30-38; A/71/364, para.13-15.

<sup>102</sup> Code of Conduct for Law Enforcement Officials, 1979, Art. 2-3; Principles 5, 9, 13 and 14, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990.

<sup>103</sup> Art. 6 ICCPR.

<sup>104</sup> Art. 147 GC IV.

<sup>105</sup> A/71/355, para. 43, A/71/364 para. 8-9, A/HRC/31/40 para. 10-15.

<sup>106</sup> A/71/364, para. 42-50.

(as of 31 October 2016) by Israeli security forces following an attack or alleged attack has led to an indictment and subsequent conviction.<sup>107</sup>

#### ***Torture and ill-treatment in detention***

48. Allegations of ill-treatment and torture of Palestinian detainees have been regularly reported over the years.<sup>108</sup> These occur largely during arrests, transfers and interrogations, particularly by the Israel Security Agency. Common forms of ill-treatment include sleep deprivation, stress positions, sexual harassment and physical assaults. In 2015, The Public Committee against Torture in Israel (PCATI) documented 38 complaints of torture in Israeli detention facilities.<sup>109</sup> UNICEF and partner organizations also documented 58 cases of West Bank children reporting ill-treatment by Israeli security forces in 2015.<sup>110</sup>

49. International human rights law prohibits torture or cruel, inhumane or degrading treatment or punishment.<sup>111</sup> This prohibition is absolute and cannot be derogated from, even in a situation of armed conflict.<sup>112</sup> The occupied population is also specifically protected by international humanitarian law.<sup>113</sup>

50. Israeli law does not include any specific prohibition, definition or criminalization of torture.<sup>114</sup> Despite improvements, for instance with the creation of semi-independent accountability mechanisms, the “necessity defence” is commonly invoked to prevent any criminal investigations.<sup>115</sup> The number of complaints of torture or ill-treatment involving the Israel Security Agency has quadrupled since June 2013, but not one complaint has led to a criminal investigation.<sup>116</sup> Israel views the presentation of such complaints “as a method (...) to burden and hinder (its) security agencies (...) in their ongoing fight against terrorism.”<sup>117</sup>

51. OHCHR has consistently received and documented reliable allegations of torture and ill-treatment of Palestinian detainees in the West Bank and in Gaza, including cases that led to death.<sup>118</sup> In the West Bank, political opponents and activists, including students perceived to be linked to Hamas and Islamic Jihad, appear to be particularly targeted by the Palestinian Authority.<sup>119</sup> In Gaza, the ruling authorities and armed groups have reportedly resorted to such practices.<sup>120</sup> Credible investigations into allegations are rare.

#### ***Administrative and arbitrary detention***

52. Since 2014, detention of Palestinians has significantly increased, with no prospect of charge or trial. As of 31 October 2016, 720 Palestinians were reported to be held in Israeli administrative detention,<sup>121</sup> after their number had peaked at 750 earlier in 2016 – the

<sup>107</sup> See A/71/355 para. 45; A/71/364 para. 45; Elor Azaria was convicted for manslaughter on 4 January 2017; at the time of writing, it is not clear whether there will be an appeal to the judgment.

<sup>108</sup> A/HRC/28/80, A/HRC/31/40, A/71/364.

<sup>109</sup> Update provided by PCATI.

<sup>110</sup> A/HRC/31/40, para 47.

<sup>111</sup> Art. 7 ICCPR.

<sup>112</sup> Art. 4 ICCPR.

<sup>113</sup> Art. 27 GC IV and art.32 GC IV.

<sup>114</sup> CAT/C/ISR/CO/5, para. 12-13; see A/71/364, para. 41 and 59.

<sup>115</sup> A/71/364, para. 59 (with references).

<sup>116</sup> A/71/364, para 60.

<sup>117</sup> CAT/C/ISR/5, para. 11.

<sup>118</sup> A/HRC/31/40, para. 60-62; A/HRC/34/36.

<sup>119</sup> A/HRC/31/40, para. 61; A/HRC/34/36.

<sup>120</sup> A/HRC/34/36.

<sup>121</sup> <http://www.addameer.org/statistics>. Three Jewish-Israeli men were also held in administrative detention in 2015.

highest number since early 2008.<sup>122</sup> Some administrative detainees have resorted to hunger strikes to protest their detention.<sup>123</sup> In July 2015, the Israeli Prisons Act was amended, allowing judges to authorize force-feeding of a detainee on hunger strike.<sup>124</sup> Force-feeding was qualified by human rights experts as tantamount to cruel, inhuman or degrading treatment, and a violation of the rights to health.<sup>125</sup>

