
Advance Unedited Version

Distr.: General
11 February 2019

Original: English

Human Rights Council

Fortieth session

25 February–22 March 2019

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

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 periodic 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 makes recommendations to the Government of Israel, the Government of the State of Palestine and the authorities in Gaza.

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

I. Introduction

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

2. The information contained in this report relies mainly on human rights monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory. It also reflects information from governmental sources, other United Nations entities, and non-governmental organizations (NGOs). The report should be read in conjunction with other relevant reports of the Secretary-General and the High Commissioner for Human Rights to the Human Rights Council and the General Assembly.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. These demonstrations, which continued until the end of February 2018 in the West Bank and Gaza, were met with an often excessive response by Israeli security forces, resulting in the death of 28 Palestinians and over 7,000 injured.² A new round of demonstrations, dubbed 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 injured³ by Israeli security forces. 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 (seven civilians and four members of Israeli security forces) were killed by Palestinians throughout the Occupied Palestinian Territory.⁴

4. The Israeli blockade and closures of Gaza entered their twelfth year, with further movement restrictions introduced. Severe punitive measures by the Palestinian Authority 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 high 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 Israel’s detention practices, including the use of administrative detention. Freedoms 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 of arbitrary detention and ill-treatment, in some cases amounting to torture, by Palestinian authorities. There was a marked deterioration in protection of the freedoms of expression and assembly. This

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

² <https://www.palestinercs.org/index.php?page=post&pid=24351&catid=4&parentid=11186>

³ Palestinian Ministry of Health.

⁴ OCHA.

included the Palestinian Security Forces' violent dispersal of a peaceful demonstration in Ramallah on 13 June 2018.

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, and remained applicable for the duration of the reporting period (A/HRC/34/38, paras 3-12).

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

1. Israel

A. Obligations of the occupying Power under international humanitarian law

8. Advancement of plans for settlement construction continued at a high rate. 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.⁵ Settler violence against Palestinians rose considerably, with the number of incidents in 2018 being the highest since 2015.⁶ These developments are described in the report of the High Commissioner submitted pursuant to Human Rights Council resolution 37/36.⁷

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.⁸ 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, sanctioning its demolition. 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.⁹ As of 31 October 2018, the demolition of Khan Al-Ahmar had not been carried out, but the community of 180 Palestinians, half of whom are children, remained at imminent risk of forcible transfer.¹⁰

10. Israeli practices that in many cases constitute collective punishment continued. The blockade of Gaza¹¹ 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 statement dated 12 October 2018, the Israeli Defence Minister stated: "As

⁵ GCIV, Article 49(6); Rome Statute, Article 8(2)(b)(vii).

⁶ OCHA.

⁷ A/HRC/40/42.

⁸ OCHA.

⁹ GCIV, Article 53.

¹⁰ GCIV, Articles 49(1) and 147; Rome Statute, Article 8(2)(b)(vii).

¹¹ A/HRC/34/36, para.36, A/HRC/24/30, para.22.

long as the violent protests continue on the Gaza border, including the launching of incendiary balloons and kites and the burning of tires near Israeli towns, the fuel and gas for the Gaza Strip will not be renewed". From July onward, Israel regularly changed the fishing limit in waters off Gaza, at times reducing it to as little as three nautical miles,¹² reportedly in response to the Great March of Return demonstrations.¹³

11. In the West Bank, ISF 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 this measure was in the nature of collective punishment after residents of the village threw stones at Israeli settlers' cars. The posters depicted the roadblock and a damaged Israeli bus stating: "*When you make damages like this, we do our business like that.*"

12. As of 31 October 2018, Israeli authorities continued to withhold the bodies of 31 Palestinians killed by ISF, including four children.¹⁴ 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 the bodies of individuals killed in attacks or alleged attacks from their families amounts to a form of collective punishment. Collective punishment is prohibited by international humanitarian law and also violates several human rights.¹⁵

13. The adoption of the Nation-State Basic Law, on 19 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.¹⁶

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 shells¹⁷ were fired from Gaza towards Israel, injuring 31 Israelis.¹⁸ The rockets and mortars fired from Gaza are indiscriminate in nature and therefore in violation of international humanitarian law. Meanwhile, Israeli security forces launched tens 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 three children and a pregnant woman.

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

¹³ <https://www.timesofisrael.com/liberman-orders-narrowing-of-gaza-fishing-zone-citing-border-violence/>

¹⁴ Jerusalem Legal Aid and Human Rights Center, communication to OHCHR

¹⁵ GCIV, Art.33; ICCPR, Art.12, 14, 17; A/HRC/37/38, para.12.

