



# ISRAEL

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 29TH SESSION OF THE UPR WORKING GROUP, JANUARY-FEBRUARY 2018

### FOLLOW-UP TO THE PREVIOUS REVIEW

Following its October 2013 Universal Periodic Review (UPR), Israel accepted 59 recommendations, partially accepted 46 and rejected 139.<sup>1</sup> Amnesty International is disappointed by Israel's failure to implement key recommendations accepted during its previous review and notes with concern that the human rights situation on the ground remains dire.

#### Impunity

In 2013 Israel accepted or partially accepted recommendations to end impunity by conducting thorough and impartial investigations into allegations of human rights violations by the security forces and settlers.<sup>2</sup> Since then, the army, police and private security guards have continued to use excessive and often lethal force against Palestinians in numerous cases leading to unlawful killings, including possible extrajudicial executions.<sup>3</sup> Attacks by settlers against Palestinians have also continued, including harassment, damage to property or physical violence resulting in injury and death.<sup>4</sup> Notwithstanding a small number of exceptional prosecutions,<sup>5</sup> Israeli investigations into these violations have fallen far short of

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<sup>1</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Israel*, A/HRC/25/15, 19 December 2013; Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Israel (addendum)*, A/HRC/25/15/Add.1, 20 March 2014.

<sup>2</sup> A/HRC/25/15, recommendations 136.65 (Cyprus), 136.66 (France) and 136.209 (France); A/HRC/25/15/Add.1, para. 35; A/HRC/25/15/Add.1 (Annex 1), para. 10.

<sup>3</sup> Amnesty International, *Trigger-Happy: Israel's Use of Excessive Force in the West Bank*, (Index: MDE 15/002/2014), (Amnesty International, *Trigger-Happy*); Amnesty International, *Lethal Force and Accountability for Unlawful Killings by Israeli Forces in Israel and the Occupied Palestinian Territories*, (Index MDE 15/4812/2016), (Amnesty International, *Lethal Force and Accountability*).

<sup>4</sup> Amnesty International, *Israeli authorities must protect Palestinian civilians in wake of settler attacks in Hebron*, 30 October 2015; Amnesty International, *Amnesty International Report 2015/16: The State of the World's Human Rights*, (Index: POL 10/2552/2016), pp. 202-203 (Amnesty International, *Annual Report 2015/16*).

<sup>5</sup> In a rare move, the Israeli military investigated, indicted and tried Elor Azaria, a soldier whose extrajudicial execution by shooting of a wounded Palestinian in Hebron on 24 March 2016 was caught on film. He was found guilty of manslaughter in January 2017 and sentenced to 18 months in prison after a military court ruled unanimously that his actions violated the Israeli army's rules of engagement. At the time of writing his sentence was suspended pending the outcome of his appeal. During the appeal Azaria's lawyer argued that his client is the victim of selective enforcement as his case is similar to others in which policemen and soldiers shot Palestinians and were not tried. A parallel appeal has been lodged by the military prosecution, arguing that the sentence is too lenient. See Amnesty International, *Conviction of Israeli soldier must pave the way for justice for unlawful killings*, 4 January 2017; *Ynet*, "Elor Azaria's appeal begins with first hearing", 3 May 2017, available at [www.ynetnews.com/articles/0,7340,L-4956749,00.html](http://www.ynetnews.com/articles/0,7340,L-4956749,00.html); *Haaretz*, "Hebron Shooter Elor Azaria's Lawyer: 'He Never Stood a Chance'", 8 May 2017, available at [www.haaretz.com/israel-news/premium-1.787916](http://www.haaretz.com/israel-news/premium-1.787916). In another case, in January 2016 the Israeli authorities charged two Israelis with committing an arson attack in July 2015 that killed three members of the Dawabsheh family, including a child aged 18 months. In May 2016, a Jerusalem court sentenced Yosef Ben David to life imprisonment plus 20 years after convicting him of the abduction and brutal murder of 16-year-old Palestinian Mohammed Abu Khdeir in July 2014. See *Amnesty International Report 2016/17: The State of the World's Human Rights*, (Index: POL 10/4800/2017), p. 205 (Amnesty International, *Annual Report 2016/17*).

international standards and in the majority of cases Israeli forces and settlers have not been held accountable despite strong evidence that a crime has taken place.<sup>6</sup>

### Administrative detention

In 2013, Israel accepted or partially accepted recommendations to minimize its use of administrative detention and ensure its use is in accordance with international human rights standards.<sup>7</sup> However, the authorities continue to use administrative detention and the Incarceration of Unlawful Combatants Law<sup>8</sup> as an alternative to criminal prosecution when there is insufficient evidence to arrest, charge and prosecute people suspected of criminal offences and to detain people who should not have been arrested at all, in violation of their right to a fair trial.<sup>9</sup> Administrative detention orders can be renewed indefinitely and Amnesty International considers that some Palestinians held in administrative detention by Israel are prisoners of conscience,<sup>10</sup> held solely for the peaceful exercise of their right to freedom of expression or association.<sup>11</sup> Since the last review, the number of Palestinians held in administrative detention has risen from 135 in October 2013 to 447 in June 2017.<sup>12</sup>

### Torture and other ill-treatment

Israel also partially accepted recommendations to incorporate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) into domestic law and to investigate and prosecute those suspected of

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<sup>6</sup> Amnesty International, *Amnesty International Report 2014/15: The State of the World's Human Rights*, (Index: POL 10/001/2015), pp. 199-200, (Amnesty International, *Annual Report 2014/15*); Amnesty International, *Annual Report 2015/16*, pp. 202-203; Amnesty International, *Annual Report 2016/17*, pp. 203-205; Amnesty International, *Trump must oppose all Israeli settlements in meeting with Netanyahu*, 14 February 2017, (Index: MDE 15/5693/2017), (Amnesty International, *Trump must oppose all Israeli settlements*).