53. OHCHR has also documented a growing use of administrative detention by Palestinian security forces, in some cases on the basis of orders issued by provincial Governors, or simply to justify delays in bringing the accused before a judge.<sup>126</sup> In Gaza, the authorities have been resorting to arbitrary detention against perceived political opponents, including members of Fatah and former personnel of the Palestinian Authority, with cases of incommunicado detention reported, including by armed groups.<sup>127</sup>

54. Human rights law guarantees to everyone the right to liberty and security. This implies that no one shall be subject to arbitrary arrest or detention, and that any deprivation of liberty should occur on the basis of legal grounds and follow strict procedures as established by law.<sup>128</sup> Detainees should be promptly charged or released. Administrative detention is only permitted in exceptional circumstances and should never be used as an alternative to criminal proceedings.<sup>129</sup> It is subject to stringent safeguards to prevent arbitrary detention, including basic procedural guarantees, such as the rights to be informed promptly and fully of the reasons for the detention, to take proceedings before a court and to challenge the legal basis of the detention, and to be presumed innocent. Breaches should give rise to compensation.<sup>130</sup>

55. The Israeli practice of administrative detention often leads to indefinite detention without charge. Hearings for administrative detainees are often conducted in closed session, with detainees regularly held on the basis of secret evidence to which neither they nor their lawyers are given access. This practice has been widely condemned, including by my predecessor, the High Commissioner for Human Rights and the Human Rights Committee, who called for its end.<sup>131</sup> In addition, this practice is inconsistent with the exceptional nature of detention provided by international humanitarian law.<sup>132</sup> Most administrative detainees are held in Israel, in violation of the prohibition of forcible transfer.<sup>133</sup>

#### ***Arrest and Detention of Children***

56. Each year hundreds of Palestinian children, some as young as 12, are arrested and prosecuted in the Israeli military court system. Charges usually involve stone-throwing and, more recently, incitement to violence based on social media posts.

<sup>122</sup> <http://www.addameer.org/statistics/20160730>;  
[http://www.btselem.org/administrative\\_detention/statistics](http://www.btselem.org/administrative_detention/statistics).

<sup>123</sup> A/HRC/31/40, para. 44, A/HRC/34/36, para 21-22.

<sup>124</sup> A/HRC/31/40, para. 45.

<sup>125</sup> See joint statement of 28 July 2015 by the UN Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment, and on the Right to Health.  
<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269&LangID=E>

<sup>126</sup> A/HRC/31/40, para. 58.

<sup>127</sup> A/HRC/34/36.

<sup>128</sup> Art. 9 ICCPR; General Comment 35, para. 15 (2014).

<sup>129</sup> *Ibidem*.

<sup>130</sup> Art. 9 ICCPR.

<sup>131</sup> A/HRC/28/80, para. 33.

<sup>132</sup> Art. 78 GC IV.

<sup>133</sup> Art. 49, 147 GC IV; see A/HRC/31/40, para. 43.

57. The number of children in detention has more than doubled in the last year.<sup>134</sup> The peak figure of 440 children held in Israeli detention at the end of February 2016 was the highest number of detained children since January 2008.<sup>135</sup> Administrative detention of children resumed in October 2015, a practice not seen since December 2011.<sup>136</sup> There are concerns as to whether child detention is being used as a measure of last resort and for the shortest appropriate period, as required by human rights law.<sup>137</sup>

58. The fact that Israeli military law applicable in the West Bank permits detention of Palestinian children from the age of 12 is at odds with the specific protection granted to children as a particularly vulnerable group, and the general rule that any decision affecting them must have their best interest as a primary consideration.<sup>138</sup>

59. A number of legal developments also appear to target children in East Jerusalem in contravention of international standards.<sup>139</sup> In August 2016, the Knesset approved amendments to the Israeli Youth Law which allow prison sentences to be issued for children aged between 12 and 14 for specific serious crimes.<sup>140</sup>

### ***Death Penalty***

60. Under Palestinian law, death sentences are permitted for a large number and mandatory for a smaller number of offences. The President is required to confirm the death sentence. Although there is no formal moratorium on executions, in the West Bank none have been carried out since an announcement by the Palestinian President in 2005 that he would not confirm any death sentences.<sup>141</sup> Both in the West Bank and in Gaza, however, courts continue to issue death sentences. In Gaza, executions resumed in 2010, and 22 of the 101 death sentences pronounced since 2008 have reportedly been carried out, although they were not approved by the Palestinian President.

### ***Freedom of movement and economic, social and cultural rights***

61. Palestinians' freedom of movement within the Occupied Palestinian Territory is significantly restricted by a complex and multi-layered system of administrative, bureaucratic and physical constraints, including permit requirements, checkpoints, and physical obstacles impacting almost every aspect of daily life.<sup>142</sup>

62. Movement restrictions are particularly prevalent in the vicinity of settlements. East Jerusalem is isolated from the rest of the West Bank due to permit requirements, as are areas of the "seam zone," i.e. areas west of Israel's wall in the West Bank. The wall<sup>143</sup> remains a key obstacle to freedom of movement. In Gaza, the continuing closures and the related permit regime strictly limits the possibility for Gaza residents to exit Gaza and, to a lesser extent, West Bank residents to enter Gaza.<sup>144</sup>

<sup>134</sup> A/HRC/34/36, para. 24.