¹⁶ See also A/HRC/40/42, para. 13

¹⁷ UNDSS

¹⁸ Communication from OCHA.

15. On 14 July 2018, Israeli security forces conducted airstrikes targeting an empty building under construction belonging to the Palestinian Ministry of Culture, in a populated area of Gaza City. Two boys (aged 14) 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. Israeli Defense Forces (IDF) asserted that the building was used as a military training site. On 9 August 2018, Israeli security forces struck a mosque in Deir 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, were killed by a missile fired from a drone near the fence southeast of Dier El Balah. Reportedly, Israeli security forces prevented paramedics from approaching the site for approximately two hours.¹⁹ The IDF 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."²⁰ 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 (IEDs) 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 IED exploded close to the fence, East of Khan Younis.²¹

B. 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 ISF during the reporting period, with 274 Palestinian fatalities,²² including 48 boys, two girls and two women, 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. Of the total number of victims, 192, including 37 children, were killed in the context of demonstrations, four in ISF search and arrest operations; 12 in the context of attacks and alleged attacks against Israelis; while three Palestinians died in Israeli custody.

19. Following the announcement by the President of the United States of America 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, including 22 men and 6 boys, were killed by Israeli security forces in such contexts,²³ many in circumstances that did not seem to pose an imminent threat to life 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, it increasingly used live ammunition against demonstrators starting in January 2018, with 175 injuries from such ammunition recorded. 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.

¹⁹ According to information received by OHCHR.

²⁰ <https://www.timesofisrael.com/army-says-it-didnt-know-palestinians-targeted-on-border-were-minors/>

²¹ <https://www.ynetnews.com/articles/0,7340,L-5118147,00.html>

²² Including one Palestinian killed by a private security guard.

²³ Sixteen Palestinians, including three children, were killed in Gaza, and 12 Palestinians, including three children, were killed in the West Bank. One more Palestinian was killed in the West Bank by a private security guard.

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 six 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.

21. During clashes in Nabi Saleh in the West Bank on 15 December 2017, Israeli security forces shot and seriously injured 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 metres. In both cases, the victims did not appear to pose an imminent threat to life 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 metres 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.²⁴

23. Large-scale demonstrations started on 30 March 2018²⁵ along Israel's perimeter fence with Gaza, under the banner of a "Great March of Return," calling for the right of return for Palestinian refugees and protesting the Israeli blockade on Gaza. In the context of these demonstrations, 169 Palestinians (including 30 boys, one woman, and a girl) and one Israeli soldier were killed. Three Israeli soldiers and over 24,000 Palestinians were injured, including over 5,800 with live ammunition.²⁶ The World Health Organization (WHO) estimated that as many as 1,200 of those injured will require long-term limb reconstruction and extensive rehabilitation which may not be available in Gaza.²⁷

24. On 30 March 2018, a 19-year-old man was shot dead approximately 400 metres from the fence, near Jabalia. Evidence, including video footage, shows that he was shot whilst 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, ISF 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 metres from the barbwire, when Israeli security forces opened fire indiscriminately towards the demonstrators.

25. Israeli security forces killed or injured several medical personnel while they were carrying out their duties, mostly during demonstrations or clashes with demonstrators. According to WHO, ISF injured 17 health workers in the West Bank while three 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

²⁴ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22550&LangID=E>

²⁵ These demonstrations were ongoing at the end of the reporting period.

²⁶ OCHA and Palestinian Ministry of Health.

²⁷ pp.2-3

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

shot with live ammunition in the chest, approximately 25 metres from the fence, east of Khan Younis. Witnesses reported that she was killed whilst trying to rescue injured demonstrators at the fence.

26. In Gaza and the West Bank, journalists were injured and some were killed by ISF during demonstrations. In the West Bank, 52 instances of physical attacks and injuries against journalists were documented during the demonstrations in December 2017 alone.²⁸ During the “Great March of Return” demonstrations in Gaza, two journalists were killed and 113 journalists were injured by Israeli security forces, including 70 with live ammunition.²⁹

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. Three-hundred-twenty-nine shooting incidents were recorded, resulting in the killing of one fisherman and injuring 21 others (including one child) with live ammunition. Seventy fishermen (including five children) were detained, while 21 fishing boats were confiscated and eight 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. ISF 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, ISF informed his family he had died from teargas 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 United States of America 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 in January and February 2018. Arrests in October and November 2017 and during the remaining months of the reporting period averaged at around 450 per month.³⁰ As of 31 October 2018, 5,426 Palestinians were held in Israeli detention, including 43 women and 220 children (including two girls) of whom 41 were under the age of 16. This included 481 Palestinians (including four children) held under administrative detention without charge or trial.³¹ In Gaza, 175 Palestinians (including 28 children) were arrested by Israeli security forces during the reporting period. As

²⁸ http://www.madacenter.org/report.php?lang=1&id=1840&category_id=6&year=2018.

