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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

Human rights situation in Palestine and other
occupied Arab territories

Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S- 12/1*

Summary

The present report is the High Commissioner's third periodic report on the human rights situation in the Occupied Palestinian Territory submitted in the light of Human Rights Council resolutions S-9/1 and S-12/1.

* Late submission.

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I. Introduction

1. This is the High Commissioner's third periodic report on the human rights situation in the Occupied Palestinian Territory. It covers the period from 4 February to 30 November 2010.

2. Information in this report is based primarily on human rights monitoring carried out by the Office of the United Nations High Commissioner for Human Rights field presence in the Occupied Palestinian Territory (OHCHR-OPT). Monitoring activities are implemented within the framework of General Assembly resolution 48/141 of 1994, which established the mandate of the High Commissioner for Human Rights, and in consideration of Human Rights Council resolutions S-9/1 and S-12/1, which requested that the High Commissioner for Human Rights monitor, document and report on human rights violations in the Occupied Palestinian Territory, particularly in Gaza and East Jerusalem.

3. It is noted that OHCHR-OPT communicated with the Government of Israel and the Palestinian Authority during the preparation of this report. OHCHR-OPT acknowledges the positive cooperation of both parties. An ongoing dialogue with duty-bearers is essential in order to conduct meaningful human rights monitoring and reporting. OHCHR-OPT will continuously seek to develop its cooperation and communication with the respective authorities. With regard to the Government of Israel, it is hoped that these contacts can be extended beyond officials in the Ministry of Foreign Affairs, and also include the Israeli Defence Forces (IDF) and other counterparts. In this respect, the positive indications from the Ministry of Foreign Affairs are noted with appreciation. With regard to the Palestinian Authority, OHCHR-OPT is pleased to note the good cooperation with the Ministry of Foreign Affairs, Ministry of the Interior and other counterparts.

II. Legal framework

4. International human rights law and international humanitarian law are applicable in the Occupied Palestinian Territory. Detailed analysis of the legal framework and the basis for the obligations of the different duty-bearers in the Occupied Palestinian Territory, namely the State of Israel as the Occupying Power, the Palestinian Authority and the de facto authorities in Gaza, is contained in the High Commissioner's first periodic report on the situation of human rights in the Occupied Palestinian Territory (A/HRC/12/37, paras 5–9). This analysis remains valid.

III. The human rights situation in Gaza

A. Update on the general human rights situation

5. The Israeli blockade continued to significantly impact the human rights situation in Gaza. Though there was a moderation of the policy relating to the movement of goods in June, no significant change in the blockade regime occurred. This includes in relation to the movement of persons and exports from Gaza. From June to October, the monthly average of truckloads entering Gaza equalled 65 per cent of the monthly average before the blockade.¹ Restrictions on exports remained, with a few exceptions, as did restrictions on

¹ Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory (OCHA), *Humanitarian Monitor*, October 2010.

cement and construction materials, thereby impeding reconstruction and economic recovery.² Economic and social rights, such as the rights to work and food, were acutely affected. The unemployment rate was estimated at more than 44 per cent of Gaza's workforce. Nearly 1.1 million Palestinians relied on United Nations food assistance.³ Access to electricity improved, yet supply still fell short of demand by around 30 per cent.⁴ As of 1 September, four to six-hour blackouts affected Gaza on a daily basis.

6. Restrictions on movement continued to negatively impact the right to health. Between February and October, three patients died while requests for permits to travel to the West Bank, Israel or abroad were delayed.⁵ For instance, a 2-year-old child with cancer, who was scheduled to receive chemotherapy on 6 October, died on 16 October after her permit was delayed.⁶

7. Restrictions on movement prevented persons in Gaza from visiting family members detained in Israel. Seven hundred and twenty-six Gazans remained detained in Israel,⁷ in contravention of article 76 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention). Since the imposition of the blockade, family members of detainees have not been allowed to enter Israel, thereby de facto ending family visits.

8. Indiscriminate rocket and mortar fire from Gaza continued. During the reporting period, Palestinian militants launched an estimated 275 rockets and mortars in the direction of Israel. On 18 March, a rocket landed in Moshav Netiv Ha'asara, killing a foreign national.⁸ This was the first fatality due to a rocket attack since operation "Cast Lead".

B. Issues of particular concern

1. "Buffer zone" and fishing limit area

9. The Government of Israel continued to restrict access to the 300-metre-wide "buffer zone," areas located up to about 1,500 metres from the barrier around Gaza, and sea areas beyond 3 nautical miles from shore. IDF regularly fired shots in the direction of Palestinians near these areas, in some cases directly targeting them. On 12 September, an IDF tank stationed at the northern Gaza-Israel barrier fired four shells toward a farm in the Shurrab area. At least two shells landed on the farm,⁹ killing three Palestinians: Ibrahim Abedallah Sulieman Abu Saied, 91 years old, Husam Khalid Ibrahim Abu Saied, 17 years old, and Isameil Waleed Abu Udah, 17 years old. The farm is located within 800 metres of the barrier. Media reported that IDF sources confirmed the attack, explaining that the three

² Ibid.

³ *Humanitarian Monitor*, September 2010.

⁴ Ibid.

⁵ Information obtained from the World Health Organization (WHO) on 24 November 2010.

⁶ Case monitored by OHCHR. An appointment was set by Haemek Medical Center for the child on 6 October. IDF refused to grant her father a permit, asking for another companion (her father had accompanied her previously). Following the intervention of human rights organizations, IDF granted the father a permit on 14 October. It was too late as the child's health condition had deteriorated, and it was not possible to transfer her to the centre.

⁷ Palestine Monitor, "Palestinian Prisoners Day: 2010", 22 April 2010. Available from www.palestinemonitor.org/spip/spip.php?article1366.