<sup>7</sup> A/HRC/25/15, recommendations 136.133 (Sweden), 136.112 (Norway), 136.124 (Denmark), 136.125 (France), 136.130 (Slovenia); A/HRC/25/15/Add.1, para. 35; A/HRC/25/15/Add.1 (*Annex 1*), paras. 12 and 13.

<sup>8</sup> The Incarceration of Unlawful Combatants Law, passed in 2002 and amended in 2008, allows for indefinite detention without charge based on secret information but targets Palestinians from the Gaza Strip and has targeted Lebanese nationals. See Amnesty International, *Submission to the UN Committee against Torture*, (Index: MDE 15/3688/2016), p. 21 (Amnesty International, *Submission to Committee against Torture*). Gaza resident Munir Hamada was released back to Gaza on 9 June 2017 after serving three consecutive six-month detention orders under the Incarceration of Unlawful Combatants Law. Another Gaza resident from Rafah, in the southern Gaza Strip, was arrested at Erez crossing on 15 February 2017 and is currently serving a six month detention order under the law.

<sup>9</sup> Amnesty International, *Israel: Release Palestinian prisoner of conscience detained without charge or trial*, 24 May 2017; Amnesty International, *Urgent Action: End Administrative Detention of Circus Performer: Mohammad Faisal Abu Sakha*, (Index: MDE 15/5328/2016), (Amnesty International, *End Administrative Detention of Circus Performer*); Amnesty International, *Detained Palestinian hunger striker on verge of death must be transferred to hospital of his choice*, (Index: MDE 15/3457/2016); Amnesty International, *Urgent Action: Mohammed Allan Rearrested at Hospital*, (Index: MDE 15/2463/2015); Amnesty International, *Urgent Action: Hunger Striker's Health still in Danger: Abdul Razeq Farraj*, (Index: MDE 15/012/2014).

<sup>10</sup> Israeli citizens continue to be penalized for refusing to serve in the Israeli army on grounds of conscience. Amnesty International considers those detained for refusing to perform military service for reasons of conscience to be prisoners of conscience. In 2017, 19 year old Tamar Ze'evi and 18 year old Tamar Alon spent 115 days and 130 days respectively in military prison for refusing to serve in the Israeli army. Nineteen year old Atalya Ben Abba remains in military detention, having served consecutive prison sentences since 24 May 2017 for her refusal to serve. See Amnesty International, *Atalya Ben Abba refuses to serve in the Israeli military, gets sentenced to a further 30 days in military detention*, 11 May 2017. The right to refuse to perform military service on the grounds of conscience or profound personal conviction, without suffering any legal, physical, or administrative penalty is protected under Article 18 of the International Covenant on Civil and Political Rights.

<sup>11</sup> Amnesty International, *End Administrative Detention of Circus Performer*.

<sup>12</sup> Hamoked, *6020 Security Inmates are Held in Prisons inside Israel*, June 2017, available at [www.hamoked.org/Prisoners.aspx](http://www.hamoked.org/Prisoners.aspx). Following increased tensions in Israel and the OPT since October 2015, Amnesty International also documented a spike in administrative detention orders against Palestinian children, including in East Jerusalem. See for example: Amnesty International, *Urgent Action: Palestinian Boy's Administrative Order Renewed: Ahmad Azmi Abdurrahman Hanatsheh*, (Index: MDE 15/5619/2017); Amnesty International, *Urgent Action: Former Child Detainee Returned to Prison: Mohammad al-Hashlamoun*, (Index: MDE 15/5257/2016); Amnesty International, *Urgent Action: Palestinian Children Administratively Detained*, (Index: MDE 15/3934/2016); Amnesty International, *Urgent Action: Children Administratively Detained*, (Index: MDE 15/2792/2015).

committing acts of torture and other ill-treatment.<sup>13</sup> Since then, Israeli forces have continued to torture and otherwise ill-treat Palestinian detainees, including children, particularly during arrest and interrogation.<sup>14</sup> Reports of torture increased amid the mass arrests of Palestinians that began in October 2015,<sup>15</sup> while the security forces have continued to enjoy impunity.<sup>16</sup> While a bill criminalizing torture is being drafted by the Ministry of Justice, Israeli law continues to lack the offence of torture based on the definition in Article 1 of CAT.<sup>17</sup>

Since 2013, hundreds of Palestinian prisoners, including administrative detainees, have engaged in prolonged hunger strikes to protest their treatment. The Israel Prison Service has responded by placing them in solitary confinement, issuing fines, and denying family visits.<sup>18</sup> On 30 July 2015, the Knesset approved legislation<sup>19</sup> allowing the authorities to force-feed hunger-striking detainees and prisoners, despite opposition from human rights groups and the UN.<sup>20</sup>

### Human rights defenders

Israel accepted a recommendation to ensure that human rights defenders (HRDs) are able to carry out their legitimate work in a secure environment.<sup>21</sup> However, since then, the government has increased acts of intimidation and smear campaigns against both Palestinian and Israeli HRDs, and adopted legislation that curtails freedom of expression and discriminates on the grounds of political opinion.<sup>22</sup> Palestinian HRDs and activists are regularly subjected to arbitrary

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<sup>13</sup> A/HRC/25/15, recommendations 136.22 (Spain), 136.140 (Bahrain); A/HRC/25/15/Add.1 (*Annex 1*), para. 13.

