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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Chile,* Cuba, Ecuador,* Namibia, Pakistan, Venezuela (Bolivarian Republic of)
and State of Palestine*:** draft resolution

49/... Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and all relevant conventions, and affirming that these human rights instruments, among others, are applicable to and must be respected in the Occupied Palestinian Territory, including East Jerusalem,

Recalling also the relevant rules and principles of international law, including international humanitarian law, in particular the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949 (Fourth Geneva Convention), which is applicable to the Occupied Palestinian Territory, including East Jerusalem,

Recalling further the statement of 15 July 1999 and the declarations adopted on 5 December 2001 and 17 December 2014 at the Conference of High Contracting Parties to the Fourth Geneva Convention on measures to enforce the Convention in the Occupied Palestinian Territory, including East Jerusalem,

Recalling relevant resolutions of the Human Rights Council, the General Assembly and the Security Council,

Recalling also relevant United Nations reports, including the outcome reports of fact-finding missions and commissions of inquiry, and the important recommendations made therein, and calling upon all duty bearers and United Nations bodies to pursue the implementation of those recommendations,

Stressing the urgency of achieving without delay an end to the Israeli occupation that began in 1967,

* State not a member of the Human Rights Council.

** On behalf of the States Members of the United Nations that are members of the Organization of Islamic Cooperation, except Albania and Cameroon.



Affirming the obligation of all parties to respect international humanitarian law and international human rights law,

Emphasizing the need for States to investigate and prosecute grave breaches of the Geneva Conventions of 1949 and other serious violations of international humanitarian law, to end impunity, to uphold their obligations to ensure respect and to promote international accountability,

Regretting the lack of progress made in the conduct of domestic investigations in accordance with international law standards, and aware of the existence of numerous legal, procedural and practical obstacles in the Israeli and Palestinian civil and criminal legal systems contributing to the denial of access to justice for Palestinian victims and of their right to an effective judicial remedy,

Noting the accession by the State of Palestine to several human rights treaties and the core humanitarian law conventions, and its accession on 2 January 2015 to the Rome Statute of the International Criminal Court,

Recalling the advisory opinion rendered on 9 July 2004 by the International Court of Justice on the legal consequences of the construction of a wall in the Occupied Palestinian Territory,

Noting in particular the Court's reply, including that the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime are contrary to international law,

Reaffirming the principle of the inadmissibility of the acquisition of territory by force, and deeply concerned at the fragmentation of the Occupied Palestinian Territory, including East Jerusalem, through settlement activities and other measures that are tantamount to de facto annexation of Palestinian land,

Gravely concerned that long-standing impunity for international law violations has allowed for the recurrence of grave breaches and serious violations without consequence, and stressing the need to ensure accountability for all violations of international humanitarian law and international human rights law in order to end impunity, ensure the access of victims to justice and effective remedies, deter further violations, protect civilians and promote peace,

Expressing grave concern at reports of serious human rights violations and grave breaches of international humanitarian law, including of possible war crimes and crimes against humanity, in the Occupied Palestinian Territory, including East Jerusalem, and all other actions designed to change the legal status, geographical nature and demographic composition of the Occupied Palestinian Territory, including East Jerusalem,

Deploring the continuing and negative consequences of the conflicts in and around the Gaza Strip, including all casualties, particularly among Palestinian civilians, including children, and ongoing violations of international law, and calling for full respect for international humanitarian and human rights law and for the principles of legality, distinction, precaution and proportionality,

Gravely concerned about the dire humanitarian, socioeconomic and security situation in the Gaza Strip, including that resulting from the prolonged closures and severe economic impediments and movement restrictions that in effect amount to a blockade, and about the short- and long-term detrimental impact of this situation, and the widespread destruction and continued impediments to the construction and reconstruction process imposed by Israel, the occupying Power, on the human rights situation,