⁸ Permanent Mission of Israel to the United Nations Office at Geneva and Other International Organizations, letters to the High Commissioner dated 15 March 2010, 9 April 2010, 30 July 2010, and 22 November 2010.

⁹ Case monitored by OHCHR, 14–23 September.

Palestinians were not involved in any hostile act but had been shelled because they were thought to have been aiming a rocket launcher at the barrier.¹⁰ In a similar incident, on 13 July, a 33-year-old woman was killed and three of her relatives injured when IDF along the barrier east of Johr El Deek fired three shells. One shell landed close to her house located within 35–400 metres of the barrier. OHCHR was informed that IDF restricted the access of ambulances, and only authorized them to evacuate the dead and injured more than three hours after the attack.¹¹

10. OHCHR documented several cases in which individuals were shot near the “buffer zone.” On 2 November, a man was collecting scrap metal and plastic around 400 metres from the barrier in Johr El Deek. He was shot in his shoulder by IDF. According to information gathered, the situation in the area was calm at the time, with no rocket or mortar attacks having taken place. On 22 October, in Beit Hanoun a man was shot below the knee with a bullet fired by IDF. The man had been collecting scrap metal 250–300 metres from the barrier. On 10 July, a 14-year-old boy was collecting scrap metal west of Beit Lahia, within 500 metres of the barrier, when he was shot in the leg.¹² Many Gazans conduct this type of activity in light of the economic hardship and lack of employment opportunities.

11. Israeli Naval Forces continued to impede access of Palestinian fisherman beyond 3 nautical miles from shore. The enforcement of this restriction, including by use of live ammunition, severely limited fishing activities. Since the beginning of 2010 to 1 October, at least three Palestinian fishermen were killed and seven injured in incidents in which Israeli Naval Forces opened fire.¹³ On 24 September, approximately 1,500 metres from the shore, an Israeli patrol boat approached a Palestinian fishing boat and opened fire, resulting in the death of one fisherman. According to information collected by OHCHR, the patrol boat left the scene, failing to offer medical care or otherwise assist.

12. The manner in which the “buffer zone” was enforced raises serious legal concerns. In particular, the use of live ammunition against civilians violates the prohibition on targeting civilians unless they are directly taking part in hostilities. Presence in a restricted area is not equivalent to directly participating in hostilities. Many of these incidents constitute a violation of the right to life and may also amount to extrajudicial executions. The use of live ammunition against civilians in the “buffer zone” impinges upon other human rights, such as the rights to work, an adequate standard of living and health. The de facto prohibition on cultivation of around 30 per cent of the arable land of Gaza, due to the delimitation and enforcement of the “buffer zone”, has a severe impact on the right to food.

2. Arbitrary detention, torture and the death penalty

13. On 15 April, the de facto authorities executed two men. Three further men were executed on 17 May (OHCHR monitored these developments). The five executions proceeded without the ratification of the death sentences by the president of the Palestinian Authority, which is a requirement under the Palestinian Basic Law. The de facto authorities’ Ministry of Interior announced on 19 September its intention to persist with executions.¹⁴

¹⁰ Anshel Pfeffer, “IDF probe: Palestinians killed by IDF shelling were not militants”, *Haaretz*, 15 September 2010.

¹¹ Case monitored by OHCHR, 26 July.

¹² Case monitored by OHCHR, 13 July.

¹³ *Humanitarian Monitor*, November 2010.

¹⁴ See Palestinian Ministry of Interior (Gaza), press release. Available from www.moi.gov.ps/Page.aspx?page=details&nid=19065.

14. According to information collected by OHCHR, the de facto authorities' courts had delivered at least six death sentences since the beginning of 2010. Several of these sentences were delivered by military courts.¹⁵ In violation of international human rights, in particular article 14, paragraph 5, of the International Covenant on Civil and Political Rights, there is no right to appeal a verdict of a military court to a higher tribunal. It is the position of OHCHR that civilians should, in principle, not be tried by military courts. Other sentences were delivered by civil courts.¹⁶ In some cases, OHCHR received allegations of torture being used to extract confessions. For example, OHCHR received reports that one suspect was subjected to beatings and *shabeh*¹⁷ for 15–20 days.

15. Arbitrary detention, ill-treatment and torture of detainees by different branches of the de facto authorities' security forces continued to be reported. In one incident, one man was detained by approximately five security personnel of the de facto authorities and was taken to a police station where he was ill-treated. According to information collected by OHCHR, security personnel tied him to a pillar and beat him with sticks. When he was examined at the hospital blood tests showed serious problems in both kidneys.¹⁸

16. Kidnapping and torture by unknown gunmen continued to be reported. In March, three masked gunmen kidnapped a former police officer of the Palestinian Authority. They interrogated him for around four hours regarding his political affiliation. He was beaten around the head with an iron chain and tortured with electric shocks, and threatened not to report his case. He suffered cuts and bruises all over and was hospitalized after being released. It was reported that the police started an investigation into the incident following a complaint lodged by the victim's family. The results of the investigation had not been released at the conclusion of the reporting period.¹⁹

3. Shrinking space for the national human rights institution and civil society actors

17. These developments occurred as the national human rights institution (Palestinian Independent Commission for Human Rights, ICHR) and civil society organizations faced increasing restrictions on their activities. On 24 August, the Reform and Change bloc passed the second reading of a bill that would allow the Palestinian Legislative Council (PLC) to appoint unilaterally the ICHR governing commissioner. This contradicts the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) on the composition and guarantees of independence and pluralism of national human rights institutions. The draft bill would also give PLC the power to control the properties and staff of ICHR in Gaza, and de facto separate ICHR in Gaza from ICHR in the West Bank.

18. On 31 May, the de facto authorities' security forces raided civil society organizations in Rafah and Gaza City, searching premises, confiscating equipment and documents, and eventually closing certain organizations.²⁰ The de facto authorities stated that some of these organizations were involved in Fatah-affiliated political activities, while others had engaged in "immoral conduct".²¹ On 30 November, Gaza police implemented a decision taken by the de facto authorities' attorney general to shut down all offices of the

¹⁵ For example, on 22 September, Omar Hmeidani Kawara was sentenced by a Gaza military court to death by firing squad.

