



# General Assembly

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## Human Rights Council

Forty-fourth session

15 June–3 July 2020

Agenda item 7

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

### **Written statement\* submitted by United Nations Watch, 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.

[27 May 2020]


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

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## Remedies for the Protection Gap in the Mandate of the Special Rapporteur on Palestine

### Appeal to the European Union to uphold amnesty international's call for "Comprehensive" mandate reform

United Nations (UN) Watch is concerned by the protection gap fostered by the mandate under Agenda Item 7.

Despite the geographic and situational mandate denoted by the title of the position—Special Rapporteur (SR) “on the situation of human rights in the Palestinian territories”—the text of the mandate charges the Rapporteur only with investigating “Israel’s violations.”<sup>1</sup>

Amnesty International has stated that the mandate’s “limitation to Israeli violations... undercuts both the effectiveness and the credibility of the mandate.”<sup>2</sup> Amnesty noted that the mandate “fails to take account of the human rights of victims of violations of international human rights and humanitarian law committed by parties other than Israel.”<sup>3</sup>

We call on the European Union to take action in the 44th session to institute a clear mandate, as Amnesty International has said, “to investigate and report on violations of international human rights and humanitarian law committed by all parties—Israeli and Palestinian, state agents and non-state actors.”<sup>4</sup>

### Precedents show mandate-holder can protect all Palestinian victims

Previous mandate-holders have found it possible to address certain violations by Palestinians, and to seek to remedy the protection gap of the mandate.<sup>5</sup>

The current Special Rapporteur has acknowledged the existence of abuses by Palestinian actors but explained why he would not address them. “In the present report, the Special Rapporteur focuses on the human rights and humanitarian law violations committed *by Israel*, in accordance with his mandate.”<sup>6</sup> (Emphasis added). Each of his previous reports to the Council, in 2017 and 2018, contain a similar statement.<sup>7</sup>

When the current mandate-holder was appointed in 2016, he stated that he was “open to looking at expanding the job” to look at human rights abuses by the Palestinian Authority (PA) and Hamas.<sup>8</sup> Over the last four years, United Nations Watch raised this issue numerous times, including in its Written Statements to the Council’s 37<sup>th</sup>, 38<sup>th</sup> and 40<sup>th</sup> Sessions.<sup>9</sup>

In a February 12, 2019 letter to the Special Rapporteur, United Nations Watch renewed its request for him to expand the mandate, as he had indicated on October 26, 2017, in response to a question from a reporter at a UN press conference. He had stated: “I am actively

<sup>1</sup> UN Watch, Mandate to Discriminate (March 10, 2016), <https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf>.

<sup>2</sup> Amnesty International, Mandate of the Special Rapporteur on the OPT should be made comprehensive (July 11, 2008) <https://www.amnesty.org/download/Documents/56000/mde150282008eng.pdf>.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> See Mandate to Discriminate supra note 1, pp. 5-8.

<sup>6</sup> Situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HRC/40/73 (Mar. 15, 2019).

<sup>7</sup> Situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HRC/37/75 (June 14, 2018); Situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HRC/34/70 (April 13, 2017).

<sup>8</sup> Patrick Martin and Michelle Zilio, UN appointment of Canadian professor creates controversy, *The Globe and Mail* (March 30, 2016), <https://www.theglobeandmail.com/news/world/un-appointment-of-canadian-professor-creates-controversy/article29467174/>.

<sup>9</sup> Written Statement submitted by United Nations Watch, UN Doc. A/HRC/37/NGO/106 (March 15, 2018); Written Statement submitted by United Nations Watch, UN Doc. A/HRC/38/NGO/120 (June 22, 2018).

considering whether or not, when I make my next report, which will be in March [2017] to the Human Rights Council, that I will ask for my mandate to be expanded.”<sup>10</sup>

However, at the March 2019 session, he did not do so. “This,” he said, “is a decision of the Human Rights Council with respect to the scope of my mandate.”<sup>11</sup>

### Commending the first mention of Hamas and PA violations

Suddenly, however, in his October 2019 report to the General Assembly—in wake of the repeated appeals by United Nations Watch—the Special Rapporteur for the first time addressed certain violations by Hamas and the PA.<sup>12</sup>

United Nations Watch commends the Special Rapporteur for beginning to remedy the protection gap, but much more needs to be done.