Expressing grave concern at the firing of rockets into Israel,

Stressing the need to end immediately the closure of the Gaza Strip and for the full implementation of the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing, both of 15 November 2005, to allow for the freedom of movement of the Palestinian civilian population within and into and out of the Gaza Strip, while taking into account Israeli security concerns,

Stressing also the need to end the Israeli policy of closures and the imposition of severe restrictions and checkpoints, several of which have been transformed into structures

akin to permanent border crossings, other physical obstacles and a permit regime, which are applied in a discriminatory manner affecting the Palestinian population only and all of which obstruct the freedom of movement of persons and goods, including medical and humanitarian goods, throughout the Occupied Palestinian Territory, including East Jerusalem, and impair the Territory's contiguity, violating the human rights of the Palestinian people,

Stressing further the need for all parties, in conformity with relevant provisions of international humanitarian law, to cooperate fully with the United Nations and other humanitarian agencies and organizations and to ensure the rapid and unhindered access of humanitarian personnel, and the delivery of supplies and equipment, in order to allow such personnel to perform efficiently their task of assisting affected civilian populations, including refugees and internally displaced persons,

Deploring all policies and practices whereby Israeli settlers who reside illegally in the Occupied Palestinian Territory, including East Jerusalem, are accorded preferential treatment over the Palestinian population, and also deploring the widespread violations of the human rights of Palestinian civilians, including as a result of recurrent and escalating settler attacks,

Expressing deep concern that thousands of Palestinians, including many children, women, elected members of the Palestinian Legislative Council and human rights defenders, continue to be detained, including under terms of administrative detention with limited or no judicial recourse, and held in Israeli prisons or detention centres under harsh conditions, including unhygienic conditions, solitary confinement, restricted access to proper medical care, including in a time of pandemic, denial of family visits and denial of due process, that impair their well-being, and expressing deep concern also at the ill-treatment and harassment of Palestinian prisoners and all reports of inhumane treatment and torture,

Recalling the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), and calling for respect for those rules,

Recalling also the prohibition under international humanitarian law of individual and mass forcible transfers, and of the deportation of protected persons, from occupied territory, and the prohibition of deportation or transfer by the occupying Power of parts of its own civilian population into the territory it occupies,

Deploring the practice of withholding the bodies of those killed, and calling for the release of the bodies that have not yet been returned to their relatives, in accordance with international humanitarian law and international human rights law,

Recognizing the work of Palestinian, Israeli and international civil society actors, humanitarian agencies and human rights defenders in documenting, countering violations of international law and providing relief to affected persons in the Occupied Palestinian Territory, including East Jerusalem,

Convinced of the need for an international presence to monitor the situation, to contribute to ending the violence and protecting the Palestinian civilian population and to help the parties to implement the agreements reached, and stressing the importance of non-governmental organizations, which have been instrumental to human rights monitoring, protection and relief efforts undertaken by the international community, and expressing concern about the decision taken by Israel to proscribe certain Palestinian non-governmental organizations,

1. *Demands* that Israel, the occupying Power, withdraw from the Palestinian territory occupied since 1967, including East Jerusalem, and stresses that all efforts to end the Israeli-Palestinian conflict should be grounded in respect for international humanitarian law and international human rights law and relevant United Nations resolutions;

2. *Stresses* the imperative of credible, timely and comprehensive accountability for all violations of international law in order to attain justice for the victims and establish a just and sustainable peace;

3. *Reiterates* that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem, in violation of the relevant

provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council are illegal and have no validity;

4. *Affirms* that no State shall recognize as lawful a situation created by a serious breach by a State of an obligation arising under a peremptory norm of general international law, nor render aid or assistance in maintaining that situation, and all States shall cooperate to bring to an end through lawful means any serious breach;

5. *Deplores* the persistent non-cooperation of Israel with the special procedures of the Human Rights Council and other United Nations mechanisms seeking to investigate alleged violations of international law in the Occupied Palestinian Territory, including East Jerusalem, and calls for full cooperation with the Council and all its special procedures, relevant mechanisms and inquiries, and with the Office of the United Nations High Commissioner for Human Rights;

