



# General Assembly

Distr.: General  
14 July 2023

English only

---

## Human Rights Council

### Fifty-third session

19 June–14 July 2023

Agenda item 7

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

## **Written statement\* submitted by Norwegian Refugee Council, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2023]

---

\* Issued as received, in the language of submission only.



## **Confinement of Population in the Occupied Palestinian Territory**

Policies and practices of confinement of the Palestinian population employed by Israel, as the occupying power, include inter alia, restrictions of freedom of movement within the West Bank, and the besiegement of Gaza. These practices are marked – as shown in this submission – by interconnected human rights violations, breaches of international humanitarian law, and renouncement of treaty obligations. Practices of confinement and incarceration are also in violation of the right of Palestinians to self-determination and permanent sovereignty over the West Bank and Gaza.

In December 2022, the UN General Assembly adopted resolution 77/247, requesting that the International Court of Justice provide an advisory opinion on the "legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement, and annexation of the Palestinian territory occupied since 1967". In particular, the Court was requested to assess how "policies and practices of Israel [...] affect the legal status of the occupation, and what are the legal consequences that arise for all states and the UN".

Whether Israeli occupation crosses into a breach of peremptory norms of international law, notwithstanding the Court's determination, it is bound by the rules of the law of armed conflict pertaining to belligerent occupation, and its documented practices appear in breach of these norms.

The Gaza Strip and all parts of the West Bank form a single territorial unit under the law of occupation, the principle of self-determination of peoples – as outlined by the Special Rapporteur in her September 2022 report - and in a number of bilateral treaties concluded by Israel and the Palestine Liberation Organization.

The 1995 Interim Agreement is an international treaty between the State of Israel and the Palestine Liberation Organization (PLO), recognized as the legitimate representative of the Palestinian people. The Israel-PLO interim agreements are governed by international law and, hence, are treaties. The Agreement incorporates UN Security Council Resolution 242 as its normative basis and commits the parties to the view of the "West Bank and the Gaza Strip as a single territorial unit, the integrity and status of which will be preserved."

Attached to the Agreement is a map outlining safe passage routes between the West Bank and Gaza, complemented in 1999 with a protocol on their operation. Also, under the Interim Agreement, most civic and land-management-related issues in the West Bank – including land registration, planning, and zoning for purposes of human habitation and livelihood-generating activities – were to be "gradually transferred to the Palestinian jurisdiction" with the transfer of "civil powers and responsibilities" to Palestinian authorities in Area(s) A through C.

Once concluded as a treaty - based on the consent of the parties to it – the Interim Agreement is binding and must be executed in good faith. The Israeli travaux préparatoires of the Interim Agreement notes that neither the 1993 Declaration of Principles nor the Interim Agreement determines what will happen if, at the end of the transition period, the parties do not manage to reach a permanent agreement, while suggesting that the "result will be that the parties agree to temporarily extend the interim agreement for a certain period or until the permanent agreement is reached."

In the absence of denunciation or the conclusion of a new treaty (e.g., the final agreement) and considering the intent of the parties to extend the Interim Agreement until negotiations on the permanent status issues are completed, we conclude that the Interim Agreement and its Protocol Concerning Safe Passage between the West Bank and the Gaza Strip and the Protocol Concerning Civil Affairs (Annex III), remain in force and continues to bind the parties.

By preventing Palestinians at large from freely choosing their place of residence, be it the West Bank (in all of its administrative subdivisions) or Gaza, and from changing their place of residence, place of business, and study at will, Israel is imposing a collective measure of assigned residence without due consideration for its lawful purpose and execution.

According to Article 78 of the Fourth Geneva Convention (GCIV), civilians in occupied territories can be assigned to residence within the occupied territory (as opposed to deportation outside the territory) for imperative reasons of security. However, such a decision should be taken by the competent authority on an individual basis, with a possibility to appeal it, and subject to legal review.