<sup>14</sup> Amnesty International has documented allegations of torture by both the Israeli army and police forces in addition to ISA interrogators. See Amnesty International, *Submission to Committee against Torture*, p. 14. See also, for example: Amnesty International, *Urgent Action: Defender's Administrative Detention Extended: Hasan Ghassan Ghaleb Safadi*, (Index: MDE 15/5385/2016); Amnesty International, *Urgent Action: Human Rights Defender's Trial Postponed: Anas Barghouti*, (Index: MDE 15/5329/2016); Amnesty International, *Urgent Action: Two Palestinian Human Rights Defenders on Trial: Farid al-Atrash and Issa Amro*, (Index: MDE 15/5294/2016), (Amnesty International, *Two Palestinian Human Rights Defenders on Trial*); Amnesty International, *Israel: Drop Latest Charges against Whistle-blower Mordechai Vanunu*, (Index: MDE 15/3999/2016); Amnesty International, *Urgent Action: Military Court Rejects Activist's Appeal, Abdallah Abu Rahma*, (Index: MDE 15/2907/2015); Amnesty International, *Urgent Action: Murad Shtewi Freed, but still Risks Prison*, (Index: MDE 15/0007/2015).

<sup>15</sup> Jewish Israeli suspects detained in connection with attacks on Palestinians have also alleged that they were tortured. See Amnesty International, *Submission to Committee against Torture*, p. 14.

<sup>16</sup> A formally independent Inspector for Complaints against Israel Security Agency interrogators was established in February 2014, under the Ministry of Justice. In June 2016 the UN Committee against Torture noted that it is "also concerned at information received that there is no proper accountability for torture and ill-treatment. In this respect, while taking note of the assertion by the State party that all complaints submitted to the Inspector for Complaints against Israel Security Agency interrogators are examined independently, impartially and properly, the Committee is particularly concerned that so far none of the hundreds of complaints brought against them have resulted in prosecution." See United Nations Committee against Torture, Concluding observations on the fifth periodic report of Israel, CAT/C/ISR/CO/5, 2 June 2016, para. 30. See also Amnesty International, *Annual Report 2015/16*, p. 201. At the time of writing over one thousand complaints had been submitted to the Inspector for Complaints against Israel Security Agency interrogators and no criminal investigations had been opened.

<sup>17</sup> CAT/C/ISR/CO/5, para. 12. The draft bill is still being drafted and has not been made public or shared outside the Ministry of Justice. Amnesty International is therefore not currently aware of the content of the bill or whether its definition of torture does comply with CAT.

<sup>18</sup> Amnesty International, *Submission to Committee against Torture* p. 22. See also See Amnesty International, *Israel must end ill-treatment of hunger-striking Palestinian detainee*, (Index: MDE 15/3299/2016).

<sup>19</sup> [The Prisons Ordinance \(Amendment No. 48\) Law, 5775-2015](#). Although this legislation has not been used since its adoption, there were fears that it would be during the latest mass hunger between 17 April 2017 and 27 May 2017.

<sup>20</sup> United Nations Office of the High Commissioner, *UN experts urge Israel to halt legalization of force-feeding of hunger-strikers in detention*, 28 July 2015, available at [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269#sthash.Sejnx1kB.dpuf](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16269#sthash.Sejnx1kB.dpuf). In June 2016 the UN Committee against Torture stated its position that feeding hunger strikers against their will would constitute ill-treatment in violation of CAT. See CAT/C/ISR/CO/5, para. 26.

<sup>21</sup> A/HRC/25/15, recommendation 136.80 (Austria); A/HRC/25/15/Add.1, para. 8.

<sup>22</sup> In March 2017 the Israeli Knesset passed the Entry into Israel (Amendment No. 28) Law, 5777-2017, which stipulates that those who call for a "boycott" of Israel or belong to an organization that makes such a call will be denied visas and residency permits. This law,

arrest, administrative detention and unfair trials with the apparent intention of punishing them for their work, including for peacefully participating in protests.<sup>23</sup> Israeli human rights organizations, such as *Breaking the Silence*,<sup>24</sup> are subjected to concerted government campaigns to undermine their work and prominent Israeli HRDs have been targeted in public smear campaigns.<sup>25</sup> Meanwhile, attacks and threats by settlers and others have created an increasingly dangerous environment for HRDs in Israel and the Occupied Palestinian Territories (OPT).

