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Agenda items 2 and 7

### 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

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

### Report of the United Nations High Commissioner for Human Rights\*

#### *Summary*

The present report is submitted pursuant to Human Rights Council resolution 46/3 and provides an overview of the implementation of the resolution and the developments that are of relevance to the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice.

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

## I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 46/3 and should be read in conjunction with recent relevant reports of the Secretary-General and the United Nations High Commissioner for Human Rights.<sup>1</sup>
2. The present report, which covers the period between 1 November 2020 and 31 October 2021, addresses issues relating to accountability for alleged violations of international human rights law and international humanitarian law committed by all relevant duty bearers in the Occupied Palestinian Territory, encompassing the West Bank, including East Jerusalem, and the Gaza Strip. The report also documents relevant measures taken against human rights defenders and civil society actors documenting violations and advocating for accountability by all duty bearers.
3. The present report draws on human rights monitoring conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Occupied Palestinian Territory and information from government sources, other United Nations entities and non-governmental organizations. OHCHR requested Israel and the State of Palestine to provide information, by 15 November 2021, on any accountability measures adopted during the reporting period in relation to alleged violations of international human rights law and international humanitarian law committed in the Occupied Palestinian Territory. The State of Palestine responded on 24 November. Israel did not respond. OHCHR also requested other States Members of the United Nations to provide information on the steps taken by them as third States to promote compliance with international law and implement the recommendations addressed to them. As at 30 November, Cuba, Spain and Tunisia had responded.
4. The human rights situation in the Occupied Palestinian Territory deteriorated during the reporting period. There was an increase in violence, including a major escalation of hostilities between Israel and Palestinian armed groups in Gaza from 10 to 21 May, an increase in the use of live ammunition by Israeli security forces in the West Bank, including East Jerusalem, and an intensification of settler-related violence. These patterns resulted in an increase in the number of Palestinians and Israelis killed and injured. Israeli security forces killed 315 Palestinians, including 197 men, 41 women and 77 children, and injured 17,597 Palestinians, including at least 527 women and 1,472 children, during the reporting period.<sup>2</sup> Thirteen Israelis, including 2 children, were killed and 824 others were injured by Palestinians.<sup>3</sup> In the context of hostilities between Palestinian armed groups and Israel in Gaza, OHCHR monitoring continued to indicate insufficient respect for international humanitarian law by all parties to the conflict. Outside hostilities, OHCHR documented numerous cases that raise concerns with regard to respect by Israel, as the occupying power, for international humanitarian law in the context of occupation and by all duty bearers with regard to their international human rights law obligations. Many incidents of the use of force monitored raised serious concerns that the force used was excessive,<sup>4</sup> in some cases amounting to the arbitrary deprivation of life, including extrajudicial execution. The prevailing climate of impunity, by all duty bearers, described in previous reports of the Secretary-General and the High Commissioner, persisted.<sup>5</sup>

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<sup>1</sup> See [A/76/333](#), [A/76/336](#), [A/HRC/49/83](#) and [A/HRC/49/85](#).

<sup>2</sup> Information provided by the Office for the Coordination of Humanitarian Affairs.

<sup>3</sup> Information provided by the Office for the Coordination of Humanitarian Affairs, based on Israeli sources.

<sup>4</sup> [A/76/333](#), paras. 11–15. The term “excessive use of force” is used in the present report to refer to incidents in the context of law enforcement operations in which force was not used in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Such incidents may entail situations in which force was used unnecessarily and/or disproportionately, and/or in pursuit of an illegal law enforcement objective and/or in a discriminatory manner.

<sup>5</sup> [A/76/333](#), paras. 5 and 16; [A/HRC/43/21](#), paras. 17 and 19–20; and [A/HRC/46/22](#), paras. 4–5 and 10–11.

5. The international staff of OHCHR remained outside the Occupied Palestinian Territory during the reporting period due to the non-issuance of visas by Israel.<sup>6</sup>

## II. Update on accountability

### A. Accountability for the escalation of hostilities in Gaza in May 2021 and previous escalations of hostilities

#### Hostilities in May 2021

6. From 10 to 21 May 2021, the most significant escalation in hostilities between Israel and Palestinian armed groups in Gaza since 2014 took place. The United Nations verified that 261 Palestinians were killed, including 153 men, 41 women and 67 children (23 girls and 44 boys). At least 130 of those killed were civilians. About 2,200 other Palestinians were injured, including about 685 children and 480 women.<sup>7</sup> Ten Israeli citizens and residents (five men, three women and two children)<sup>8</sup> were killed by rockets and mortars launched by armed groups in Gaza and, according to Israeli sources, 710 others were injured.<sup>9</sup>

7. OHCHR documented a number of incidents in which Israeli attacks, having resulted in significant civilian casualties and damages to civilian objects, might have violated international humanitarian law principles of distinction, proportionality and feasible precautions.<sup>10</sup> However, as at 31 October 2021, OHCHR was not aware of any criminal investigation opened into the conduct of Israeli security forces during hostilities in May 2021.<sup>11</sup> The Palestinian Centre for Human Rights reported having submitted 57 criminal complaints to the Military Attorney General of Israel and 295 civil complaints to the compensation office of the Ministry of Defense of Israel in relation to incidents involving the killing of 101 Palestinians and the injury of another 100 during the hostilities in May 2021. According to the Palestinian Centre for Human Rights, the Military Advocate General of Israel had indicated that, to date, 11 of those complaints had been referred for further examination to the General Staff Mechanism for Fact-Finding Assessments, established in 2014.<sup>12</sup>

8. There are concerns that, despite preliminary examinations carried out by Israel in some cases, the findings regarding possible violations have been shielded from public scrutiny and do not appear to have yet triggered the opening of criminal investigations or any other meaningful accountability steps. For example, on 13 May 2021, Israeli artillery intensively shelled a residential neighbourhood and agricultural area adjacent to the Israel-Gaza fence, near Bayt Lahya. As a result, six people were killed, including a 17-year-old girl and a 9-month-old infant, and several others were injured. The incident raises serious concerns of its compatibility with the prohibition of indiscriminate and disproportionate

<sup>6</sup> A/HRC/46/63, para. 3.

<sup>7</sup> Information provided by the Office for the Coordination of Humanitarian Affairs.

<sup>8</sup> Indirect deaths on both sides are not included.

<sup>9</sup> Information provided by the Office for the Coordination of Humanitarian Affairs.

<sup>10</sup> A/76/333, para. 7 and A/HRC/49/83. See also paragraph 8 of the present report.

<sup>11</sup> Media reports indicated that one investigation had been launched into an incident on 12 May 2021 in which Israeli security forces positioned at the Israel-Gaza fence had fired at a group of Palestinian farmers, killing one and wounding two others. Israel Defense Forces reported that disciplinary measures had been taken against the officers involved. See <https://www.haaretz.com/israel-news/.premium-idf-commander-soldier-dismissed-for-firing-at-palestinians-during-gaza-op-1.9896397>.

