



General Assembly

Distr.: General
14 March 2019

Original: English

Human Rights Council

Fortieth session

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**

Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem

Report of the United Nations High Commissioner for Human Rights*

Summary

The present report is submitted pursuant to Human Rights Council resolution 37/37. It presents an overview of the implementation of resolution 37/37 and also developments during the reporting period that are of relevance to ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem.

* The present report was submitted after the deadline in order to reflect the most recent developments.



I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 37/37. In that resolution, the Council requested the United Nations High Commissioner for Human Rights to report on the implementation of the resolution, in particular with reference to the recommendations contained in the reports of the independent commission of inquiry on the 2014 Gaza conflict, the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, and the United Nations Fact-Finding Mission on the Gaza Conflict. The report should be read in conjunction with recent relevant reports of the High Commissioner.¹

2. In the report, the High Commissioner addresses issues related to accountability for alleged violations of international human rights law and international humanitarian law, including in connection with the 2014 escalation of hostilities in Gaza and within the scope of law enforcement operations in the Occupied Palestinian Territory. Pursuant to resolution 37/37, the report also addresses recent developments of relevance to ensuring accountability for international law violations, such as concerns about human rights defenders and civil society actors documenting violations and advocating for accountability by all duty bearers, as well as the responsibility of third States to ensure respect for international human rights law and international humanitarian law.

3. The High Commissioner recalls the obligation of Israel, as the occupying Power, to protect the population of the Occupied Palestinian Territory.² She reiterates the call to both Israel and the State of Palestine to conduct prompt, impartial and independent investigations of all alleged violations of international human rights law and international humanitarian law and to make full use of technical assistance from the Office of the United Nations High Commissioner for Human Rights (OHCHR) to assist with the implementation of recommendations addressed to them.³ With respect to the international community, the High Commissioner suggests that the Human Rights Council consider recommending to the General Assembly that it make use of its powers under Article 96 (a) of the Charter of the United Nations in order to specify how all parties can fulfil their obligations in implementing the recommendations reviewed in the report.⁴ Furthermore, in its resolution 37/37, the Council calls on all parties to cooperate fully with the preliminary examination of the International Criminal Court and with any subsequent investigation that may be opened.⁵

II. Update on accountability

A. Accountability for the 2014 escalation of hostilities in Gaza

4. Over four years since the 2014 escalation of hostilities in Gaza, serious concerns persist with regard to the lack of accountability – by all parties to the conflict – for violations of international humanitarian law, including allegations of war crimes. Since the publication of the report of the independent commission of inquiry on the 2014 Gaza conflict, the Secretary-General and the High Commissioner have provided regular updates on the lack of progress in the implementation of the commission's recommendations and

¹ A/HRC/37/41 and A/HRC/35/19.

² A/HRC/34/38, para. 38.

³ A/HRC/35/19, paras. 67, 69, 71 and 73.

⁴ A/HRC/35/19, para. 75.

⁵ See www.icc-cpi.int/itemsDocuments/181205-rep-otp-PE-ENG.pdf.

highlighted concerns in terms of the lack of accountability by both the Israeli and Palestinian authorities.⁶

5. Particularly worrying is the number of cases that, despite serious allegations and prima facie evidence of international law violations, were closed by the Israeli Military Advocate General without any criminal investigation.⁷ According to the most recent update of the Military Advocate General, dated 15 August 2018, out of 500 complaints related to 360 incidents referred to him,⁸ only 31 were referred for criminal investigation. While one investigation led to the conviction of three soldiers for looting, investigations in 28 cases have been concluded without resulting in criminal charges and 2 cases remain pending. Cases relating to 189 incidents have so far been closed.⁹

6. The most recent update included information on decisions taken by the Military Advocate General since the previous update, such as the decision not to proceed to a criminal investigation of the events in and around Rafah that took place on 1 August 2014 (so-called Black Friday),¹⁰ during which 3 Israeli soldiers and 207 Palestinians, including at least 144 civilians, were killed.¹¹ The Military Advocate General further decided not to take action following preliminary examinations relating to seven other cases involving the deaths of 79 Palestinians, mostly civilians, and damage to a hospital and several residential structures. He also provides information on the decision to close one case involving civilian deaths following a preliminary investigation by the military police, as well as to close eight cases pertaining to the killing of over 50 Palestinians, mostly civilians, following criminal investigations.

7. Concerning events that took place in and around Rafah on 1 August 2014, the Military Advocate General concluded that 114 Palestinians had been killed during the fighting, including at least 42 “military operatives”. He acknowledged that Palestinian civilians might have been incidentally killed during the fighting, but concluded that none had directly been targeted. According to the Military Advocate General, the majority of civilians had been killed as a result of targeted aerial strikes aimed at military targets. In cases related to ground operations, he referred to the low number of civilian casualties to demonstrate respect for the principle of proportionality. In a few cases, he recognized that the civilian presence in the targeted area had been larger than expected by Israeli security forces following an initial assessment, but concluded that that had not affected the proportionality assessment, nor the legality of the use of force. He noted that precautionary measures had been taken whenever appropriate, underlining in a number of cases that warnings to the civilian population had not been possible as they would have undermined the objective of the operation at stake. For all cases examined in the update, he concluded that there had been no grounds for reasonable suspicion of criminal misconduct that would warrant the opening of a criminal investigation. Similar conclusions were reached in other cases, for example regarding two attacks that had occurred on 29 July 2014 that had respectively resulted in the deaths of 35 civilians in Khan Yunis and of 19 persons, of whom a significant majority were civilians, in Bureij camp.

8. The information provided by the Military Advocate General in the most recent update, as in previous ones, is insufficient to support the conclusion that the principles of

⁶ A/HRC/37/41, paras. 9–17, A/HRC/34/38, para. 42, and A/71/364, paras. 40 and 51–55.

⁷ See Israel Defense Forces, “Decisions of the IDF Military Advocate General regarding exceptional incidents that allegedly occurred during Operation ‘Protective Edge’ – update No. 6”, available from www.idf.il/en/minisites/wars-and-operations/operation-protective-edge-legal-updates/). See also A/HRC/37/41, para. 14, A/HRC/35/19, para. 18, and A/71/364, para. 40.

⁸ According to the Military Advocate General, “such incidents include events allegedly resulting in significant and unanticipated civilian harm and events where military activity allegedly resulted in damage to medical or UN facilities” (see www.idf.il/en/minisites/wars-and-operations/mag-corps-press-release-initial-release-sept-2014/).

