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### Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories

## Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, including East Jerusalem

### Report of the Secretary-General\*

#### *Summary*

The present report has been prepared pursuant to General Assembly resolution [73/99](#). It focuses on Israeli practices affecting the human rights of Palestinians in the Occupied Palestinian Territory, including East Jerusalem, and covers the period from 1 June 2018 to 31 May 2019.

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\* The present report was submitted to the conference services after the deadline in order to reflect the most recent information.



## I. Introduction

1. Submitted pursuant to General Assembly resolution 73/99, the present report covers the period from 1 June 2018 to 31 May 2019. It is based on monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory and on information collected by other United Nations entities and non-governmental organizations, unless otherwise indicated. It should be read in conjunction with the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/74/357) and the reports of the United Nations High Commissioner for Human Rights submitted to the fortieth session of the Human Rights Council (A/HRC/40/42, A/HRC/40/43 and A/HRC/40/73).

2. During the reporting period, a total of 218 Palestinians (210 male, eight female), including 48 children<sup>1</sup> were killed and 22,483 injured<sup>2</sup> by Israeli security forces. In addition, four (A/74/357, para. 19) Palestinians were killed by settlers. A total of 14 Israelis, including one woman, were killed by Palestinian civilians (8) or armed groups (6), and 142 were injured. One of the women injured, who was pregnant during an attack by Palestinians, gave birth prematurely and the baby subsequently died. Of the 178 Palestinians killed in Gaza, 94 were demonstrating along the Gaza-Israel fence when they were killed, in many instances raising concerns of possible excessive use of force by Israeli security forces. In the West Bank, including East Jerusalem, Israeli security forces killed 40 Palestinians during the reporting period, including 21 in the context of attacks or alleged attacks against Israelis. Some cases monitored by OHCHR raised serious concerns of possible arbitrary deprivation of life and extrajudicial execution by Israeli security forces (see para. 11 below). Serious concerns remained about possible impunity for excessive use of force by Israeli security forces (see, inter alia, A/HRC/40/43).

3. Reaching the worst levels since 2014, there were at least eight serious instances of escalation in fighting between Israel and Palestinian armed groups, during which Palestinian armed groups reportedly fired some 1,275 rockets and 676 mortar rounds towards Israel and Israeli security forces fired 1,278 missiles and 354 shells into Gaza.<sup>3</sup> During the escalations, at least 16 Palestinian civilians were killed, including four women and five children.<sup>4</sup> Four Israeli civilians were killed by rockets fired indiscriminately from Gaza. Many of the rockets and mortar rounds launched from Gaza were intercepted by the “iron dome” of Israel; however, a considerable number landed in Israel, some of which damaged residential buildings, kindergartens and schools. The protracted humanitarian crisis resulting from the 12-year Israeli closures, militant activity, recurrent hostilities and the Palestinian internal political division deepened, having a profound impact on the human rights of Palestinians in Gaza.

4. The advancement of settlement construction accelerated during the reporting period (A/74/357, paras. 5–7), while the number and severity of settler attacks continued to increase (ibid., para. 19). This was particularly striking in the H2 zone of Hebron and in the areas surrounding Nablus. The withdrawal of the Temporary International Presence in Hebron, following the decision of Israel not to renew its mandate beyond 31 January 2019, removed an important protection mechanism that had been place for more than 20 years (ibid., para. 54). An increase in demolitions and ongoing forced evictions continued to hamper the housing rights of hundreds of

<sup>1</sup> Fatality figures are from monitoring conducted by OHCHR.

<sup>2</sup> Injury figures from United Nations, Office for the Coordination of Humanitarian Affairs, Data on Casualties database, available at [www.ochaopt.org/data/casualties](http://www.ochaopt.org/data/casualties) (accessed on 12 July 2019).

<sup>3</sup> Communication with the Department of Safety and Security of the Secretariat, 18 June 2019.

<sup>4</sup> OHCHR monitoring.

Palestinians.<sup>5</sup> Those acts and conditions contributed to the existing coercive environment, which may leave Palestinians with no option but to leave their places of residence. Those developments are examined in detail in the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory ([A/74/357](#)).

5. The present report illustrates, through observed trends, the multiple obstacles to the enjoyment of human rights in the Occupied Palestinian Territory that stem from Israeli policies and practices. Owing to space constraints, the report does not address all issues of concern, nor all cases documented during the reporting period.

## II. Legal framework

6. International human rights law and international humanitarian law apply concurrently in the Occupied Palestinian Territory. A detailed analysis of the applicable legal framework can be found in the report of the Secretary-General to the Human Rights Council ([A/HRC/34/38](#), paras. 3–11).