<sup>12</sup> See [https://www.gov.il/BlobFolder/generalpage/downloads\\_eng1/en/ENG\\_turkel\\_eng\\_b1-474.pdf](https://www.gov.il/BlobFolder/generalpage/downloads_eng1/en/ENG_turkel_eng_b1-474.pdf), p. 378; [https://www.gov.il/BlobFolder/news/spoketurkelcommittee210915/en/documents\\_reporteng.pdf](https://www.gov.il/BlobFolder/news/spoketurkelcommittee210915/en/documents_reporteng.pdf), pp. 21–23; and <https://www.idf.il/en/articles/operation-protective-edge/idf-conducts-fact-finding-assessment-following-operation-protective-edge/>. See also A/HRC/37/41, para. 11 and A/HRC/40/43, para. 9.

attacks under international humanitarian law.<sup>13</sup> According to the Israel Defense Forces, following an internal military examination – the findings of which have not been made public – it had learned professional lessons from the incident and instilled them into the unit. According to media reports, as a result of the internal preliminary examination, a number of low-ranking soldiers had been suspended for a limited period of time before returning to their positions, and a battalion officer had been moved to a training position.<sup>14</sup> While such disciplinary measures appear starkly incommensurate with the gravity of the incident and the possible offences committed, the Israel Defense Forces spokesperson indicated that details of the incident were being examined by the General Staff Mechanism for Fact-Finding Assessments.

9. With regard to the Israeli air strike that on 15 May 2021 destroyed Al-Jalaa tower in Gaza City, which hosted, among others, the Associated Press and Al-Jazeera offices and numerous residential units, media reports have pointed towards significant gaps in the process of intelligence gathering that had led to the attack. Reportedly, Israeli security officials were informed of the presence of media outlets' offices in the building prior to the strike, and questions have been raised regarding the necessity of the attack.<sup>15</sup> Given the absence of clear evidence that the strike could offer an effective contribution to military action and a definite military advantage, and the impact of the strike on civilian objects,<sup>16</sup> the attack raises serious concerns in terms of its compliance with the principles of distinction or proportionality under international humanitarian law.<sup>17</sup> According to an Israel Defense Forces internal examination, "the attack on the building caused significant damage to Hamas' capabilities and ... there were no casualties from the attack".<sup>18</sup> No information regarding a possible criminal investigation had been made publicly available as at 31 October 2021.

10. A lack of transparency persists in relation to the existence, status, progress and outcome of any preliminary examination launched by the Israeli army into such incidents. The preliminary response made publicly available by Israeli authorities to possible violations by Israel Defense Forces of international humanitarian law in the context of the hostilities of May 2021 appears to confirm the pattern previously documented by the Secretary-General and the High Commissioner regarding the consistent failure of the Military Advocate General of Israel to open criminal investigations into cases of alleged serious violations of international humanitarian law in the context of hostilities.<sup>19</sup>

11. Rockets and mortars fired by Palestinian armed groups in Gaza killed and injured Israeli and Palestinian civilians and caused significant damage to civilian objects, such as residential buildings, public facilities and factories.<sup>20</sup> In addition to Israeli fatalities, at least 18 Palestinians, including 5 boys, 1 girl and 3 women, were killed seemingly by rockets fired by Palestinian armed groups falling short. On 10 May 2021, an explosion, seemingly provoked by a rocket fired by Palestinian armed groups in Gaza, took place in a densely populated area in Jabaliya, North Gaza, killing 8 people, including 2 children, and injuring many others, including at least 10 children and 2 women. These rockets are indiscriminate

<sup>13</sup> See [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule12](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule12) and [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule14](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule14).

<sup>14</sup> See <https://www.haaretz.com/israel-news/.premium-idf-covered-up-negligent-killing-of-six-gazans-during-recent-conflict-1.10073500?ts=1636456138539>.

<sup>15</sup> See <https://www.haaretz.com/israel-news/.premium-idf-only-discovered-foreign-media-was-based-in-gaza-tower-after-strike-begun-1.10362300>.

<sup>16</sup> See <https://www.haaretz.com/israel-news/israel-revised-intel-biden-answers-gaza-bombing-ap-al-jazeera-1.10395688> and <https://www.haaretz.com/us-news/blinking-i-haven-t-seen-evidence-that-hamas-operated-in-downed-ap-building-in-gaza-1.9815458>.

<sup>17</sup> See [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule8](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule8), [https://ihl-databases.icrc.org/applic/ihl/ihlweb\\_eng\\_1.nsf/docindex/v1\\_rul\\_rule12](https://ihl-databases.icrc.org/applic/ihl/ihlweb_eng_1.nsf/docindex/v1_rul_rule12), [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule14](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule14) and [https://ihl-databases.icrc.org/applic/ihl/ihlweb\\_eng\\_1.nsf/docindex/v1\\_rul\\_rule19](https://ihl-databases.icrc.org/applic/ihl/ihlweb_eng_1.nsf/docindex/v1_rul_rule19).

<sup>18</sup> See <https://www.haaretz.com/israel-news/.premium-idf-only-discovered-foreign-media-was-based-in-gaza-tower-after-strike-begun-1.10362300>.

<sup>19</sup> A/71/364, para. 40; A/HRC/43/21, para. 17 and A/HRC/46/22, para. 8.

<sup>20</sup> A/76/333, para. 8 and A/HRC/49/83.

by nature and their use therefore constitutes a clear violation of the prohibition of indiscriminate attacks under international humanitarian law.<sup>21</sup>

12. No information has been made available publicly or directly to OHCHR in relation to any step taken by the State of Palestine or the de facto authorities in Gaza to investigate alleged violations of international humanitarian law by Palestinian armed groups during the hostilities in May 2021. Palestinian human rights organizations have raised concerns regarding the significant challenges Palestinian victims and their families face in filing complaints regarding the actions of the armed groups during hostilities due to fears of reprisal and stigmatization within the local community.

### **Previous rounds of hostilities**

13. OHCHR is not aware of any step taken during the reporting period by any parties to the conflict to ensure accountability in relation to previous rounds of hostilities in Gaza. Serious concerns persist over the lack of accountability for actual or potential violations of international humanitarian law, including alleged war crimes, perpetrated by all parties to the conflict.<sup>22</sup>

14. With respect to Israel, the most recent update by the Military Advocate General of Israel was provided on 15 August 2018.<sup>23</sup> No further updates have been published since, and no notable progress in the investigation and prosecution of alleged violations in the context of the hostilities in 2014 was made public during the reporting period. The Palestinian Centre for Human Rights and the Al Mezan Center for Human Rights indicated that they had received communications from the Military Advocate General that no criminal investigation would be pursued in relation to four and nine complaints they had previously submitted, respectively. One of these complaints related to Israeli air strikes hitting adjacent homes in the Al-Shaboura neighbourhood, Rafah, on 2 August 2014, killing eight people, including six children and one woman. Similarly, a lack of progress and transparency persists in relation to accountability efforts linked to previous major rounds of hostilities in 2008/09 (with no public information made available since July 2010) and in 2012 (with no public updates provided since April 2013). Such lack of progress highlights the failure of the General Staff Mechanism for Fact-Finding Assessments to enable the prompt and effective investigation of those serious allegations.