²⁹ Al Mezan Center for Human Rights, communication, 13December2018.

³⁰ Joint reporting by the Palestinian Prisoners Commission and human rights organizations.

³¹ Data by B'tselem from the IPS.

previously noted, this included 70 fishermen arrested at sea.³² Many of the cases raise concerns of arbitrary arrests.³³

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.³⁴ His lawyer was only allowed access to all previously undisclosed evidence one year and a half after the start of the trial and was only permitted to start examining defence witnesses 24 months into the trial, after the prosecution 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 basic fair trial requirements.³⁵ 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. Israel's use of administrative detention, including of 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 2017.³⁶ Jarrar's current detention order, based on secret evidence, is set to end in February 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 United Nations Human Rights Committee and the Committee against Torture, the Secretary-General and the 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.³⁷

33. Israel's treatment of children during arrest and detention remained of particular concern.³⁸ According to accounts collected by the NGO Military Court Watch, of 80 children detained by ISF in 2017, 65 per cent had been 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.³⁹

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

³² Al Mezan Center.

³³ A/HRC/37/42, para.10-14.

³⁴ A/HRC/37/42, para.27-32.

³⁵ Art. 9(3) ICCPR.

³⁶ A/HRC/37/42, para.55.

³⁷ A/HRC/37/42, para.18.

³⁸ A/HRC/34/38 and A/HRC/37/42.

³⁹ <http://www.militarycourtwatch.org/files/server/BRIEFING%20PAPER%20-%20FEB%202018.pdf>.

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 only be detained as a measure of last resort, for the shortest appropriate period of time, and with their best interests as the primary consideration.⁴⁰

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 one person with Down syndrome.⁴¹ According to this source, 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 to access toilets, especially during interrogation.⁴²

36. During a night raid in Silwan on 2 July 2018, Israeli security forces arrested a 15-year-old 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,⁴³ as in the case of an 18-year-old from Deir Nidham, arrested by ISF on 7 April 2018. Although his family informed Israeli security forces that he suffers from a chronic liver and kidney condition and of his dietary and medication needs, they 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 possibly permanent loss of eyesight.

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 Izariyah in September 2018.⁴⁴

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 high 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.⁴⁵ Several proceedings relating to older cases of apparent excessive use of force by Israeli security forces were closed with no resulting

⁴⁰ Art. 3(1),37(b) CRC;

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22590&LangID=E>.

⁴¹ PCATI.

⁴² <http://stoptorture.org.il/wp-content/uploads/2018/07/SitRep2018.pdf>.

⁴³ 61 Palestinians died in Israeli custody since 1967 due to medical negligence.

<http://www.addameer.org/publications/joint-report-occupation-forces-arrested-3500-palestinians-during-first-half-2018>.

⁴⁴ https://www.btselem.org/routine_founded_on_violence/20181111_palestinians_arrested_to_pressure_relatives

⁴⁵ A/73/420, para.60-61.

accountability during the reporting period. For a detailed analysis of accountability-related issues, see A/HRC/40/43.

Restrictions of the rights to freedoms 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 by Israeli authorities.⁴⁶ Reprisals and attempts to de-legitimize and discredit NGOs and other civil society actors continued. For example, the Israeli NGO B'Tselem was publicly verbally attacked by high-ranking politicians, including the Israeli Prime Minister.⁴⁷ Several civil society organizations in East Jerusalem were closed or had their closure orders extended based on alleged ties to the Palestinian authority,⁴⁸ while legislative developments affected 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 2017.⁴⁹ 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, another journalist was pepper-sprayed by an Israeli security forces officer as she was filming the protest. According to the Palestinian Center for Development and Media Freedoms (Mada), 24 Palestinians journalists were arrested by ISF during the reporting period, 11 of whom remained in custody as at the end of the reporting period, including four held under administrative detention.⁵⁰

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 metres from the fence, in Jabalia. 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 Defence of Israel ordered the closure, claiming that the organization "*has 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 channel and two journalists working for the channel after it was banned by the Israeli authorities.

⁴⁶ For further information on measures targeting human rights defenders see A/HRC/40/43.

