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Human rights situation in Palestine and other occupied Arab territories

Implementation of Human Rights Council resolutions S-9/1 and S-12/1

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report, the eleventh submitted by the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1, covers the period from 1 November 2017 to 31 October 2018. It provides an overview of the human rights situation in the Occupied Palestinian Territory, including ongoing lack of accountability for violations of international human rights law and international humanitarian law. The report contains recommendations for the Government of Israel, the Government of the State of Palestine and the authorities in the Gaza Strip.

* The present report was submitted after the deadline in order to reflect the most recent developments.



I. Introduction

1. Submitted pursuant to Human Rights Council resolutions S-9/1 and S-12/1, the present report provides an overview of the human rights situation in the Occupied Palestinian Territory for the period from 1 November 2017 to 31 October 2018.

2. The information contained in the report is drawn mainly from human rights monitoring activities conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory. It also reflects information obtained from government sources, other United Nations entities, and non-governmental organizations (NGOs). The report should be read in conjunction with other relevant reports submitted by the Secretary-General to the General Assembly and by the United Nations High Commissioner for Human Rights to the Human Rights Council.¹

3. During the reporting period, violence resulted in a high number of casualties in the Occupied Palestinian Territory. Widespread protests and demonstrations, often escalating into clashes between Palestinians and Israeli security forces, followed the statement of the President of the United States of America, on 6 December 2017, on Jerusalem. Those demonstrations, which continued until the end of February 2018 in the West Bank and the Gaza Strip, were met with an often excessive response by Israeli security forces, resulting in the death of 28 Palestinians² and over 7,000 injured.³ A new round of demonstrations, referred to as the Great March of Return, began in Gaza on 30 March 2018 and continued throughout the reporting period. In that context, 169 Palestinian demonstrators were killed and over 24,000 injured by Israeli security forces.⁴ Hostilities between Israel and armed groups in Gaza escalated on several occasions, causing 65 Palestinian fatalities. During the reporting period, 274 Palestinians, including 50 children, were killed by Israeli security forces in the West Bank and Gaza, and 11 Israelis (7 civilians and 4 members of Israeli security forces) were killed by Palestinians in the Occupied Palestinian Territory.⁵

4. The Israeli blockade and closures of Gaza entered their twelfth year, with further movement restrictions introduced. Severe punitive measures by authorities of the State of Palestine on Gaza compounded an ever-deteriorating humanitarian situation and worsening de-development. Amid the intra-Palestinian political divide, over 100 alleged Hamas affiliates were arrested and many of them administratively detained in the West Bank at the end of September. In Gaza, the authorities continued to arbitrarily arrest and detain Fatah affiliates.

5. Israel failed to uphold its full human rights and international humanitarian law obligations as the occupying Power. Settlement expansion continued at a fast pace and several communities remained at a risk of forcible transfer. Demolitions and evictions, movement restrictions and practices of collective punishment continued. Settler violence significantly increased, with the Israeli authorities frequently failing to sufficiently protect the Palestinian population or ensure accountability for the perpetrators of violence. Concerns remained over the detention practices of Israel, including the use of administrative detention. Freedom of expression, association and peaceful assembly came under increasing pressure, with Israel taking measures to limit a number of critical voices.

6. In the West Bank and Gaza there were serious concerns regarding arbitrary detention and ill-treatment, in some cases amounting to torture, by Palestinian authorities. There was a marked deterioration in protection of the freedom of expression and of assembly. This included the violent dispersal by Palestinian security forces of a peaceful demonstration in Ramallah on 13 June 2018.

¹ A/73/410, A/73/420, A/HRC/40/42 and A/HRC/40/43.

² OHCHR monitoring.

³ See www.palestinercs.org/index.php?langid=1&page=post&pid=24351&catid=4&parentid=11186.

⁴ Figures provided by the Ministry of Health of the State of Palestine.

⁵ Information provided by the Office for the Coordination of Humanitarian Affairs (OCHA).

Legal framework

7. International human rights law and international humanitarian law are applicable in the entirety of the Occupied Palestinian Territory, namely, Gaza and the West Bank, including East Jerusalem. A detailed analysis of the relevant legal obligations is contained in a report of the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem,⁶ and remained applicable for the duration of the reporting period.

II. Violations of international human rights law and international humanitarian law in the Occupied Palestinian Territory by all duty bearers

A. Israel

1. Obligations of the occupying Power under international humanitarian law

8. Advancement of plans for settlement construction continued at a fast pace. Settlements amount to a violation by the occupying Power of the prohibition to transfer parts of its civilian population into territory it occupies. Such transfer is considered a war crime.⁷ Settler violence against Palestinians rose considerably, with the number of incidents in 2018 being the highest since 2015.⁸ These developments are described in the report of the High Commissioner submitted pursuant to Human Rights Council resolution 37/36.⁹

9. During the reporting period, Israeli authorities demolished 402 Palestinian structures in the West Bank, including East Jerusalem, including 149 residential structures and a school. Forty-three Palestinians were evicted from four Palestinian structures in East Jerusalem.¹⁰ On 24 May 2018, the Israeli High Court of Justice issued a ruling in the case of the Bedouin community of Khan al-Ahmar/Abu al-Helu, allowing for the demolition of the community's structures. The Court upheld the demolition orders in September 2018 following further petitions. The destruction of private property is prohibited under international humanitarian law unless rendered absolutely necessary by military operations.¹¹ As at 31 October 2018, the demolition had not been carried out, but the community of 180 Palestinians, half of whom are children, remained at imminent risk of forcible transfer.¹²

10. Israeli practices that in many cases constitute collective punishment¹³ continued. The blockade of Gaza entered its twelfth year, with a wide-ranging impact on the rights of Palestinians. Closures were tightened during the second quarter of 2018, reportedly in response to rocket attacks and the launching of incendiary kites and balloons from Gaza into Israel. In a tweet dated 13 October 2018, the Israeli Defense Minister stated that as long as the violent protests continued on the Gaza border, including the launching of incendiary balloons and kites and the burning of tires near Israeli towns, the supply of fuel and gas for Gaza would not be renewed.¹⁴ From July onward, Israel regularly changed the

⁶ A/HRC/34/38, paras. 3–12.