¹⁶ For example, on 2 November, Zahi Abdul Rahman al-Masri was sentenced to the death penalty.

¹⁷ The term *shabeh* is understood to include stress positions, sensory isolation, sleep deprivation and infliction of pain, and often one or a combination of these methods for prolonged periods.

¹⁸ Case monitored by OHCHR, 19 October.

¹⁹ Case monitored by OHCHR, 17 March.

²⁰ Case monitored by OHCHR over three weeks (2–23 June).

²¹ *Ibid.*

Sharek Youth Forum, on allegations of “moral misconduct”.²² On 10 August, the de facto authorities’ police attacked and forcibly dispersed a protest against the electricity crisis. According to information collected by OHCHR, over ten people were injured and taken to the hospital. Two other participants were arrested, detained and later released.²³ The following day security forces launched a campaign to arrest members and supporters of the Popular Front for the Liberation of Palestine, the organizers of the protest. Approximately ten persons were arrested, detained for hours and then released.

19. The de facto authorities continued to ban certain Palestinians newspapers in Gaza (*Al-Hayat*, *Al-Quds* and *Al-Ayyam*), and its security forces continued to attack journalists. On 4 August, police officers attacked a reporter while he covered an event in Khan Younis. According to the journalist, police were aware of his status as a journalist, as he had provided his credentials. Yet police beat him and ordered him not to take photos. The journalist had to receive medical treatment. He complained to the police on 5 August and, according to the journalist, the police showed no willingness to investigate the incident.²⁴

IV. The human rights situation in the West Bank, including East Jerusalem

A. Update on the general human rights situation

1. Tense situation in East Jerusalem

20. Tension in East Jerusalem increased during the reporting period, in particular due to frequent violence by Israeli settlers against Palestinians and their properties, the demolition of Palestinian homes by Israeli authorities, limited access for Palestinians to the Al-Aqsa Mosque, arbitrary detention by Israeli security forces and the occupation of Palestinian homes by Israeli settlers. These tensions often resulted in clashes involving Palestinians, Israeli security forces and Israeli settlers.

21. Following the publication of a development plan by the Israeli municipality in early March,²⁵ Silwan became a scene of frequent violent confrontations between Israeli police, Israeli settlers, Israeli private security personnel and Palestinians. On 25 April, clashes were sparked by a march sponsored by Israeli settlers protesting the construction of Palestinian homes. At least 29 Palestinians were injured, including three medical personnel and one journalist.²⁶

22. OHCHR received reports that Israeli police increased arrests of children in Silwan. More than 28 Palestinian children were arrested during the reporting period. Most were arrested at their houses late at night and charged with threatening Israeli security. Some were sentenced to house arrest and prohibited from attending school.²⁷

²² According to information collected by OHCHR, the de facto authorities’ Ministry of Interior alleged that its security forces found pornographic material on staff computers.

²³ According to information gathered by OHCHR.

²⁴ Interview carried out by OHCHR on 8 August.

²⁵ The “King’s Garden” project was presented at a press conference held on 2 March by Israeli Mayor of Jerusalem, Nir Barkat.

²⁶ Jerusalem Center for Social and Economic Rights, “Fierce clashes erupted in Silwan during the provocative march of settlers, 25 April 2010. Available from www.jcser.org.

²⁷ OHCHR visited Silwan on 22 October to monitor.

2. Revocation of residency rights

23. Palestinians living in East Jerusalem continued to face problems with regard to residency permits (A/HRC/13/54, para. 37). In addition to the justifications used to revoke residency that were already employed, the case of four East Jerusalem residents,²⁸ all current or former members of PLC, revealed a new justification given for revoking residency. According to information available to OHCHR, following the 2006 Palestinian elections the four PLC members received notification that their residency would be revoked. The basis provided was that membership in the parliament of a hostile entity is incompatible with loyalty to Israel. They were arrested in May 2006, found guilty of affiliation with Hamas and served prison terms. OHCHR was informed that, following the release of the last PLC member, all four had their identity cards confiscated and received letters from the Government of Israel informing them that they had 30 days to leave East Jerusalem. Mr. Abu Tier was detained on 30 June. He was later transferred to another location in the West Bank, whereupon the three other PLC members sought refuge in the East Jerusalem offices of the International Committee of the Red Cross, where they remained at the time of the finalization of this report.

24. Article 49 of the Fourth Geneva Convention prohibits the forcible transfer of civilians of an occupied territory, except when necessary to ensure the security of the civilians involved. The revocation of residency rights may also violate the right to privacy and family and a wide range of economic, social, and cultural rights. The stated basis for the revocation of residency in these cases – the lack of loyalty to Israel – is analogous to “swearing allegiance.” Article 45 of the Regulations Respecting the Laws and Customs of War on Land (Hague Regulations) prohibits forcing residents of the occupied territory to swear allegiance to the hostile power.

3. Freedom of movement

25. Movement between Palestinian communities within the West Bank (excluding East Jerusalem and Palestinian communities located to the west of the Wall) improved. Measures adopted by IDF included the removal of obstacles; transformation of six checkpoints into “partial” checkpoints; relaxation of controls at some checkpoints; lifting of permit requirements for vehicles driving to and from Nablus; and opening three sections of roads to Palestinians.²⁹

26. Access from the rest of the West Bank to East Jerusalem remained difficult. Access to East Jerusalem for Palestinians holding West Bank identification who have obtained an entry permit was restricted to 3 of the 16 checkpoints along the Wall. Overcrowding, multiple layers of checks and other procedures at these checkpoints continued to encumber entry into East Jerusalem. Restrictions on freedom of movement continued to impact a range of human rights, such as the rights to work, education, family life, freedom of religion and health (see A/HRC/12/37, para. 76).