⁹ See Israel Defense Forces, “Decisions of the IDF Military Advocate General”.

¹⁰ Events on 1 August 2014 involved aerial attacks and a ground operation by Israeli security forces following the killing of two of its soldiers and the kidnapping of another one, who was later pronounced dead.

¹¹ See www.btselem.org/press_releases/20160720_fatalities_in_gaza_conflict_2014.

proportionality and precaution have been effectively respected throughout the military operations under review. Instead, the latest update confirms earlier concerns expressed by the Secretary-General and the High Commissioner as to the failure of the Military Advocate General and the Attorney General to consistently open criminal investigations in cases where there is prima facie evidence that State agents have committed unlawful actions.¹²

9. In the 31 cases where criminal investigations were launched by the Military Advocate General, most were closed on the grounds that the attacks complied with Israeli domestic law and international law. This was the reason given, for example, for closing the investigation into the incident in which strikes by Israeli security forces killed four boys, aged 10 and 11, from the Bakr family, who were playing on a beach in Gaza on 16 July 2014.¹³ Information gathered by OHCHR and the independent commission of inquiry raises serious concerns as to whether fundamental principles of international humanitarian law were respected in this case.¹⁴ An appeal against the Military Advocate General's decision to close the investigation, submitted in August 2015 by Adalah: The Legal Center for Arab Minority Rights in Israel, Al Mezan and the Palestinian Centre for Human Rights on behalf of the families, is still pending.¹⁵ This case, featuring many eyewitnesses, also raises serious concerns about the ability of the internal investigation mechanism of the Military Advocate General to ensure accountability and provide an effective remedy for victims. The fact that the Military Advocate General provided legal advice to the military before and during the fighting further suggests an inherent conflict of interests faced by the Military Advocate General in his investigative role and calls into question his ability to ensure genuine accountability. The High Commissioner had previously expressed concerns with regard to the independence, impartiality, promptness and transparency of the Office of the Military Advocate General.¹⁶

10. On 14 March 2018, the Israeli State Comptroller, in his capacity as the Ombudsman, published a fourth report on the 2014 escalation of hostilities.¹⁷ In the report, the State Comptroller suggests that international law was taken into account within the scope of the activities of the Israel Defense Forces in Gaza, and that the civilian population received assistance during the hostilities. However, he did not examine the policies and rules of engagement applicable to the conduct of hostilities, including the implementation thereof, that resulted in the killing of almost 1,500 civilians.¹⁸

11. In the report, the State Comptroller further provides an assessment of the General Staff Mechanism for Fact Finding Assessments, to which 220 out of 360 incidents that occurred during the 2014 escalation of hostilities in Gaza were referred for initial factual examination. He concluded that the mechanism was in line with requirements under international law, despite acknowledging its subordination to the Chief of General Staff of the Israel Defense Forces, as well as various gaps and flaws in its work. Those deficiencies included the failure to separate the mechanism from the general staff operational debriefing team, insufficient training for the teams and lack of legal expertise, independence, effectiveness and impartiality.¹⁹ Given the structural and operational issues identified, it is

¹² A/HRC/37/41, para. 14, A/HRC/35/19, para. 18, and A/71/364, para. 40.

¹³ In this case, the Military Advocate General found the following: "The professional discretion exercised by all the commanders involved in the incident had not been unreasonable under the circumstances. However, it became clear after the fact that the identification of the figures as militants from Hamas's Naval Forces was in error. Nonetheless, the tragic outcome of the incident does not affect the legality of the attack ex post facto." (See www.idf.il/en/minisites/wars-and-operations/mag-corps-press-release-update-4-june-2015/.)

¹⁴ A/HRC/37/41, para. 12, A/HRC/28/80/Add.1, para. 36, and A/HRC/29/CRP.4, paras. 631–633.

¹⁵ The decision of 11 November 2018 of the District Court of Beersheba in the Nabaheen case (see para. 25 below) is expected to have a direct influence on the outcome of this case.

¹⁶ A/HRC/37/41, para. 11.

¹⁷ See www.mevaker.gov.il/he/Reports/Report_622/3cdfbe36-04fc-4ff2-b2df-33ce258ae838/dabla-eng.pdf.

¹⁸ See www.ochaopt.org/content/key-figures-2014-hostilities; and A/HRC/29/CRP.4.

¹⁹ *Operation "Protective Edge" IDF Activity from the Perspective of International Law, Particularly with Regard to Mechanisms of Examination and Oversight of Civilian and Military Echelons*, table 1,

highly questionable whether the mechanism fulfils the international law requirements of independence, impartiality and effectiveness.²⁰

12. In addition, the latest public update of the Military Advocate General shows the extent to which he relies on the findings of the mechanism in his decisions. While the mechanism examines compliance with Israel Defense Forces orders and procedures, it does not examine the compatibility of such orders and procedures with applicable international law. In that regard, the reliance of the Military Advocate General on the conclusions of this fact-finding mechanism, with its limited scope of examination and without the tools available to criminal police investigators, raises serious concerns about the adequacy and quality of the Military Advocate General's decisions concerning possible criminal behaviour in relation to the cases referred to him.²¹

13. With respect to Palestinian authorities and armed groups, there continues to be no information made available regarding any steps taken towards ensuring accountability for international law violations committed by them, as also identified by the commission of inquiry on the 2014 Gaza conflict.²² Other than the engagement of the State of Palestine with the International Criminal Court, no information is available that indicates that any measures have been taken by the Palestinian authorities to address violations committed during the 2014 escalation of hostilities.²³ This complete lack of any accountability is of most serious concern. In accordance with international human rights and humanitarian law, the State of Palestine must investigate allegations of serious violations of international law committed on its territory, and prosecute suspects.

B. Accountability for unlawful use of force

14. The Secretary-General and the High Commissioner have repeatedly expressed concern for the prevailing culture of impunity for the excessive use of force by Israeli security forces outside the context of hostilities.²⁴ A total of 299 Palestinians were killed, including 57 children, and 29,878 were wounded, including 7,242 by live ammunition,²⁵ by Israeli security forces in 2018 throughout the Occupied Palestinian Territory, amounting to the highest numbers since the 2014 escalation of hostilities in Gaza. The vast majority of the killings and injuries occurred outside the context of hostilities, in which circumstances the use of force is governed by international human rights law and standards regulating the conduct of law enforcement officials. Of particular concern was the use by Israeli security forces of lethal force in the context of the Great March of Return demonstrations along the fence between Gaza and Israel.²⁶

15. On 30 March 2018, the Secretary-General called for an independent and transparent investigation into those incidents.²⁷ That call was echoed on 6 April 2018 by the High Commissioner²⁸ and three special procedure mandate holders.²⁹ On 8 April 2018, the media

“the main findings of the Fact-Finding Assessment Mechanism”, pp. 129–130. Available at www.mevaker.gov.il/he/Reports/Report_622/3cdfbe36-04fc-4ff2-b2df-33ce258ae838/dabla-eng.pdf.