### Freedom of movement

Israel accepted recommendations to ensure that the rights to health, education and other rights that are dependent on respect for freedom of movement are protected in the OPT.<sup>26</sup> However, arbitrary movement restrictions on Palestinians in the occupied West Bank continue,<sup>27</sup> including checkpoints, road blocks, settler-only roads and impediments created by the fence/wall, as well as severe limitations on Palestinian access to East Jerusalem, illegally annexed by Israel. Israel's 10-year unlawful blockade of the Gaza Strip continues, severely limiting the movement of people and goods, including the import and export of fuel, food, building material and other essential goods in and out of Gaza.<sup>28</sup> These restrictions amount to collective punishment limiting Palestinians' ability to work and to access healthcare, education and family members.<sup>29</sup>

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which is contrary to Israel's obligation to uphold the rights to freedom of expression and to abide by the principle of non-discrimination on grounds of political opinion is particularly troubling for human rights and humanitarian organizations, whose staff may be denied access to Israel and the OPT due to their organization supporting boycotts of Israel or Israel's illegal settlement enterprise. The definition of boycott is based on the 2011 Law for Prevention of Damage to the State of Israel 5771-2011, which defines a boycott as "deliberately avoiding economic, cultural or academic ties with another person or another factor only because of his ties with the State of Israel, one of its institutions or an area under its control, in such a way that may cause economic, cultural or academic damage." On 11 July 2016 the Knesset passed the Duty of Disclosure [for a Body] Supported by a Foreign Political Entity (Amendment) Law, 5776-2016, imposing new reporting requirements on organizations receiving more than 50% of their funding from foreign governments, affecting mostly human rights groups or other NGOs critical of Israeli government policies. The law burdens civil society organizations and poses a threat to freedom of expression and association in Israel.

<sup>23</sup> 'Military Order 101' requires permission from an Israeli military commander for all gatherings of 10 or more people "for a political purpose or a matter that could be interpreted as political" and carries a maximum 10-year sentence. However, the order does not define what "political" content is. Military Order 1651 (Order Regarding Security Provisions, Consolidated Version) contains many articles which allow the security forces to stifle freedom of expression including Article 318, which allows for the imposition of a closed military zone, thereby declaring a certain area off limits for certain periods of time. This order is often used to deny the right to peacefully demonstrate, or as a pretext to use violence to disperse demonstrators. See Amnesty International, *Israel must cease intimidation of human rights defenders, protect them from attacks*, (Index: MDE 15/3824/2016), (Amnesty International, *Israel must cease intimidation of human rights defenders*); Amnesty International, *Trigger-Happy*; Amnesty International, *Two Palestinian Human Rights Defenders on Trial*.

<sup>24</sup> *Breaking the Silence* is an organization of Israeli soldiers that aims to educate the public about Israeli military practices in the OPT, including those which are abusive or criminal. Israeli human rights organizations such as B'tselem that call for accountability for violations of Palestinian human rights or for an end to the occupation have been accused of being "foreign agents" and "traitors", while Members of the Knesset have called for the charitable status of some organizations to be revoked, including that of Amnesty International Israel.

<sup>25</sup> Amnesty International, *Israel must cease intimidation of human rights defenders*.

<sup>26</sup> A/HRC/25/15, recommendations 136.67 (Australia), 136.220 (Spain); A/HRC/25/15/Add.1, para. 46; A/HRC/25/15/Add.1 (Annex 1), para. 7.

<sup>27</sup> Amnesty International, *Israeli authorities must end collective punishment of Palestinian in Hebron, protect human rights defenders in the city*, (Index: MDE 15/3529/2016); Amnesty International, *Israel: Collective punishment will not bring the justice that murdered teens deserve*, 1 July 2014;; Amnesty International, *Abducted Israeli teens must be released, Israel must cease collective punishment of Palestinians*, (Index: MDE 15/013/2014).

<sup>28</sup> Amnesty International, *UK must urge Israeli PM Benjamin Netanyahu to lift Gaza blockade*, 9 September 2015; Amnesty International, *Gaza power crisis has compounded blockade's assault on human dignity*, 1 December 2013.

<sup>29</sup> Amnesty International, *Trump must oppose all Israeli settlements*.

# THE NATIONAL HUMAN RIGHTS FRAMEWORK

## Application of international human rights law and humanitarian law to the OPT

Israel accepted or partially accepted numerous recommendations that it abide by its obligations under international human rights and humanitarian law, including by applying the Fourth Geneva Convention to the OPT.<sup>30</sup> However, violations of both bodies of law have continued, including through Israel's construction and expansion of settlements in the OPT,<sup>31</sup> the extensive destruction of Palestinian property and the forcible transfer of the Palestinian population from their land. These practices constitute grave breaches of the Geneva Conventions, amount to war crimes and are the root cause of many human rights violations in the OPT.<sup>32</sup> However, Israel has long disputed that its obligations under international human rights law and the Fourth Geneva Convention apply to the OPT.<sup>33</sup>

## Citizenship and Entry into Israel Law

Nearly 14 years after the Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003 was adopted as a temporary order, it continues to bar family reunification for thousands of Palestinians by explicitly preventing Palestinians from the OPT from living with their families in Jerusalem and Israel.<sup>34</sup>

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<sup>30</sup> A/HRC/25/15, recommendations 136.13 (Cuba), 136.46 (Indonesia), 136.47 (Ireland), 136.158 (Bolivia (Plurinational State of)) and 136.200 (Turkey); A/HRC/25/15/Add.1, paras. 8, 13; A/HRC/25/15/Add.1 (*Annex 1*), para. 5. Israel accepted in part recommendation 136.158 that it "[a]pply the Fourth Geneva Convention in relation to the OPT" (Bolivia (Plurinational State of)) and recommendation 136.200 to "[a]bide, as an occupying power, by all its obligations under international law in the Palestinian territories" (Turkey) but did not provide an explanation as to which parts of these recommendations it accepted.

<sup>31</sup> In February 2017 the Israeli Knesset passed the Law on Regulation of Settlement in Judea and Samaria, 5777-2017, which retroactively legalizes Israeli settler land-grabs of privately owned Palestinian land in the OPT. As a result at least 4,000 unlawful settler homes scattered across 53 settlements and outposts in the occupied West Bank will be recognized as legal under Israeli domestic law, despite the fact that all settler presence in occupied territory is illegal under international law. See Amnesty International, *A Call to States to Stop Sustaining Illegal Settlements*, (Index: MDE 15/6296/2017).