⁷ Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention), art. 49; Rome Statute of the International Criminal Court, art. 8 (2) (b) (vii).

⁸ Information provided by OCHA.

⁹ A/HRC/40/42.

¹⁰ Information provided by OCHA.

¹¹ Fourth Convention, art. 53.

¹² Individual or mass forcible transfers are prohibited. See the Fourth Convention, arts. 49 (1) and 147, and the Rome Statute, art. 8 (2) (b) (viii).

¹³ A/HRC/34/36, para. 36 and A/HRC/24/30, para. 22.

¹⁴ AvigdorLieberman@twitter.com, available at <https://twitter.com/AvigdorLieberman/status/1051129236805865472>.

fishing limit in waters off Gaza, at times reducing it to as little as 3 nautical miles,¹⁵ reportedly in response to the Great March of Return demonstrations.¹⁶

11. In the West Bank, Israeli security forces punitively demolished five Palestinian houses and sealed two rooms in two other houses, affecting 51 Palestinians. Closures were frequently reported in Palestinian towns and villages, particularly following incidents involving attacks or alleged attacks on Israelis. For example, Israeli security forces imposed a closure on Hizma village between 17 and 29 January 2018, and put up posters in the village implying that the measure was in the nature of collective punishment in response to residents of the village throwing stones at Israeli settlers' cars. The posters depicted the roadblock and a damaged Israeli bus, with text to the effect of: When you inflict damage like that, we respond like this.

12. As at 31 October 2018, Israeli authorities continued to withhold the bodies of 31 Palestinians killed by Israeli security forces, including 4 children.¹⁷ On 14 December 2017, the Israeli High Court of Justice ruled there was no legal basis for Israel to withhold the bodies of Palestinian attackers, and ordered the State to release them within six months unless legislation allowing the practice was enacted. On 18 December 2017, the Israeli Cabinet decided that the bodies would not be returned. The High Court held an additional hearing on 17 July 2018 on the matter, but a decision remained pending as at the end of the reporting period. Withholding from their families the bodies of individuals killed in attacks or alleged attacks amounts to a form of collective punishment. Collective punishment is prohibited by international humanitarian law and also violates several human rights.¹⁸

13. The adoption of the nation-State law, in July 2018, which anchors inherent discrimination against non-Jewish communities in Israel, raised further concern regarding compliance with the law of occupation, insofar as it applies to East Jerusalem and, possibly, to settlements in the rest of the West Bank.¹⁹

2. Civilian casualties in the context of hostilities

14. In 2018, hostilities between Palestinian armed groups and Israel reached the highest level since the 2014 conflict, with concern about the lack of respect for the principle of distinction by all parties. Some 308 rockets and 577 mortar shells²⁰ were fired from Gaza towards Israel, injuring 31 Israelis.²¹ The rockets and mortars fired from Gaza are indiscriminate in nature and therefore in violation of international humanitarian law. Meanwhile, Israeli security forces launched dozens of attacks on Gaza, firing 725 missiles and 207 shells at armed groups' tunnels, military training sites and observation posts and, in several incidents, at buildings in residential areas. This resulted in the deaths of 65 Palestinians, including 3 children and 1 pregnant woman.

15. On 14 July 2018, Israeli security forces conducted air strikes targeting an empty building under construction belonging to the Palestinian Ministry of Culture, in a populated area of Gaza City. Two boys (aged 14 years) were killed and 23 Palestinians were injured. Significant damage was caused to nearby buildings, including the premises of an NGO providing services for children with cerebral palsy. The Israel Defense Forces asserted that the building was being used as a military training site. On 9 August 2018, Israeli security

¹⁵ The fishing zone was reduced four times: on 12 December 2017, 9 and 17 July 2018 and 7 October 2018. On 31 October 2018, Israeli authorities reportedly decided to extend the southern sea border of Gaza from 6 to 9 nautical miles and kept the northern sea border at 6 nautical miles.

¹⁶ "Lieberman orders narrowing of Gaza fishing zone, citing border violence", *Times of Israel*, 6 October 2018. Available at www.timesofisrael.com/liberman-orders-narrowing-of-gaza-fishing-zone-citing-border-violence/.

¹⁷ Jerusalem Legal Aid and Human Rights Center, communication sent to OHCHR.

¹⁸ Fourth Convention, art. 33, International Covenant on Civil and Political Rights, arts.12, 14 and 17, and A/HRC/37/38, para. 12.

¹⁹ See also A/HRC/40/42, para. 13.

²⁰ Information provided by the United Nations Department of Safety and Security.

²¹ Information provided by OCHA.

forces struck a mosque in Dayr al-Balah, and hit a nearby house, killing a pregnant woman and her 18-month-old daughter.

16. On 28 October 2018, three children, aged 13, 14 and 15 years, were killed by a missile fired from a drone near the fence south-east of Dayr al-Balah. According to information received, Israeli security forces prevented paramedics from approaching the site for approximately two hours. The Israel Defense Forces stated that the soldiers were not aware the victims were children and said they “were observed sabotaging the fence and digging in the ground next to it”.²² According to information received by OHCHR, no ammunition or weapons were found near the bodies.

17. According to Israeli security forces, some of the Palestinians killed close to the Gaza-Israel fence were attempting to plant improvised explosive devices aimed at harming Israeli security forces, while others were attempting to breach the fence to enter Israel. On 17 February 2018, four Israeli soldiers were reportedly injured when an improvised explosive device exploded close to the fence.²³

3. Recurring human rights violations

Violations of the right to life and security of person

18. There were serious concerns of excessive use of force and possible unlawful killings by Israeli security forces during the reporting period, with 274 Palestinian fatalities,²⁴ including 2 women, 48 boys and 2 girls, with a vast majority in Gaza. This marks a significant increase from the previous reporting period, during which Israeli security forces killed 55 Palestinians, including 14 children. Among the victims, 192, including 37 children, were killed in the context of demonstrations, 4 in search and arrest operations carried out by Israeli security forces and 12 in the context of attacks and alleged attacks against Israelis; 3 Palestinians died in Israeli custody.