²⁰ In terms of independence and impartiality, although the officers in the mechanism are supposed to be outside the chain of command of the incidents under review, it remains an internal military examination, where the military is examining its own conduct. The effectiveness of the mechanism is also questionable given the lack of results of its previous investigations.

²¹ See Amichai Cohen and Yuval Shany, “Israel’s Military Advocate General terminates ‘Black Friday’ and other investigations: initial observations”, *Lawfare*, 27 August 2018.

²² See A/HRC/29/52.

²³ A/HRC/37/41, para. 17.

²⁴ See, for example, A/HRC/35/19, paras. 17–18, A/HRC/34/38, para. 48, and A/71/364, para. 66.

²⁵ According to the Office for the Coordination of Humanitarian Affairs (OCHA), 23,814 persons were wounded in Gaza and 6,064 in the West Bank.

²⁶ A/HRC/40/39, paras. 23–24.

²⁷ See www.un.org/sg/en/content/sg/statement/2018-03-30/statement-attributable-spokesman-secretary-general-situation-gaza.

²⁸ See www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22925&LangID=E.

²⁹ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22924.

reported that the Israel Defense Forces had appointed Brigadier General Moti Baruch, Head of the General Staff's Doctrine and Training Division, to lead the investigation into the conduct of the Israel Defense Forces. It appears that the General Staff Mechanism for Fact Finding Assessments, the same mechanism that was mandated to examine events that occurred during the 2014 escalation of hostilities in Gaza, is in charge of that inquiry.³⁰ In the light of the deficiencies of the mechanism described above, this raises concerns as to whether such an internal examination mechanism meets accountability requirements under international law.

16. On 15 and 23 April 2018, five Israeli and one Palestinian human rights organization submitted two petitions to the High Court of Justice regarding the rules of engagement of the Israel Defense Forces and their application during the Great March of Return. The Government of Israel, in its submission to the Court, advanced a novel category of "legitimate targets" of lethal force not sanctioned by international law, by authorizing the use of lethal force against "main rioters" or "key inciters", including when they do not pose an imminent threat to life or of severe bodily harm. The High Court decided that the soldiers present at the fence were acting in accordance with both international law and domestic Israeli law, relying on the Israeli legal principle of broad deference to governmental decisions in military operational matters, and invoking the general presumption in Israeli administrative law that the Government's actions were lawful unless proven otherwise. With regard to the lawfulness of targeting "main rioters" or "key inciters", the Chief Justice, while acknowledging that these amounted to a new category of targetable individuals not recognized in international law, deferred the question of its legality to the General Staff Mechanism for Fact Finding Assessments. This is particularly problematic because – as noted earlier – the mechanism focuses on the implementation of the rules of engagement. The mechanism's mandate does not extend to examining the compatibility or conformity of such orders and procedures with international law.³¹

17. As of the end of 2018, the Israeli security forces announced investigations into eight incidents involving the killing of demonstrators, including five children, during the Great March of Return. Al Mezan and the Palestinian Centre for Human Rights indicated that they had respectively submitted 82 and 56 cases to the Israeli authorities related to individuals killed or wounded at the Gaza fence since 30 March 2018.

18. The lack of accountability for the killing of Palestinians is evident not only in the context of escalations in hostilities in Gaza and of the Great March of Return, but persists also in the context of Israeli military control over and policing of Palestinians in the West Bank. In the past seven years, during which reportedly 114 criminal investigations were opened across the Occupied Palestinian Territory and almost 700 Palestinian civilians were killed by Israeli security forces,³² only four indictments were issued against soldiers for the killing of unarmed Palestinians: three for killings in the West Bank and one for a killing in Gaza.³³ The three West Bank-related indictments were for the killings of Samir Awad in 2013, Nadeem Nuwara in 2014 and Abdelfattah al-Sharif in 2016. All three cases, closely monitored by the OHCHR office in the Occupied Palestinian Territory, were concluded in 2018 and raise serious concerns that justice and redress for the victims have not been delivered in accordance with international standards.

19. Sixteen-year-old Samir Awad was killed on 15 January 2013 by the Israeli security forces. He was struck by live ammunition in his back and head while caught between barbed wire fences near Budrus in the West Bank. After lengthy legal proceedings, on 30 December 2015, two soldiers were charged with reckless and negligent use of a firearm.

³⁰ A/73/420, para. 61.

³¹ See www.lawfareblog.com/supreme-court-israel-dismisses-petition-against-gaza-rules-engagement.

³² According to the OCHA database on casualties, between 2012 and 2018, 692 Palestinians not considered to be members of armed groups, including 212 children, were killed outside the context of escalations of hostilities, including 611 by live ammunition and 23 by non-lethal ammunition (i.e., rubber coated metal bullets, tear gas canisters and tear gas inhalation).

³³ Regarding Gaza, an indictment was issued in relation to the killing of Mohammad 'Atta Abu Jame'a, a 59-year-old farmer, who was shot dead by the Israel Defense Forces east of Khan Yunis on 3 March 2018.

Despite the disparity between the gravity of the conduct and the charges advanced, the State Attorney's Office decided to withdraw the indictments against the two soldiers on 4 June 2018. According to reports, the two soldiers advanced a notion of "selective enforcement" in their defence, on the basis that there had been no indictments in similar cases in which Israeli security forces had shot and killed Palestinians.³⁴ The State Attorney's reasoning for the decision to withdraw the indictment was reportedly based on the fact that the accused soldiers had not actually violated the open-fire regulations that were in force in that particular part of the West Bank at the time of the shooting, as also confirmed by prosecution witnesses.³⁵ The case illustrates the significant concerns regarding the Israeli military justice system, which focuses on the responsibility of soldiers and the closure of cases based on the lack of reasonable grounds for suspicion of criminal behaviour, while overlooking the responsibilities of military commanders and policymakers.³⁶ In addition, the case also raises serious questions as regards the conformity of the applicable open-fire regulations with international law.³⁷

20. On 19 August 2018, the Israeli Supreme Court accepted the State prosecution's appeal against the light sentence imposed on Border Police Officer Ben Deri, charged with killing 17-year-old Palestinian Nadeem Nuwara in 2014 in circumstances where the youth did not pose any threat to Israeli security forces. The Supreme Court doubled the lower court's prison sentence to 18 months. The Supreme Court justified the harsher sentence, *inter alia*, on the grounds of the officer's intent to cause harm even if he did not face any danger. Despite the Supreme Court decision, the sentence still appears to be incommensurate with the gravity of the offence, namely the killing of a child who did not pose a threat to life or of serious injury to the officer.