15. No information was made available on steps taken by the Government of the State of Palestine or by the de facto authorities in Gaza to ensure accountability for possible violations of international humanitarian law, including possible war crimes, committed by Palestinian armed groups in the context of the hostilities in 2008/09, 2012 or 2014.<sup>24</sup>

16. The absence of any significant progress in the investigation and prosecution of alleged violations dating back in some cases to more than a decade calls into question the willingness of Israeli and Palestinian authorities to hold those allegedly responsible duly to account. These escalations and the sporadic hostilities in between them are characterized by long-standing patterns of violations of international humanitarian law and international human rights law by all parties, further underscoring their recurrent nature and the climate of impunity and the failure of efforts by all parties to take sufficient steps to prevent their repetition.<sup>25</sup>

<sup>21</sup> [A/76/333](#), para. 8; and [A/HRC/29/52](#), para. 33. See also [https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1\\_rul\\_rule1](https://ihl-databases.icrc.org/customary-ihl/eng/docindex/v1_rul_rule1) and [https://ihl-databases.icrc.org/applic/ihl/ihlweb\\_eng\\_1.nsf/docindex/v1\\_rul\\_rule12](https://ihl-databases.icrc.org/applic/ihl/ihlweb_eng_1.nsf/docindex/v1_rul_rule12).

<sup>22</sup> [A/71/364](#), paras. 39 and 51–55; [A/HRC/43/21](#), paras. 14–15 and 19; and [A/HRC/46/22](#), paras. 5–6.

<sup>23</sup> [A/HRC/40/43](#), paras. 5 and 9; and <https://mfa.gov.il/MFA/ForeignPolicy/IsraelGaza2014/Documents/Operation-Protective-Edge-MAG-Corps-Press-Release-Update-6-15-August-2018.pdf>.

<sup>24</sup> [A/HRC/46/22](#), para. 10. See also [A/HRC/29/52](#) and [A/HRC/12/48](#).

<sup>25</sup> [A/HRC/28/45](#), para. 16.

## B. Accountability for unlawful use of force and other violations of international human rights law

### Israel

17. Impunity remained pervasive for incidents of possible excessive use of force by Israeli security forces outside the context of hostilities.<sup>26</sup> Between 1 January 2017<sup>27</sup> and 31 October 2021, 428 Palestinians<sup>28</sup> (including 91 children) were killed by Israeli security forces in law enforcement operations in the Occupied Palestinian Territory. OHCHR is aware of 82 criminal investigations opened in relation to these deaths, of which at least 13 were closed without further action being taken and 5 resulted in indictments, 3 of which led to convictions.<sup>29</sup> These figures appear starkly inconsistent with Israeli investigation policy, applicable since 2011, according to which the Israel Defense Forces are obligated to open an immediate investigation into operations in the West Bank that result in the death of a person, except when the incident involves “actual combat”.<sup>30</sup> Despite the frequent initial public statements by Israeli authorities announcing that a killing was under examination, in most cases a criminal investigation is not opened and details of the decision are not made public, despite Israeli law requiring the Military Advocate General to provide reasoning for all decisions, including cases involving “actual combat”. Where a criminal investigation has been opened, the findings and conclusions have been made public only in a few, exceptional cases in which the killing or injury was caught on camera or video and received a high level of public attention.<sup>31</sup> The lack of transparency regarding the opening of investigations and the absence of progress and outcome of investigations by Israeli authorities is a matter of utmost concern, as the duty to investigate potential unlawful deaths is an important element of the protection afforded to the right to life.<sup>32</sup> In the rare cases where investigations result in criminal charges, these are often starkly incommensurate with the gravity of the conduct.<sup>33</sup>

18. Throughout the reporting period, Israeli security forces killed 74 Palestinians, including 17 children, 3 women and 54 men, in the context of law enforcement operations. The West Bank, including East Jerusalem, witnessed an increase in the unwarranted and disproportionate use of force by Israeli security forces in the context of demonstrations against the military occupation, settlement expansion and Palestinian evictions, and in response to attacks or alleged attacks by Palestinians against Israelis.<sup>34</sup> In the vast majority of cases monitored by OHCHR, the use of force by Israeli security forces did not appear to comply with the requirements of legality, necessity and proportionality, frequently resulting in potentially unlawful killings, including, in some circumstances, possible extrajudicial executions.<sup>35</sup>

<sup>26</sup> A/71/364, para. 66; A/76/333, paras. 5 and 16; A/HRC/43/21, para. 20; and A/HRC/46/22, para. 11.

<sup>27</sup> 1 January 2017 represents the beginning of the first reporting period during which the High Commissioner was requested by the Human Rights Council to report on accountability and justice for violations of international law in the Occupied Palestinian Territory.

<sup>28</sup> This number does not include those killed in the context of hostilities and those killed in situations in which it was not possible to determine the circumstances. The total number of Palestinians killed by Israeli security forces during the same period amounts to 850.

<sup>29</sup> Nineteen investigations were opened into killings during this reporting period. Additionally, OHCHR became aware of 17 further investigations into killings between 1 January 2017 and 31 October 2020. See [https://www.btselem.org/sites/default/files/publications/202112\\_unwilling\\_and\\_unable\\_eng.pdf](https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf).

<sup>30</sup> Supreme Court of Israel, *B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories v. The Judge Advocate General*, Case No. HCJ 9594/03, 21 August 2011. On the problematic character of the wide interpretation of the notion of “combat activity” in the Israeli judicial system, in relation to the protection of Palestinians’ right to life, see A/HRC/46/22, para. 18.

<sup>31</sup> On 21 June 2021, an indictment based on the charge of reckless homicide was submitted to the Jerusalem District Court against an Israeli border police officer for the killing of Iyad Hallaq on 30 May 2020.

<sup>32</sup> Human Rights Committee, general comment No. 36 (2018), para. 27; and Minnesota Protocol on the Investigation of Potentially Unlawful Death.

<sup>33</sup> A/75/336, para. 9; A/HRC/40/43, paras. 19–21; and A/HRC/46/22, para. 16.

<sup>34</sup> A/76/333, paras. 12–13.

<sup>35</sup> See also A/76/333, para. 11.