19. Following the announcement by the President of the United States on Jerusalem, demonstrations broke out across the Occupied Palestinian Territory, which in many instances developed into clashes between demonstrators and Israeli security forces. Between 6 December 2017 and 28 February 2018, 28 Palestinians – 22 men and 6 boys – were killed by Israeli security forces in such contexts,²⁵ many in circumstances that did not seem to pose an imminent threat of death or serious injury that would have justified the use of lethal force. While the response of Israeli security forces initially seemed restrained in the West Bank, the forces increasingly used live ammunition against demonstrators starting in January 2018, with 175 injuries from such ammunition recorded since then. In Gaza, the use of live ammunition against demonstrators was observed from 6 December 2017, resulting in over 400 injuries by the end of February 2018.

20. Furthermore, on several occasions, Israeli security forces used force in law enforcement in a manner that led to unnecessary injury and death, including by targeting the head or upper part of the body with live ammunition or rubber bullets. In at least 10 incidents that occurred between December 2017 and February 2018 in the West Bank, 10 victims, including 6 children, were hit in the head with live ammunition or rubber coated metal bullets. Four of the victims, including three children, were consequently killed. In Gaza, during the same period, eight Palestinians, including a 15-year-old boy, were killed when shot with live ammunition in the head or upper part of the body.

²² Judah Ari Gross and agencies, “Army says it didn’t know Palestinians targeted on border were minors”, *Times of Israel*, 31 October 2018. Available at www.timesofisrael.com/army-says-it-didnt-know-palestinians-targeted-on-border-were-minors/.

²³ Matan Tzuri and others, “4 soldiers wounded near Gaza border as explosive device is set off”, *Ynetnews.com*, 17 February 2018. Available at www.ynetnews.com/articles/0,7340,L-5118147,00.html.

²⁴ Including one Palestinian killed by a private security guard.

²⁵ A total of 16 Palestinians, including 3 children, were killed in Gaza, and 12 Palestinians, including 3 children, were killed in the West Bank. Another Palestinian was killed in the West Bank by a private security guard.

21. During clashes in Nabi Salih in the West Bank on 15 December 2017, Israeli security forces shot and seriously wounded a 15-year-old boy in the face at close range with a rubber-coated bullet. The child was reportedly throwing stones at members of the Israeli security forces from the top of an abandoned building. On 11 January 2018 in Iraq Burin, in Nablus, Israeli security forces shot a 17-year-old in the head with live ammunition, killing him. The victim had reportedly thrown stones at a passing Israeli security forces' patrol and was running away when a soldier opened fire from a distance of approximately 40 m. In both cases, the victims did not appear to pose an imminent threat of death or serious injury when they were killed, raising concerns of excessive use of force.

22. On 15 December 2017, during demonstrations near the fence east of Gaza City, Israeli security forces killed a wheelchair user with a bullet to the head. The man was shot approximately 20 m from the fence in circumstances that did not appear to constitute an imminent threat of death or serious injury that would have justified the use of lethal force.²⁶

23. Large-scale demonstrations started on 30 March 2018²⁷ along the perimeter fence between Israel and Gaza, under the banner of the Great March of Return, calling for the right of return for Palestinian refugees and protesting the Israeli blockade on Gaza. In the context of those demonstrations, 169 Palestinians (including 1 woman, 30 boys and 1 girl) and 1 Israeli soldier were killed. Three Israeli soldiers and over 24,000 Palestinians were injured, including over 5,800 with live ammunition.²⁸ The World Health Organization (WHO) estimated that as many as 1,200 of those injured would require long-term limb reconstruction and extensive rehabilitation,²⁹ which might not be available in Gaza.

24. On 30 March 2018, a 19-year-old man was shot dead approximately 400 m from the fence, near Jabaliya. Evidence, including video footage, shows that he was shot while he was carrying a tire and running away from Israeli security forces in circumstances that did not appear to constitute an imminent threat of death or serious injury. On 27 July 2018, Israeli security forces shot an 11-year-old boy in the head, killing him, east of Rafah. Witnesses reported that the boy was watching demonstrators waving flags, burning tires and throwing stones, approximately 30 m from the barbed wire, when Israeli security forces opened fire indiscriminately towards the demonstrators.

25. Israeli security forces killed or injured several medical personnel while that personnel were carrying out their duties, mostly during demonstrations or clashes with demonstrators. According to WHO, Israeli security forces injured 17 health workers in the West Bank while 3 health workers were killed and 496 injured in Gaza. For example, on 1 June 2018, a female paramedic volunteering with the Palestinian Medical Relief Society was killed after being shot with live ammunition in the chest, approximately 25 m from the fence, east of Khan Yunis. Witnesses reported that she was killed while trying to rescue injured demonstrators at the fence.

26. In Gaza and the West Bank, journalists were injured and some were killed by Israeli security forces during demonstrations. In the West Bank, 52 instances of physical attacks against and injuries inflicted on journalists were documented during the demonstrations in December 2017 alone.³⁰ During the Great March of Return demonstrations in Gaza, 2 journalists were killed and 113 journalists were injured by Israeli security forces, including 70 with live ammunition.³¹

27. Throughout the reporting period, Israeli security forces enforced restricted areas at sea off the coast of Gaza by firing live ammunition and confiscating and damaging fishing boats and equipment. A total of 329 shooting incidents were recorded: 1 fisherman was killed and 21 others (including 1 child) were injured with live ammunition. A total of 70

²⁶ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22550&LangID=E.

²⁷ The demonstrations were ongoing at the end of the reporting period.

²⁸ Information provided by OCHA and Palestinian Ministry of Health.

²⁹ See www.emro.who.int/images/stories/palestine/documents/WHO_Health_Cluster_SitRep_23_Sep_-6_Oct_2018.pdf?ua=1.

³⁰ See www.madacenter.org/report.php?lang=1&id=1768&category_id=13&year=2018.

³¹ Communication to OHCHR from Al Mezan Center for Human Rights, 13 December 2018.

fishermen (including 5 children) were detained, while 21 fishing boats were confiscated and 8 damaged.

28. There were also concerns of excessive use of force and interference with medical care during raids and arrest operations in Palestinian towns and villages in the West Bank. On 22 February 2018, shortly after midnight, Israeli security forces raided the centre of Jericho during an arrest operation and clashed with local residents. Israeli security forces shot a Palestinian in the stomach with live ammunition as the man was charging towards the soldiers with a metal bar. As recorded by surveillance cameras, the soldiers kicked and beat the injured man with the butts of their guns as he lay bleeding. Left without medical assistance, he eventually died. Initially, the security forces informed his family he had died from tear-gas inhalation, but the Palestinian forensic doctor who attended the autopsy concluded he had died of haemorrhage.