## III. Implementation of General Assembly resolution 73/99

### A. Excessive use of force by Israeli security forces in the context of law enforcement

7. The Secretary-General has repeatedly raised concerns regarding excessive use of force by Israeli security forces, notably in Gaza ([A/73/420](#), para. 48, and [A/72/565](#), para. 13). Of the 218 Palestinians killed and 22,595 injured<sup>6</sup> by the Israeli security forces during the reporting period, the vast majority were in the context of law enforcement operations. Among those killed were 48 children, three persons with disabilities and three health workers. According to the World Health Organization (WHO), 463 health personnel were injured, 451 in Gaza and 12 in the West Bank.

8. Excessive use of force by Israeli security forces is taking an unacceptable toll on children, with 42 killed in Gaza (40 boys, 2 girls) and 6 (5 boys, 1 girl) in the West Bank, including East Jerusalem. In Gaza, children have been encouraged at times to undertake activities which put them at risk. Children should never be the target of violence and must not be put at risk of violence or encouraged to participate in violence.<sup>7</sup>

9. The large number of casualties has worsened the situation of women and girls including mothers of injured children, women whose husbands have been killed or injured, girls whose fathers have been killed or left with a disability, and made them more vulnerable to gender-based violence, including domestic violence, forced marriage and child marriage.<sup>8</sup>

10. In the West Bank, including East Jerusalem, Israeli security forces killed 40 (39 male, 1 female) Palestinians. Of the total, 21 were killed in the context of attacks or alleged attacks against Israelis, 14 during search and arrest operations or clashes and five in the vicinity of checkpoints or settlements without any allegations of an attack. In addition, five Palestinians were killed by Israeli settlers. According to information

<sup>5</sup> United Nations, Office for the Coordination of Humanitarian Affairs, “West Bank demolitions and displacement: an overview”, April 2019.

<sup>6</sup> United Nations, Office for the Coordination of Humanitarian Affairs, Data on Casualties database.

<sup>7</sup> Convention on the Rights of the Child, arts. 6, 19, 36 and 38.

<sup>8</sup> Gender-Based Violence Sub-Cluster Palestine, “Impact of the ‘Great march of return’ on gender-based violence”, situation report, 8 June 2018; [A/HRC/40/74](#), and [A/HRC/40/CRP.2](#), paras. 603–606.

from OHCHR, some cases raise concerns that Israeli security forces might have used excessive or unwarranted force, amounting to arbitrary deprivation of life. The killing of two young Palestinian men near Joseph's Tomb in Nablus on 19 March and the killing of a 24-year old Palestinian man in Kafr Aqab in East Jerusalem on 2 April were cited as examples requiring further investigation. In several cases in which lethal force was used, Israeli security forces reportedly failed to provide, or obstructed the provision of, first aid to injured Palestinians, some of whom died from their wounds. In some cases, in the aftermath of killings of Palestinians, including by settlers, Israeli security forces conducted raids to confiscate private closed-circuit television (CCTV) cameras in the areas surrounding the incident.

11. Most Palestinians killed in Gaza – 94 including 24 children and two women – were participating in demonstrations along the Gaza-Israel fence as part of the “Great march of return” (A/73/420, para. 47). While the protests remained largely peaceful, on multiple occasions, protestors damaged and breached the fence, threw Molotov cocktails, sound grenades and improvised explosive devices towards Israeli security forces and launched burning kites and incendiary balloons from Gaza, which caused hundreds of fires, significantly damaging agricultural lands and forests in Israel. In most cases, Israeli security forces responded with tear gas, rubber-coated bullets and live ammunition. Of serious concern is the high number of Palestinians killed at considerable distance from the fence, in circumstances that did not appear to involve a threat of death or serious injury that would warrant the use of firearms against persons.<sup>9</sup> The intensity of the demonstrations fluctuated. On the two worst days during the reporting period, 28 September and 12 October 2018, a total of 14 Palestinians, including three children, were killed by Israeli security forces. In addition to those killed, 18,924 Palestinians, including 2,738 children, were injured.<sup>10</sup> On a number of occasions towards the end of the reporting period, demonstrations were held with few injuries and no fatalities. One Israeli soldier was killed by an armed Palestinian man during demonstrations on 20 July 2018.

12. On 28 February 2019, in the report of the independent international commission of inquiry on the protests in the Occupied Palestinian Territory, the commission noted that it had investigated all 189 fatalities and tracked more than 300 injuries occurring between 30 March 2018 and 31 December 2018. It found reasonable grounds to believe that, in all but two incidents, the use of live ammunition by Israeli security forces against demonstrators was unlawful (A/HRC/40/74, paras. 5, 93, 94 and 125). The commission called upon the Israeli authorities to investigate promptly, impartially and independently every protest-related killing and injury in accordance with international standards, to determine whether war crimes or crimes against humanity have been committed with a view to holding those found to be responsible accountable (ibid., para. 125). The Military Advocate General of Israel has announced investigations into 11 killings, including of two children, along the Gaza fence;<sup>11</sup> and into 13 killings in the West Bank.<sup>12</sup> Aside from the media announcement on the opening of investigations, there is no other information available in the public domain

<sup>9</sup> OHCHR monitoring. See also A/HRC/40/CRP.2, paras. 884 and 885. The report's findings concern 189 cases of killings and more than 700 injuries occurred between 30 March and 31 December 2018.