19. Serious concerns persist in relation to the absence of accountability measures to hold those responsible to account.<sup>36</sup> On 14 October 2021, Israeli security forces killed 14-year-old Amjad Abu Sultan, having shot him, reportedly without warning, from a close range while he was attempting to light a Molotov cocktail near the wall in Bayt Jala. OHCHR monitoring indicated that Israeli security forces were likely to have seen the boy in advance, and his intention to throw Molotov cocktails in the location may have been known to the Israeli security forces even from before, as contacts had taken place between the victim and the security forces prior to the incident.<sup>37</sup> Nonetheless, Israeli security forces failed to resort to less lethal means to prevent the attack, raising concerns of the excessive use of force resulting in the killing of a child. As far as OHCHR is aware, the Israeli military authorities did not investigate the incident. The High Commissioner has previously expressed concern over the dual role of the Military Advocate General of Israel in providing legal advice before and during operational activity, while investigating operational activity afterwards.<sup>38</sup>

20. On 25 November 2020, Israeli security forces shot and killed 37-year-old Nour Shqair near Az-Zayyem checkpoint, east of Jerusalem. According to OHCHR monitoring, Shqair had accelerated his car and allegedly hit a border police officer, after Israeli security forces at the checkpoint had challenged his identity documents. As Shqair stepped out of the car at about 300 metres' distance, raising his hands, the security forces running towards him shot him multiple times from a close distance, despite shouts by one of the officers to stop the shooting. The incident raises concern of unlawful killing. On 5 February 2021, the Department of Internal Police Investigations at the Ministry of Justice notified the family of its decision not to open an investigation, indicating that the shooting was carried out in compliance with protocol, while noting the "real and immediate danger" the victim had been posing.<sup>39</sup>

21. Impunity remains pervasive also in relation to past incidents involving the unnecessary or excessive use of force by Israeli security forces resulting in the killing or injury of Palestinians. According to media reports, in this reporting period, Israeli authorities closed three investigations and one preliminary examination into four cases involving the killing of Palestinians, including one child, without taking any further legal steps.<sup>40</sup> Among these cases is the killing of Zaid Qaisiya on 13 May 2020 in Hebron. Israeli security forces shot Qaisiya, aged 17 years, in the head with live ammunition as he stood on the rooftop of a four-story building located 200 to 300 metres away from an Israeli security forces arrest operation and, according to multiple eyewitnesses, was not involved in any confrontation.<sup>41</sup> The investigation was reportedly closed on the grounds that it was not possible to determine how the child was killed and whether he had been hit by Israeli security forces fire, despite there being no indication of crossfire on the location at the moment of the incident. For the same reason, Israeli authorities authorized the closing of the investigation into the shooting with live ammunition in the head of 9-year-old Abd el-Shatawi in July 2019 in Kafr Qaddum. This incident, monitored by OHCHR, raises serious concerns of the possible unnecessary use of force by Israeli security forces resulting in the severe and life-changing injury of a child, who currently remains in a vegetative state in an Israeli hospital.

22. Regarding Gaza, the continuing lack of progress in the investigations relating to the widespread use of lethal force by Israeli security forces against Palestinians in the context of the Great March of Return demonstrations between 30 March 2018 and December 2019 remains of equal concern.<sup>42</sup> OHCHR is not aware of any accountability steps taken by the

<sup>36</sup> A/HRC/43/21, paras. 20 and 30; and A/HRC/46/22, para. 11.

<sup>37</sup> See <https://www.haaretz.com/israel-news/.premium-cyberbullying-the-shin-bet-s-new-pastime-in-palestine-1.10417834> and <https://www.haaretz.com/israel-news/.premium-the-premeditated-killing-of-amjad-1.10443238>.

<sup>38</sup> A/HRC/40/43, para. 9.

<sup>39</sup> See <https://news.walla.co.il/item/3416216> (in Hebrew).

<sup>40</sup> The other cases closed refer to the killing of 21-year-old Omar Badawi on 11 November 2019, 19-year-old Bader Nafla on 7 February 2020 and 60-year-old Fehmiye Hrb on 1 May 2021. See <https://www.haaretz.com/israel-news/.premium.HIGHLIGHT.MAGAZINE-what-the-israeli-army-does-to-soldiers-who-shoot-palestinians-1.10398852>.

<sup>41</sup> A/75/336, para. 8.

<sup>42</sup> A/HRC/46/22, para. 12.

Israeli authorities during the reporting period, with the last update provided by the Ministry of Justice of Israel in relation to progress in the investigations and prosecutions dated July 2019.<sup>43</sup> The Al Mezan Center for Human Rights indicated that, during the reporting period, it had received communications from the Military Advocate General of Israel that no criminal investigation would be pursued in relation to seven complaints previously submitted regarding the killing of Palestinians during the Great March of Return protests. Among those is the case of 18-year-old Abed el-Nabi, whom Israeli security forces killed on 30 March 2018 in Abu Safya, North Gaza. El-Nabi was shot from the back with live ammunition to his head while he was approximately 400 metres from the fence and running away from it, in circumstances in which he did not seem to pose any imminent threat to the security forces.<sup>44</sup>

23. According to international human rights law, the use of potentially lethal force for law enforcement purposes should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat.<sup>45</sup> States must take all measures necessary to prevent the arbitrary deprivation of life by their law enforcement officials, including soldiers charged with law enforcement missions.<sup>46</sup> The unjustified and illegal recourse to firearms by law enforcement officials against a protected person, resulting in the person's death, may constitute a war crime when occurring in the context of a military occupation.<sup>47</sup>

### Civil remedies

24. The legislative provision introduced in 2014 excluding the population of Gaza (as residents of an "enemy territory") from the scope of Israeli civil liability legislation remained in force.<sup>48</sup> In addition, on 19 May 2021, the Beersheba District Court rejected a compensation claim filed in 2005, based on the Civil Claims (State Liability) Law, by the family of Iman al-Hams, a 14-year-old girl who was killed in 2004 by Israeli security forces. Member of the security services had fired multiple live ammunition rounds from close range while she was already lying on the ground injured, after having been shot<sup>49</sup> because she had entered into a security zone near Rafah. Based on the wording of the law as it stood in 2005, the Court ruled that, despite the military forces having acted negligently and in violation of the rules of engagement and international humanitarian law, their conduct had constituted "combat activity", and therefore exempted the State from civil liability.<sup>50</sup>

### Palestinian authorities

25. For Palestinians living under the effective control of the Palestinian Authority and the de facto authorities in Gaza, the reporting period was also marked by increased violence and conduct by Palestinian security forces, which may amount to violations of right to life and to physical integrity.<sup>51</sup> OHCHR is aware of two Palestinians killed by Palestinian security forces and two by the security forces of the de facto authorities in Gaza during this period. The Palestinian security forces justice commission reported having opened six investigations between 1 January and 31 October 2021 into the use of force by Palestinian security forces that had resulted in killing. Regardless, questions remain whether the actions carried out by Palestinian authorities in the West Bank and Gaza to investigate and prosecute the perpetrators of those violations were sufficient to meet international standards.