29. On 3 February 2018, during a night-time search and arrest raid in Birqin, Israeli security forces entered, by force and without prior warning, a house in the village, and according to the 40-year-old owner of the house, released an unmuzzled dog, terrifying his wife and young children. The dog bit the owner in the arm and thigh for at least 10 minutes, with no effort by the soldiers to restrain the dog. A soldier punched the man in the nose, fracturing it. The man was arrested and released eight days later without charges. He had to undergo reconstructive skin surgery and now suffers from severe health complications, including gangrene.

Detention, torture and ill-treatment, and violations of the right to a fair trial

30. Following the announcement by the President of the United States on Jerusalem and the demonstrations and clashes that followed, a spike in arrests of Palestinians was observed in the West Bank. Israeli security forces arrested 926 Palestinians in December 2017, and an average of 750 per month in January and February 2018. The number of arrests before and after this during the reporting period averaged around 450 per month.³² As at 31 October 2018, 5,426 Palestinians were being held in Israeli detention, including 43 women, 218 boys and 2 girls; 41 of the children were under the age of 16. This included 481 Palestinians,³³ including 4 children, held under administrative detention without charge or trial. In Gaza, 175 Palestinians, including 28 children, were arrested by Israeli security forces during the reporting period. As previously noted, this included 70 fishermen arrested at sea.³⁴ Many of the cases raise concerns of arbitrary arrests.³⁵

31. Certain cases have raised concerns of violations of due process and fair trial rights of such gravity as to give an arbitrary character to the deprivation of liberty, such as in the case of the Head of the Gaza World Vision office, Mohammad el Halabi, arrested in June 2016 and detained since then.³⁶ His lawyer was only allowed access to all previously undisclosed evidence one and a half years after the start of the trial and was only permitted to start examining defence witnesses 24 months into the trial, after the prosecution had heard witnesses for over a year and cross-examined the accused for six months. There were concerns that the prosecution might have unduly prolonged the proceedings, in contravention of the basic fair trial requirements outlined in article 9 (3) of the International Covenant on Civil and Political Rights. In view of such shortcomings, it is of concern that Mr. El Halabi has now been detained for more than two and a half years without receiving a verdict in his case.

32. The use by Israel of administrative detention, including for children, continued. An illustrative example was the continued administrative detention of Palestinian parliamentarian Khalida Jarrar, who was arrested by Israeli security forces on 2 July 2017.³⁷ Ms. Jarrar's current detention order, based on secret evidence, was set to end in February

³² Information provided by the Palestinian Prisoners' Commission and human rights organizations.

³³ See www.btselem.org/statistics/detainees_and_prisoners.

³⁴ Information provided by Al Mezan Center for Human Rights.

³⁵ A/HRC/37/42, paras. 10–14.

³⁶ *Ibid.*, paras. 27–32.

³⁷ A/HRC/37/42, para. 55.

2019. In February 2018, Palestinian administrative detainees started a boycott of Israeli courts to protest their detention and the involvement of Israeli courts in exacerbating this policy. The boycott was provisionally suspended in September 2018, following negotiations with the Israeli intelligence service to place limits on the length of administrative detention orders and their renewal. Administrative detention without charge or trial based on undisclosed evidence for indefinite periods, without an opportunity to meaningfully challenge the detention, raises serious concerns of arbitrary detention. Echoing concerns raised by the Human Rights Committee and the Committee against Torture, the Secretary-General and the United Nations High Commissioner for Human Rights have repeatedly called upon Israel to end the practice of administrative detention and to ensure that all administrative detainees are promptly charged or released.³⁸

33. The treatment by Israel of children during arrest and detention remained of particular concern.³⁹ According to accounts collected by the NGO Military Court Watch, of 80 children detained by Israeli security forces in 2017, 65 per cent were arrested in night raids, 94 per cent were hand-tied upon arrest, 78 per cent were blindfolded or hooded following arrest, 65 per cent were subjected to physical abuse, 66 per cent were strip-searched and 81 per cent were denied access to a lawyer prior to questioning.⁴⁰

34. On 19 December 2017, 16-year-old Ahed Tamimi was arrested by Israeli security forces in Nabi Saleh, in the West Bank, following an incident on 15 December 2017 during which she was filmed slapping and kicking two Israeli soldiers in the front yard of her family's house. The girl was arrested in the middle of the night and interrogated without the presence of her parents or lawyer. According to her lawyer, she was subjected to ill-treatment and threats during interrogation, and requests by the lawyer to release her on bail before and during the proceedings were refused. Following closed hearings, she accepted a plea bargain and was sentenced to eight months of imprisonment. She was released on 29 July 2018 after completing her sentence. Children should be detained only as a measure of last resort, for the shortest appropriate period of time, and with their best interests as the primary consideration.⁴¹

35. Ill-treatment of Palestinian detainees, both adults and children, in Israeli detention continued to be of concern. During the reporting period, Israeli civil society received allegations of ill-treatment from 194 Palestinians, including 17 women, 10 children and 1 person with Down's syndrome.⁴² According to one NGO, the Public Committee Against Torture in Israel, out of 120 complaints of alleged ill-treatment and torture it submitted to the Israel Security Agency over five years, 85 per cent of the cases involved sleep deprivation, 58 per cent included threats to hurt or arrest family members, 36 per cent involved stress positions, 27 per cent implied harsh physical violence, 12 per cent involved sexual humiliation and assault, and 8.3 per cent involved refusal of access to toilets, especially during interrogation.⁴³

36. During a night raid in Silwan on 2 July 2018, Israeli security forces arrested a 15-year-old boy along with his adult brother. The child was blindfolded, handcuffed and kicked several times during transport. During the interrogation, he was shackled to a chair and blindfolded by the interrogator, pushed to the floor and kicked in different parts of his body. Both the child and his brother were released the same day without charges.