6. *Demands* that Israel, the occupying Power, cease all illegal actions in the Occupied Palestinian Territory, including East Jerusalem, including the establishment and expansion of settlements; the demolition of privately owned and residential structures belonging to Palestinians, including punitive home demolitions; the forcible transfer of Palestinian inhabitants and the revocation of residency permits of Palestinians living in East Jerusalem through various discriminatory laws; excavations in and around religious and historic sites; and all other unilateral measures aimed at altering the character, status and demographic composition of the territory as a whole, all of which have, inter alia, a grave and detrimental impact on the human rights of the Palestinian people and the prospects for a just and peaceful settlement;

7. *Also demands* that Israel, the occupying Power, comply with its legal obligations under international law, as mentioned in the advisory opinion rendered on 9 July 2004 by the International Court of Justice and demanded by the General Assembly in its resolutions ES-10/15 and ES-10/13, and that it immediately cease the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem, dismantle forthwith the structure situated therein, repeal or render ineffective all legislative and regulatory acts relating thereto, and make reparation for all damage caused by the construction of the wall, which has had a grave impact on the human rights and the socioeconomic living conditions of the Palestinian people;

8. *Calls upon* Israel to immediately cease any demolitions or plans for demolitions that would result in the forcible transfer or forced eviction of Palestinians, to facilitate the return of Palestinian families and communities already subjected to forcible transfer or eviction to their original dwellings, and to ensure adequate housing and legal security of tenure;

9. *Expresses grave concern* at the restrictions imposed by Israel that impede the access of Christian and Muslim worshippers to holy sites in the Occupied Palestinian Territory, including East Jerusalem, and calls upon Israel to ensure non-discrimination on grounds of religion or belief and the preservation of and peaceful access to all religious sites;

10. *Urges* Israel to ensure that water resource allocation in the Occupied Palestinian Territory is not discriminatory, which has a broad impact on human rights, including in the Jordan Valley area, affected by the destruction of the wells of local civilians, roof water tanks and other water and irrigation facilities under military and settler operation since 1967;

11. *Demands* that Israel, the occupying Power, comply fully with international law, including international humanitarian law and international human rights law, and that it cease all measures and actions taken in breach of these bodies of law, and discriminatory legislation, policies and actions in the Occupied Palestinian territory that violate the human rights of the Palestinian people, including if carried out as collective punishment in violation of international humanitarian law, and any obstruction of humanitarian assistance and independent and impartial action of civil society, and that it fully respect international human rights law and comply with its legal obligations in this regard;

12. *Reiterates* the need for respect for the territorial unity, contiguity and integrity of all of the Occupied Palestinian Territory and for guarantees of the freedom of movement of persons and goods within the Palestinian territory, including movement into and from East Jerusalem, into and from the Gaza Strip, between the West Bank and the Gaza Strip, and to and from the outside world;

13. *Demands* that Israel, the occupying Power, cease immediately its imposition of prolonged closures and economic and movement restrictions, including those amounting to a blockade on the Gaza Strip, which severely restricts the freedom of movement of Palestinians within, into and out of Gaza and their access to basic rights, and which has a direct impact on livelihoods, economic sustainability and development throughout Gaza, and in this regard calls upon Israel to implement fully the Agreement on Movement and Access and the Agreed Principles for the Rafah Crossing in order to allow for the sustained and regular movement of persons and goods and for the acceleration of long overdue reconstruction in the Gaza Strip, while taking into account Israeli security concerns;

14. *Condemns* all acts of violence, including all acts of terror, provocation, incitement and destruction, including unlawful lethal and other excessive use of force by Israeli occupying forces against Palestinian civilians, including against civilians with special protected status under international law and who pose no imminent threat to life;

15. *Also condemns* the firing of rockets against Israeli civilian areas resulting in loss of life and injury, and calls for an end to all actions by militants and armed groups contrary to international law;