21. The case of Sergeant Elor Azaria, an Israeli soldier convicted of manslaughter for shooting the already-incapacitated Abdelfattah al-Sharif in the head after the latter had allegedly stabbed an Israeli soldier in Hebron in March 2016, continues to be of grave concern. His already lenient initial sentence of 18 months' imprisonment issued in February 2017 was reduced to 14 months by the Israel Defense Forces Chief of General Staff in September 2017. On 8 May 2018, the media reported that the sergeant had been granted early release after having served two thirds of his sentence, that is, after nine months.

22. These cases are emblematic of a pattern of killings of Palestinians who did not pose a threat at the time they were shot, as corroborated by eyewitnesses and additional evidence, such as video footage, and in which the perpetrators were known. At the same time, these cases remain exceptions, as they led to an indictment, despite some serious flaws in the investigations.³⁸ The vast majority of investigations into killings of Palestinians by Israeli security forces were closed by the Military Advocate General without further action.³⁹

23. On 18 June 2018, Israeli media sources reported that the Military Advocate General had decided to close the case against the Israel Defense Forces commander who shot into a Palestinian car on 21 June 2016, killing 15-year-old Mahmoud Badran and wounding four others, including three other children.⁴⁰ While the commander of the force had allegedly acted based on the assumption that the occupants of the car were involved in an earlier

³⁴ See www.btselem.org/press_releases/20180610_samir_awad_case_whitewashed.

³⁵ See www.haaretz.co.il/blogs/johnbrown/BLOG-1.6140314 and www.haaretz.co.il/blogs/johnbrown/BLOG-1.6175907 (both in Hebrew); Yotam Berger, "Israeli soldiers indictment over Palestinian's death to be quashed", *Haaretz* (5 June 2018) (in English); and <https://news.walla.co.il/item/3163565> (in Hebrew).

³⁶ A/71/364, para. 40, A/HRC/34/38, para. 42, A/HRC/35/19, para. 20, and A/HRC/37/41, paras. 9–16.

³⁷ These regulations are not publicly available. See www.adalah.org/en/content/view/9264.

³⁸ As shown by OHCHR monitoring of the trial in the Nuwwara case; for Awad's case, see <https://mekomit.co.il/%D7%9B%D7%AA%D7%91-%D7%90%D7%99%D7%A9%D7%95%D7%9D-%D7%A1%D7%9E%D7%99%D7%A8-%D7%A2%D7%95%D7%95%D7%90%D7%93/> (in Hebrew).

³⁹ See www.btselem.org/publications/summaries/201605_occupations_fig_leaf and https://mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/New_investigation_policy_Palestinian_casualties_IDF_fire_Judea_Samaria_6-Apr-2011.aspx.

⁴⁰ A/HRC/37/41, para. 21.

incident of stone throwing, the military investigation that was launched after an initial probe found that the erroneous identification of the car was “sincere and reasonable” and that the force had “operated appropriately”. At the same time, the Military Advocate General found that the force had committed professional errors, but that those did not warrant legal action due to the “complex operational environment” in which the soldiers were operating. The lack of prosecution of soldiers who opened fire towards a car full of individuals, including four children, who did not present a threat to life or of serious injury, raises serious concerns about the lack of accountability for conduct that appears to amount to excessive use of force.⁴¹ It appears in the decision of the Military Advocate General that the only measure taken in this case was the dismissal of the commander from the Israel Defense Forces.⁴² Such a disciplinary sanction is not considered in itself as a sufficient measure of accountability in a case implying excessive use force that resulted in the killing of children.

24. On 16 September 2018, the case of the killing by an Israeli security forces soldier of Bassem Abu Rahma during a peaceful demonstration in Bil’in in April 2009 was closed without the perpetrator being held accountable, despite the availability of reliable additional evidence, including video footage.⁴³ This decision of the High Court of Justice put an end to more than nine years of legal proceedings, involving three petitions to the High Court and two appeals to the Attorney General. In its decision, the High Court recognized that the Military Police and the Military Advocate General had been negligent, had protracted the investigation over a period of years and had made decisions only under pressure from the petitioners to the High Court. It nevertheless rejected the petition against the Attorney General’s decision to close the investigation, declining to intervene in that decision and also noting difficulties linked to the long time that had passed since the incident. This decision was taken despite the High Court having been petitioned three times in the past to ensure accountability in the case.⁴⁴ This case raises concerns as regards the role of the High Court in overseeing accountability measures against Israeli soldiers involved in the killing of Palestinians.

Civil remedies

25. Palestinians residing in Gaza face numerous obstacles that impede or prevent them from pursuing accountability for alleged violations, including seeking civil remedies. Obstacles to access to justice include restrictive legislation on State liability, with wide exemption for the State from liability for “wartime activity”, the statute of limitations, High Court guarantees to be paid and the difficulties residents of Gaza face to enter Israel to attend legal proceedings.⁴⁵ In particular, the exclusion of the population of Gaza (as residents of an “enemy territory”) from the scope of Israeli civil liability legislation in October 2014 – with retroactive applicability to July 2014 – has exempted Israel from any liability for wrongful acts committed by the Israel Defense Forces since the 2014 escalation.⁴⁶ The constitutionality of this exclusion was challenged in Court in a tort lawsuit brought by Al Mezan and Adalah on behalf of Ateyeh Nabaheen, who was shot and

⁴¹ See Yaniv Kubovich, “Israeli army closes probe into officer’s ‘errant killing’ of Palestinian teen”, *Haaretz* (11 June 2018).

⁴² See www.idf.il/%D7%9E%D7%90%D7%9E%D7%A8%D7%99%D7%9D/%D7%AA%D7%99%D7%A7-%D7%97%D7%A7%D7%99%D7%A8%D7%94-%D7%A0%D7%A1%D7%92%D7%A8/ (in Hebrew). See also Yaniv Kubovich, “Israeli officer opened fire against regulations, killed a Palestinian boy – but won’t be prosecuted”, *Haaretz* (12 January 2018).