37. There were reports of medical negligence and inadequate medical care for Palestinian detainees,⁴⁴ as in the case of an 18-year-old from Dayr Nizam, arrested by

³⁸ A/HRC/37/42, para. 18.

³⁹ See also A/HRC/34/38 and A/HRC/37/42.

⁴⁰ See www.militarycourtwatch.org/files/server/BRIEFING%20PAPER%20-%20FEB%202018.pdf.

⁴¹ In accordance with articles 3 (1) and 37 (b) of the Convention on the Rights of the Child. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22590&LangID=E.

⁴² Information provided by the Public Committee Against Torture in Israel.

⁴³ See <http://stoptorture.org.il/wp-content/uploads/2018/07/SitRep2018.pdf>.

⁴⁴ As at mid-2018, a total of 61 Palestinians had died in Israeli custody since 1967 due to medical negligence. See www.addameer.org/publications/joint-report-occupation-forces-arrested-3500-palestinians-during-first-half-2018.

Israeli security forces on 7 April 2018. Although his family informed Israeli security forces that he suffered from a chronic liver and kidney condition and also informed them of his dietary and medication needs, those needs were not provided for while he was in custody. On 14 May, he stopped receiving medication altogether, which led to serious complications and his transfer to hospital, where he was in a coma for three days. He was released from custody on 28 May 2018, suffering from a loss of eyesight, possibly permanent.

38. Some Palestinians reported being arrested to pressure family members to turn themselves in. For instance, on 6 August 2018, in Abu Dis, Israeli security forces arrested a 63-year-old man with a heart condition and reduced mobility, and detained him for several hours to pressure his wanted 23-year-old son. He was released after the son turned himself in following threats by Israeli security forces to keep his father in detention. The NGO B'Tselem reported two similar cases in Abu Dis and Ayzariyah in September 2018.⁴⁵

Lack of access to justice and accountability

39. Lack of access to justice and accountability for Palestinian victims of violations committed by Israeli security forces persists. With the large number of killings at the Gaza fence during the reporting period, it is of particular concern that the internal fact-finding mechanism reportedly used by Israel to examine such incidents might not operate in line with international standards.⁴⁶ Several proceedings relating to older cases of apparent excessive use of force by Israeli security forces were closed with no resulting accountability during the reporting period. For a detailed analysis of accountability-related issues, see A/HRC/40/43.

Restrictions on the rights to freedom of expression, association and peaceful assembly

40. Media, civil society and human rights defenders working on the promotion and protection of Palestinian rights continued to operate under increasing pressure from Israeli authorities.⁴⁷ Reprisals against, and attempts to delegitimize and discredit, NGOs and other civil society actors continued. For example, B'Tselem was verbally attacked publicly by high-ranking politicians, including the Prime Minister of Israel.⁴⁸ Several civil society organizations in East Jerusalem were closed or had their closure orders extended on the basis of alleged ties to authorities of the State of Palestine⁴⁹ while legislative developments affected the funding, access and activities of others. Human rights defenders, journalists and media agencies were targeted and subject to harassment by the Israeli authorities and security forces. For example, on 7 May 2018, the Israeli authorities revoked the work visa of the director of Human Rights Watch in Israel and the Occupied Palestinian Territory, invoking alleged past involvement in boycott, divestment and sanctions activism. A challenge to this decision was pending in Israeli courts at the time of writing.

41. Journalists came under attack while covering demonstrations and clashes between demonstrators and Israeli security forces. In the West Bank, journalists were targeted with rubber coated bullets, crowd control measures and physical assault, especially during the demonstrations of December 2017.⁵⁰ On 20 December 2017, Israeli security forces arrested a journalist covering a peaceful protest in East Jerusalem. He was released the same day on the condition that he would be banned from certain areas of East Jerusalem for 10 days, thus restricting his ability to work. During the same protest, an Israeli security forces officer used pepper spray on another journalist filming the protest. According to the Palestinian Center for Development and Media Freedoms (MADA), 24 Palestinian journalists were arrested by Israeli security forces during the reporting period, 11 of whom remained in

⁴⁵ See www.btselem.org/routine_founded_on_violence/20181111_palestinians_arrested_to_pressure_relatives.

⁴⁶ A/73/420, paras. 60–61.

⁴⁷ For further information on measures targeting human rights defenders, see A/HRC/40/43.

⁴⁸ See www.timesofisrael.com/netanyahu-denounces-btselem-chiefs-un-speech-as-full-of-lies/.

⁴⁹ Mordechai Sones, "Israel extends ban on PA operations in Jerusalem", *Israel National News*, 1 February 2018. Available at www.israelnationalnews.com/News/News.aspx/241457.

⁵⁰ See para. 26 above.

custody as at the end of the reporting period, including 4 held under administrative detention.

42. In Gaza, two journalists were killed by Israeli security forces during the reporting period, including 25-year-old Ahmad Abu Hussein, who was shot in the abdomen with live ammunition on 13 April 2018, approximately 300 m from the fence, in Jabaliya. He died from his injuries on 25 April 2018. Evidence, including video footage, shows that when he was shot, he was photographing the demonstrations, wearing a vest marked "PRESS".

43. In April 2018, Israeli authorities closed the Elia Association for Youth Media, an East Jerusalem-based association that trains youth on working in the media sector. The Minister of Defense of Israel ordered the closure, claiming that the organization had a hidden agenda with activities supporting acts of terrorism.⁵¹ Earlier in 2018, Israeli security forces had prevented the association from holding a press conference in East Jerusalem and arrested two men attending the conference, as well as the director of the association.

44. In July 2018, Israeli security forces arrested the director of Al-Quds TV and two journalists working for the channel after it was banned by the Israeli authorities. The journalists were interrogated about their work, subjected to threats and accused of incitement of violence. They were all released on bail within a few weeks, while the director of the channel was banned for two months from leaving Ramallah and contacting media agencies.