<sup>10</sup> United Nations, Office for the Coordination of Humanitarian Affairs, Data on Casualties database.

<sup>11</sup> See [www.idf.il/en/minisites/questions-and-answers-concerning-the-violent-riots-and-attacks-occurring-on-the-border-between-gaza-and-israel-during-2018-9/](http://www.idf.il/en/minisites/questions-and-answers-concerning-the-violent-riots-and-attacks-occurring-on-the-border-between-gaza-and-israel-during-2018-9/).

<sup>12</sup> According to several media sources. See also B'Tselem, “Follow-up: military police and MAG corps investigations of civilian Palestinian fatalities in West Bank, as of April 2011”, 8 July 2019.

as to their status. However, media reports indicate that a number of investigations previously opened have been closed with no indictments.<sup>13</sup>

13. Similarly, the Military Advocate General stated that, of 360 incidents of possible violations of international humanitarian law, including in relation to the 2014 Gaza conflict, 189 cases were closed as at August 2018 without resulting in criminal charges or any further action taken, with the exception of three soldiers who were convicted on theft and looting charges.<sup>14</sup>

14. By way of example, among other cases involving possible excessive use of force by the Israeli security forces, on 18 June 2019, a 37-year old paramedic with the Palestine Red Crescent Society was shot and injured with live ammunition approximately 200 metres from the Gaza fence during a Friday demonstration in Abu Safiyah. According to OHCHR monitoring, the paramedic was shot after he exited a clearly marked ambulance with another paramedic, both wearing Palestine Red Crescent Society uniforms with large logos, while attempting to reach, treat and evacuate an injured child. He was hospitalized with bullet injuries that caused internal fractures and damage to his right arm. After the incident and upon medical advice, he was transferred to work as a Palestine Red Crescent Society dispatcher, including incurring a pay cut, and he is no longer permitted to drive the ambulance or serve as a paramedic in the field. A Palestinian human rights organization has brought his case to the Israeli authorities.

15. International human rights law applies to the law enforcement measures taken by Israel along the Gaza fence (A/73/420, para. 54). According to human rights standards, law enforcement officials, in carrying out their duties, shall use firearms only if other means remain ineffective or are without promise of achieving the intended result and only against an imminent threat of death or serious injury. Force must be used in a manner that minimizes harm and respects and preserves human life. Killing or causing serious injury in the absence of such a threat may amount to arbitrary deprivation of life.<sup>15</sup>

## B. Detention and ill-treatment

16. Concerns of possible arbitrary detention by Israeli authorities, including administrative detention without charge,<sup>16</sup> persisted. While the total number of Palestinians in Israeli detention on alleged security offences decreased during the reporting period to 5,106, including 34 women, as at 31 May 2019, the number of detainees in administrative detention increased, from 440 as at 31 May 2018 to 485 as at 31 May 2019, including one woman.<sup>17</sup> Most Palestinian prisoners continued to be held in Israel, which, in many cases, restricted the right of the detainees to family

<sup>13</sup> Yaniv Kubovich, "Israeli army closes probe into officer's 'errant killing' of Palestinian teen", *Haaretz*, 11 June 2018; [www.haaretz.co.il/blogs/johnbrown/BLOG/1.7040185](http://www.haaretz.co.il/blogs/johnbrown/BLOG/1.7040185); and <https://news.walla.co.il/item/3215246>.

<sup>14</sup> See [www.idf.il/en/minisites/military-advocate-generals-corps/releases-idf-military-advocate-general/operation-protective-edge-legal-updates/](http://www.idf.il/en/minisites/military-advocate-generals-corps/releases-idf-military-advocate-general/operation-protective-edge-legal-updates/).

<sup>15</sup> International Covenant on Civil and Political Rights, art. 6; Code of Conduct for Law Enforcement Officials, arts. 2 and 3; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, provisions 5, 9, 13 and 14, and Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 12.

<sup>16</sup> See A/HRC/40/39, paras. 31–32. For the incompatibility of administrative detention with provisions of international humanitarian rights law and international humanitarian law, see A/HRC/37/42, paras. 17–23.