⁴³ Additional forensic evidence and analysis provided by human rights organizations (Yesh Din, B’Tselem, Forensic Architecture and SITU Research) considerably strengthened the evidence against the soldier. See <http://archive.forensic-architecture.org/investigations/bassem-abu-rahma/> and www.yesh-din.org/en/petition-prosecute-responsible-killing-bassem-abu-rahmeh/.

⁴⁴ See www.yesh-din.org/en/petition-prosecute-responsible-killing-bassem-abu-rahmeh/.

⁴⁵ A/71/364, paras. 40 and 56–57, and A/HRC/37/41, para. 15.

⁴⁶ A/71/364, paras. 56–57. See Israeli government decree of 26 October 2014 declaring the Gaza strip as “enemy territory”, retroactively from 7 July 2014, hence activating the exemption from damages to “persons who are not citizens or residents of Israel, and are residents of a territory outside Israel that has been declared an ‘enemy territory’ in a governmental decree”.

seriously wounded on 11 November 2014 in Gaza, while on his family's property, outside the area of any military activity.⁴⁷ Ateyeh Nabaheen was left quadriplegic and confined to a wheelchair. The District Court of Beersheba issued its decision on 4 November 2018, ruling that the law prohibiting Palestinians living in Gaza from seeking compensation from Israel was constitutional, regardless of the circumstances and the gravity of the injury at stake. This decision is expected to affect the outcome of other cases of Palestinians killed by the Israeli security forces during the 2014 escalation of hostilities still pending before the court, such as the case of the killing of the four boys of the Bakr family (see para. 9 above).⁴⁸ Al Mezan and Adalah have indicated that they will appeal the decision to the Israeli Supreme Court.⁴⁹ Should the decision stand, all Gaza residents would appear to be precluded from seeking redress and remedy in Israeli civil courts, regardless of the circumstances and the severity of the injury or damages claimed.

26. The "enemy territory" exclusion clause is not the only obstacle to obtaining civil remedies. On 3 December 2018, the District Court of Beersheba rejected the lawsuit submitted by Izzeldin Abu El-Eish from Jabaliya, whose three daughters and niece were killed by Israeli security forces during the 2008–2009 escalation of hostilities in Gaza, attributing the responsibility for their deaths to Hamas. The plaintiff, who was seeking recognition by Israel of wrongdoing for the killing of the girls, claimed that there was no fighting in the area at the time of the attack on his home, meaning there was no military purpose for it being targeted. According to the ruling, the home was hit because figures on the roof were suspected of acting as lookouts for terrorist groups and directing fire at Israel Defense Forces, and due to a failure to share information regarding the civilian occupants of the house. The commander of the division testified that if this information had been made available to him, he would not have ordered the shelling. Nevertheless, the court concluded that it had not found any wrongful act and decided to close the case.⁵⁰

III. Impediments to the work of human rights defenders

27. Measures impeding the work of human rights defenders and civil society actors, particularly in their work in documenting and advocating for accountability for alleged international human rights law and international humanitarian law violations in the Occupied Palestinian Territory, continued to be of serious concern. The prevailing atmosphere of impunity combined with intimidation, threats and arrests of human rights defenders and civil society actors contributed to a shrinking space for civil society and a lack of deterrence for further violations.⁵¹

A. Intimidation of, restrictions on and threats against civil society actors

28. Restrictions by all duty bearers on the rights of freedom of expression, peaceful assembly and association continued. This included, inter alia, intimidation, threats, harassment and movement restrictions, as well as assaults, arbitrary arrests, ill-treatment and prosecutions of individual human rights defenders. The activities of human rights organizations were curtailed by systematic delegitimization likely to affect their funding, denials or restrictions on work permits or visas and the closure of a civil society organization by Israel.

⁴⁷ A/HRC/37/41, para. 16.

⁴⁸ This would namely pertain to three cases filed by the Palestinian Center for Human Rights.

⁴⁹ See <http://mezan.org/en/post/23316>.

⁵⁰ Decision of the District Court CC (Beersheba District Court), *Abu El Eish v. Israel*, case No. 40777-12-10, judgment, 27 November 2018. Available at www.nevo.co.il/psika_html/mechozi/ME-10-12-40777-390.htm (in Hebrew).

⁵¹ A/HRC/37/41, para. 22 ff., and Human Rights Council resolution 37/37, para. 7.

Israel

29. There were numerous statements by high-ranking officials against civil society organizations and human rights defenders, including verbal attacks that might amount to incitement to violence.⁵² Human rights defenders were also subjected to threats, intimidation and attempts to delegitimize them, including with a view to influencing their foreign sources of funding. For example, the organization Breaking the Silence continued to face public condemnation by high-ranking Israeli officials, within the scope of an investigation against Dean Issacharoff, a spokesperson of Breaking the Silence and a former Israeli soldier who had publicly testified on using violence against a Palestinian in Hebron in 2014.⁵³

30. A number of senior Israeli officials also publicly condemned the Executive Director of the Israeli non-governmental organization (NGO) B'Tselem, Hagai El-Ad, following his briefing to the Security Council on 18 October 2018. The Permanent Representative of Israel to the United Nations accused him of defaming his Government, called him a “lousy collaborator” and said that if he had been Palestinian or Bolivian he would “likely end up dead”.⁵⁴ The Deputy Foreign Minister stated that action should be taken to end international funding of B'Tselem.⁵⁵

31. Some organizations have been instrumental in distributing information aimed at discrediting human rights defenders and civil society actors.^{56, 57} The Israeli Ministry of Strategic Affairs has accused the European Union of directly or indirectly funding organizations that promoted the delegitimization of and boycotts against Israel and alleged that European taxpayers' money was being used to support ties with terrorist organizations.⁵⁸

32. There were increased restrictions on work permits and visas for human rights defenders, including through the enforcement of the amended Entry into Israel Law. The amendment prohibits the granting of a visa to persons who are not citizens or permanent residents of Israel if they or the organization for which they work has knowingly issued a public call to boycott Israel, or has committed to participating in such a boycott.⁵⁹ In early January 2018, a “boycott, divestment and sanctions blacklist” of 20 such organizations was published by the Strategic Affairs Ministry.⁶⁰ There are serious concerns that the amended

⁵² See also A/HRC/37/41, para. 24, and A/HRC/34/36, para. 50.