Restrictions on freedom of movement and on the enjoyment of economic and social rights

Gaza

45. Adding to the 11-year Israeli blockade and closures of Gaza, movement restrictions were tightened during the reporting period, with devastating impact on the exercise of the rights to health, education, family life and an adequate standard of living.⁵² Statements by Israeli authorities suggested these additional restrictions were imposed in response to rocket attacks and the launching of incendiary kites and balloons from Gaza towards Israel, raising further concerns of collective punishment.⁵³

46. Patients who need – often urgently – medical treatment continued to face difficulties in obtaining permits to exit Gaza.⁵⁴ Out of the 25,260 requests, submitted mainly by the Palestinian Authority Civil Affairs Office on behalf of patients, 1,741 (6.9 per cent) were denied and 8,544 (33.8 per cent) were delayed up to several months. Palestinians injured during the Great March of Return demonstrations were most affected, with only 22 per cent (74 of 335) of exit applications approved,⁵⁵ compared to the average monthly approval rate of about 58 per cent for other patients.⁵⁶ Some patients died after their permit was denied by Israel, or as they were waiting for its approval.⁵⁷

47. For example, Israeli authorities delayed issuing an exit permit to a cancer patient from Gaza for a medical appointment because he did not provide information about members of armed groups in Gaza.⁵⁸ Following a significant deterioration in his condition, he was eventually allowed to pass through the Erez crossing point but died in hospital 10 days later. A 14-year-old boy who was shot in the chest with live ammunition on 30 May 2018 died on 18 June 2018 after being repeatedly denied an exit permit.

⁵¹ AvigdorLieberman@twitter.com, 16 April 2018, available at <https://twitter.com/AvigdorLieberman/status/985845422739607558> (in Hebrew).

⁵² A/73/420, para. 25.

⁵³ See also para. 10 above.

⁵⁴ See also A/HRC/37/38, para. 45 and A/73/420, para. 19.

⁵⁵ See www.ochaopt.org/content/more-casualties-sustained-during-great-march-return-gaza.

⁵⁶ See www.ochaopt.org/content/gaza-strip-early-warning-indicators-september-2018.

⁵⁷ A/73/420, paras. 20–21.

⁵⁸ *Ibid.*, para. 18.

48. Between 9 July and 14 August 2018, and between 17 and 21 October 2018, Israeli authorities banned altogether the exit of the few types and quantities of goods allowed out from Gaza, resulting in the lowest monthly export levels since 2015.⁵⁹ Entry of all goods except for food, medical supplies and animal fodder was halted. Between 9 July and 14 August 2018, fuel and cooking gas entered irregularly, and were banned again from 12 to 21 October 2018, including United Nations-funded fuel for critical water, sanitation and health facilities.

49. The unemployment rate in Gaza increased to 53.7 per cent in the second quarter of 2018, exceeding 70 per cent among young people and reaching 78 per cent among women.⁶⁰ Per capita gross domestic product decreased to an estimated \$410 in the second quarter of 2018, down from \$450 in the second quarter of 2017.⁶¹ The situation was compounded by a steady decline in transfer of funds by authorities of the State of Palestine, a decrease in international aid support, and funding cuts to programmes of the United Nations Relief and Works Agency for Palestine Refugees in the Near East.

West Bank

50. In the West Bank, Israeli restrictions on the freedom of movement of Palestinians continued, severely affecting a range of rights. A survey conducted by the Office for the Coordination of Humanitarian Affairs in July 2018 recorded 705 permanent road obstacles to Palestinian vehicular and, in some cases, pedestrian movement, including checkpoints and roadblocks. OCHA further documented 93 instances of closures of village entrances between January 2017 and July 2018, which affected 30 communities.⁶² While such restrictions can be justified for legitimate security needs, any limitation to the right to freedom of movement has to be necessary and proportional to the end sought and should not amount to collective punishment.

51. Restrictions particularly affected the exercise of the right to health. During the reporting period, 15 per cent of permit applications for Palestinian patients seeking health care in East Jerusalem hospitals or in Israel were rejected. The Palestine Red Crescent Society reported that 84 per cent of its ambulances had been forced to transfer patients to an ambulance with Israeli licence plates at a checkpoint, rather than allowed direct access to transport patients from other parts of the West Bank to East Jerusalem hospitals, causing delays and risking health complications. The Palestine Red Crescent Society reported 30 instances where ambulances were prevented access and 60 assaults by Israeli security forces or Israeli settlers on its ambulances during the reporting period.⁶³

B. Palestinian authorities

Violations of the right to life and security of person

52. Palestinian security forces in the West Bank and Gaza violently dispersed peaceful demonstrators calling for the lifting of measures imposed by authorities of the State of Palestine on Gaza.

53. The authorities in Gaza did not carry out any executions during the reporting period, in comparison to six executions during the previous period. On 29 October 2018, a Gaza appeals court commuted a death sentence to life imprisonment in the case of a woman convicted of murder. Nonetheless, Gaza civilian and military courts handed down eight death sentences (to seven men and one woman). Serious concerns with regard to due process and fair trial guarantees were present in these cases, including the sentencing of

⁵⁹ See www.ochaopt.org/content/gaza-crossings-operations-status-monthly-update-september-2018 and www.ochaopt.org/sites/default/files/gaza_crossings_operations_status_october_2018.pdf.

⁶⁰ World Bank, "Economic monitoring report to the Ad Hoc Liaison Committee" (2018), p. 9.

⁶¹ See www.ochaopt.org/content/gaza-strip-early-warning-indicators-september-2018.

⁶² See www.ochaopt.org/content/over-700-road-obstacles-control-palestinian-movement-within-west-bank.

⁶³ See also A/HRC/40/42, para. 43.

civilians by military courts. On 6 June 2018, the President of the State of Palestine signed an instrument of accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. While this is an important step towards the abolition of the death penalty in the State of Palestine, further steps are required for accession to be given full effect.

Detention, torture and ill-treatment and violations of the right to a fair trial

54. There were concerns of arbitrary detention by Palestinian authorities in the West Bank and Gaza. Journalists, activists and political opponents were arrested by authorities in both areas for exercising their fundamental freedoms. In September 2018, a wave of political arrests took place throughout the Occupied Palestinian Territory, with the arrest or summons for interrogation of 50 Fatah affiliates in Gaza, followed by the arrests of over 100 Hamas affiliates in the West Bank, in a coordinated overnight arrest operation.