The criticism of the PA and Hamas, who commit multiple serious violations including arbitrary detention, torture, killings, and violations against lesbian, gay, bisexual, transgender and intersex persons (LGBTI) and women was mild, and took up only two short paragraphs in a 24-page report. The other 99% of the report focused exclusively on alleged Israeli violations and called for harsh measures against Israel including economic and other sanctions, international prosecutions of Israeli military and government officials, and an advisory opinion from the International Court of Justice on Israel’s legal obligations to end the “occupation.”

The report also continued to completely ignore PA and Hamas incitement and terrorism against Israelis. In addition, the mandate-holder’s official UN statements and press releases continue to categorically ignore all rights violations by Palestinian actors.

### Examples of Palestinian violations that have been ignored

A list of Palestinian human rights violations that have been ignored by the current mandate-holder is published online.<sup>13</sup> They include:

#### Ignored Palestinian authority violations in West Bank

- **Arbitrary arrest, torture:** PA security forces arbitrarily arrest and torture 50-year-old Palestinian man from Hebron who converted to Judaism. The Man says he was beaten and his hands and feet were burned during the interrogation. (October 2019).<sup>14</sup>
- **Persecution against LGBT:** PA bans LGBT organization al-Qaws after it holds meeting in Nablus, claiming the group’s activities are “contrary to the values of Palestinian society.” LGBT Palestinians in the West Bank are routinely subjected to persecution and even “honor killing” at the hands of their own families. (August 2019).<sup>15</sup>

<sup>10</sup> Press Conference, Special Rapporteur for Palestine, The situation of human rights in the Palestinian Territory occupied since 1967, UN Web TV (Oct. 26, 2017), <http://webtv.un.org/meetings-events/treaty-bodies/watch/the-situation-of-human-rights-in-the-palestinian-territory-occupied-since-1967-press-conference-26-october-2017/5626030029001/?term=&lan=english>.

<sup>11</sup> *Interactive Dialogue: SR on Palestinian territories – 41<sup>st</sup> Meeting, 40<sup>th</sup> Regular Session of the Human Rights Council*, UN WEB TV (March 18, 2019), <http://webtv.un.org/search/id-sr-on-palestinian-territories-41st-meeting-40th-regular-session-human-rights-council/6015218137001/?term=2019-03-18&lan=English&cat=Meetings%2FEvents&sort=date&page=2>.

<sup>12</sup> *Situation of human rights in the Palestinian territories occupied since 1967*, UN Doc. A/74/507.

<sup>13</sup> *Human Rights Violations Ignored by UN Palestine Rapporteur*, UN WATCH (May 27, 2020), <https://unwatch.org/lynk/>.

<sup>14</sup> Yifat Erlich, *Palestinian who converted to Judaism arrested, badly beaten by PA forces*, YNET (Oct. 22, 2019), <https://www.ynetnews.com/articles/0,7340,L-5611206,00.html>.

<sup>15</sup> Fiamma Nirenstein, *Anti-LGBT Discrimination is Now Official PA Policy*, ALGEMEINER (Aug. 27, 2019), <https://www.algemeiner.com/2019/08/27/anti-lgbt-discrimination-is-now-official-pa-policy/>.

