

Chapter 8

HUMAN RIGHTS IN THE OCCUPIED PALESTINIAN TERRITORY



Photo: UN/2118/E/Nadja Groux

Today's Palestinian children face uncertain future.

“The current cycle of violence between Palestinians and Israelis has seen hundreds killed and thousands wounded, the great majority of them Palestinians. Poverty and unemployment have skyrocketed. Blockades and closures have paralysed the Palestinian economy, isolated the West Bank and Gaza and prevented the delivery of medicine, food and fuel. Collective punishment has cast a pall of anger and despair over the already tense Occupied Palestinian Territory. Israelis, too, have seen high hopes turn to fear.”

Secretary-General Kofi Annan, April 2001

Concern for the human rights of the civilian population in the territories occupied by Israel during the 1967 war was first expressed by the Security Council in resolution 237 (1967), in which, among other things, it recommended to the Governments concerned the scrupulous respect of the humanitarian principles contained in the 1949 Fourth Geneva Convention.

In December 1968, the General Assembly established a three-member Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories and asked it to submit reports whenever the need arose. The Israeli Government has, since the very beginning, refused to allow the Special Committee to visit the occupied territory to conduct its mandated investigations. It has maintained that the resolution establishing the Special Committee was discriminatory in character and attempted to prejudge allegations the Special Committee was supposed to investigate.

Since 1970, the Special Committee has submitted to the General Assembly annual reports, complemented since 1989 by two additional periodic reports. Without direct access to the occupied Palestinian territory, the members decided to base their reports on interviews, conducted during visits to the neighbouring States, with individuals having first-hand experience of the human rights situation in the occupied Palestinian territory.

The reports have documented the human rights situation in the occupied territories, including incidents linked to the intifada (1987-1993), administration of justice, treatment of detainees, treatment of Palestinian civilians, measures affecting fundamental freedoms and the activities of Israeli settlers violating international law.

They have affirmed that, especially over the last two decades, Israel has continued its policy of de facto annexation through such measures as establishing or expanding settlements, confiscating property, transferring Israeli citizens to the occupied territories, deporting Palestinians from the territories and encourag-

ing or compelling Palestinians to leave their homeland. Such actions, the reports stated, have violated the obligations of Israel as a State party to the Fourth Geneva Convention.

CHR Special Rapporteur on human rights violations is appointed, 1993

In February 1993, for the first time, the United Nations Commission on Human Rights decided to appoint a Special Rapporteur on human rights violations in the occupied Arab territories, including Palestinian territories. In September 1993, Mr. René Felber, the former President of Switzerland, was appointed Special Rapporteur. He was invited to visit the occupied Palestinian territories in January 1994—the first person with an official mandate from the Commission on Human Rights allowed to do so—and was able to talk freely with the persons he had wished to see. In his January 1994 report, the Special Rapporteur called on both Israeli and Palestinian authorities, as a matter of priority, to “take measures to contain the violence, which may pose the most serious threat to the peace process”.

On 25 February 1994, the killing of some 30 Palestinian worshippers in the Mosque of Ibrahim in Hebron by an Israeli settler, following attacks against settlers by Palestinians, was universally condemned and caused great concern for the future of the peace process, renewing calls for some form of international protection for Palestinians.

Reacting to the massacre, the Security Council on 18 March 1994 called for measures to guarantee the safety and protection of Palestinian civilians throughout the occupied territories, including a temporary international or foreign presence. Strongly condemning the massacre, the Council called upon Israel to continue to take measures, including the confiscation of arms, to prevent illegal acts of violence by Israeli settlers.

Against the backdrop of rising violence in the region, the current Special Rapporteur on human rights violations in the occupied Arab territories, Mr. Giorgio Giacomelli, visited the

occupied Palestinian territory in 1999 and submitted his report to the Commission on Human Rights in March 2000. In his report, Mr. Giacomelli noted that Israeli occupation forces frequently carried out punitive demolitions of Palestinian homes. The enjoyment of fundamental human rights and freedoms by the Palestinians in the occupied territory was also severely curtailed by measures such as closures, which separate parts of the occupied territory, including East Jerusalem, from each other as well as from Israel. Such closures had been systematically imposed since 1993, Mr. Giacomelli noted.