<sup>43</sup> A/HRC/43/21, para. 24. According to Israeli Defense Forces figures provided to B'Tselem in April 2021, of the 233 killings of Palestinians in Gaza referred to the General Staff Mechanism for Fact-Finding Assessments, 35 investigations had been opened by the Military Advocate General of Israel, and one conviction had been obtained. See [https://www.btselem.org/sites/default/files/publications/202112\\_unwilling\\_and\\_unable\\_eng.pdf](https://www.btselem.org/sites/default/files/publications/202112_unwilling_and_unable_eng.pdf).

<sup>44</sup> A/HRC/40/39, para. 24.

<sup>45</sup> Human Rights Committee, general comment No. 36 (2018), para. 12.

<sup>46</sup> Ibid., para. 17.

<sup>47</sup> A/HRC/29/CRP.4, para. 546.

<sup>48</sup> A/71/364, para. 57; A/HRC/40/43, paras. 25–26; and A/HRC/43/21, para. 36.

<sup>49</sup> See <https://www.shovrimshatika.org/testimonies/database/79471> (in Hebrew).

<sup>50</sup> Beersheba District Court, *Al-Hams v. State of Israel*, Case No. 5709-12-12, 19 May 2021.

<sup>51</sup> See A/HRC/49/83.

26. On 24 June, Palestinian Authority opponent and Palestinian Legislative Council candidate Nizar Banat, who had been repeatedly arrested by Palestinian security forces, was killed after having been brutally beaten during the course of an arrest operation in the H2 area of Hebron. On the same day, the Palestinian Prime Minister announced the creation of an “investigative committee” chaired by the Palestinian Minister of Justice, which transmitted its findings to the military prosecutor on 30 June.<sup>52</sup> The military prosecutor indicted the 14 Palestinian security forces officers who had carried out the raid on 5 September with “intentional beating and torture resulting in death”, “abuse of authority” and “disobedience to orders and instructions”. The trial has been ongoing at the Ramallah Military Court since 14 September. The Court has heard testimony of high-ranking security officials who had authorized and supervised the operation (but who had not been indicted). OHCHR documented threats against and harassment, arrests and ill-treatment of Nizar Banat’s family members, including an eyewitness, and some had their houses violently raided during this period. On 15 August, a court in Ramallah convicted, in absentia, his brother, Ghassan Banat, and sentenced him to two years of imprisonment on corruption-related charges. According to Ghassan Banat and his lawyer, the former had not been informed of any charges against him, or summoned for questioning or any hearing. While the sentence had not been executed as at the end of the reporting period, the conviction raises serious concerns of a possible reprisal given that Ghassan Banat had publicly demanded accountability, including at the international level, for the killing of his brother. On 19 September, Palestinian security forces physically assaulted and arrested Hussein Banat, Nizar Banat’s cousin and an eyewitness to the killing. According to Palestinian security forces, Hussein Banat had been arrested on suspicion of a shooting at a house of a Palestinian security forces member in Dura, near Hebron, on 16 September. Hussein Banat reported having been subjected to ill-treatment while in detention, and was released on bail on 7 October. On 28 October, Palestinian security forces arrested and detained Arafat Banat, the brother of Hussein Banat, reportedly for his involvement in the same incident.

27. In Gaza, there were a number of incidents where force used by security forces of the de facto authorities in Gaza in the context of law enforcement operations appeared excessive.<sup>53</sup> On 23 July, a 27-year-old man was killed after having been shot in the abdomen with live ammunition by security forces of the de facto authorities in Gaza after the car in which he had been traveling drove away from a checkpoint east of Gaza City, reportedly without authorization. The de facto authorities decided not to open a criminal investigation into the incident. While the de facto authorities in Gaza continue to indicate that they receive and investigate complaints relating to incidents of the possible excessive use of force by the authorities’ security forces, the outcomes of such investigations have not been made public, and OHCHR is not aware of any further steps taken to investigate and prosecute those allegedly involved.

28. Impunity for gender-related killings remains pervasive in both the West Bank and Gaza.<sup>54</sup> In the West Bank, more than two years after the murder of 21-year-old Israa Ghrayeb,<sup>55</sup> the trial at the Bethlehem District Court has yet to be concluded. During the reporting period, the three accused were released on bail pending the conclusion of the trial. During the reporting period, OHCHR recorded 26 cases of possible gender-related killings (16 women and 10 girls) – 15 in the West Bank and 11 in Gaza. Of those, 12 were reported as killings and 14 as either death by suicide, accidental death or death in unclarified circumstances. OHCHR is aware that eight indictments relating to these cases have been issued – five in the West Bank and three in Gaza.

29. The High Commissioner reiterates the call upon the State of Palestine to ensure that all incidents involving possible violations of human rights are promptly, impartially, independently and thoroughly investigated in line with international standards and that those responsible are held accountable.<sup>56</sup>

<sup>52</sup> See <https://english.wafa.ps/Pages/Details/125158>.

<sup>53</sup> See A/HRC/49/83.

<sup>54</sup> Ibid.

<sup>55</sup> A/HRC/43/70, para. 34.

<sup>56</sup> A/HRC/46/22, para. 25.

## C. Accountability for violations relating to torture and ill-treatment

### Israel

30. OHCHR reiterates persistent concerns that scant accountability has been afforded by relevant Israeli authorities in investigating allegations of ill-treatment, possibly amounting to torture, of Palestinians in Israeli detention facilities.<sup>57</sup> According to the Public Committee against Torture in Israel, out of more than 1,300 torture complaints submitted on behalf of Palestinians to the Ministry of Justice of Israel since 2001, only two criminal investigations were opened. Both were closed during the reporting period, resulting in no further action. On 24 January 2021, the Attorney General of Israel announced the closing of the criminal investigation into the alleged torture by the Israeli Security Agency interrogators of Samer al-A'rbeed, who is currently on trial for his alleged role in the Ein Bubin attack in 2019. Mr. Al-A'rbeed was hospitalized two days after his arrest with life-threatening injuries due to allegedly having been subjected to severe ill-treatment and torture while in Israeli detention.<sup>58</sup> According to his statement, "the Attorney-General decided to close the case due to a lack of an evidentiary basis of the commission of an offense".<sup>59</sup> Israeli authorities have refused to disclose the investigation material, including regarding the "special interrogation methods" used, that was the basis of the decision. The decision not only casts doubts on the effectiveness of the Israeli judicial system in investigating and sanctioning torture in accordance with international norms and standards, but also raises serious concerns as to the validation by the Attorney General of the methods of interrogation used by the Israel Security Agency in disregard for the absolute and non-derogable prohibition of torture under international human rights law. In April 2021 media reports indicated that the Attorney General of Israel decided to close the investigation into two forced genital searches of a Palestinian woman detainee in 2015, which could have amounted to sexual assault.<sup>60</sup> The investigation was closed reportedly due to the lack of an evidentiary basis, despite the fact that the Israeli security forces officers involved admitted that the search had taken place.