<sup>32</sup> Amnesty International, *Flurry of settlement activity shows flagrant disregard for international law*, 1 February 2017;; Amnesty International, *Surge in Israeli demolitions of Palestinian homes condemned by 31 international organizations*, (Index: MDE 15/2309/2015), (Amnesty International, *Surge in Israeli demolitions of Palestinian homes*); Amnesty International, *Israeli land-grabs and settlements: more than merely 'counterproductive'*, 3 September 2014; Amnesty International, *Israel must scrap illegal land grab in the West Bank*, 1 September 2014; Amnesty International, *Urgent Action: Palestinian Villagers and Israeli State Mediate*, (Index: MDE 15/005/2014); Amnesty International, *Struggling to survive after a home demolition in the Jordan Valley*, 3 February 2014; Amnesty International, *Israel and the Occupied Palestinian Territories: 36 agencies call for an end to demolitions*, (Index: MDE 15/022/2013), (Amnesty International, *36 agencies call for an end to demolitions*).

<sup>33</sup> See: A/HRC/25/15/Add.1 (*Annex 1*), para. 3: "...the applicability of human rights conventions to the West Bank and the Gaza Strip has been subject of considerable debate over the past years... It is Israel's view that these Conventions do not apply beyond its territory, including in the West Bank and the Gaza Strip" and Israel Ministry of Foreign Affairs, *Disputed Territories: Forgotten Facts about the West Bank and Gaza Strip*, February 2003, available at [mfa.gov.il/MFA/MFA-Archive/2003/Pages/DISPUTED%20TERRITORIES-%20Forgotten%20Facts%20About%20the%20We.aspx](http://mfa.gov.il/MFA/MFA-Archive/2003/Pages/DISPUTED%20TERRITORIES-%20Forgotten%20Facts%20About%20the%20We.aspx) "...the fact that there were no established sovereigns in the West Bank or Gaza Strip prior to the Six Day War means that the territories should not be viewed as "occupied" by Israel. When territory without an established sovereign comes into the possession of a state with a competing claim - particularly during a war of self-defense - that territory can be considered disputed." Israel therefore argues that the Geneva Conventions are not formally applicable to the OPT because sovereignty over the OPT was disputed when Israel assumed control in 1967. See also Theodor Meron, "The West Bank and International Humanitarian Law on the Eve of the Fiftieth Anniversary of the Six-Day War", *American Journal of International Law*, 10 May 2017, pp. 4-5, available at <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/west-bank-and-international-humanitarian-law-on-the-eve-of-the-fiftieth-anniversary-of-the-six-day-war/E1D4F9F5B3C43C943D9C3F31EABF79B3>

<sup>34</sup> The law prevents family unification for Palestinian men aged between 18 and 35 and for Palestinian women aged between 18 and 25 who are residents of the OPT. Relatives not excluded by age can be prohibited for suspicion of involvement in activities hostile to Israel, which are very broadly defined and could include any criminal offences, stone-throwing, taking part in demonstrations and other political activity. Even if a Palestinian from the OPT is not excluded from family reunification, they are denied Israeli citizenship or residency rights and instead they are provided with military visitation permits, which do not provide official status and prohibit Palestinian spouses from: the right to work; access healthcare and social benefits; the right to drive; or open bank accounts. By contrast, such restrictions are not imposed on non-Jewish foreign nationals who are joining their Israeli spouses from elsewhere in the world. In 2007, an amendment to the law expanded the ban on family unification to spouses from Syria, Lebanon, Iraq and Iran, which Israel considers to be "enemy states". This exclusion includes spouses from these states with dual nationality. The law also implicitly



### Investigation of alleged war crimes and crimes against humanity

On 8 July 2014, Israel launched a 50-day military offensive in the Gaza Strip, code-named *Operation Protective Edge*. It killed over 1,500 civilians, including 539 children, wounded thousands of civilians, and caused massive civilian displacement and destruction of civilian property and infrastructure. Many of these violations amount to war crimes and possible crimes against humanity.<sup>35</sup> Three years later, the Israeli authorities have indicted only three soldiers for looting and obstructing an investigation. In August 2016, the Israeli Military Advocate General announced the closure of investigations into 12 incidents, despite evidence warranting further investigation as war crimes.<sup>36</sup> The military investigations have not been independent or impartial and have failed to deliver justice to victims of *Operation Protective Edge*, as well as victims of previous military offences in the Gaza Strip in 2008/2009 (*Operation Cast Lead*) and 2012 (*Operation Pillar of Defense*).<sup>37</sup>

## PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### Excessive use of force and unlawful killings

Since 2013, Israeli forces have continued to regularly use reckless and unlawful lethal force against Palestinians. This has often taken place in the context of Palestinian protests against the Israeli occupation and its associated policies, during which participants have resorted to low-level violence, throwing stones and rocks at Israeli soldiers but rarely posing any serious risk to them.<sup>38</sup> Israeli forces have responded with a wide variety of measures, including less-lethal means, such as tear gas,<sup>39</sup> and lethal force, including rubber-coated metal bullets and live firearms, causing deaths and injuries.<sup>40</sup> During a period of heightened tension in Israel and the OPT between 22 September 2015 and 6 September 2016, Amnesty

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discriminates against Palestinian citizens of Israel (Israeli Arabs), who form 20% of the population of Israel, and against Palestinian residents of Jerusalem, as it is most often these communities who marry Palestinians from the OPT. In both 2007 and 2012, the United Nations Committee on the Elimination of Racial Discrimination voiced its concern on the discriminatory nature of the law and called for its revocation. See Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination – Israel*, CERD/C/ISR/CO/13, 14 June 2007; Committee on the Elimination of Racial Discrimination, *Concluding Observations of the Committee on the Elimination of Racial Discrimination – Israel*, CERD/C/ISR/CO/14-16, 9 March 2012. See Amnesty International, *Israel must repeal the discriminatory Citizenship and Entry into Israel Law*, (Index: MDE 15/5737/2017).