An assigned residence is an exceptional measure of precaution, which demands individual consideration, as opposed to collective measures. Inhibiting Palestinians from choosing their place of residence would thus amount to a form of collective punishment, prohibited under Article 33 GCIV.

Article 33 specifies that ‘no protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.’ According to the ICRC Commentary, collective punishments are “penalties of any kind inflicted on persons or entire groups of persons” for acts that they did not commit. Moreover, the concept of collective punishment must be understood in the broadest sense: it covers not only legal sentences but also sanctions and harassment of any sort, including administrative sanctions, by police action or otherwise.

Short of admissible assigned residence in conformity with the limitations imposed by the law of occupation, the fact that the Gaza Strip and the West Bank are a single territorial unit means that Gaza’s residents in transit toward the West Bank and vice versa, do not seek to leave the occupied territory. Absent any situation of hostilities in the Gaza Strip, limitations on the freedom of movement of protected persons may be undertaken only to restore and ensure public order under Article 43 of the 1907 Hague Regulation.

Likewise, in the West Bank, short of imperative military reasons – amounting to hostilities – that necessitate the temporary evacuation of Palestinians within the bounds of occupied territory, they should be able to freely choose their place of residence, including in Area C of the West Bank, comprising 62 percent of its land mass.

Israel is prohibited from forcibly transferring the protected population. Such mass or individual transfer entails forced displacement, absent genuine consent, of one or more persons through expulsion. Such a displacement would only be considered lawful if motivated by an individual’s own genuine desire to leave; or as part of a temporary evacuation intended to protect the security of the protected population or in accordance with imperative military necessity.

Israel, through a variety of mechanisms, creates a coercive environment for numerous Palestinian communities of the West Bank, rendering their choice to relocate from affected areas devoid of genuine consent. These mechanisms are entrenched in both the forcible transfer of the local population as well as the transfer of the Occupying Power’s civilian population into the territory it occupies.

The conclusion reached is that Israel, bound by the law of belligerent occupation and the treaties it concluded with the PLO, must allow Palestinians to freely choose where in the West Bank and Gaza they reside, and not impede their movement and residing within through collective assigned residence and forcible transfer.

This means that Israel, the occupying power, may limit freedom of movement only by following the rules laid down in the law of occupation, and rules in force in the occupied territory prior to the beginning of the occupation and pursuant to the means available to the ousted sovereign. Accordingly, an Occupying Power can only limit freedom of movement in light of the applicable rules of domestic law and international human rights law.

To this end, Article 12 of the ICCPR is particularly relevant since Israel is a party to this treaty and must apply it when acting in the occupied territory. Under the first paragraph of this provision, ‘everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.’

Finally, Article 12(3) of the ICCPR maintains that freedom of movement ‘shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Covenant.’

Israel is under an obligation to restrict the adverse effects of its policies only to those individuals who specifically and directly threaten human security, while, at the same time, complying with the entire array of applicable international law rules in regard to freedom of movement, the absolute prohibition of forcible transfer within or outside the occupied territory, and the strictly permissible utilization of assigned residence within occupied territory.

- 
1. <https://www.ohchr.org/en/documents/country-reports/a77356-situation-human-rights-palestinian-territories-occupied-1967>
  2. <https://www.gov.il/en/Departments/General/the-israeli-palestinian-interim-agreement>
  3. [https://www.gov.il/BlobFolder/generalpage/israel-palestinian-interim-agreement-maps/en/English\\_HISTORY\\_MAPS\\_MFAJ01v40.jpg](https://www.gov.il/BlobFolder/generalpage/israel-palestinian-interim-agreement-maps/en/English_HISTORY_MAPS_MFAJ01v40.jpg)
  4. <https://bit.ly/OsloPrep>
  5. <https://peacemaker.un.org/israelopt-safepassage99>
  6. <https://www.gov.il/en/Departments/General/the-israeli-palestinian-interim-agreement-annex-iii>
  7. <https://ihl-databases.icrc.org/en/customary-ihl/v2/rule103>