4. Military Orders Nos. 1649 and 1650

27. On 13 April, two IDF regulations came into effect which raise concerns regarding Israeli obligations under international human rights law and international humanitarian law. Military Orders Nos. 1649 and 1650, in particular due to their lack of clarity, appear to authorize IDF to detain, prosecute, imprison and/or forcibly transfer an undefined number of people from the West Bank. A principal concern is that the definition of the term

²⁸ Muhammad Abu Tier, Ahmad Attoun, Muhammad Totah, and Khaled Abu Arafah.

²⁹ OCHA, *West Bank Movement and Access Update* (East Jerusalem, 2010), p. 2.

“infiltrator” in Order No. 1650 refers to a permit that is required to be present in the West Bank, yet the said permit is not defined in law. This lack of clarity potentially exposes anyone in the West Bank to forcible transfer.³⁰

28. A further concern relates to the possibility that persons can be forcibly transferred without judicial review. Whereas Order No. 1649 establishes a committee, to be appointed by military officers and comprised of military judges, to review appeals against “deportation orders”, Order No. 1650 provides that persons for whom a “deportation order” has been issued can be forcibly transferred before they are brought before this committee.³¹ In addition, the orders do not require that detained persons be informed in a language they understand that a “deportation order” has been issued or what rights they have under the orders. IDF can also charge detained persons for expenses related to their detention or, where they cannot cover these expenses, can seize assets for this purpose.

29. In its consideration of the third periodic report of Israel on implementation of the Covenant on Civil and Political Rights in July 2010, the Human Rights Committee expressed concern with the issuing of these two orders. It stated that Israel, “should refrain from expelling long-term residents of the West Bank to the Gaza Strip on the basis of their former addresses” and should “ensure that any person subject to a deportation order is heard and may appeal the order to an independent, judicial authority” (CCPR/C/ISR/CO/3, para. 14). It is recalled that article 49 of the Fourth Geneva Convention prohibits individual forcible transfer or deportation of protected persons, “regardless of their motive”.

5. Home demolitions and expansion of settlements

30. Forced evictions and the demolition of buildings, including homes, continued to take place in the West Bank, including East Jerusalem. From January through the end of November, 347 Palestinian structures were demolished in these areas (84 per cent in Area C). This represents an increase compared to the same period in 2009 (265 demolitions).³² As a result, approximately 1,300 Palestinians, including 700 children, were forcibly displaced or otherwise negatively affected. At the conclusion of the reporting period, the Office for the Coordination of Humanitarian Affairs reported an increase in demolition orders.³³

31. Home demolitions were of particular concern in Area C and East Jerusalem.³⁴ Between January and July, 199 Palestinian structures, including 59 homes, were

³⁰ It is noted that the Government of Israel stated that “population registry documentation issued by the Palestinian Authority pursuant to the Israel-Palestinian Interim Agreement 1995 falls into the category of lawful permits.” Permanent Mission of Israel to the United Nations Office at Geneva and Other International Organizations, letters to the High Commissioner dated 29 April 2010. This clarification is welcome, yet it is not consistent with the language of Order No. 1650. Furthermore, OHCHR received reports that Israel has generally restricted changes to the population registry since 2000. It is therefore not likely to accurately reflect the West Bank population.

³¹ It is noted in the aforementioned letters to the High Commissioner dated 29 April 2010 that the Government of Israel stated that the committee established by Order No. 1649 provides “additional safeguards and protections to the existing legislation”. Yet there is nothing in the orders that guarantees that persons against whom “deportation orders” have been issued must be brought before the committee in advance of being deported. The orders outline detailed timeframes that allow persons to be forcibly transferred prior to appearing before the committee.

³² *Humanitarian Monitor*, November 2010.

³³ *Ibid.*

³⁴ See joint alternative report submitted by the Centre on Housing Rights and Evictions and Al-Haq to the Human Rights Committee, on the occasion of the consideration of the third periodic report of Israel, June 2010.

demolished in Area C, displacing 242 people and undermining the livelihoods of an additional 696. Demolitions occurred during the enforcement of evacuation orders issued against Palestinians living in “closed military zones”. More than 33 per cent of Area C has been declared a “closed military zone”, leaving 59 communities highly vulnerable to demolition.³⁵ It is recalled that only 1 per cent of the land in Area C is designated for Palestinian construction.³⁶

32. In East Jerusalem, only 13 per cent of the land is designated for Palestinian construction.³⁷ This has resulted in a housing crisis for Palestinians living in East Jerusalem. At least 28 per cent of Palestinian homes in East Jerusalem are built in contravention of the Israeli zoning regime, putting about 60,000 Palestinians in East Jerusalem at risk of displacement.³⁸ It is estimated that there are at least 1,500 pending demolition orders in East Jerusalem, potentially affecting several thousand Palestinians.³⁹

33. The threat of demolition is heightened in Silwan. In 2010, the Israeli-controlled municipality approved a development plan for the Al-Bustan area of Silwan. The plan would lead to the demolition of more than 40 Palestinian homes; if implemented, approximately 500 Palestinians would be displaced.⁴⁰ In October, protests occurred after Israeli police posted notices on several Palestinian homes, which prompted violent clashes between Israeli settlers, Israeli police and Palestinians.⁴¹ In the Sheikh Jarrah neighbourhood, several Palestinian families are at risk of displacement due to the efforts of Israeli settler organizations to forcibly evict them.⁴²

34. Article 53 of the Fourth Geneva Convention prohibits any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons. Israel, as the Occupying Power, is obliged by international humanitarian law, and specifically article 43 of the Hague Regulations, to protect the local population and ensure its safety and welfare. The destruction of civilian homes also violates the right to adequate housing, including as a violation of the International Covenant on Economic, Social and Cultural Rights (article 11, para. 1).