<sup>17</sup> Compared with 5,732 on 31 May 2018. Data provided by the Israeli Prison Service to B'Tselem. The figures from the Service refer to a head count of prisoners at a given time and do not reflect the overall numbers of prisoners arrested and released in a given period.

visits from the West Bank and Gaza. The transfer of protected persons, including those accused of offences, to the territory of the occupying Power is prohibited under the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) of 1949.<sup>18</sup> Reports of ill-treatment of Palestinian detainees continued. Israeli non-governmental organizations received 190 complaints of ill-treatment and torture during the reporting period, including from 13 women, 22 children, 5 older persons and 2 persons with disabilities.<sup>19</sup> On 26 November 2018, the High Court of Justice of Israel issued a ruling upholding the legality of “special interrogation methods” in particular circumstances, potentially setting a precedent for other cases in which the Israeli security agency can resort to physical and psychological coercion against suspected terrorists. The prohibition against torture is absolute and non-derogable. No exceptional circumstances whatsoever may be invoked to justify acts of torture.<sup>20</sup>

17. The detention, ill-treatment and violation of fair trial guarantees of Palestinian children remained of serious concern. The number of children detained as at 31 May 2019 declined to 201 boys, compared with 291 at the end of May 2018.<sup>21</sup> According to non-governmental organizations, approximately 800 children<sup>22</sup> were arrested during the reporting period, of whom 500 were prosecuted in military courts.<sup>23</sup> Reports indicate that children living in proximity of Israeli settlements and associated infrastructure are more vulnerable to Israeli military detention.<sup>24</sup>

18. Despite some positive legal and procedural developments during previous reporting periods,<sup>25</sup> ill-treatment and violation of children’s rights remained problematic within the military detention system,<sup>26</sup> particularly in the first phase of arrest, including to extract confessions.<sup>27</sup> There were no further legal or policy developments during the reporting period. During the reporting period, sworn testimonies from 146 children held in Israeli detention indicated the following patterns of ill-treatment: night arrests (45 per cent); physical violence (75 per cent); verbal abuse (55 per cent); use of blindfolds (77 per cent), hand-ties (95 per cent) and leg-ties (71 per cent); denial of food and water (42 per cent); denial of access to toilets (34 per cent); and exposure to the elements (31 per cent). In most cases (93 per cent), children were denied access to a lawyer or parent before and during their interrogation, compelled to sign a confession in Hebrew, a language that many of them do not speak (58 per cent), and not informed about their rights (52 per cent).<sup>28</sup> Children are rarely

<sup>18</sup> Fourth Geneva Convention, art. 49. See also [A/72/565](#), para. 38.

<sup>19</sup> Public Committee against Torture in Israel.

<sup>20</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 2; Human Rights Committee, general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment; and Fourth Geneva Convention, arts. 3 and 32.

<sup>21</sup> Data provided by the Israeli Prison Service to B’Tselem.

<sup>22</sup> Palestinian Prisoners’ Club; and Military Court Watch, *Annual Report 2018/19* (2019), para. 3.3.

<sup>23</sup> Military Court Watch, *Annual Report 2018–2019*, para. 3.3.

<sup>24</sup> *Ibid.*, para. 10.1, corroborated by OHCHR monitoring.

<sup>25</sup> Including the decision of the High Court of Justice of Israel of 18 April 2017 with regard to petitions 3368/10 and 4057/10; Yael Stein, *Minors in Jeopardy: Violations of the Rights of Palestinian Minors by Israel’s Military Courts* (B’Tselem, 2018), pp.14–20.

<sup>26</sup> OHCHR monitoring; see also [A/HRC/37/42](#), para. 34.

<sup>27</sup> Stein, *Minors in Jeopardy*, p. 5; Lee Caspi, “Childhood in chains: the detention and interrogation of Palestinian teenagers in the West Bank”, April 2018, p. 1. Military courts rely on prima facie evidence, i.e. confessions or incriminating statements often obtained under duress, to detain the accused on remand pending lengthy trials. Detainees, including children, are therefore incentivized to plead guilty to shorten their detention.

<sup>28</sup> Sworn testimonies from 146 children detained from 1 June 2018 to 31 May 2019, collected from multiple sources, including affidavits taken by Israeli and Palestinian lawyers from children in detention and direct interviews conducted with children post-release, and analyzed by the United Nations Children’s Fund.

released on bail; in almost all cases, they plead guilty in order to shorten their pretrial detention and avoid harsher sentences.<sup>29</sup>

19. By way of example, three brothers (15, 14 and 13 years of age) from a village in the West Bank close to Hallamish settlement were arrested, detained and ill-treated by Israeli security forces between September 2018 and April 2019. On 1 September 2018, Israeli security forces arrested the two elder brothers on suspicion of throwing stones. They were taken, handcuffed and blindfolded on the floor of a military jeep, to a military outpost inside Hallamish settlement. The boys reported to OHCHR that, at first, Israeli soldiers kicked them repeatedly in the abdomen and knees and, afterwards, a group of young settlers called in by soldiers hit them with sticks. The 14-year old was detained at Ofer prison and released after 15 days without being charged. The 15-year old spent four and a half months at Ofer prison, until he struck a plea bargain for stone-throwing. Having missed his first school term, he now attends school only occasionally. On 3 March 2019, Israeli security forces also arrested their 13-year old brother in the village outskirts. He was detained at Ofer prison and released after two days without being charged. He reported that, during his detention, he was shown a picture of his 14-year old brother and asked if he knew him. On 1 April, the 14-year old brother was reportedly by a water spring when four settlers grabbed him and brought him to Israeli soldiers, who blindfolded him and pressured him to admit to stone-throwing, under threat of his family being harmed and house being destroyed. Only at a later stage of the interrogation was he allowed to speak to a lawyer by telephone. He reportedly agreed to sign papers in Hebrew, a language that he does not understand, in order to bring the interrogation to an end. On 15 April 2019, after having previously raided the boy's house three times, Israeli security forces carried out a night raid at the house and arrested and detained the 15-year old brother again. The two elder brothers were released from Ofer prison on 29 April 2019, after pleading guilty.