<sup>35</sup> Amnesty International, *Families under the Rubble Israeli Attacks on Uninhabited Homes*, (Index: MDE 15/032/2014), (Amnesty International, *Families under the Rubble*); Amnesty International, *Annual Report 2014/15*, p. 197; Amnesty International, 'Nothing is Immune': *Israel's Destruction of Landmark Buildings in Gaza* (Index: MDE 15/0029/2014), (Amnesty International, 'Nothing is Immune'); Amnesty International, 'Black Friday': *Carnage in Rafah During 2014 Israel/Gaza Conflict*, (Index: MDE 15/2139/2015), (Amnesty International, 'Black Friday').

<sup>36</sup> Israeli Defense Forces Military Advocate General, *Decisions of the IDF MAG regarding Exceptional Incidents that Allegedly Occurred during Operation 'Protective Edge' – Update No. 5*, 24 August 2016, available at [www.mag.idf.il/163-7596-en/Patzar.aspx?pos=1](http://www.mag.idf.il/163-7596-en/Patzar.aspx?pos=1). See also Amnesty International, *Time to Address Impunity: Two Years After the 2014 Gaza/Israel War*, (Index: MDE 15/4199/2016); Amnesty International, *Families under the Rubble*; Amnesty International, 'Black Friday'; Amnesty International, 'Nothing is Immune'.

<sup>37</sup> Amnesty International, *Amnesty International Report 2010: The State of the World's Human Rights*, (Index: POL 10/001/2010), pp. 182-183; Amnesty International, *Amnesty International Report 2011: The State of the World's Human Rights*, (Index: POL 10/001/2011), p. 183; Amnesty International, *Amnesty International Report 2012: The State of the World's Human Rights*, (Index: POL 10/001/2012), p. 188; Amnesty International, *Amnesty International Report 2013: The State of the World's Human Rights*, (Index: POL 10/001/2013), pp. 134-135; Amnesty International, *Annual Report 2014/15*, p. 200; Amnesty International, *Annual Report 2015/16*, p. 203; Amnesty International, *Annual Report 2016/17*, pp. 204-205.

<sup>38</sup> This is due to distance and the soldiers' or police officers' heavy protection

<sup>39</sup> Less lethal means of crowd dispersal such as tear gas can also cause death and injury to protestors. For example, Israeli soldiers have also killed or injured demonstrators by firing tear gas directly at them from close range or by using tear gas in enclosed spaces causing asphyxiation.

<sup>40</sup> Amnesty International, *Trigger-Happy*. Israeli soldiers also regularly shoot at Palestinian farmers, fishermen and other residents of the Gaza Strip when they venture near the buffer zone, which runs along the perimeter of the Gaza Strip both at land and sea.

International documented 20 cases of evidently unlawful killings of Palestinians by Israeli forces, including 15 cases in which Palestinians who were not posing an imminent threat to life were deliberately shot dead by Israeli forces.<sup>41</sup>

### **Discriminatory demolitions of Palestinian property**

Israel has continued to demolish Palestinian property<sup>42</sup> in the West Bank, including East Jerusalem, displacing large swaths of the population in order to make way for homes and infrastructure for illegal settlements.<sup>43</sup> Israel has also continued to severely restrict Palestinian construction in East Jerusalem, where building permits are very rarely issued to Palestinians. As of 2014, only 13 percent of East Jerusalem was zoned for Palestinian construction. As a result of the demolitions, approximately 90,000 Palestinian residents of East Jerusalem are at risk of being displaced from their homes.<sup>44</sup>

Palestinian citizens of Israel have also suffered repeated demolitions of their homes as a consequence of discriminatory policies that do not recognize the legality of some 35 villages in the Negev/Naqab region, inside Israel.<sup>45</sup> In late 2016, Agriculture Minister Uri Ariel proposed a five-year plan for the socio-economic development of “recognized” Bedouin locations in the Negev/Naqab, worth 787 million USD; “unrecognized” villages would, however, be excluded from the available funding.<sup>46</sup> Human rights organizations have denounced the plan as an attempt to forcibly displace the Bedouin living in “unrecognized” villages in the Negev/Naqab to designated areas in the north of the region, allowing for the demolition of “unrecognized” locations.<sup>47</sup>

### **Refugees and asylum-seekers**

Asylum-seekers in Israel continue to be denied access to a fair and prompt refugee status determination process. In February 2016, the Knesset passed the fourth version of an amendment to the Prevention of Infiltration Law, allowing the authorities to detain asylum-seekers for up to one year without charge.<sup>48</sup> The authorities continue to press thousands of Sudanese and Eritrean asylum-seekers to leave Israel “voluntarily”. The government has refused to disclose details of its

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<sup>41</sup> Amnesty International, *Pattern of unlawful killings reveals shocking disregard for human life*, 28 September 2016; Amnesty International, *Lethal Force and Accountability*.