B. Issues of particular concern

1. Killings in the course of search and arrest operations by the IDF

35. IDF continued to conduct search and arrest operations in the West Bank. Larger operations allegedly involved several dozen soldiers. Some resulted in the killing of persons targeted by the operations. While OHCHR documented several cases, the following are given as appropriate examples.

³⁵ See generally OCHA, “Area C Humanitarian Response Plan – Fact Sheet”, August 2010.

³⁶ Ibid.

³⁷ *Humanitarian Monitor*, October 2010. See also “Joint Alternative Report”, p. 16.

³⁸ OCHA, “The Planning Crisis in East Jerusalem”, April 2009.

³⁹ OCHA, “The Case of Sheikh Jarrah – Fact Sheet”, October 2010.

⁴⁰ *Humanitarian Monitor*, June 2010.

⁴¹ Saed Bannoura, “Israel Hands 231 Orders Targeting Arab Homes In Jerusalem”, 26 October 2010 (International Middle East Media Center).

⁴² See generally David Hughes et al., *Dispossession and Eviction in Jerusalem: The cases and stories of Sheikh Jarrah*, (Jerusalem, 2009, Civil Coalition for Defending Palestinian Rights in Jerusalem). According to OCHA, an estimated 475 Palestinians are at risk of forced eviction and displacement in Sheikh Jarrah.

36. On 26 December 2009,⁴³ at approximately 3.00 a.m., IDF conducted a large-scale operation in Nablus, reportedly seeking to arrest men suspected in the killing of an Israeli settler two days earlier. In the old city, IDF soldiers broke down the doors of the houses of Nader “Raed” al-Surakji and Ghassan Abu Sharkh, calling to them to come out. Both complied and when they were in sight of the soldiers, they were shot several times. In both cases, the victims were unarmed. In the case of Nader “Raed” al-Surakji, after the initial shots were fired, a soldier approached Mr. Surakji who was laying on the ground, wounded or already dead, and reportedly shot him several times at point-blank range.

37. Early morning on 17 September, several dozen IDF soldiers entered the Nur Shams refugee camp and simultaneously searched a dozen houses. Eyad As’ad Ahmad Abu-Shelbayeh was killed and 11 other Palestinians were detained. According to information collected by OHCHR, soldiers raided Mr. Abu-Shelbayeh’s house during the night, and he was shot and killed near his bed. He was unarmed.

38. According to information gathered, in both these as in other cases, IDF exercised complete control over the area during the operation. The operations targeted specific houses and had the characteristics of law enforcement operations. Thus, IDF was bound to act in conformity with article 6 of the Covenant on Civil and Political Rights, as well as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Further, limitations exist with regard to the conduct of soldiers regardless of the circumstances under which the operations take place. Foremost is the prohibition on targeting civilians. Even when pursuing a legitimate military target, the means that may be used are not unlimited.⁴⁴ It can be noted that the limitation of means in the course of military operations is supported by the jurisprudence of the Israeli High Court.⁴⁵

39. As in all cases in which there are allegations of violations of human rights or international humanitarian law, the Government of Israel has the obligation to conduct an independent, effective and thorough investigation of such incidents. This obligation is also not without support from the Israeli High Court. In this instance, the Court decided that all cases where civilians who are suspected of having taken direct part in hostilities are targeted must be the object of a thorough, independent investigation, and that such investigations may be subject to judicial review.⁴⁶ OHCHR is not aware of any investigations in relation to these incidents.

2. Killings by security forces in the course of daily security operations

40. Unarmed Palestinian civilians, who were apparently not the intended targets of a planned military or police operation, were killed in the course of routine operations by Israeli security forces in the West Bank. Three cases documented by OHCHR resulted in the death of a total of five Palestinian civilians. On 20 March, IDF was deployed to the east of Iraq Burin, as villagers had planned a demonstration there. Clashes erupted in the fields east of the village between IDF and village youths. Four or five IDF vehicles entered the

⁴³ While the incident is outside the reporting period, the case is included in the light of issues pertaining to accountability which fall within the reporting period.

⁴⁴ International Committee of the Red Cross, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law* (2009), pp. 80–81.

⁴⁵ The High Court stated: “a civilian taking a direct part in hostilities cannot be attacked at such time as he is doing so, if a less harmful means can be employed ... Indeed, among the military means, one must choose the means whose harm to the human rights of the harmed person is smallest. Thus, if a terrorist taking a direct part in hostilities can be arrested, interrogated, and tried, those are the means which should be employed.” *The Public Committee against Torture in Israel et al. v. the Government of Israel et al.*, Israeli High Court, 11 December 2005, para. 40.

⁴⁶ *Ibid.*, paras. 40 and 54.

village and set up a roadblock, while soldiers searched homes. A minibus arrived in the western section of the village and Osayd Abdelnasser Mohammad Qadous and Mohammad Ibrahim Abdel Qader Qadous, two youths from the village, left the minibus in the section of the village that was not targeted by the search operation – approximately 70–100 metres from the roadblock. Shortly thereafter, according to witnesses, an IDF soldier at the roadblock opened fire in the direction of the two boys. Osayd was shot in the head and Mohammad was shot in the chest. Mohamed was pronounced dead upon arrival at the hospital and Osayd died a few hours later. In another case, which occurred on 21 March, two boys from Awarta were tending the land outside the village when they were detained by IDF and then shot and killed. IDF alleged that the boys attempted to attack the soldiers. In a third case, on 4 October, a group of men scaled the Wall separating East Jerusalem from the rest of the West Bank in order to reach their places of work. The Israeli Border Police discovered them and, during the ensuing chase, Izz Al Dein Saleh Abdel Kareem Kawazbeh, who was unarmed, was shot and killed.