20. In view of its negative consequences on children's development,<sup>30</sup> international human rights law prescribes that the detention of children should be used as a last resort and for the shortest appropriate period of time.<sup>31</sup> When detained, children should be treated in a manner which takes into consideration the needs of persons of their age and never be subjected to torture or other cruel, inhuman or degrading treatment or punishment.<sup>32</sup> Detained children must be afforded fair trial guarantees, including freedom from self-incrimination, right to prompt legal assistance and, unless it is considered not to be in the best interests of the child, the presence of parents or guardians in legal proceedings.<sup>33</sup>

### C. Practices that may amount to collective punishment

21. Israeli practices that may amount to collective punishment, imposing punitive measures on individuals and communities for offences that they did not commit, continued. Collective punishment is expressly prohibited by international humanitarian law.<sup>34</sup> It is also incompatible with several human rights provisions, including the right to fair trial and the presumption of innocence.<sup>35</sup>

<sup>29</sup> Stein, *Minors in Jeopardy*, p. 9.

<sup>30</sup> Convention on the Rights of the Child, art. 6.

<sup>31</sup> *Ibid.*, art. 37(b).

<sup>32</sup> *Ibid.*, arts. 37(a) and 37(c).

<sup>33</sup> *Ibid.*, arts. 37 and 40; and Committee on the Rights of the Child, general comment No. 10 (2007) on children's rights in juvenile justice, para. 13.

<sup>34</sup> Regulations annexed to the Hague Convention IV of 1907, art. 50; and Fourth Geneva Convention, art. 33.

<sup>35</sup> International Covenant on Civil and Political Rights, art. 14; see also Fourth Geneva Convention, arts. 71–73.

22. The Secretary-General has repeatedly expressed concern over the impact of the Gaza closures on the life of the civilian population, underlining that it may amount to collective punishment (ibid., para. 7). Israeli authorities continued to adopt measures that aggravated the suffering of the civilian population, including by intermittently reducing or closing the fishing zone and closing the crossings between Gaza and Israel, severely limiting the movement of people, fuel, gas and essential supplies into Gaza. On several occasions, Israeli officials expressly cited violence emanating from Gaza, including the demonstrations along the fence, and the launching of burning kites, incendiary balloons and rockets from Gaza, as a reason for those measures.<sup>36</sup> In view of their punitive aspect on persons who did not commit the cited violence, including the severe human rights impact on the entire population of Gaza, those measures may amount to collective punishment (ibid.).

23. In the West Bank, including East Jerusalem, Israeli authorities continued to subject the Palestinian family members and communities of attackers and alleged attackers to punitive measures. Ten Palestinian family homes and one uninhabited residential structure<sup>37</sup> were punitively demolished or sealed during the reporting period, resulting in the forced eviction of 59 Palestinians, including 24 women and 18 children in the West Bank, including East Jerusalem.<sup>38</sup> Israeli authorities withheld the bodies of 20 Palestinians killed by Israeli security forces, including 3 children, bringing to 44 the total number of bodies withheld as at 31 May 2019.<sup>39</sup> The practice continued, despite the ruling of the High Court of Justice of 2017<sup>40</sup> ordering the State to release, within six months, the bodies of Palestinian attackers or enact a law providing otherwise.<sup>41</sup> The ruling is currently being reconsidered by the High Court of Justice by an expanded bench of seven justices. The closure of towns of alleged attackers continued (A/HRC/34/36, para. 33), with 93 such closures affecting 30 communities between January 2017 and September 2018.<sup>42</sup> The practice of revoking permanent residency status in East Jerusalem, work and travel permits or denying family unification permits as collective punishment of the family members of attackers continued, and legal procedures challenging the practice are ongoing.<sup>43</sup>

24. On 17 March 2019, an 18-year old Palestinian man allegedly carried out a stabbing and shooting attack near Ariel settlement, killing both an Israeli soldier and a settler living there. Israeli security forces killed the alleged attacker on 19 March 2019 and have retained his body since. On the day of the attack, Israeli security forces summoned the father of the alleged attacker, revoked his permit to work in Israel and detained his 16-year old son until the next morning. Israeli security forces also raided the house several times, including at night. On 24 April 2019, at midnight, a large

<sup>36</sup> Judah Ari Gross, "Israel closes Gaza border crossing till next Thursday, blames recent riots", Times of Israel, 6 September 2018.