<sup>135</sup> A/71/364, para. 36.

<sup>136</sup> A/HRC/31/40, para. 41; A/71/364, para. 34

<sup>137</sup> Art. 37(b) CRC.

<sup>138</sup> Art. 3(1) CRC.

<sup>139</sup> A/HRC/31/40, para. 49-51.

<sup>140</sup> A/HRC/34/36, para. 29.

<sup>141</sup> A/HRC/34/36, para. 57.

<sup>142</sup> A/HRC/31/44, para. 12-43.

<sup>143</sup> In 2002, Israel started to build a wall between Israel and the West Bank in order to prevent attacks from Palestinians within Israel. Some 85% of the wall route nevertheless runs into the West Bank, which would – once fully completed – isolate 9.4% of the West Bank, including East Jerusalem.

<sup>144</sup> A/HRC/31/44, para. 12-20.

63. Freedom of movement is guaranteed under international human rights law.<sup>145</sup> As previously highlighted, restrictions on freedom of movement may also amount to collective punishment, in violation of international humanitarian law.<sup>146</sup> While this right may nevertheless be restricted to address legitimate security needs, any limitation has to be necessary and proportional to the end sought and must be applied consistently with protections afforded by human rights.<sup>147</sup>

64. Freedom of movement is a precondition for the exercise of several other human rights, including economic, social and cultural rights. Access restrictions have a negative impact on the rights to education, health, work and family life throughout the Occupied Palestinian Territory.<sup>148</sup>

65. Movement and other restrictions also prevent the development of the Palestinian economy. The agricultural sector has been particularly affected by the denial of access for farmers to agricultural areas, water resources and domestic and external markets.<sup>149</sup> Impediments to Palestinians' economic, social and cultural development also affect the exercise of the right to self-determination.<sup>150</sup>

66. The closures in Gaza, together with successive military campaigns by the IDF and the use of force in access-restricted areas, has exacerbated the humanitarian crisis in Gaza, severely undermining any effort at development, and resulting in recurrent violations of human rights. The closures have a negative impact on basic human rights and economic prospects, as well as the availability of essential services, exacerbating poverty and aid dependency.<sup>151</sup> Access to health, education and broader economic and social rights are restricted. The situation causes growing frustration and despair, with an ongoing breakdown in societal ties accompanied by an increase in diseases, crime rates, family disputes, domestic violence and cases of self-harm. The living conditions of people displaced due to the conflict have also resulted in an increased risk of violence against women and children.<sup>152</sup>

67. As of November 2016, according to OCHA, 1.3 million people in Gaza were in need of humanitarian assistance.<sup>153</sup> However, efforts by humanitarian actors to address the most pressing needs following the 2014 escalation of hostilities, such as housing, health, education, and water and sanitation services, have been hampered by restrictions on the import of goods considered by Israel as "dual-use" items. Those are civilian goods that Israel considers as also being of military use, such as construction materials or medical equipment.<sup>154</sup> These restrictions constitute a violation of Israel's obligation as an occupying power to allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need.<sup>155</sup>

#### ***Freedom of expression and peaceful assembly***

68. Significant concerns remain regarding violations and abuses by all duty-bearers of the rights to freedom of expression, peaceful assembly and association. Israeli and

<sup>145</sup> Art. 12(1) ICCPR.

<sup>146</sup> Art. 50 HR; Art. 33 GC IV.

<sup>147</sup> Art. 12 (3) ICCPR; CCPR, General Comment 27, para. 14.

<sup>148</sup> Art. 6, 11-13 ICESCR; see A/HRC/31/44, para. 44-73.

<sup>149</sup> A/HRC/22/63, para. 89.

<sup>150</sup> Art. 1 ICCPR and 1 ICESCR; see A/HRC/31/44 para. 11.

<sup>151</sup> A/71/364, para. 5.

<sup>152</sup> See UN Women, OCHA, Needs of Women and Girls in Gaza, August 2015 p 2.

<sup>153</sup> OCHA, "The Gaza Strip: The Humanitarian Impact of the Blockade," November 2016.

<sup>154</sup> See Gisha, "Dark-gray lists", Information sheet, January 2016. <http://gisha.org/publication/4860>.

<sup>155</sup> Art. 59 GC IV; ICRC Customary Law Study, Rule 55.