41. In the first two cases, an investigation was initiated by IDF, which according to information received by OHCHR included on-site observations and interviews with witnesses and medical staff. According to media reports, the preliminary investigations concluded that “tactical failures” had led to the death of the four Palestinians.⁴⁷ In the case of the killing of the two men from Awarta, media reported that the squad commander had been dismissed and would no longer be authorized to serve as a commander. It was also reported that the Chief Military Prosecutor had ordered an investigation into the incident.⁴⁸ In relation to the 4 October case, according to media reports⁴⁹ and information received from witnesses, the Ministry of Justice initiated an investigation.

3. Violence committed by private Israeli citizens and response by the Israeli authorities

42. Violence committed by Israeli settlers escalated. There was an increase both in the number of attacks on Palestinians and their properties and the types of violence. Since March, several attacks by settlers on Palestinian mosques, schools, farms, houses, and agriculture were reported. Acts of violence committed by settlers or related to the protection of settlements resulted in the killing of two Palestinians, cases which were documented by OHCHR.

43. On 13 May, four boys from Al Mazra’a Ash-Sharqiya went to an olive grove near Route 60, a road regularly used by settlers to travel to Jerusalem. The boys threw stones at cars. According to information received by OHCHR, a car, allegedly driven by Israelis from a nearby settlement, stopped and two or three passengers stepped out of the vehicle and opened fire. Aysar Yasser Fawwaz Razzaq was shot and died at the scene. On 22 September, Samer Mahmoud Ahmad Sarhan was shot and killed by a private security guard employed by the Ministry of Housing to provide security for settlers living in Silwan. Conflicting reports exist with regard to the circumstances surrounding this incident, namely whether the victim had been throwing stones at the vehicle of the guard implicated. According to information gathered by OHCHR, it took 30 minutes for an ambulance to arrive and more than 45 minutes for the police. Media reports indicated that the police organized a re-enactment of the incident, with the assistance of the guard involved, and that

⁴⁷ Anshel Pfeffer, “Report: Probe concludes that IDF failures led to killings of 4 Palestinians”, *Haaretz*, 5 April 2010.

⁴⁸ Chaim Levinsom, “IDF to open probe into shooting deaths of two Palestinian farmers in the West Bank”, *Haaretz*, 15 September 2010.

⁴⁹ Melanie Lidman, “Border Police kill Hebron man climbing barrier in J’lem”, *Jerusalem Post*, 4 October 2010.

the police director stated later, without further investigation, that he accepted the guard's description of the incident.⁵⁰

44. In 13 other cases monitored by OHCHR, groups of armed settlers, protected by IDF in most cases, harassed, assaulted and attacked civilians, desecrated mosques, vandalized schools and burnt olive and fruit trees and vehicles owned by Palestinians. On 14 April, settlers from Yitzhar settlement entered Huwwara in the early morning and painted graffiti on the town's mosque. The same group of settlers set fire to three cars belonging to residents. On 24 April, another group of settlers from the same settlement destroyed olive trees and property in the town. They started the attack by setting fire to olive groves. Then they attacked and damaged the public park. Windows of one house were broken. In all of these cases, the victims communicated information on the incidents to the Palestinian District Coordination Liaison Offices (DCL), which in turn filed complaints with their Israeli counterparts. OHCHR was informed that Israeli DCL officers normally receive all information on settler violence, but that they rarely communicate with the Palestinian DCL regarding follow-up.

45. The number of settler attacks rose in October, when Palestinians commenced the olive harvest. Four Israeli human rights organizations sent an urgent letter to senior Israeli military commanders, in which they called on them to take all necessary steps to ensure that Palestinians and their properties would be protected from violence and damage.⁵¹ The letter listed 35 incidents in which damage was caused to Palestinian olive trees or properties.

46. Israel has the obligation to ensure public order and safety (Hague Regulations, art. 43) throughout the West Bank. Israel must exert all efforts to stop and prevent acts of violence, especially killings perpetrated by Israeli citizens. IDF occasionally take action to prevent or limit violence committed by settlers. Victims of settler violence are then requested to file complaints at the nearest Israeli police station. Yet Israeli police rarely inform the victims of the status of the investigations, or of the prosecution of perpetrators. The very limited number of prosecutions for acts of violence committed by settlers contributes to a climate of impunity.⁵²

4. Attacks on civilians by Palestinian armed groups

47. On 31 August, a car travelling in the West Bank near Hebron was the target of a shooting, resulting in the killing of the four occupants. The occupants were reported to be Israelis from a settlement in the West Bank. The armed wing of Hamas claimed responsibility for the attack.⁵³ A day later, two Israeli settlers were wounded when their car was the target of a shooting in the Ramallah District.⁵⁴

5. Arrests and detention of children

48. There is a worrying trend for arrest, detention and mistreatment of Palestinian children in Israeli detention facilities. During the reporting period, Palestinian children were

⁵⁰ "Police commander backs Silwan shooting security guard", *Jerusalem Post*, 22 September 2010.

⁵¹ Association of Civil Rights in Israel, B'Tselem, Rabbis for Human Rights and Yesh Din – Volunteers for Human Rights, urgent letter on preventing vandalization of Palestinian olive groves and urgent request for meeting to Major General Avi Mizrahi and Brigadier General Nitzan Alon dated 28 October 2010.

⁵² See also principles 9 and 18 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Execution.

⁵³ "Hamas claims involvement in West Bank attack", *Ma'an News Agency*, 1 September 2010.