<sup>37</sup> United Nations, Office for the Coordination of Humanitarian Affairs, Data on Demolition and Displacement in the West Bank database, available at [www.ochaopt.org/data/demolition#](http://www.ochaopt.org/data/demolition#).

<sup>38</sup> Ibid.

<sup>39</sup> Information provided by the Jerusalem Legal Aid and Human Rights Centre.

<sup>40</sup> High Court of Justice of Israel, *Mohamad Alayan v. IDF Commander in the West Bank*, case No. 4466/16, Judgment, 14 December 2017.

<sup>41</sup> See A/HRC/40/39, para. 12. On 18 December 2017, the Israeli Cabinet decided that the bodies would not be returned. A High Court of Justice decision on the matter is still pending.

<sup>42</sup> See United Nations, Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin: Occupied Palestinian Territory, September 2018.

<sup>43</sup> With regard to the cases of *Qunbar et al*, see Hamoked, "HaMoked to the Appeals Tribunal on denying family unification permits to an assailant's extended family: it must first be determined whether the Minister of Interior has the authority to deport the relatives of an assailant in the name of deterrence. Only then can it be decided whether to allow the presentation of the classified material on which the decision is allegedly based", 3 October 2018. See also A/72/565, para. 21.

group of Israeli security forces demolished the family house, displacing the whole family, including four children.

25. Punitive house demolitions, punitive revocation of work, travel or residency permits of the family and fellow village members of attackers and alleged attackers and the withholding of bodies may amount to collective punishment, which is prohibited by international humanitarian law. Such measures impose severe hardship on people for acts that they have not committed, resulting in the violation of a range of human rights, including the right to family life, adequate housing and decent standard of living.<sup>44</sup> According to the Committee against Torture, the policy of punitive house demolitions violates article 16 (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### **D. Restrictions on freedom of movement and their impact on other rights**

26. Israeli authorities continued to restrict freedom of movement across the Occupied Palestinian Territory, primarily through the permit regime regulating passage between Gaza and the West Bank, and to East Jerusalem and abroad. In the West Bank, including East Jerusalem, the permit regime is compounded by the barrier and by a system of checkpoints, as well as by the expansion of settlements, which constrain Palestinians' movement, including between main cities in the West Bank. During the reporting period, Israeli security forces operated 140 fixed checkpoints and 1,990 "flying" (ad hoc) or temporary checkpoints. Such measures disrupt Palestinians' daily life, having an impact on a range of rights, such as access to education and health care, work and an adequate standard of living. The Israeli-imposed closures in Gaza, including unilaterally defined access-restricted areas inside Gaza and at sea, continued to have a profound impact on the rights of Palestinians in Gaza. The Israeli Navy continued to enforce access restrictions at sea in Gaza by using live ammunition, rubber-coated bullets and water cannons. This situation was aggravated by the difficulties faced in exiting through Egypt, although there was a noticeable increase in the number of days when the crossing between Gaza and Egypt was open.

27. The right to health, including access to life-saving treatment, was particularly affected by restrictions on the movement of patients, health professionals and goods. WHO estimated that approximately 35 per cent of 330,000 Palestinian residents in Area C, the "seam zone" (A/HRC/31/44, para. 14) and the H2 zone in Hebron had limited access to primary health care, owing to Israeli restrictions on building in those areas combined with obstacles to freedom of movement.<sup>45</sup> There were 46 instances of ambulances delayed or denied access<sup>46</sup> and access constraints on mobile clinics at checkpoints in the West Bank.<sup>47</sup>

28. Movement of essential medical equipment and supplies to Gaza remained restricted. There is no radiotherapy or nuclear medicine scanning available for cancer patients in Gaza. Owing to the lack of specialized medical care and chronic shortage in medicines, doctors often refer patients to hospitals primarily in the West Bank, including East Jerusalem, Israel, and to a lesser extent Egypt. However, patients can only enter Israel and the West Bank, including East Jerusalem, if their exit permit is

<sup>44</sup> International Covenant on Economic, Social and Cultural Rights, art. 10(1) and 11.

<sup>45</sup> WHO, Health conditions in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, document A/72/33, para. 19.

<sup>46</sup> Communication with WHO, 22 July 2019.

<sup>47</sup> See also WHO, document A/72/33, para. 30.

approved by Israel.<sup>48</sup> According to WHO, 26,347 applications were submitted during the reporting period. Israel denied or delayed 9,474 (36 per cent) of them. Compared with the previous reporting period, the number of approvals increased slightly, to 16,873 (64 per cent).