### Palestinian authorities

31. With regard to allegations of ill-treatment, in some cases possibly amounting to torture, by the Palestinian security forces in the West Bank, OHCHR continued to document extremely concerning incidents during the reporting period.<sup>61</sup> The Independent Commission for Human Rights received 141 complaints, including 8 from women, of ill-treatment or torture. The Palestinian security forces justice commission reported having opened investigations into five cases of alleged ill-treatment or torture by Palestinian security forces between 1 January and 31 October 2021. Palestinian security forces detained a 45-year-old Palestinian man between September and December 2020 in Jericho and interrogated him over accusations of forgery. He reported having been subjected to severe beatings, stress positions and repeated physical assaults during interrogations. While the prosecutor had ordered a medical check-up after the victim's lawyer had raised concerns over his ill-treatment, Palestinian security forces did not comply. After having been forced to confess, the man was released on bail on 5 December 2020. Despite the constructive dialogue that OHCHR had with a number of concerned institutions of the Palestinian Authority, the response by Palestinian security forces and the action taken by competent judicial authorities in this and a number of other similar cases documented by OHCHR raise serious concerns with regard to the adequacy of the steps taken to investigate and prosecute individuals responsible for these crimes, as well as that of internal disciplinary mechanisms of Palestinian security forces. OHCHR also continued to receive credible allegations that victims of alleged ill-treatment had been subjected to intimidation by Palestinian security forces and pressured into not filing complaints against them, to withdraw complaints already made or to submit to

<sup>57</sup> Ibid., para. 20.

<sup>58</sup> [A/75/336](#), para. 15.

<sup>59</sup> See <https://www.haaretz.com/israel-news/premium-case-closed-against-shin-bet-agents-accused-of-assaulting-palestinian-terror-suspect-1.9477634>.

<sup>60</sup> See <https://www.haaretz.com/israel-news/premium.HIGHLIGHT.MAGAZINE-it-started-with-palestinian-s-arrest-it-ended-with-israeli-officers-probed-for-rape-1.9737766>.

<sup>61</sup> See [A/HRC/49/83](#).

informal reconciliation mechanisms. Despite the public commitment by the Palestinian Authority to follow up on torture and ill-treatment complaints and to establish a national preventive mechanism further to its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the establishment of the mechanism remained pending at the end of the reporting period after many years.<sup>62</sup>

32. OHCHR monitoring also continues to point to widespread allegations of ill-treatment, in some cases possibly amounting to torture, in detention facilities in Gaza.<sup>63</sup> The Independent Commission for Human Rights received 164 complaints, including 14 from women, of ill-treatment or torture during the reporting period. On 21 September 2021, security forces of the de facto authorities in Gaza arrested a 34-year-old man in Gaza City. He was first transferred to an unknown military site and then to the premises of the internal security agency of the de facto authorities in Gaza, where he was repeatedly interrogated on accusations of collaboration with Israel, repeatedly beaten, subjected to sleep deprivation and prevented from contacting his lawyer for more than a month. No information has been made public in relation to any steps taken to address this or other similar ill-treatment allegations.

#### **D. International mechanisms**

33. On 5 February 2021, the Pre-Trial Chamber of the International Criminal Court, which had been previously seized by the Prosecutor of the Court to rule on the scope of the Court's territorial jurisdiction in relation to the situation in Palestine,<sup>64</sup> decided by majority that the Court possessed territorial jurisdiction, extending to the territories occupied by Israel since 1967, namely Gaza and the West Bank, including East Jerusalem.<sup>65</sup> On 3 March 2021, the Prosecutor of the Court announced the initiation of an investigation into the situation in Palestine,<sup>66</sup> with respect to crimes within the jurisdiction of the Court that are alleged to have been committed since 13 June 2014.

34. On 27 May 2021, the Human Rights Council convened a special session to address the grave human rights situation in the Occupied Palestinian Territory, including East Jerusalem, at which it decided to establish an ongoing, independent, international commission of inquiry, mandated to investigate all alleged violations and abuses of international human rights law leading up to and since 13 April 2021, and all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national, ethnic, racial or religious identity.<sup>67</sup>

### **III. Restrictions and attacks on individuals and organizations promoting human rights and accountability**

#### **Israel**

35. The long-standing series of actions by Israel to silence human rights defenders and civil society organizations speaking up for human rights of Palestinians and shrink the space in which they operate escalated during the reporting period.

36. In July 2021, two organizations learned that the Israeli military commander for the West Bank had earlier declared them as "unlawful associations".<sup>68</sup> On 19 October 2021, the

<sup>62</sup> A/HRC/46/22, para. 22.

<sup>63</sup> See A/HRC/49/83.

<sup>64</sup> A/HRC/46/22, para. 29.

<sup>65</sup> See <https://www.icc-cpi.int/Pages/item.aspx?name=pr1566>.

<sup>66</sup> See <https://www.icc-cpi.int/Pages/item.aspx?name=210303-prosecutor-statement-investigation-palestine>.

<sup>67</sup> See Human Rights Council resolution S-30/1.

<sup>68</sup> The Union of Agricultural Work Committees and the Health Work Committees had been declared as "unlawful" in January 2020; however, both organizations reported having been unaware of the declarations until July 2021. On 3 November 2021, the Israeli military commander for the West Bank

Minister of Defense designated six Palestinian human rights and humanitarian organizations, namely the Addameer Prisoner Support and Human Rights Association, Al-Haq, the Bisan Center for Research and Development, Defense for Children International-Palestine, the Union of Agricultural Work Committees and the Union of Palestinian Women's Committees, as "terrorist organizations" under the Counter-Terrorism Law of 2016. The organizations have worked for decades to promote human rights and provide critical humanitarian assistance in the Occupied Palestinian Territory, and are key partners of the United Nations. The designation decisions were based on vague and unsubstantiated reasons. Some reasonings refer to entirely peaceful and legitimate human rights activities.<sup>69</sup> The decisions, which were amended after some weeks, state that the organizations are inseparable arms of the Popular Front for the Liberation of Palestine and that they obtained financial resources, which reached the Popular Front for the Liberation of Palestine terror activity. As of the end of the reporting period, OHCHR was not aware of any credible evidence to support these accusations. Israeli security forces also arrested at least 16 human rights defenders, including several staff members of the organizations declared as "unlawful" or "terrorist".<sup>70</sup>

37. The evidence reportedly presented by Israeli officials to Member States and international organizations that are donors to the six organizations, and subsequently made public in the media,<sup>71</sup> appears to include vague allegations against the six designated organizations, provided during interrogations of two former employees of the Health Work Committees, who are currently on trial in Israeli military courts.<sup>72</sup> So far, no evidence proving either the diversion of funds or the alleged link between the Popular Front for the Liberation of Palestine and any of these organizations has been presented in ongoing trials. According to the lawyer of one of the former employees, whose testimony reportedly represents the main source in the presented evidence,<sup>73</sup> his client was subjected to sleep deprivation, lengthy harsh interrogation sessions, stress positions, and made to believe that his family members had been arrested. He was largely kept in incommunicado detention during the 56 days of his interrogation, and his confessions were provided without the presence of a lawyer.