The report also noted:

- * The Israeli General Security Service (GSS) had used torture systematically during the interrogation of Palestinians suspected of security offences.
- * After the withdrawal and redeployment of the Israeli army from the major Palestinian cities in the West Bank in 1995, all Palestinian political prisoners were transferred from the occupied territories to Israel, in violation of article 76 of the Fourth Geneva Convention.
- * The practice of administrative detention, without charges or trial, had also continued. However, there had been a reduction in the number of administrative detainees.

The Special Rapporteur recognized that the purpose of protection enshrined in humanitarian law, in particular in the Hague Regulation and the Fourth Geneva Convention, as of March 2000 had not been served. He concluded:

“The recommendation ... cannot be but that of a rigorous implementation of the letter and spirit of the relevant international norms, which implies the reversal of illegal trends, correction and, where appropriate, restitution”.

Economic impact of occupation

Repeated crises and related violence have had a severe economic impact on the lives of Palestinians in the occupied territory.

According to a report issued by the United Nations Special Coordinator for the Middle East and Peace Process covering the period from 1 October 2000 to 31 January 2001, the combination of border closures, internal movement restrictions and the closing of the international borders constituted the most severe and sustained set of movement restrictions imposed on the occupied Palestinian territories since the beginning of the occupation in 1967. Citing a field survey conducted by the Palestinian Central Bureau of Statistics, the Special Coordinator noted, “On average, the direct economic losses were estimated at 50.7 per cent of GDP produced in the period October–November 2000”.

HRC High Commissioner’s visit to the occupied territories, 2000

In November 2000, Mrs. Mary Robinson became the first United Nations High Commissioner for Human Rights to visit the occupied territory. This followed a resolution adopted at the fifth special session of the Commission on 19 October 2000 requesting the High Commissioner to undertake an urgent visit to the occupied territory to take stock of the violations of the human rights of the Palestinian people by Israel.

In her report, submitted on 29 November 2000, Mrs. Robinson noted that the human rights situation in the Palestinian territory was bleak. “The most persistent allegation brought to the attention of the High Commissioner was that Israeli security forces have engaged in excessive force, disproportionate to the threat faced by their soldiers.” To disperse the demonstrations, the High Commissioner noted, the Israeli military authorities had used live ammunition, rubber-coated steel bullets and tear gas, all of which had resulted in deaths and injuries amongst the Palestinians. Heavier weapons had also been used, including rockets fired by infantry and from helicopters. Armoured vehicles and heavy machine guns had been deployed throughout the Gaza Strip and the West Bank.

The report made several recommendations, including:

- * The construction of new settlements should cease, and those settlements located in the midst of heavily populated Palestinian areas should be removed;
- * All cases of use of lethal force on both sides should be investigated and subjected to the processes of justice in order to avoid impunity;
- * All holy sites and their access by all faiths should be respected;
- * The Israeli authorities should ensure freedom of movement of international and national staff of UN agencies and facilitate access by them to those in need of assistance.

The United Nations Commission on Human Rights, which met at its fifty-seventh session in April 2001, expressed grave concern “at the deterioration of the human rights and humanitarian situation in the occupied Palestinian territories”. It condemned “the disproportionate and indiscriminate recourse to force, which cannot but aggravate the situation and increase an already high death toll”. The Commission also called upon Israel “to desist from all forms of violation of human rights in the occupied Palestinian territory, including East Jerusalem, and other Arab territories, and to respect the bases of international law, the principles of international humanitarian law, its international commitments and the agreements it signed with the Palestine Liberation Organization”.

Economic impact of occupation

Since 1989, in the case of Gaza, and since 1993, for the West Bank, Palestinians seeking to enter Israel or East Jerusalem for any reason—including transit between the West Bank and Gaza—have been required to apply for a permit from the Israeli military authorities. This general closure and permit policy has had a serious impact on the Palestinian economy and society.

Year	Total days of border closure	Holidays and weekends during border closures	Effective border closure days	Lost days as a percentage of potential work days
1993	26	9	17	6.1
1994	89	25	64	23.10
1995	112	28.5	83.5	29.93
1996	121	31.5	89.5	31.91
1997	79	22	57	20.54
1998	26	11.5	14.5	5.21
1999	16	9	7	2.53
2000	75	23	52	18.81

Source: “The impact on the Palestinian economy of confrontations, mobility restrictions and border closures, 1 October 2000–31 January 2001”, Office of the United Nations Special Coordinator (www.unsco.org).