Palestinian authorities impose restrictions and subject both Israeli and Palestinian human rights defenders focusing on the Occupied Palestinian Territory to pressure and harassment.<sup>156</sup> Palestinian activists are also regularly arrested, assaulted and harassed by Israeli security forces, in addition to facing physical attacks and harassment from settlers, particularly in Hebron.<sup>157</sup> Israeli human rights organizations advocating for Palestinians' human rights have come under attack from Israeli politicians, whose statements may amount to incitement to violence.<sup>158</sup> Of additional concern is the recent growing intimidation against NGOs that have been calling for the use of foreign jurisdictions and international justice mechanisms to ensure accountability for Israeli violations.<sup>159</sup>

69. In the Occupied Palestinian Territory, political tensions often lead to human rights abuses, with restrictions on freedom of expression and peaceful assembly, in addition to the targeting of political opponents through harassment, threats, arbitrary arrests, assaults, ill-treatment and torture. OHCHR regularly receives reports of human rights violations perpetrated by the Palestinian Security Forces and the authorities in Gaza, particularly against individuals and groups critical of the authorities.<sup>160</sup>

70. Throughout the Occupied Palestinian Territory, social media is monitored, and journalists and activists are harassed, arrested, detained and, in some cases, subjected to ill-treatment or torture.<sup>161</sup> Authorities in both the West Bank and Gaza have also restricted peaceful assemblies. These practices denote the rise of a repressive environment and promote self-censorship among the Palestinian population.

71. International human rights law guarantees freedoms of expression, association and peaceful assembly.<sup>162</sup> Although restrictions on the exercise of these rights are permitted, these must be provided by law, and have to be necessary for the protection of the rights and freedoms of others, and for the protection of national security and order.

#### IV. Conclusion

**72. Chronic violations of international human rights law and international humanitarian law by all parties have persisted. Violations by Israel of fundamental provisions of the law of occupation continued, particularly with the closures in Gaza and the consolidation and expansion of settlements, suggesting clear patterns and policies. The transfer of parts of the Israeli and the Palestinian populations, and the lack of respect for public and private property, profoundly alter the status quo in the Occupied Palestinian Territory.**

**73. The absence of law enforcement and accountability against Israeli perpetrators further contravenes Israel's obligation as an occupying power to ensure public order and safety, and to protect the Palestinian population in all circumstances. Moreover, the application of Israeli national law to Israelis in the West Bank raises concerns under international law.**

<sup>156</sup> A/HRC/34/36, para. 39-42.

<sup>157</sup> A/HRC/31/40, para. 52, A/HRC/34/36, para. 39.

<sup>158</sup> A/HRC/34/36, para. 42

<sup>159</sup> <http://www.alhaq.org/advocacy/topics/human-rights-defenders/1026-al-haq-under-attack-staff-members-life-threatened>; <http://www.mezan.org/en/post/21475>.

<sup>160</sup> A/HRC/31/40, para. 66-67, A/HRC/34/36, para. 51-53.

<sup>161</sup> A/HRC/31/40, para. 56-57, A/HRC/34/36, para. 49.

<sup>162</sup> Art. 19, 21, 22 ICCPR.



74. In 2013, experts denounced the “creeping annexation” of the West Bank, preventing the establishment of a contiguous and viable Palestinian State, and undermining the right of the Palestinian people to self-determination.<sup>163</sup> The devastating impact of the Israeli occupation on the rights of the Palestinian population can only be reasserted.

75. International law violations by the Palestinian Authority, the authorities in Gaza and Palestinian armed groups are also of concern. The obligation of the Palestinian authorities in upholding human rights in the entirety of the occupied Palestinian territory has to be emphasized as an essential element of the State of Palestine.

## V. Recommendations

76. All violations and abuses of the human rights of the Palestinian people must immediately cease and such violations and abuses must be promptly, impartially and independently investigated and those responsible held accountable. All parties must respect international law and comply with their obligations or responsibilities under international human rights law.

77. All parties, including Palestinian armed groups, shall respect the applicable rules of international humanitarian law, including, where applicable, the principles of distinction, proportionality and precaution, and ensure accountability for all violations.

78. All previous recommendations of the United Nations human rights treaty bodies and other mechanisms, of my predecessor as Secretary-General and of the High Commissioner for Human Rights, as well as commissions of inquiry and fact-finding missions, which remain valid, must be fully and promptly implemented.

79. All States party to the Geneva Conventions should take measures to ensure the respect of the Conventions by all sides.

80. Israel must end and reverse all settlement activity in the West Bank, including East Jerusalem, and lift the situation of blockade in Gaza.

81. In ensuring its legitimate security needs, Israel must respect international humanitarian law and international human rights law.

82. The Palestinian authorities should take steps to encourage national political parties to resolve the political disunity that obstructs the equal implementation of the human rights obligations of the Government of the State of Palestine throughout the occupied Palestinian territory.

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<sup>163</sup> A/HRC/22/63, para. 101.