⁵⁴ "UN human rights chief condemns West Bank attacks against Israelis", press release, 2 September 2010.

arrested at checkpoints, on the street and during home raids. Children and their families were seldom informed of the charges against them.⁵⁵ Children were subjected to beating, kicking, verbal abuse and threats during interrogation. An average of 303 Palestinian children (12–17 years old) were detained in Israeli prisons during the reporting period,⁵⁶ in contravention of article 76 of the Fourth Geneva Convention. At the end of October, 256 children remained in Israeli detention, including 34 between the ages of 12–15 years.⁵⁷ Two children had remained in detention without charge or trial since March.⁵⁸ As of August, 42.5 per cent of Palestinian children in Israeli prisons were held in facilities with adults.⁵⁹ Children as young as thirteen were sentenced to house arrest away from their families.⁶⁰ OHCHR documented the case of a 13-year-old resident of Hebron who was sentenced to five months of house arrest in a home away from his family.⁶¹

6. Arbitrary detention by the Palestinian Authority and treatment in detention

49. Palestinian Authority security forces detained citizens throughout the West Bank without following appropriate legal procedures, in violation of international human rights law⁶² and the Palestinian Basic Law. From March to the conclusion of the reporting period, hundreds of Palestinians were arbitrarily detained. In many of those cases, ill-treatment was carried out by the Palestinian General Intelligence Services (Mukhabarat) or the Palestinian Preventive Security Service (PSS).

50. The arrests carried out by Palestinian security forces targeted PLC members, university professors, journalists and ordinary citizens. On 21 September, a Palestinian security force raided the house of a PLC member in Deir Al Ghusun and transported him to the security compound (Mukata'a) in Tulkarem before he was released.⁶³ Journalists were also victims of arbitrary detention. In March, the Mukhabarat arrested a Palestinian journalist while he crossed the Allenby Bridge. He was released after spending 15 days in the Mukhabarat interrogation centre in Jericho. In May, he was re-arrested and detained for approximately ten days in Juneid prison. In neither case was he charged with a crime. He was ill-treated and, when not detained, was not permitted to travel to Jordan – where he lives and works.⁶⁴ Employees of Islamic charities were also targeted by Palestinian security services. On 13 September, PSS in Hebron arrested a man who was transferred to Adh Dhahiriya and later to the PSS detention facility in Jericho. The man was detained until 3 November, whereupon he was released without having been charged.⁶⁵

⁵⁵ Defence for Children International-Palestine (DCI-Palestine), submission to European Parliament Sub-Committee on Human Rights on the hearing on Situation in Prisons in Israel and Palestine, 25 October 2010.

⁵⁶ DCI-Palestine, *Detention Bulletin*, October 2010.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ DCI-Palestine, "Submission to European Parliament" (citing figures provided by the Israeli Prison Service).

⁶⁰ See Wadi Hilweh Information Center, "New policies of arrest and deportation against Silwan children", 30 October 2010. Available from <http://silwanic.net/?p=7978>. Also "Silwan youth placed on house arrest in neighboring towns", 16 November 2010. Available from <http://silwanic.net/?p=8609>.

⁶¹ Permanent Observer Mission of Palestine to the United Nations Geneva, letter to the High Commissioner dated 1 October 2010.

⁶² For example, article 9 of the Covenant on Civil and Political Rights.

⁶³ Case monitored by OHCHR on 29 September.

⁶⁴ Case monitored by OHCHR on 27 May.

⁶⁵ Case monitored by OHCHR on 11 November.

51. Following the killing of four Israeli settlers in the Hebron district (see para. 49 above), Palestinian security forces launched a campaign during which hundreds of Palestinians were reportedly arrested. Two days after the attack, it was reported that members of PSS and the Mukhabarat had arrested at least 350 persons.⁶⁶ In addition, ICHR reported that more than 126 Palestinians were subjected to ill-treatment and torture, inflicted by Palestinian security agencies, from February to October 2010.⁶⁷

52. OHCHR received information that, following this wave of arrest human rights, nongovernmental organizations and ICHR did not have the same level of access to Palestinian detention sites as they had before the campaign. OHCHR also experienced difficulties obtaining access to places of detention following these events, which it had not experienced prior to the campaign. However, following a number of constructive meetings with the Ministry of Interior, access to detention facilities was made easier.

7. Restrictions on civil society in areas under Palestinian Authority control

53. It appears that a consequence of the tension between the de facto authorities in Gaza and the Palestinian Authority in the West Bank is intense pressure on civil society organizations, human rights defenders and journalists in the West Bank. Palestinian Authority security forces raided media institutions and prevented journalists from carrying out their work, in violation of international law and the Palestinian Basic Law.

54. On 17 July, Palestinian security forces raided Watan television station, while covering a march by an Islamic party. Two journalists employed by the same station were attacked by Palestinian Authority security forces while covering a march in Ramallah on 25 August.⁶⁸ The radio station “Bethlehem 2000” manager was arrested by the Mukhabarat on 15 November, after the station had reported on differences between the president of the Palestinian Authority and a member of Fatah’s Central Committee. He was released five days later.⁶⁹ In another case, PSS arrested a journalist working for Quds Press News Agency. During detention, he was interrogated regarding interviews he had conducted with members of Hamas.⁷⁰ It is noted that staff members of ICHR were harassed by Mukhabarat officers in May, while travelling to visit PLC members in Nablus.⁷¹

V. Conclusions and recommendations

55. The human rights situation in the Occupied Palestinian Territory remained of profound concern throughout the reporting period. Serious violations occurred on a widespread and persistent basis. The preponderance of such violations was attributable to acts or omissions by Israel. With regard to international humanitarian law, Israel continued to fail to fulfil its obligations as the Occupying Power.

56. Serious violations of international human rights also occurred due to acts or omissions of other duty bearers, namely the Palestinian Authority and the de facto authorities in Gaza. Furthermore, the de facto authorities in Gaza violated

⁶⁶ Al-Haq, press release, 2 September 2010. Available from www.alhaq.org/etemplate.php?id=542.

⁶⁷ See ICHR, monthly reports. Available from www.ichr.ps/etemplate.php?id=12.

⁶⁸ Palestinian Center for Development and Media Freedoms, press release, 26 August 2010. Available from www.madacenter.org.

⁶⁹ “Political divisions make reporting nearly impossible for journalists”, *International Freedom of Expression Exchange*, 22 November 2010.