⁴⁷ <https://www.timesofisrael.com/netanyahu-denounces-btselem-chiefs-un-speech-as-full-of-lies/>.

⁴⁸ <http://www.israelnationalnews.com/News/News.aspx/241457>.

⁴⁹ See para.28.

⁵⁰ Communication from Mada Center.

⁵¹ <https://twitter.com/AvigdorLiberman/status/985845422739607558>.

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 of freedom of movement, and 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 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 launching of incendiary kites and balloons from Gaza towards Israel, raising further concerns of collective punishment.⁵³

46. Patients in need of often urgent 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) delayed on average up to several months. Palestinians injured during the “Great March of Return” demonstrations were most affected, with only 22 per cent⁵⁵ of exit applications approved, compared to the average monthly approval rate of 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 had refused to 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 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.

48. Between 9 July and 14 August 2018, and between 17 to 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 youth and up to 78 per cent among women.⁶⁰ Per capita GDP decreased to an estimated USD 410 in 2018 from USD 450 in 2017.⁶¹ The

⁵² A/73/420, para.25.

⁵³ See also para.10.

⁵⁴ A/HRC/37/38, para.45; A/73/42, para.19.

⁵⁵ Only 74 out of 335 of such exit applications were approved, p.5
http://www.emro.who.int/images/stories/palestine/documents/WHO_Health_Cluster_SitRep_23_Sep_-6_Oct_2018.pdf?ua=1

⁵⁶ <https://www.ochaopt.org/content/gaza-strip-early-warning-indicators-september-2018>.

⁵⁷ A/73/420 para.20-21.

⁵⁸ A/73/420, para.18.

⁵⁹ <https://www.ochaopt.org/content/gaza-crossings-operations-status-monthly-update-september-2018>.

⁶⁰ World Bank, pp.9,23.

⁶¹ <https://www.ochaopt.org/content/gaza-strip-early-warning-indicators-september-2018>.

situation was compounded by a steady decline in transfer of funds by the Palestinian Authority,⁶² a decrease in international aid support, and funding cuts to UNRWA programmes.

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 OCHA 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 villages' entrances between January 2017 and July 2018, which affected 30 communities.⁶³ 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.⁶⁴

51. Restrictions particularly affected the right to health. During the reporting period, 15 per cent of permit applications for Palestinian patients seeking healthcare in East Jerusalem hospitals or in Israel were rejected. The Palestinian Red Crescent reported that 84 per cent of its ambulances were forced to transfer patients to an ambulance with Israeli licence plates at 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.⁶⁵ The Palestinian Red Crescent 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.⁶⁶

2. Palestinian authorities

Violations of the right to life and security of person

52. Palestinian security forces (PSF) in the West Bank and Gaza violently dispersed peaceful demonstrators calling for the lifting of measures imposed by the Palestinian Authority 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 (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 civilians by military courts. On 6 June 2018, the Palestinian President signed an instrument of accession to the Second Optional Protocol to the International Covenant on Civil and Political Rights. While this is an important step towards the abolition of the death penalty in Palestine, further steps are required for accession to be given full effect.

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

54. There were concerns of arbitrary detention by Palestinian authorities in both 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

⁶² See para.74 below.

⁶³ <https://www.ochaopt.org/content/over-700-road-obstacles-control-palestinian-movement-within-west-bank>

⁶⁴ See para.13.

⁶⁵ WHO.

⁶⁶ A/HRC/40/42, para.39.

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, nor having their case reviewed by a competent court. Some stated they were 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, LGBTI 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 LGBTI 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 case.

56. Many of those arrested in the West Bank were held in administrative detention based on orders by Governors.⁶⁷ Between 1 November 2017 and 30 September 2018, the Palestinian Independent Commission for Human Rights recorded 173 cases of administrative detention based on such orders, a sharp increase on the 99 cases 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, pre-trial detainees released by the Court for lack of evidence were immediately re-arrested on 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.⁶⁸

57. In Gaza, arbitrary arrests and detention also remained a concern,⁶⁹ as illustrated by an incident in January 2018, when eight children were amongst those detained by the Internal Security Agency (ISA), 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 on the sole basis of their political affiliation. Many of the detainees held under the custody of ISA 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.⁷⁰ Forty-nine detainees interviewed by OHCHR reported having been subject to some form of ill-treatment, several of which were of such gravity that they may amount to torture. Detainees described the use of shackling, holding 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 Joint Operations Committee and the General Intelligence Service (GIS)

⁶⁷ A/HRC/37/42, para. 24-26.