55. Other Palestinians reported being arrested without legal basis, with some spending weeks and, in some cases, months without being formally charged or having their case reviewed by a competent court. Some stated they had been denied procedural guarantees, including the rights to access legal counsel and to contact family. In other reported cases the presumed or actual sexual orientation of the individual could have been a reason for arbitrary arrest. While homosexuality is not criminalized in the West Bank, lesbian, gay, bisexual, transgender and intersex individuals reported being subjected to arrests and accused of crimes related to collaboration, morality, public indecency or drugs, while being questioned about their sexuality or asked to reveal names of lesbian, gay, bisexual, transgender and intersex individuals before being released without charges. In at least one case, a lawyer claimed having been harassed by the security forces for taking up such a case.

56. Many of those arrested in the West Bank were held in administrative detention based on orders by governors.⁶⁴ Between 1 November 2017 and 30 September 2018, the Independent Commission for Human Rights recorded 173 cases of administrative detention based on such orders, a sharp increase above the 99 cases recorded between 1 November 2016 and 31 October 2017. In some cases, individuals were detained for months without any apparent intention by the authorities to charge them and without a judicial review. In other cases, pretrial detainees released by the court for lack of evidence were immediately rearrested on a governor's orders. This form of administrative detention appeared to be used as an alternative to criminal proceedings, when evidence was lacking, which would constitute arbitrary deprivation of liberty.⁶⁵

57. In Gaza, arbitrary arrests and detention also remained a concern,⁶⁶ as illustrated by an incident in January 2018, when eight children were among those detained by the internal security agency, which is tasked with maintaining security in Gaza, including in relation to alleged collaborators with Israel and dissident political groups. Several of those arrested were reportedly affiliated with Fatah, Salafist groups or other Islamic factions, raising concerns that some of them were detained solely on the basis of their political affiliation. Many of the detainees held under the custody of internal security agency spent significant time, in some cases two or three months, without access to legal aid or family.

58. In both Gaza and the West Bank, detainees continued to report ill-treatment, and in some cases torture, during interrogation, raising strong concerns of extraction of confession under duress. In the West Bank, there was a growing concern over treatment in some detention facilities, particularly over credible allegations of ill-treatment.⁶⁷ Forty-nine detainees interviewed by OHCHR reported having been subjected to some form of ill-treatment; several of the incidents described were of such gravity that they may amount to

⁶⁴ See also A/HRC/37/42, paras. 24–26.

⁶⁵ See also A/HRC/34/38, para. 54, A/HRC/34/36, paras. 55–58 and 70–74, A/HRC/31/44, para. 78, and A/HRC/31/40, paras. 56–58 and 69–70.

⁶⁶ See also A/HRC/37/42, paras. 59–60.

⁶⁷ OHCHR also observed conditions of detention that were very poor, unhygienic and inhumane, including overcrowded cells without proper ventilation and lighting, as well as detainees held in solitary confinement for prolonged periods.

torture. Detainees described the use of shackling; the holding of detainees in stress positions for prolonged periods of time to extract confessions; beatings and other forms of physical violence; prolonged use of solitary confinement; insults; threats; humiliating questioning or threats related to sexuality; sleep deprivation; and insufficient health care for severe mental health problems. Most reports concerned the interrogation period and were documented in particular at the facilities used by the joint operations committee in Jericho.⁶⁸ For example, several detainees reported a practice of assault and severe beating upon arrival at the facilities used by the joint operations committee, and several reported having been repeatedly forced to stand handcuffed and blindfolded, with their legs apart, for up to 10 hours at a time.

59. In Gaza, practices of the civil police and internal security agency involving ill-treatment and torture of detainees continued to be reported. In May 2018, two brothers arrested by the internal security agency over accusations of collaboration with authorities of the State of Palestine were subjected to ill-treatment, including beatings and *shabah*, which involves being forced to sit with one's hands tied to the back of a chair. One of them was released in September 2018 while the other remained in detention as at the end of the reporting period, awaiting his sentence by the military court.

Restrictions on the rights to freedom of expression, association and peaceful assembly

60. Restrictions on the rights to freedom of expression, association and peaceful assembly were imposed by authorities of the State of Palestine in the West Bank. Several journalists were arrested on the basis of provisions of the law of 2017 on cybercrime.⁶⁹ For instance, on 3 April 2018, Palestinian journalist Rami Samara was arrested and charged with defamation and slander, on the basis of the law. The charges were based on social media posts criticizing the head of the Media Center at An-Najah National University for the dismissal of 17 journalists who had refused to express support for the Prime Minister on their social media accounts. Although the law was amended and significantly improved in May 2018,⁷⁰ following strong criticism and concerns raised by civil society organizations and the international community, the proceedings against Mr. Samara and other journalists, which started before the amendment of the law, continued. The amended law still contains loosely defined provisions, which pose a risk of undue interference with the exercise of freedom of expression.

61. Amid a deep division between Fatah and Hamas, protests against punitive measures imposed by authorities of the State of Palestine on Gaza broke out in the West Bank. On 13 June 2018, the adviser to the Palestinian President on provincial affairs temporarily banned demonstrations in the West Bank in order to prevent a demonstration set to take place that day in Ramallah. Despite the ban, approximately 200 demonstrators gathered peacefully in the city centre, but were violently assaulted and dispersed by Palestinian security forces and individuals in plain clothes.⁷¹ Fifty-six people were violently arrested and released the next day without charges. A staff member of Amnesty International monitoring the demonstration was among those arrested and reported having been subjected to ill-treatment and having witnessed at least 18 other detainees face similar treatment. At least 12 journalists were threatened or impeded from covering the demonstration, and some were physically assaulted.⁷²

62. In Tulkarm and Nablus, on 27 and 30 June 2018 respectively, two demonstrations took place during which two women journalists were physically assaulted by Fatah supporters and prevented from filming the protest. In one instance, the attack occurred in

⁶⁸ This coordinating body is comprised of several Palestinian security agencies. It conducts joint operations and uses the Preventive Security Service headquarters in Jericho as its main detention and interrogation centre.

⁶⁹ See also A/HRC/37/42, para. 42.

⁷⁰ Presidential Decree No. 10; see also A/HRC/40/43, para. 46.

⁷¹ Violent means included the use of flash grenades, pepper spray and tear gas, in addition to brutal arrests and beatings of protestors by large groups of plain-clothed individuals wearing identical caps and acting in a coordinated manner, including with uniformed officers.