⁵³ The investigation has been reopened and is ongoing (www.timesofisrael.com/breaking-the-silence-spokesman-cleared-of-beating-palestinian/). See also www.breakingthesilence.org.il/inside/ayelet-shaked-private-prosecutor/, www.haaretz.com/israel-news/palestinian-allegedly-beaten-by-breaking-the-silence-spox-called-to-give-testimony-1.5629686 and Chemi Shalev, “To whitewash occupation, Netanyahu crew casts Breaking the Silence whistle-blower as bogeyman: right-wing sadists harass Israeli Ambassador to Germany Jeremy Issacharoff to act against his own son”, *Haaretz*, 21 November 2017.

⁵⁴ See <http://webtv.un.org/meetings-events/watch/part-1-the-situation-in-the-middle-east-including-the-palestinian-question-security-council-8375th-meeting/5850529585001/?term=> (from minute 58:00).

⁵⁵ See www.timesofisrael.com/netanyahu-denounces-btselem-chiefs-un-speech-as-full-of-lies/. See also the text of a since-deleted Facebook post about Hagai El-Ad attributed to Knesset Member Oren Hazan, and available at www.nad.ps/en/media-room/israeli-incitement-reports/israeli-official-incitement-october-2018.

⁵⁶ See http://policyworkinggroup.org.il/report_en.pdf.

⁵⁷ See <https://apnews.com/0601a79f13e041b9b5b312ec73063c98/covertly-israel-prepares-fight-boycott-activists-online>. See also www.ngo-monitor.org/reports/political-advocacy-ngo-involvement-in-un-humanitarian-aid-clusters/.

⁵⁸ Israel, Ministry of Strategic Affairs and Public Diplomacy, *The Money Report: The Millions Given by EU Institutions to NGOs with Ties to Terror and Boycotts against Israel* (May 2018).

⁵⁹ A/HRC/37/41, para. 32. See also A/72/565, paras. 45–46. The definition of “boycott” is explicitly articulated in the 2011 boycott law and includes boycotts aimed at Israeli settlements located in the Occupied Palestinian Territory. The Law for the Prevention of Damage to the State of Israel through Boycott (No. 5771-2011) defines boycott as deliberately avoiding all economic, cultural or academic ties with an individual or other body, based solely on affiliation with Israel or any of its institutions or area under its control, in a manner that would cause economic, cultural or academic harm.

⁶⁰ See www.haaretz.com/israel-news/1.833502.

Entry into Israel Law is being used to prevent human rights defenders from entering into Israel, as illustrated by the case of two prominent American human rights lawyers who were denied entry to Israel on 29 April 2018 for their alleged support to the Boycott, Divestment and Sanctions movement.⁶¹

33. On 7 May 2018, the work visa of Human Rights Watch's Country Director in Israel and Palestine, Omar Shakir, was revoked by the Israeli Ministry of the Interior based on Mr. Shakir's supposed past involvement in activism with the Boycott, Divestment and Sanctions movement.⁶² Following a petition by Human Rights Watch, the Jerusalem District Court issued an interim injunction allowing Mr. Shakir to remain in the country while the court considered the petition. The Government based its position on statements attributed to Mr. Shakir in support of the establishment of a database of businesses, mandated by the Human Rights Council in its resolution 31/36. An amicus brief filed by the organization NGO Monitor and accepted by the court also pointed to social media posts highlighting the support of Human Rights Watch for the database and its general advocacy work at the Council. In January 2019, the Government submitted a response, standing by its decision to deport Mr. Shakir. The case remains pending before the District Court.

34. Continuing restrictions on freedom of movement by Israeli authorities also hampered the work of Palestinian human rights defenders and organizations, as most of them were not allowed to move freely between the West Bank, including East Jerusalem, and Gaza.⁶³ There were also increasing measures to limit civic space available to Palestinians, in particular in East Jerusalem. Israeli security forces prevented the holding of a press conference organized by the Addar Foundation and Elia Association for Youth on the developments in East Jerusalem, following the statement by the President of the United States of America on Jerusalem of 6 December 2017. On 18 April 2018, Israeli authorities closed Elia Association for Youth in East Jerusalem.⁶⁴

Palestinian authorities

35. Human rights defenders and civil society activists expressing views critical of the human rights record of Palestinian authorities were subjected to harassment, threats and restrictions to their freedom of expression and assembly in the West Bank and Gaza during the period under review. In June 2018, demonstrations were held in the West Bank calling for measures imposed by the authorities of the State of Palestine against Gaza to be lifted.⁶⁵ In addition to curtailing the demonstrations, high-ranking officials insulted and threatened the political opposition, civil society and activists who had organized the demonstration.⁶⁶ The Head of the Jerusalem Legal Aid and Human Rights Center was harassed, and one staff member was summoned by Palestinian security forces for an alleged role in organizing the demonstrations. An advocate from Addameer Prisoners Support and Human Rights Association, Muhannad Karaja, who has represented several individuals alleging arbitrary arrest, ill-treatment and torture by Palestinian security forces, reported receiving threats, including death threats, and having his car damaged by unknown assailants.

B. Arbitrary arrest, assault and detention of and legal proceedings against human rights defenders

36. The Israeli and Palestinian authorities continued to arbitrarily detain human rights defenders in the reporting period. Deprivation of liberty resulting from the peaceful

⁶¹ See Dina Kraft, "Two leading U.S. human rights activists refused entry to Israel, one for BDS ties", *Haaretz*, 3 May 2018 and Roger Cohen, "Israel banishes a Columbia law professor for thinking differently", *New York Times* (4 May 2018).

⁶² See www.hrw.org/news/2018/05/08/israel-orders-human-rights-watch-official-deported; www.hrw.org/sites/default/files/supporting_resources/israeli_governments_response_lawsuit_hebrew.pdf.

⁶³ See A/HRC/40/39, paras. 45–51. See also A/73/420, paras. 8–32.

⁶⁴ A/HRC/40/39, para. 43.

⁶⁵ *Ibid.*, para. 61.