38. The Counter-Terrorism Law has a broad and vague definition of "terrorist acts" and "terrorist organizations", which risks unjustifiable restrictions on human rights.<sup>74</sup> The designation of these organizations as "terrorist" may have far-reaching consequences. The Counter-Terrorism Law provides for lengthy prison terms for membership or any type of support or cooperation with such organizations, closures of their offices, the prohibition of activities and the confiscation of property.<sup>75</sup> Additionally, banks may impose restrictions on donors to the organizations, seriously impacting the ability of these organizations to obtain financial resources.

39. Such organizations and their members can object to the designations; however, the due process guarantees under the Counter-Terrorism Law appear deficient, including a lack of independence of the review process<sup>76</sup> and an extensive possibility of keeping evidence

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declared the other five organizations – the Addameer Prisoner Support and Human Rights Association, Al-Haq, the Bisan Center for Research and Development, Defence for Children International-Palestine and the Union of Palestinian Women's Committees – that had been declared as "terrorist organizations" on 19 October 2021, as "unlawful associations" under the Defence (Emergency) Regulations of 1945. See article 85 (b) of the Israeli Defence (Emergency) Regulations of 1945 and Military Order No. 101.

<sup>69</sup> On file with the Office of the United Nations High Commissioner for Human Rights. The decisions were modified on 19 November 2021 and uploaded to <https://nbctf.mod.gov.il/en/Pages/211021EN.aspx>.

<sup>70</sup> See [A/HRC/49/83](#).

<sup>71</sup> See <https://theintercept.com/2021/11/04/secret-israel-dossier-palestinian-rights-terrorist/>.

<sup>72</sup> See [A/HRC/49/83](#).

<sup>73</sup> Ibid.

<sup>74</sup> Counter-Terrorism Law, sect. 2. See also Security Council resolution 1566 (2004) and [A/HRC/16/51](#).

<sup>75</sup> Counter-Terrorism Law, sects. 20–24, 56 and 69–70, available at <https://nbctf.mod.gov.il/en/legislation/Pages/default.aspx> (in Hebrew).

<sup>76</sup> Counter-Terrorism Law, sects. 7 (b) and 19. The listed entity should have a right to a court review of the decision from an application for delisting or non-implementation of sanctions or an independent competent authority (recommendation 6 of the Financial Action Task Force). See also [A/HRC/16/51](#), para. 35.

secret,<sup>77</sup> and a person prosecuted under the law cannot challenge the underlying designation itself in criminal proceedings.<sup>78</sup> Under the Defense (Emergency) Regulations, the broad and vague definition of “unlawful associations” and the wide discretion of the Israeli military commander for the West Bank to declare associations as unlawful with limited opportunity for legal and independent review, as well as the inability to challenge the designation and declaration orders prior to their issuance, also raise serious concerns over undue restrictions on freedoms of expression, association and public participation and over the violation of affected individuals’ due process and fair trial rights.

40. The designations and declarations by Israeli authorities of human rights and humanitarian organizations as “terrorist” and “unlawful” raise serious concerns that counter-terrorism legislation and military orders are being used to halt, restrict or criminalize legitimate human rights and humanitarian work. These concerns are compounded by the lack of compelling evidence to support the allegations against the organizations. These measures, adding to a series of actions undermining civil society organizations working for the human rights of Palestinians, constitute an attack on human rights defenders and seriously inhibit freedoms of association, opinion and expression and the right to public participation.

41. Human rights defenders who previously faced arrest or physical violence from Israeli security forces continued to face challenges in accessing remedies and accountability for possible violations of human rights. On 28 October 2021, the Israeli Ombudsman reportedly indicated that the investigation into the beatings and physical assaults by Israeli police of Mohammad Abu al-Hummos, a human rights defender with disabilities from the Isawiyah neighbourhood in East Jerusalem, entailed “serious flaws”, in relation to the police misconduct unit of the Ministry of Justice having delayed investigating the complaints for nearly two years, having failed to question witnesses and having closed the case on the grounds of insufficient evidence.<sup>79</sup> Mr. Abu al-Hummos had sustained injuries and required hospitalization from having been physically assaulted by Israeli police officers on 9 November 2019 while he was filming Israeli security forces conduct, while Israeli police had also arrested and physically assaulted Mr. Abu al-Hummos’s nephew. Both had filed a complaint with the Ministry of Justice of Israel against the police. As the Ministry’s police misconduct unit had closed the investigation without further action, Mr. Abu al-Hummos and his nephew resorted to the Israeli Ombudsman of the State Representatives in the Courts.<sup>80</sup>

### **Palestinian authorities**

42. Palestinian human rights defenders continued to come under pressure, including through arrest, prosecution and prolonged judicial processes, from several duty bearers at the same time.<sup>81</sup> On 7 April 2021, the Palestinian Authority’s Hebron Magistrates Court acquitted human rights defender Issa Amro,<sup>82</sup> who had already been convicted to a three-month suspended sentence by an Israeli military court on 22 March for his activities with the Youth Against Settlements organization,<sup>83</sup> of the charges of inciting sectarian strife and publishing material that endangers the integrity of the public order of the State under the Cybercrimes Law after nearly four years of legal proceedings. The charges, issued on 10 September 2017, were based on a Facebook post by Mr. Amro critical of the Palestinian Authority. In the post he had called for the release of a detained journalist. Considering the significant delay between the charge and the judgment, there is a well-founded concern that the State of Palestine failed to uphold Mr. Amro’s right to be tried without undue delay. Mr. Amro’s cases under both duty bearers raise concerns over arbitrary detention, judicial

<sup>77</sup> Counter-Terrorism Law, sects. 8–9. The principle of equality applies also to civil proceedings and demands, inter alia, that each side be given the opportunity to contest all the arguments and evidence adduced by the other party. See Human Rights Committee, general comment No. 32 (2007), para. 13.

<sup>78</sup> Counter-Terrorism Law, sect. 19. On the problematic character of these provisions, see Human Rights Committee, general comment No. 32 (2007), para. 30.

<sup>79</sup> See <https://www.haaretz.com/israel-news/premium-watchdog-cites-serious-flaws-in-probe-into-israeli-police-beating-of-palestinians-1.10335012>.

<sup>80</sup> See [https://www.gov.il/en/departments/about/about\\_natam](https://www.gov.il/en/departments/about/about_natam).

<sup>81</sup> See A/HRC/49/83. See also A/HRC/40/43, paras. 38 and 41.