<sup>42</sup> This does not only include homes but also others structures essential for communities’ livelihoods, such as schools, medical facilities, sanitation facilities and animal shelters. Israel regularly demolishes Palestinian structures provided for by international aid.

<sup>43</sup> The number of Palestinian structures demolished has dramatically increased from a total of 663 in 2013 to 1094 in 2016. In January 2017 140 structures were demolished by the Israeli authorities; over 50 percent higher than the monthly average in 2016, which was 91. See United National Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Monthly Figures*, available at [www.ochaopt.org/content/monthly-figures](http://www.ochaopt.org/content/monthly-figures) and *Record number of demolitions and displacements in the West Bank during 2016*, 10 February 2017, available at [www.ochaopt.org/content/record-number-demolitions-and-displacements-west-bank-during-2016](http://www.ochaopt.org/content/record-number-demolitions-and-displacements-west-bank-during-2016). Also see Amnesty International, *Surge in Israeli demolitions of Palestinian homes*; Amnesty International, *Struggling to Survive after a Home Demolition in the Jordan Valley*; Amnesty International, *36 agencies call for an end to demolitions*.

<sup>44</sup> UN OCHA OPT, *East Jerusalem, Key humanitarian concerns*, August 2014, available at [www.ochaopt.org/content/east-jerusalem-key-humanitarian-concerns-august-2014](http://www.ochaopt.org/content/east-jerusalem-key-humanitarian-concerns-august-2014).

<sup>45</sup> In September 2011, the Israeli cabinet approved a law to “regulate” Bedouin construction in the Negev/Naqab, known as the Prawer Plan. The plan, which was criticized by the UN Committee on the Elimination of Racial Discrimination as an attempt to “legalize the ongoing policy of home demolitions and forced displacement of the indigenous Bedouin communities”, was later dropped by the government in December 2013. See Amnesty International, *Israel: Knesset urged not to pass law that would forcibly evict tens of thousands of Negev/Naqab Bedouin* (Index MDE 15/008/2013); Haaretz, “Israeli Government Halts Controversial Plan to Resettle 30,000 Bedouin”, 12 December 2013, available at [www.haaretz.com/israel-news/1.563200](http://www.haaretz.com/israel-news/1.563200).

<sup>46</sup> Al Jazeera, “Negev: Israel razes Palestinian village for 113th time”, 18 May 2017, available at [www.aljazeera.com/news/2017/05/israel-razes-palestinian-bedouin-village-113th-time-170517075143632.html](http://www.aljazeera.com/news/2017/05/israel-razes-palestinian-bedouin-village-113th-time-170517075143632.html); Haaretz, “The Real Intention Behind Israel’s Five-year Plan for the Bedouin”, 19 January 2017, available at [www.haaretz.com/opinion/premium-1.765893](http://www.haaretz.com/opinion/premium-1.765893).

<sup>47</sup> Adalah The Legal Center for Arab Minority Rights in Israel, *Adalah’s Position Paper on “Prawer II” The Israeli Government’s New Plan to Forcibly Displace and Dispossess Palestinian Bedouin Citizens of Israel from their Land in the Naqab (Negev)*, January 2017, available at <https://www.adalah.org/en/content/view/9049>.

<sup>48</sup> Amnesty International, *Israel: Reject indefinite detention of asylum-seekers once and for all*, 3 December 2013.

reported agreements with Rwandan and Ugandan authorities as to whether they included guarantees that asylum-seekers who leave Israel voluntarily would not be at real risk of serious human rights violations, in violation of the principle of *non-refoulement*.<sup>49</sup>

### **The death penalty**

Amnesty International classifies Israel as abolitionist for ordinary crimes. In July 2015, the Knesset rejected a bill that would have made it easier for military and district courts to sentence to death those convicted of “terrorism-related” offences.<sup>50</sup> However, in March 2016 Member of the Knesset Avigdor Lieberman proposed that individuals convicted of “terrorism-related” offences be sentenced to death by military courts with a simple majority of judges, rather than the unanimous decision required under current law.<sup>51</sup> If passed, this legislation would allow the application of the death penalty to Palestinians convicted of terrorism-related charges in military courts, but not to Israeli nationals, who are generally tried in civilian courts.<sup>52</sup>

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<sup>49</sup> Amnesty International, *Annual Report 2016/17*, p. 205.

<sup>50</sup> The Times of Israel, “Knesset rejects bill on death penalty for terrorists”, 15 July 2015, available at [www.timesofisrael.com/knesset-rejects-bill-on-death-penalty-for-terrorists/](http://www.timesofisrael.com/knesset-rejects-bill-on-death-penalty-for-terrorists/)

<sup>51</sup> Haaretz, “Israeli Ministers to Reconsider Death Penalty for Terrorists”, 20 March 2016, available at [www.haaretz.com/israel-news/premium-1.709748](http://www.haaretz.com/israel-news/premium-1.709748); New York Times, “Capital Punishment Is Not Israel’s Answer to Terrorism”, 16 August 2016, available at [www.nytimes.com/2016/08/17/opinion/capital-punishment-is-not-israels-answer-to-terrorism.html](http://www.nytimes.com/2016/08/17/opinion/capital-punishment-is-not-israels-answer-to-terrorism.html)