⁶⁶ See www.youtube.com/watch?v=Az_0ePNvIT4 (in Hebrew).

exercise of fundamental freedoms, including freedom of expression, association and peaceful assembly, is considered to be arbitrary.⁶⁷

Israel

37. Abdallah Abu Rahma, a Palestinian human rights defender from the West Bank village of Bil'in, was arrested in May 2016 after having participated in a bicycle ride to mark what Palestinians refer to as Nakba Day⁶⁸ in Bil'in. The participants in the ride were violently dispersed by Israeli security forces, after the area was declared a closed military zone. In April 2018, Mr. Abu Rahma was convicted by the Israeli Military Court of disobeying a closed military zone order and obstructing a soldier. In its judgment, the court described Mr. Abu Rahma as a "leading inciter" who refused to obey the military for purposes of provocation and then forcibly resisted his own arrest. Mr. Abu Rahma was sentenced on 14 November 2018, to eight months of imprisonment, four of which were suspended, in addition to a fine of NIS 2,000.⁶⁹

38. The case against two human rights defenders, Issa Amro and Fareed al-Atrash, has been ongoing in Ofer Military Court since 23 November 2016, despite concerns previously raised by the High Commissioner, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 and the Special Rapporteur on the situation of human rights defenders.⁷⁰ Mr. Amro's indictment includes 18 charges, some of them dating back to 2010, including allegedly obstructing, insulting and assaulting soldiers, incitement and participation in assemblies without a permit.⁷¹ Mr. al-Atrash faces four charges, including participating in an illegal demonstration and assaulting soldiers.

39. Of particular concern is the case of human rights defender Aref Jaber, a well-known activist in the H2 zone in Hebron, who documents human rights violations in that zone, including by photographing and filming the use of force by Israeli security forces and settler violence. Mr. Jaber described to OHCHR the harassment that he and his wife and sons had experienced from Israeli security forces over the past 10 years, including repeated arrests, violent house raids and physical assaults. On 2 June 2018, Mr. Jaber filmed the aftermath of an incident in which Israeli security forces killed a Palestinian man in the H2 zone. Following the incident, Mr. Jaber and his son were arrested, allegedly physically assaulted, and interrogated by Israeli security forces. They were released and ordered to stop filming the security forces. Mr. Jaber was warned that he would be arrested every time he attempted to do so. Later, Israeli security forces stopped him and threatened him with a gun. Mr. Jaber's other son, aged 17, was arrested and interrogated on 23 June 2018. No charges were brought against him, and he was released after a few hours, after paying a fine of NIS 1,000.

Palestinian authorities

40. In the aftermath of demonstrations that took place in June 2018 in the West Bank calling for the lifting of punitive measures imposed by the authorities of the State of Palestine in Gaza,⁷² local human rights organizations reported that 56 people had been arrested, beaten and released the next day by Palestinian security forces.⁷³ A staff member of Amnesty International, Laith Abu Zayed, present to monitor the demonstration, was

⁶⁷ A/HRC/37/42, para. 6. See also A/HRC/36/38.

⁶⁸ Annual day of commemoration of the displacement of Palestinians that preceded and followed the Declaration of the Establishment of the State of Israel in 1948.

⁶⁹ An appeal was submitted against the sentence.

⁷⁰ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21855&LangID=E.

⁷¹ A/HRC/37/42, paras. 50–51.

⁷² Detailed information regarding the demonstrations is provided in document A/HRC/40/39, paras. 60–62.

⁷³ A/HRC/40/39, para. 61.

among those arrested and reported having been subjected to ill-treatment and having witnessed other individuals facing similar treatment while in police custody.⁷⁴

41. Issa Amro, who is also facing charges in Israel (see para. 38 above), is on trial in the Palestinian courts on charges pertaining to the cybercrimes law prior to its amendment.⁷⁵ Mr. Amro's lawyer has submitted a request to the public prosecution in Hebron in May 2018, seeking closure of the case. The final decision of the Attorney General is pending.

C. Legislative measures affecting civil society

Israel

42. On 16 July 2018, the Knesset passed the so-called Breaking the Silence Law, amending the State Education Law. The law prohibits organizations such as Breaking the Silence from gaining access to schools, but its ramifications are much broader. The law authorizes the Minister of Education to prevent a person or a body whose activity contradicts the State's educational objectives from entering schools. It also blocks access to schools by organizations or persons seeking to take legal or political proceedings outside Israel, either against Israeli soldiers for an action carried out in the course of their duties or against the State of Israel. The Knesset also approved at a late stage a provision applying the law to local organizations that also work abroad to assist institutions that might promote political proceedings against Israel.

43. A bill to amend the Israeli Income Tax Ordinance, denying tax benefits to certain organizations considered to be acting against the State, is being promoted in the Knesset.⁷⁶ It is currently being prepared for a first reading in the Knesset Finance Committee. Acts against the State are defined in the bill as issuing publications that accuse Israel of committing war crimes and calls for a boycott against Israel or its citizens.

44. On 17 June 2018, the ministerial committee for legislative affairs approved the promotion of an amendment to the criminal law. On 20 June, a bill to prohibit the photographing, or documenting of Israel Defense Forces soldiers passed its preliminary reading in the Knesset. The bill stipulates that anyone who films, photographs or records soldiers in the course of their duties, with the intention of undermining the spirit of Israel Defense Forces soldiers and residents of Israel, is liable to five years' imprisonment, whereas anyone intending to harm State security will be sentenced to 10 years' imprisonment.⁷⁷ In addition, the bill prohibits the distribution of photographs or recordings, including through social networks and media, with the same penalties.

45. On 6 June 2018, a bill to amend the 2011 boycott law that allows the filing of a lawsuit for punitive damages against those who call for a boycott, even if no damage is proven, was approved by the Constitution, Law and Justice Committee in preparation for its first reading in the Knesset.⁷⁸

Palestinian authorities

46. In a positive development, the Palestinian cybercrime law, adopted by Presidential Decree No. 16 in June 2017, was amended in May 2018 by Presidential Decree No. 10 following serious concerns raised by civil society organizations and human rights experts.⁷⁹

⁷⁴ See www.amnesty.org/en/latest/news/2018/06/state-of-palestine-amnesty-staff-member-arbitrarily-detained-and-tortured-by-palestinian-security-officers/.

⁷⁵ A/HRC/37/42, paras. 50–51.

⁷⁶ A/HRC/37/41, para. 31.

⁷⁷ See www.independent.co.uk/news/world/middle-east/israeli-knesset-ban-photographing-filming-idf-soldiers-recording-journalists-robert-ilatov-a8371426.html and <https://7amleh.org/2018/08/14/will-a-new-wave-of-israeli-legislation-diminish-internet-freedoms/>.

⁷⁸ A/HRC/37/41, para. 33.

⁷⁹ The cybercrimes law raised serious concern about its potential to curtail free speech, and was adopted within a general context of restrictions on freedom of expression, in addition to serving as the basis

The amended law reflects significant improvements, though concerns remain in relation to certain loosely defined provisions that could allow the law's possible misuse by the authorities.