### Ignored Hamas violations in Gaza

- **Arbitrary arrest, suppression of freedom of association:** Hamas arbitrarily arrests Gaza peace activist Rami Aman for holding a Zoom call with Israelis on charges of “holding a normalization activity,” a crime described by Hamas Interior Ministry Spokesman as “a betrayal of our people and their sacrifices.” (April 2020).<sup>16</sup>
- **Torture of children:** Hamas fighters in Gaza beat and torture 13-year-old Gazan boy because he got into a fight with the son of a Hamas military commander. (August 2018).<sup>17</sup>
- **Extrajudicial killing:** Hamas affiliated family kills relative Ahmad Said Barhoum accused by Hamas of aiding Israel in killing three Hamas commanders in summer 2014. Execution takes place just after Hamas releases Barhoum to his family, after having held him in custody for several months without trial. Hamas praises execution. (January 2018).<sup>18</sup>

### Ignored Palestinian Terrorism against Israelis

- **Bombing:** Popular Front for the Liberation of Palestine (PFLP) terrorist cell detonates bomb on Jewish family visiting nature spring, killing 17-year-old girl and seriously injuring her brother and father. (August 2019).<sup>19</sup>
- **Rocket attacks:** Four Israeli civilians killed by indiscriminate rocket attacks from Hamas-controlled Gaza. (May 2019).<sup>20</sup>
- **Shooting and stabbing:** Palestinian terrorist stabs to death Israeli soldier, steals his weapon and then shoots and kills Jewish father of twelve, Rabbi Achiad Ettinger. (March 2019).<sup>21</sup>
- **Explosive balloons:** Explosive balloons launched from Gaza land near Israeli kindergarten. (December 2018).<sup>22</sup>
- **Shootings, praising terrorism:** Hamas terrorists shoot at Israeli civilians standing at a bus stop, wounding 7, including a pregnant woman whose baby was delivered by emergency c-section and later died. Hamas praised the perpetrator, Salih Omar Barghouti, calling the attack “heroic.” (December 2018).<sup>23</sup>

We urge the mandate-holder to acknowledge that if universal human rights standards are applied selectively, and systematically denied to any class of people, they cease to be universal standards at all.

<sup>16</sup> David Halbfinger and Iyad Abuhweila, *Zoom Call with Israelis Lands a Gaza Peace Activist in Jail*, NEW YORK TIMES (April 10, 2020), <https://www.nytimes.com/2020/04/10/world/middleeast/rami-aman-palestinian-activist-arrested.html>.

<sup>17</sup> Itamar Marcus and Nan Jacques Zilberdik, *Hamas fighters torture 13-year-old, because he hit son of Hamas military leader*, PMW (Aug 29, 2018).

<sup>18</sup> AFP, *Gazan Family kills member who allegedly acted as Israeli informant*, THE GUARDIAN (Jan. 19, 2018), <https://www.theguardian.com/world/2018/jan/19/gaza-family-kills-member-who-acted-as-israeli-informant>.

<sup>19</sup> Anna Ahronheim, *Israel reportedly arrests another Palestinian behind the deadly Dolev Spring attack*, JERUSALEM POST (Oct. 4, 2019).

<sup>20</sup> Sam Sokol, *700 rockets, 240 intercepts, 4 dead Israelis: Is the Iron Dome getting worse?* JTA (May 7, 2019), <https://www.jta.org/2019/05/07/israel/700-rockets-240-intercepts-4-dead-israelis-is-the-iron-dome-getting-worse>.

<sup>21</sup> *Israeli rabbi, wounded in Palestinian attack, dies: hospital*, REUTERS (March 18, 2019), <https://www.reuters.com/article/us-israel-palestinians-violence/israeli-rabbi-wounded-in-palestinian-attack-dies-hospital-idUSKCN1QZ0Y7>.

<sup>22</sup> Matan Tzuri, *Ballons tied to explosive device land near Gaza border kindergarten*, YNET (Dec. 28, 2018), <https://www.ynetnews.com/articles/0,7340,L-5434915,00.html>.

<sup>23</sup> Adam Rasgon and TOI Staff, *Hamas claims deadly Ofra terror attack after Israel kills suspected shooter*, TIMES OF ISRAEL (Dec. 13, 2018), <https://www.timesofisrael.com/hamas-claims-deadly-ofra-terror-attack-after-israel-kills-suspected-shooter/>.