16. *Calls upon* all States to promote compliance with international law and all High Contracting Parties to the Fourth Geneva Convention to respect and ensure respect for international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem, in accordance with article 1 common to the Geneva Conventions, and to fulfil their obligations under articles 146, 147 and 148 of the said Convention with regard to penal sanctions, grave breaches and the responsibilities of the High Contracting Parties;

17. *Urges* all States to refrain from transferring arms when, in accordance with applicable national procedures and international obligations and standards, they assess that there is a clear risk that such arms might be used to commit or facilitate serious violations or abuses of international human rights law or serious violations of international humanitarian law;

18. *Reiterates* the responsibility of Israel, the occupying Power, to respect the right to health of all persons within the Occupied Palestinian Territory and to facilitate the immediate, sustained and unfettered passage of humanitarian relief, including the access of medical personnel, the entry of humanitarian equipment, transport and supplies to all areas under occupation, including the Gaza Strip, and the granting of exit permits for patients in need of medical treatment outside the Gaza Strip, and stresses the need for the unhindered passage of ambulances at checkpoints, especially in times of conflict;

19. *Calls upon* Israel, the occupying Power, to comply immediately with its international law obligations to the protected occupied population, and ensure non-discriminatory access to vaccines for immunization against the coronavirus disease (COVID-19) in the Occupied Palestinian Territory, including East Jerusalem, including in coordination with the Government of the State of Palestine;

20. *Urges* Member States to continue to provide emergency assistance, including humanitarian relief and development assistance, to the Palestinian people to alleviate the financial crisis and the dire socioeconomic and humanitarian situation, particularly in the Gaza Strip;

21. *Calls* for an end to all harassment, threats, intimidation and reprisals against human rights defenders and civil society actors who peacefully advocate for the rights of the Palestinian people, including by cooperating with United Nations human rights bodies, calls for their protection, and underscores the need to investigate all such acts and to ensure accountability and effective remedies;

22. *Calls upon* Israel to revoke any unsubstantiated designations of Palestinian human rights and humanitarian organizations as terrorist or unlawful organizations, and refrain from using anti-terrorism legislation to undermine civil society and its valuable work and contributions to the pursuit of accountability;

23. *Expresses deep concern* at the conditions of the Palestinian prisoners and detainees, including minors, in Israeli jails and detention centres, and at the continued use of administrative detention, and calls upon Israel to explicitly prohibit torture, including psychological torture and other cruel, inhuman or degrading treatment or punishment; to fully respect and abide by its international law obligations towards all Palestinian prisoners and detainees in its custody, including ensuring access to medical care and vaccinations, including in the context of the ongoing pandemic; to implement fully the agreement reached in May 2012 for a prompt and independent investigation into all cases of death in custody; and to release immediately all Palestinian prisoners, including Palestinian legislators, detained in violation of international law;

24. *Demands* that Israel cease its policy of transferring prisoners from the Occupied Palestinian Territory into the territory of Israel, and respect fully its obligations under article 76 of the Fourth Geneva Convention;

25. *Urges* Israel to ensure that any arrest, detention and/or trial of Palestinian children is in line with the Convention on the Rights of the Child, including by refraining from holding criminal proceedings against them in military courts that, by definition, fall short of providing the necessary guarantees to ensure respect for their rights and that infringe upon their right to non-discrimination;

26. *Emphasizes* the need to ensure that all those responsible for violations of international humanitarian law and international human rights law are held to account through appropriate, fair and independent national or international criminal justice mechanisms, and to ensure the provision of an effective remedy for all victims, including full reparations, and stresses the need to pursue practical steps towards these goals to ensure justice for all victims and to contribute to the prevention of future violations;

27. *Requests* the United Nations High Commissioner for Human Rights to end the reporting on the implementation of Human Rights Council resolutions S-9/1 and S-12/1;

28. *Also requests* the United Nations High Commissioner for Human Rights to report on the implementation of the present resolution to the Human Rights Council at its fifty-second session, to be followed by an interactive dialogue;

29. *Decides* to remain seized of the matter.