⁶⁸ See A/HRC/34/38, para.54; A/HRC/34/36, paras.55–58, 70–74; A/HRC/31/44, para.78; A/HRC/31/40, paras.56–58, 69–70.

⁶⁹ A/HRC/37/42, para. 59-60.

⁷⁰ OHCHR also observed very poor and inhumane conditions of detention, including overcrowded cells without proper ventilation and lighting, unhygienic conditions, as well as detainees held in solitary confinement for prolonged periods.

facilities in Jericho.⁷¹ For example, several detainees reported a practice of assault and severe beating upon arrival at 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 ISA involving ill-treatment and torture of detainees continued to be reported. In May 2018, two brothers arrested by ISA over accusations of collaboration with the Palestinian Authority were subjected to ill-treatment, including beatings and 'Shabah', which involves being forced to sit with hands tied to the back of a chair. One of them was released in September 2018 while the other remained in detention as of the end of the reporting period, awaiting his sentence by the military court.

Restrictions of the rights to freedoms of expression, association and peaceful assembly

60. There were restrictions on the rights to freedom of expression, association and peaceful assembly imposed by the Palestinian Authority in the West Bank. Several journalists were arrested based on provisions of the Cybercrimes Decree-Law (2017).⁷² For instance, on 3 April 2018, Palestinian journalist Rami Samara was arrested and charged with defamation and slander, based on the Decree-Law. The charges were based on social media posts criticizing the head of the An-Najah University Media Centre 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 2018⁷³ - following strong criticism and concerns raised by civil society organizations and the international community - the proceedings against Rami Samara and other journalists which started before amendment of the law continued. The amended Decree-Law still contains loosely defined provisions which risk undue interference with the exercise of freedom of expression.

61. Amidst a deep division between Fatah and Hamas, protests against punitive measures imposed by the Palestinian Authority on Gaza broke out in the West Bank. On 13 June 2018, the adviser of the Palestinian President on Provincial Affairs temporarily banned demonstrations in the West Bank in order to prevent a demonstration set to take place the same day in Ramallah. Despite the ban, approximately 200 demonstrators peacefully gathered in the city centre but were violently assaulted and dispersed by PSF and individuals in plain clothing.⁷⁴ 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 testified to 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.⁷⁵

62. In Tulkarem 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

⁷¹ This coordinating body is comprised of several Palestinian security agencies. It conducts joint operations and uses the Palestinian Preventive Security Headquarters in Jericho as its main detention and interrogation centre.

⁷² A/HRC/37/42, para.42.

⁷³ Cybercrimes Decree-Law No.10; A/HRC/37/42, para.42.

⁷⁴ Violent means include 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.

⁷⁵ https://www.madacenter.org/report.php?lang=2&id=1799&category_id=13&year=

the presence of the police, who did not intervene. One of the journalists submitted a complaint to the public prosecution 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 PSF.

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.⁷⁶ In one incident, ISA 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. From 13 to 15 September 2018, a journalist was summoned three times by the Gaza authorities for posting comments on social media questioning the Ministry of 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 prosecutor's 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 the Palestinian Authority, despite previous authorization of the demonstration. 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 returned to them after footage of the demonstration had been deleted by the security personnel. Gaza's Ministry of Interior denied this account of events, including that participants had been arrested.⁷⁷

III. Conclusions and recommendations

66. This report documents violations of international humanitarian law and of international human rights law in the Occupied Palestinian Territory by Israel, the State of Palestine and the authorities in Gaza. It shows the persistence of patterns previously reported by the Secretary-General and the High Commissioner, and which have been the subject of extensive past recommendations by various human rights mechanisms.⁷⁸ 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 further recommends the following:

⁷⁶ A/HRC/37/42, paras.43-45.

⁷⁷ <https://moi.gov.ps/Home/Post/123353>

⁷⁸ A/HRC/35/19.

69. To 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, ensure that firearms are only used in case of imminent threat of death or serious injury; take all necessary measures 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 which led to death or injury of Palestinians, especially in Gaza's "access restricted areas"; and ensure that perpetrators are held accountable, and victims 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; 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 freedoms 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. To the Government of the State of Palestine:

(a) **Ensure compliance with its human rights obligations towards all Palestinians; immediately cease any measures that violate these obligations or which 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 necessary steps to give full effect to the Second Optional Protocol to the International Covenant on Civil and Political Rights;**

(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, inhumane 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 Palestine in the official government gazette and take steps to make their provisions known to all Palestinians.**

(g) **Ensure that the rights to freedoms 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. To 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 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, inhumane 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 freedoms 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.**