29. In a recent study, WHO assessed the impact of access restrictions on the mortality rates among cancer patients referred for chemotherapy and radiotherapy in Gaza and found a statistically significant<sup>49</sup> correlation between the denial or delay of initial permit applications and higher patient mortality.<sup>50</sup>

30. On 26 August 2018, the Supreme Court of Israel unanimously accepted a petition submitted on behalf of seven female patients from Gaza requiring urgent medical treatment at hospitals in East Jerusalem. The Court ruled that the decision of the Security Cabinet of Israel to deny patients access to medical treatment as a means of leverage over Hamas and solely on the basis of the patients' relationship to Hamas members did not give adequate weight to the value of human life and was thus entirely unreasonable.<sup>51</sup>

31. In 2017, a 21-year old woman from Gaza was diagnosed with brain cancer, which, according to doctors, could be treated with medical equipment and expertise not available in Gaza. After she was referred at Al Makassed hospital in East Jerusalem on 27 July 2017, the woman applied for an Israeli exit permit. Between 27 August 2017 and 9 August 2018, Israeli authorities repeatedly denied or delayed her permit requests, resulting in the patient missing eight medical appointments. At the time of reporting, the patient had made the difficult trip<sup>52</sup> to Egypt to seek medical treatment, while her medical permit requests to Israel remained denied. A human rights organization following the patient's case with the Israeli authorities reported to OHCHR that the denial of her exit permit was linked to the patient allegedly having a first-degree relative affiliated with a Palestinian armed group.

32. Freedom of movement is guaranteed by international human rights law. It can be restricted if the restrictions are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the International Covenant on Civil and Political Rights. At the same time, according to the Human Rights Committee, any restrictions should be necessary, proportional to the end sought and non-discriminatory.<sup>53</sup> Freedom of movement is also a prerequisite for the enjoyment of other rights, such as the right to work, education and, as in the case above, health.<sup>54</sup> Israel has positive obligations under both international human rights law and international humanitarian law with regard to the right to health of Palestinians in the Occupied Palestinian Territory (A/HRC/31/44, para. 7).

<sup>48</sup> Only patients in need of life-saving or life-changing treatment unavailable in Gaza can apply for Israeli permit to exit Gaza. See A/73/420, para. 11.

<sup>49</sup> P-value = 0.001; "statistically significant correlation" with this p-value means that the probability that the finding is due to chance is less than 0.1 per cent.

<sup>50</sup> The study examined the period from 2015 to 2017 and found that mortality was 1.45 times higher for non-urgent cases. WHO, *Right to Health in the Occupied Palestinian Territory: 2018* (WHO, Cairo, 2018), pp. 35 and 43.

<sup>51</sup> Gisha, "Israel's High Court cancels policy preventing patients' access to treatment due to alleged family ties to 'Hamas members'", 27 August 2018.

<sup>52</sup> See United Nations, Office for the Coordination of Humanitarian Affairs, "Recent trends in Palestinian access from Gaza: Erez and Rafah crossings", Humanitarian Bulletin: Occupied Palestinian Territory, September 2018.

<sup>53</sup> Human Rights Committee, general comment No. 27 (1999) on freedom of movement, paras. 11–18.

<sup>54</sup> For an overview of restrictions on freedom of movement and impact on other rights in the Occupied Palestinian Territory, see A/HRC/31/44.

## E. Restrictions on freedom of expression, assembly and association

33. Restrictions on freedom of expression, assembly and association by Israeli authorities continued during the reporting period. Civil society actors, human rights defenders and media personnel, including those working to document, expose and seek accountability for Israeli human rights violations in the Occupied Palestinian Territory, were reportedly subjected to harassment, intimidation and, in some cases, assault, arrest and prosecution. For example, on 10 December 2018, Israeli security forces detained a researcher of the Jerusalem Legal Aid and Human Rights Centre for about a month, allegedly ill-treating him and forcing him to confess to throwing stones in 2014 in order to be released. According to information provided by OHCHR, Israeli security forces also threatened to harm a human rights defender and his family after he videorecorded the killing of a man by Israeli security forces in Hebron on 2 June 2018. They subsequently arrested his 20-year old and 17-year old sons.

34. OHCHR documented numerous violations against media personnel. On 14 December 2018, a journalist was hit in the face with a tear gas canister fired by Israeli security forces as he was covering demonstrations at a distance of 300 metres from the Gaza fence, which resulted in the loss of his eyesight. Between June and July 2018, Israeli security forces detained at least seven journalists, including the director and two journalists working at the Al-Quds TV, who were arrested on 30 July 2018 after the television channel was designated as a terror organization and banned by Israeli authorities; one of them reported severe ill-treatment.

35. Attempts continued to limit the work of human rights and other civil society organizations working in or on the Occupied Palestinian Territory. They included legislation seeking to prohibit lectures by certain organizations in Israeli schools,<sup>55</sup> verbal attacks (A/HRC/40/43, paras. 29–30), publications to discredit organizations and jeopardize their funding<sup>56</sup> and restrictions on visas and movement between the West Bank, including East Jerusalem, and Gaza.