⁷⁰ Palestinian Center for Human Rights, press release, 6 October 2010. Available from www.pchrgaza.org.

⁷¹ ICHR, press release, 30 May 2010. Available from www.ichr.ps/etemplate.php?id=202.

international humanitarian law, especially by the launching of indiscriminate rockets and mortars toward Israel.

57. It is critical to note that the recommendations made by the Secretary-General and the High Commissioner for Human Rights in recent reports on the Occupied Palestinian Territory have still not been implemented.⁷² They remain valid and need to be implemented as a matter of urgency.

58. Many of the recommendations contained in the report of the United Nations Fact-Finding Mission on the Gaza Conflict also remain to be effectively implemented (A/HRC/12/48, para. 1979 (b)), including those addressed to Israel (para. 1972 (a)–(i)) regarding the blockade of Gaza and its concomitant regime that limits sea access and agricultural activity; rules of engagement, standard operating procedures and open fire regulations in accordance with international humanitarian law; freedom of movement; Palestinian children detained in Israeli prisons and discriminatory treatment of Palestinian detainees; detention of PLC members; an independent inquiry to assess whether the treatment by Israeli judicial authorities of Palestinian and Jewish Israelis expressing dissent in relation to the Gaza conflict was discriminatory; and the need to reiterate a commitment to respecting the inviolability of United Nations premises and personnel. In relation to recommendations that were addressed to Palestinian armed groups (para. 1973 (a)–(b)), there remains a need to ensure respect for international humanitarian law and, with regard to Israeli soldier Gilad Shalit, to act on the Mission's recommendation to release him on humanitarian grounds. With respect to recommendations to responsible Palestinian authorities, paragraph 1974 (b) regarding political detainees has not been implemented, and Palestinian non-governmental organizations still are not able to operate freely and independently in line with paragraph 1974 (c).

59. In this context the High Commissioner for Human Rights recommends that the Government of Israel take the following actions:

(a) Fully lift the blockade of Gaza, with due regard to legitimate security concerns. This should include putting in place more efficient measures to facilitate the movement of people to and from Gaza, permitting goods to be exported from Gaza, and ensuring that materials for reconstruction can be delivered to Gaza;

(b) Bring policies and practices regarding the detention of persons from the Occupied Palestinian Territory into compliance with the Fourth Geneva Convention, in particular with respect to detaining them within occupied territory;

(c) Publicly clarify restrictions on freedom of movement inside Gaza, including with respect to its maritime territory. Such restrictions should take full account of the agricultural, fishing and other affected industries in Gaza, and the impact that these industries have on the human rights situation. Further, the methods of enforcing such restrictions should be consistent with Israel's international legal obligations, and should never include the use of live ammunition against civilians;

(d) Adopt effective measures to lessen tension in East Jerusalem, in particular by ending the demolition of Palestinian homes, desisting from building settlements, facilitating access to the Al-Aqsa Mosque, and preventing, investigating and prosecuting violent acts perpetrated by Israeli settlers;

(e) Bring relevant policies and practices into compliance with the Fourth Geneva Convention's prohibition on the forcible transfer of civilians in occupied

⁷² This includes A/HRC/12/37, A/HRC/13/54, A/65/365 and A/65/366.

territory. This extends to the revocation of East Jerusalem residency and Military Orders Nos. 1649 and 1650. It is recalled that violations of article 49 constitute grave breaches of the Fourth Geneva Convention;

(f) Further improve freedom of movement in the Occupied Palestinian Territory, in particular with respect to access to East Jerusalem from the rest of the West Bank;

(g) Cease the expansion of settlements and dismantle existing settlements, including “outposts”, and desist from forcibly evicting Palestinians from their homes and demolishing Palestinian homes;

(h) Bring policies and practices related to law enforcement and military operations carried out in the Occupied Palestinian Territory into compliance with applicable international laws and standards. Ensure that such policies and practices are observed through rigorous training for the personnel involved. Ensure that allegations of violations are promptly, impartially and thoroughly investigated. Where such investigations reveal violations, ensure that personnel who transgress applicable laws are held accountable and victims are remedied;

(i) Ensure that law enforcement and military personnel deployed in the Occupied Palestinian Territory, including East Jerusalem, are aware of their obligation to ensure public order and safety, in particular with respect to preventing acts of violence by settlers against Palestinians and their properties. Where such acts are perpetrated, ensure that they are promptly, impartially and thoroughly investigated and that perpetrators are held accountable;

(j) Bring relevant policies and practices regarding the arrest and detention of children into compliance with Israel’s international legal obligations. Ensure that such policies and practices are observed through rigorous training for the personnel involved.

60. With respect to the Palestinian Authority, the High Commissioner for Human Rights recommends taking the following actions:

(a) Ensure that activities carried out by Palestinian security agencies are consistent with international human rights law and the Palestinian Basic Law, in particular activities related to detention, and that security agencies are fully trained on the legal standards related to their work;

(b) Ensure that civil society organizations, human rights defenders and journalists can carry out their work in an open, safe and secure operating environment, especially in relation to the rights to freedom of association and expression, as well as other applicable international standards.

61. With respect to the de facto authorities in Gaza, the High Commissioner for Human Rights recommends taking the following actions:

(a) Ensure full compliance with international human rights standards, including fully upholding and promoting the right to life, refraining from carrying out torture and/or cruel, inhuman or degrading treatment, and abolishing the use of the death penalty;

(b) Seek to ensure full compliance with international humanitarian law by all armed groups active in Gaza, including by ending the launching of rockets and mortars toward Israel;

(c) Ensure that civil society organizations, human rights defenders and journalists can carry out their work in an open, safe and secure operating

environment, especially in relation to the rights to freedom of association and expression, as well as other applicable international standards. Particular concern is expressed regarding ICHR and the need to respect the Paris Principles.