<sup>82</sup> A/HRC/37/42, paras. 50–51.

<sup>83</sup> A/76/333, para. 19.

harassment and the intentional misuse of the judicial system to disrupt and deter the work of a human rights defender.

43. The Palestinian Authority also took actions that significantly curtailed civic space and demands for accountability. The President of the State of Palestine issued a series of decree laws concerning the impact on the freedom of association, peaceful assembly and expression.<sup>84</sup> On 28 February 2021, the President issued an amendment to the law concerning charitable associations and civil society organizations.<sup>85</sup> The amendment requires every non-governmental organization to submit an annual work plan and budget consistent with the plan of the competent ministry, includes limits on these organizations' salaries and expenses, and provides the Council of Ministers with the authority to issue regulations on fundraising by the non-governmental organizations.<sup>86</sup> The right to freedom of association includes the ability to seek, receive and use resources, while non-governmental organizations should be free to determine their statutes, structure and activities without State interference.<sup>87</sup> Any restriction on freedom of association must be necessary in the interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others and proportionate to the interest it seeks to protect.<sup>88</sup> The sweeping restrictions introduced in the decree law do not appear to serve any protected interest and carry serious consequences for the ability of the organizations to carry out their work freely. Despite pledges by the Palestinian Authority to freeze its implementation,<sup>89</sup> the decree remained in force as at the end of the reporting period.

44. Between late June and late August 2021, the killing of Nizar Banat<sup>90</sup> sparked protests in major cities in the West Bank demanding accountability for the killing. On several occasions documented by OHCHR, numerous demonstrators were subjected to physical violence by Palestinian security forces and armed individuals in civilian clothes seemingly acting in coordination with Palestinian security forces, raising serious human rights concerns.<sup>91</sup> Several women and men demonstrators, including political opposition candidates, journalists, human rights defenders and one OHCHR staff member who was monitoring the demonstration, were physically assaulted, and some of them were subjected to gender-based violence and harassment.<sup>92</sup> According to OHCHR monitoring, 75 people were arrested by Palestinian security forces, of whom at least 40 faced charges seemingly based on their exercise of freedom of peaceful assembly and expression. Some of them reported ill-treatment while in custody. The Addameer Prisoner Support and Human Rights Association submitted 11 complaints on behalf of the affected individuals, including seven women, to the Palestinian Military Prosecution and the Public Prosecution. The Association reported having only been informed about investigative steps in one case by the end of the reporting period.<sup>93</sup> The Palestinian security forces justice commission indicated that seven investigations had been launched into such incidents. As of the end of the reporting period, no other information had been made available regarding accountability steps taken in relation to other incidents of the alleged excessive use of force during such demonstrations.

<sup>84</sup> See [A/HRC/49/83](#).

<sup>85</sup> Palestinian presidential decree law No. 7 of 2021, published in the official Gazette on 2 March 2021.

<sup>86</sup> Ibid., arts. 2–4.

<sup>87</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, art. 13. See also [A/HRC/23/39](#), paras. 8 and 16.

<sup>88</sup> International Covenant on Civil and Political Rights, art. 22.

<sup>89</sup> See <https://www.wattan.net/ar/news/334982.html> (in Arabic).

<sup>90</sup> See paragraph 26 above.

<sup>91</sup> See <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27247&LangID=E>.

<sup>92</sup> See [A/HRC/49/83](#).

<sup>93</sup> The case refers to a member of the Palestinian Presidential Guard who was arrested on 8 September 2021 and indicted for assault and theft committed while acting in civilian clothes against a demonstrator during a protest on 27 June. See <https://www.addameer.org/ar/news/4566?fbclid=IwAR1Ke3A5W5KfuaJ2mLpkVEql38slwUU4eR4MN2y18ngm41cC6I--dxfgTY>.

## IV. Conclusions and recommendations

45. Despite intensified violence and recurring violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory, impunity remained widespread and pervasive. There are serious concerns that steps taken thus far by Israel and the Palestinian authorities to investigate alleged violations of international humanitarian law during the escalation of hostilities in May 2021 have not been sufficient. Impunity also persisted in relation to alleged violations, including possible war crimes, by all parties during previous escalations in 2008/09, 2012 and 2014. There was an almost total failure to ensure accountability for numerous allegations of the excessive use of force by Israeli forces in the context of law enforcement operations in the Occupied Palestinian Territory, resulting in the killing and injury of Palestinians. With regard to the Palestinian authorities, few steps were documented in the investigation and prosecution of members of Palestinian security forces or of the security forces in Gaza responsible for the alleged excessive use of force and other human rights violations committed against Palestinians.

46. In this climate of impunity, increased restrictions on the freedom of expression, association and assembly of those who defend human rights and call for accountability are a cause for particular concern. Counter-terrorism legislation must not be applied to curtail human rights and humanitarian work, to suppress or deny the right to freedom of association, or to quash political dissent and limit the peaceful activities of civil society.

47. Recalling the follow-up measures described in the comprehensive review of the status of recommendations addressed to all parties since 2009,<sup>94</sup> the High Commissioner:

(a) Calls upon Israel to fully comply with its obligations under international human rights law and international humanitarian law in the Occupied Palestinian Territory; urges it to conduct prompt, independent, impartial, thorough, effective and transparent investigations into all alleged violations and abuses of international human rights law and international humanitarian law, including into allegations of international crimes; and also calls upon Israel to ensure that all victims and their families have access to effective remedies, gender-responsive reparation and truth;

(b) Calls upon Israel to revoke the designations against Palestinian human rights and humanitarian organizations as terrorist or unlawful organizations, absent sufficient evidentiary basis for them. Israel must also ensure that human rights defenders are not detained, charged and convicted in relation to their legitimate work to protect and promote human rights and accountability;

(c) Calls upon Israel to resume its cooperation with OHCHR and make full use of OHCHR technical assistance;

(d) Urges the State of Palestine to conduct prompt, independent, impartial, thorough, effective and transparent investigations into all alleged violations and abuses of international human rights law and international humanitarian law, in particular into allegations of international crimes; and calls upon the State of Palestine to ensure that all victims and their families have access to effective remedies, gender-responsive reparation and truth;

(e) Recommends that all parties ensure full respect for international law, including international humanitarian law, in particular the principles of distinction, proportionality and precaution, and that they ensure accountability for grave violations;

(f) Calls upon all States to take all measures necessary to effectively ensure respect for the Geneva Conventions of 12 August 1949 by all parties to the conflict, taking into account the means reasonably available to them and their level of influence

<sup>94</sup> [A/HRC/35/19](#), paras. 63–81.

on the parties, and reminds States, in particular those with close ties to the parties, that they should exert their influence to ensure respect for the law;

(g) Reiterates the calls upon all States and relevant United Nations bodies to take the measures necessary to ensure full respect and compliance with the relevant resolutions of the Security Council, the General Assembly and the Human Rights Council.

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