36. In East Jerusalem, Israeli authorities cancelled or closed several Palestinian civic or cultural events for being allegedly funded or sponsored by the Palestinian Authority. Israeli authorities also raided hotels and other event venues<sup>57</sup> and arrested and questioned the organizers. One civil society organization catering to Palestinian young people in East Jerusalem was closed in 2018 and, according to a report published in June 2018, civil society organizations working in East Jerusalem have been restricted in their operations by the Israeli authorities through attempts to close their bank accounts, the detention or summoning of staff for questioning, office raids and the confiscation of equipment.<sup>58</sup>

37. There were concerns that the discriminatory (CERD/C/ISR/CO/14-16, para. 18) residency rights regime, including the amendment in March 2018 of legislation to revoke East Jerusalem residency status on the basis of a broadly defined alleged

<sup>55</sup> On 16 July 2018, the Knesset amended the State Education Law to prohibit access to schools for individuals and organizations whose activity is in contradiction with the State's educational objectives.

<sup>56</sup> See Israel, Ministry of Strategic Affairs and Public Diplomacy, "The money trail: European Union financing of organizations promoting boycotts against the State of Israel", 2nd ed., January 2019, and *Terrorists in Suits: The Ties Between NGOs Promoting BDS and Terrorist Organizations* (2019).

<sup>57</sup> Including the French Cultural Institute; see Associated Free Press and Times of Israel staff, "Israel shuts down East Jerusalem even in French centre over alleged ties to PA", Times of Israel, 21 March 2019.

<sup>58</sup> Palestinian Non-Governmental Organizations Network, *Attacks on Palestinian Civil Society Organizations in Occupied East Jerusalem: A Matter of Illegal Annexation and of Repression of the Right to Self-Determination* (2018), p. 8.

“breach of loyalty”,<sup>59</sup> compounds the other factors limiting freedom of expression, association and assembly in East Jerusalem.

38. On 22 January 2019, Israeli security forces arrested a Palestinian photojournalist from East Jerusalem for violating the immigration laws of Israel and served him with a deportation order soon after the Ministry of the Interior had rejected his application for family unification with his wife. The photojournalist previously had not been granted residency status, based on age restrictions set in Israeli law for the registration of Palestinian children as permanent residents. Following an appeal, Israeli courts upheld the Ministry of the Interior decision to deport him, citing secret evidence, to which the photojournalist and his lawyer did not have access, indicating that he would constitute a security threat. In 2017, Israeli security forces had summoned and questioned him about his documentation work in East Jerusalem and, on 14 September 2015, had also reportedly physically attacked him while he was reporting on clashes at Al Aqsa compound. At the time of reporting, he remained detained at the Giv’on detention centre in Ramla, pending his deportation.

39. International human rights law guarantees the rights to the freedoms of expression, peaceful assembly and association.<sup>60</sup> Those rights must be respected by Israel, and any restrictions on them must be imposed in accordance with the relevant provisions of international human rights law and international humanitarian law.

#### IV. Recommendations

40. **The recommendations below should be read in conjunction with the numerous recommendations contained in previous reports of the Secretary-General and the United Nations High Commissioner for Human Rights.**

41. **The Secretary-General recommends that Israel:**

(a) **Ensure that any use of force is in compliance with international law, including during law enforcement operations, by regulating the use of live ammunition, ensuring that security forces are adequately equipped and trained on the use of less-lethal weapons and adopting appropriate disciplinary and penal sanctions for members of security forces who do not respect such regulations;**

(b) **Promptly subject to independent, impartial, prompt, thorough and effective criminal investigation all incidents of use of force that result in the killing or injury of the victims, hold accountable the individuals responsible and provide appropriate redress to victims;**

(c) **End all practices that may amount to collective punishment against the civilian population;**

(d) **Immediately lift the closures in Gaza and ensure that the right of freedom of movement is guaranteed to all Palestinians in the Occupied Territory, including Palestinian patients; any restrictions on freedom of movement must be in accordance with international law;**

(e) **End all practices of arbitrary detention and ensure that the rights of detainees are respected;**

<sup>59</sup> Entry into law of amendment No. 30, 5778-2018. In April 2019, the Ministry of the Interior announced that it was considering revoking the residency permits of two East Jerusalem residents serving long prison sentences; see Hamoked, “Hamoked to the Minister of Interior: retract your intention to revoke the permanent status of two residents of East Jerusalem serving long prison sentences”, 7 May 2019.

<sup>60</sup> International Covenant on Civil and Political Rights, arts. 19, 21 and 22.

(f) **Respect the rights of Palestinian children, including the right to life, and ensure that Palestinian children are treated with due consideration for their age and detained only as a last resort and, if so, for the shortest possible time;**

(g) **Ensure that journalists, human rights defenders and civil society actors are able to conduct their activities without harassment or being subjected to legal proceedings in violation of international human rights law and that their rights are respected and protected;**

(h) **Take all measures to ensure full respect for international humanitarian law, particularly with regard to civilians living under occupation, and in conduct during hostilities, and ensure accountability for all violations of that law.**

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