⁷² See www.madacenter.org/report.php?lang=2&id=1799&category_id=13&year= (in Arabic).

the presence of the police, who did not intervene. One of the journalists submitted a complaint to the public prosecution office which, according to available information, had not been addressed by the authorities at the time of writing. Civil society members and activists involved in organizing or monitoring the demonstrations were faced with a wave of summons and harassment by Palestinian security forces.

63. Similar violations were recorded in Gaza, where the security forces continued to arbitrarily arrest and subject individuals to ill-treatment for expressing opinions that could be considered critical of the authorities in Gaza.⁷³ In one incident, the internal security agency reportedly detained a journalist for three days at an unknown location, where he was interrogated about his political views and accused of incitement against the authorities in Gaza by planning popular protests. During interrogation, he was reportedly subjected to ill-treatment that may amount to torture, including beatings with batons and a plastic hose and *shabah*. He was eventually released without charge.

64. Between 13 and 15 September 2018, a journalist was summoned three times by the Gaza authorities for posting comments on social media questioning the Ministry of National Economy. On 15 September, after threats of arrest, he removed the post and made a public apology to the Ministry on social media. After 27 October 2018, he was summoned several times for questioning by the police and the public prosecution office following accusations of defamation by the Ministry. The charges were later dropped after mediation by the governmental media office.

65. Gaza security forces also continued to restrict the right of civilians to peaceful assembly, sometimes by forcibly dispersing demonstrations and gatherings. On 18 June 2018, they forcibly dispersed a demonstration calling for the lifting of punitive measures imposed on Gaza by authorities of the State of Palestine, despite the fact that previous authorization of the demonstration had been granted. Reportedly, about 50 plain-clothed security personnel, some carrying batons, raided the sit-in and forcibly prevented participants from filming or photographing the event. The phones of some participants were briefly confiscated and then returned to them after footage of the demonstration had been deleted by the security personnel. The Ministry of the Interior of Gaza denied this account of the events, including that participants had been arrested.⁷⁴

III. Recommendations

66. **In the present report, the High Commissioner documents violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory by Israel, the State of Palestine and the authorities in Gaza. The report shows the persistence of patterns previously reported by the Secretary-General and the High Commissioner, which have been the subject of extensive past recommendations by various human rights mechanisms.⁷⁵ The persistent lack of accountability and the shrinking space for civil society continue to be of particular concern.**

67. **The High Commissioner calls on all duty bearers to comply with their international legal obligations and ensure that all alleged violations are promptly, impartially and independently investigated, that those responsible are held accountable, and that victims are provided with effective redress.**

68. **The High Commissioner also makes the recommendations listed below.**

69. **The High Commissioner recommends that the Government of Israel:**

(a) **Ensure that the rules of engagement of Israeli security forces and their application are fully in line with international standards, in particular, that firearms**

⁷³ See also A/HRC/37/42, paras. 43–45.

⁷⁴ Public statement by the spokesperson for the Ministry of the Interior, 18 June 2018. Available at <https://moi.gov.ps/Home/Post/123353> (in Arabic).

⁷⁵ A/HRC/35/19.

are used only in cases of imminent threat of death or serious injury; take all measures necessary to prevent incidents of excessive use of force; and provide, at the earliest possible moment, first aid to individuals injured by use of force, while taking no steps to prevent the provision of necessary medical care;

(b) Conduct prompt, thorough, independent, impartial and effective investigations into all incidents of use of force by Israeli security forces that led to death or injury of Palestinians, especially in the access-restricted areas of Gaza, and ensure that perpetrators are held accountable and victims are provided with redress;

(c) Ensure respect for international humanitarian law and conduct prompt, thorough, independent and impartial investigations into allegations of violations related to past and recent escalations of hostilities, hold those responsible accountable and provide redress for victims;

(d) Immediately end all practices of collective punishment; in particular, immediately lift the blockade and punitive closures imposed on Gaza, allow free movement of Palestinians across the Occupied Palestinian Territory, and end punitive demolitions and the policy of withholding bodies of Palestinians;

(e) End practices of administrative detention, and any form of arbitrary detention, ensure that all detainees are promptly charged or released, and fully guarantee the right to a fair trial;

(f) Ensure that conditions of detention are fully in accordance with international human rights law, and that detainees are not subject to torture or ill-treatment and ensure that all allegations of ill-treatment are promptly, thoroughly and effectively investigated by an independent and impartial body;

(g) Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected, and that civil society actors and journalists are allowed to conduct their professional activities safely, freely and without harassment.

70. The High Commissioner recommends that the Government of the State of Palestine:

(a) Ensure compliance with its human rights obligations towards all Palestinians and immediately cease any measures that violate these obligations or that worsen the humanitarian situation in Gaza;

(b) Ensure that the use of force in the context of law enforcement operations is consistent with international human rights standards;

(c) Announce immediately a formal moratorium on executions while taking all steps necessary to give full effect to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(d) End all practices that amount to arbitrary detention, and fully guarantee the rights to due process and fair trial;

(e) Immediately end all practices that amount to torture or other cruel, inhuman and degrading treatment or punishment, ensure that allegations of such violations are promptly, impartially and independently investigated, hold perpetrators accountable, and guarantee non-repetition of such practices;

(f) Publish, without delay, the human rights treaties acceded to by the State of Palestine in the official government gazette and take steps to make their provisions known to all Palestinians;

(g) Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected, and that civil society actors and journalists are allowed to conduct their professional activities safely, freely and without harassment.

71. The High Commissioner recommends that the authorities in Gaza:

(a) Ensure, along with armed groups in Gaza, full respect for international humanitarian law, particularly as it pertains to the principles of distinction, proportionality and precaution, and ensure accountability, consistent with international standards, for grave violations;

(b) Implement an immediate moratorium on the use of the death penalty and cease the practice of trying civilians before military courts;

(c) Refrain from practices that amount to arbitrary arrest or detention, immediately end all practices that may amount to torture or other cruel, inhuman and degrading treatment or punishment, and ensure that all allegations of violations are promptly, impartially and independently investigated, and that those found responsible are brought to justice;

(d) Ensure that the rights to freedom of expression, association and peaceful assembly are respected and protected, and that civil society actors and journalists are allowed to conduct their activities safely, freely and without harassment.
