



# General Assembly

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## Human Rights Council

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Agenda item 7

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

### **Joint written statement\* submitted by Organization for Defending Victims of Violence, Khiam Rehabilitation Center for Victims of Torture, non-governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[21 August 2022]

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



## **A Review of Gross Violations of the Human Rights Law and Humanitarian Law by Israel in Palestinian Territories**

Nelson Mandela said beautifully and poetically that “our freedom is incomplete without the freedom of the Palestinians”.

Those who follow the events of Occupied Palestinian Territory have no doubt that Israel does not adhere to its international commitments in the occupied territories and this flagrant violation of international law finds new dimensions every day.

The right to self-determination is a certain legal principle which is stated in Articles 10 and 55 of the United Nations Charter. The construction of the wall has caused serious damage to the right to self-determination of the Palestinian people.

The International Court of Justice, in its Advisory Opinion of 9 July 2004, regarding legal consequences of the construction of a wall in the Occupied Palestinian territory stated that Israel is first obliged to comply with the international obligations that has breached by the construction of the wall in the Occupied Palestinian Territory. Consequently, Israel is bound to comply with its obligation to respect the right of the Palestinian people to self-determination and its obligations under international humanitarian law and international human rights law. Furthermore, it must ensure freedom of access to the Holy Places that came under its control following the 1967 war.

The Court is of the opinion that the construction of the wall impedes the liberty of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto) as guaranteed under Article 12, paragraph 1, of the International Covenant on Civil and Political Rights. (1)

Additionally, in its resolutions, the Security Council has underlined that the Israeli policy and practices of establishing settlements in the Occupied Palestinian Territory, including East Jerusalem, have no legal validity, and constitute a “flagrant violation” under international law and a major obstacle to peace. (2)

The wall continues to separate Palestinians in the West Bank from East Jerusalem, despite the International Court of Justice having stated that it gravely infringed a number of rights of Palestinians living in the territory occupied by Israel.

The Fourth Geneva Convention, which encompasses humanitarian law, has stated in Article 49 that “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive”.

In this regard, the court's reports are clear about the negative impact of the construction of the wall on the right of movement of Palestinians.

Israel is obliged to restore to the Palestinians the fields, gardens and other immovable properties that it confiscated from private or legal persons and to compensate for the damages.

The policy of settlement construction runs contrary to the obligation of Israel under article 49 of the Fourth Geneva Convention. Furthermore, transfer, directly or indirectly, by an occupying Power of parts of its own civilian population into the territory that it occupies constitutes a war crime under the Rome Statute. (3)

In this regard, the Committee on the Elimination of Racial Discrimination has also expressed concern about several laws that, in its view, discriminate against Arab citizens of Israel and Palestinians in the Occupied Palestinian Territory, and that create differences among them, as regards their civil status, legal protection, access to social and economic benefits, or right to land and property. (4)

The Committee reiterates its concern (CERD/C/ISR/CO/14-16, para. 11) that the Israeli society continues to be segregated as it maintains Jewish and non-Jewish sectors, including two systems of education with unequal conditions, as well as separate municipalities, namely Jewish municipalities and the so-called “municipalities of the minorities”, which raises issues under article 3 of the Convention. The Committee is particularly concerned about the

continued full discretion of the Admissions Committees to reject applicants deemed “unsuitable to the social life of the community”. (5)

The Committee expressed concern about the discriminatory effect of the Basic Law: Israel – The Nation-State of the Jewish People (2018) on non-Jewish people and urged Israel to review the Basic Law with a view to bringing it into line with the International Convention on the Elimination of All Forms of Racial Discrimination. (6) It further recommended that Israel ensure equal treatment for all persons on the territories under its effective control and subject to its jurisdiction. (7)

Israel's disregard for international law is not limited to the above mentioned issues. Previous findings and recommendations have established that Israel is continuing to

build settlements in Area C of the Occupied Palestinian Territory, and in East Jerusalem, and is allowing the establishment of outposts across the West Bank in direct violation of its

obligations under the laws of belligerent occupation. As mentioned above, in its resolutions, the Security Council has underlined that the Israeli policy and practices of establishing settlements in the Occupied Palestinian Territory, including East Jerusalem, have no legal validity, and constitute a “flagrant violation” under international law and a major obstacle to peace. (8)

In addition to the mentioned flagrant violations of Human Rights, reports have emphasized that women and girls continue to be subjected to excessive use of force and abuse by the Israeli security forces and settlers, including physical, psychological and verbal abuse and sexual harassment and violations of their right to life. (9)

Finally, regarding the incidents of August 2022 we echo the remarks made by the UN Special Rapporteur on the Occupied Palestinian Territory who condemned Israel's airstrikes in Gaza to allegedly 'deter' Islamic Jihad's possible retaliation for its leader's arrest. She also stated that "as International Law only permits the use of force in self-defense, Operation Breaking Dawn is a flagrant act of aggression. Illegal. Immoral. Irresponsible".(10)

Organization for Defending Victims of Violence (ODVV) requests the international community as well as the concerned special rapporteur, the United Nations Secretary-General and High Commissioner for Human Rights to:

- Monitor Israel's repeated violations of human rights and take necessary measures based on international law mechanisms.
- Take more serious measures for Israel's lack of responsibility and non-adherence to binding UN resolutions and decisions.
- Support the current international commission of inquiry on the Occupied Palestinian Territory as a supplementary and preventive human rights tool to Item 7 to hold occupied power responsible for human rights consequences of its policies.
- Use all the capacities of Item 7, all relevant mechanisms and the Commission as a dominant human rights tool for realization of fundamental rights of Palestinian people.

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International Commission to support Palestinian Rights, NGO(s) without consultative status, also share the views expressed in this statement.

1. Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004, para 134

2. See Security Council resolutions 446 (1979) and 2334 (2016).

3. “The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory; Rome Statute of International Criminal Court, Article 8 (b) (viii)

4. CERD/C/ISR/CO/17-19, para. 15
5. Ibid, para 44
6. CERD/C/ISR/CO/17-19, paras. 13-14
7. Ibid, para. 16
8. See Security Council resolutions 446 (1979) and 2334 (2016).
9. CEDAW/C/ISR/CO/6, para. 30. See also A/HRC/46/63, paras. 17 and 19–21.
10. <https://twitter.com/FranceskAlbs/status/155583658698567680>