47. The impact of prior decisions of the authorities of the State of Palestine continued to hamper the functioning of human rights organizations, in particular in Gaza. Further to a decision issued on 21 April 2016, non-profit entities, including those operating in Gaza, continued to be subject to the requirement to submit all their applications for donations, grants and aid to the Ministry of National Economy for approval, and the receipt and disbursal of funds remained contingent on prior approval by the Cabinet. The 2016 decision continued to undermine the autonomy and scope of operation of non-profit entities across the Occupied Palestinian Territory, given that such organizations are also subject to the scrutiny of authorities in Gaza.

IV. Third-State responsibility

48. In its resolution 37/37, the Human Rights Council refers to article 1 common to the Geneva Conventions relating to the protection of victims of international armed conflicts, and calls upon third States to "ensure respect" for international humanitarian law in the Occupied Palestinian Territory. Ensuring respect implies taking measures to prompt States to act in compliance with international humanitarian law.⁸⁰

49. Third States are free to choose between different possible measures, as long as those adopted are considered adequate to ensure respect for international humanitarian law, in line with their duty of due diligence.⁸¹ This implies that the repetition of measures that have proven to be ineffective to ensure respect for the Geneva Conventions may no longer be considered adequate. More research and analysis as to the types of measures that are at the disposal of States in this regard would be particularly valuable. Support for national and international efforts to bring suspected perpetrators of serious violations of international humanitarian law to justice has been identified as one such measure. Other such measures could be bilateral diplomatic interventions or public denunciation of unlawful acts.⁸²

50. In September 2018, following the decision of Israel to demolish the Palestinian Bedouin village of Khan al-Ahmar in the West Bank, the European Parliament passed a resolution that called on the Government of Israel to put an immediate end to its policy of threats of demolition and eviction against the Bedouin communities in the occupied West Bank.⁸³ The European Parliament expressed its concern that the demolitions would severely threaten the viability of the two-State solution⁸⁴ and condemned any unilateral decision and action that might undermine the prospects of that solution. The resolution furthermore echoed the joint statement by France, Germany, Italy, Spain and the United Kingdom of Great Britain and Northern Ireland⁸⁵ calling on Israel not to go ahead with its plan to demolish the Palestinian village.

for the arrest and detention of journalists and human rights defenders (A/HRC/37/42, para. 42, and A/HRC/37/41, para. 39).

⁸⁰ A/HRC/37/41, para. 41 (with references).

⁸¹ International Committee of the Red Cross (ICRC), commentary of 2016 on the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, para. 165.

⁸² ICRC commentary of 2016 on article 1, para. 181.

⁸³ European Parliament resolution of 13 September 2018 on the threat of demolition of Khan al-Ahmar and other Bedouin villages, para. 5.

⁸⁴ Statement by the High Representative of the Union for Foreign Affairs and Security Policy, Federica Mogherini, on the latest developments regarding the planned demolition of Khan al-Ahmar, 7 September 2018. Available at https://eeas.europa.eu/headquarters/headquarters-homepage/50237/statement-hrvp-mogherini-latest-developments-regarding-planned-demolition-khan-al-ahmar_en.

⁸⁵ See www.diplomatie.gouv.fr/en/country-files/israel-palestinian-territories/palestinian-territories/events/article/khan-al-ahmar-france-germany-italy-spain-and-uk-joint-statement-10-09-18.

51. Given the obligations of third States not to recognize as lawful a situation violating international law and not to render aid or assistance in maintaining that situation, States should not recognize the unlawful situation resulting from Israeli settlements or aid or assist in maintaining it.⁸⁶ In this regard, having reaffirmed that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, had no legal validity and constituted a flagrant violation under international law, the Security Council, in its resolution 2334 (2016), called upon all States to distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967.

V. Conclusion and recommendations

52. **The United Nations High Commissioner for Human Rights has previously expressed serious concerns regarding the lack of accountability related to past cycles of violence and escalation in Gaza and to incidents in the West Bank, including East Jerusalem, and in the access-restricted areas of the Gaza Strip.⁸⁷ As reflected in the update provided in the present report, these concerns continued to remain valid during the period under review, particularly in relation to the lack of accountability for continued allegations of excessive use of force by Israeli forces, as well as allegations against all parties to the 2014 escalation of hostilities in Gaza that remain unaddressed.**

53. **The work of human rights defenders and civil society actors is increasingly restricted. Civil society organizations, journalists and human rights defenders must be permitted the space to do their work, including calling for accountability for alleged violations of international human rights law and international humanitarian law. Measures that seek to hinder this work – for example through arrest and detention and other forms of intimidation and harassment, or the passage of stigmatizing and criminalizing legislation – raise serious concerns about the exercise of the right to freedom of opinion and expression, and the shrinking civic space in Israel.**

54. **The comprehensive review of recommendations addressed to all parties undertaken by the High Commissioner in 2017⁸⁸ aimed at ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem. In that review, the High Commissioner found that the general patterns of human rights violations and non-implementation of recommendations that had emerged from the reports analysed for the review were not just symptoms of the conflict but further fuelled the cycle of violence.⁸⁹ As emphasized by the Secretary-General, lack of accountability compromises chances for sustainable peace and security. Tackling impunity must be the highest priority.⁹⁰ The High Commissioner again echoes this call.**

55. **Recalling the follow-up measures described in the 2017 comprehensive review of recommendations, which remain valid, the High Commissioner further:**

(a) **Calls upon Israel to fully comply with its obligations under international human rights law and international humanitarian law in the Occupied Palestinian Territory, including its obligations as an occupying Power; urges it to conduct prompt, thorough, transparent, effective, impartial and independent investigations of all alleged violations and abuses of international human rights law and international humanitarian law, in particular all alleged international crimes; and also calls on it to ensure that all victims have access to effective remedies and reparation;**

⁸⁶ ICRC commentary of 2016 on article 1, para. 163. See also International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports (2004)*, p. 134, paras. 157–159.

⁸⁷ A/HRC/31/40/Add.1, para. 39.

⁸⁸ A/HRC/35/19.

⁸⁹ *Ibid.*, para. 81.

⁹⁰ A/71/364, para. 6.

(b) Urges the State of Palestine to conduct prompt, thorough, transparent, effective, impartial and independent investigations of all alleged violations and abuses of international human rights law and international humanitarian law, in particular all allegations of international crimes, and calls on it to ensure that all victims have access to effective remedies and reparation;

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

(d) Calls upon all States to take measures to ensure respect for the Geneva Conventions by all parties;

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