<sup>52</sup> Haaretz, “Likud Source: Israeli Death Penalty for Terrorists Won’t Apply to Jews”, 22 May 2016, available at [www.haaretz.com/israel-news/premium-1.720896](http://www.haaretz.com/israel-news/premium-1.720896); Haaretz, “A Death Penalty Only for Palestinians”, 22 May 2016, available at [www.haaretz.com/opinion/1.720976](http://www.haaretz.com/opinion/1.720976)



# RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

## Amnesty International calls on the government of Israel to:

### *Impunity*

- Reform the system of domestic investigation of allegations of international law violations to ensure it is independent, effective, prompt and transparent. As a first step, implement the recommendations of the Turkel Commission concerning investigations conducted by the Israeli army;
- Ensure that Israeli forces protect Palestinian civilians and property against violence by Israeli settlers, including by bringing the perpetrators of attacks to justice in proceedings that conform to international fair trial standards;
- Co-operate with the preliminary examination by the International Criminal Court and with international mechanisms for accountability, including by giving access to UN Special Procedures.

### *Administrative detention*

- Release all administrative detainees unless they are promptly charged with recognizable criminal offences and tried in accordance with international fair trial standards;
- End the practice of administrative detention by rescinding paragraphs 284 to 294 of Military Order 1651 and repealing the Internment of Unlawful Combatants Law;
- Ensure that all Palestinians from the OPT in Israeli custody are held in prisons and detention centres inside the OPT, in conditions that fully meet international standards, including in relation to access to families, lawyers and independent doctors;
- Promptly take all measures to ensure that detention of children is used only as a measure of last resort and implemented for the shortest appropriate period and that appropriate alternatives to detention are always available;
- Ensure that no detainee or prisoner is punished for being on hunger strike.

### *Torture and other ill-treatment*

- Expedite the incorporation of the crime of torture into Israeli law and ensure its definition is in line with Article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Ensure all allegations of torture and other ill-treatment are investigated promptly, thoroughly and impartially by an independent body, bring to justice anyone found responsible for such abuses, and ensure reparation to victims;
- Ensure that statements coerced through use of torture and other ill-treatment are excluded from all proceedings.

### *Human rights defenders and freedom of expression*

- Protect the rights to freedom of expression and assembly in the OPT by rescinding Military Order 101 and relevant articles in Military Order 1651;
- Immediately and unconditionally release all prisoners of conscience imprisoned solely for exercising their rights to freedom of expression, association or peaceful assembly;
- Cease the practice of arrests, administrative detention and prosecution of Palestinian HRDs to suppress their rights to freedom of expression and association and their ability to carry out their work;
- Put an end to government-led smear and intimidation campaigns seeking to undermine the work and credibility of Israeli and Palestinian HRDs critical of the government;
- Take immediate steps to provide the necessary protection for HRDs in Israel and the OPT to carry out their work freely and without fear of attacks and harassment and ensure that such attacks are promptly investigated and those responsible held to account.

#### *Freedom of movement*

- Lift all arbitrary and discriminatory restrictions on freedom of movement, which are impeding the enjoyment of the rights to health, education and an adequate standard of living;
- Dismantle the fence/wall and related infrastructure located inside the OPT and compensate Palestinians for losses due to the construction of the fence/wall;
- Completely and permanently lift the blockade on the Gaza Strip; in the meantime, lift restrictions on the movement of people in and out of Gaza and import and export of fuel, food, building materials and other essential goods in and out of Gaza.

#### *International human rights and humanitarian law*

- Accept the applicability of and effectively apply human rights treaties and international humanitarian law in the OPT;
- Immediately stop the construction or expansion of settlements and their related infrastructure in the OPT as a first step towards dismantling such settlements and removing Israeli civilians from the OPT;
- Annul the Regulation of Settlement in Judea and Samaria Law, which legalizes land-grabs of Palestinian land in violation of international law;
- Reverse the unlawful annexation of East Jerusalem.

#### *Citizenship and Entry into Israel Law*

- Annul the Citizenship and Entry into Israel Law (Temporary Provision), 5763-2003, which prevents the family unification of Israeli citizens with spouses from the OPT or "enemy" states.

#### *Investigations of alleged war crimes and crimes against humanity*

- Thoroughly and impartially investigate all allegations of war crimes and possible crimes against humanity committed during *Operations Cast Lead*, *Pillar of Defense* and *Protective Edge* and provide full reparation to the victims and their families, and ensure that, where there is sufficient admissible evidence, individuals suspected of responsibility are prosecuted in fair trials.

#### *Excessive use of force and unlawful killings*

- Ensure that the Israeli army, police, border police and other forces policing demonstrations or performing other law enforcement duties at all times comply fully with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Ensure independent, impartial and effective investigations into all deaths and serious injuries caused by security forces and prosecute anyone reasonably suspected of arbitrary or abusive use of force.

#### *Discriminatory demolitions of Palestinian property*

- End all forced evictions and the demolition of Palestinian homes and structures in the West Bank, including East Jerusalem;
- Ensure victims of forced evictions, demolitions and forcible transfer have access to effective remedies and full reparation;
- Transfer the responsibility for planning and building oversight in the OPT to local Palestinian communities in the OPT;
- Legally recognize Bedouin villages in the Negev/Naqab and in Area C of the OPT and halt demolitions and forced evictions in these villages until laws and policies comply with international standards, including the prohibition of discrimination.

#### *Refugees and asylum-seekers*

- Ensure that national asylum procedures are in line with the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol, as well as other international law and standards relating to persons in need of international protection;
- Immediately release all those held under the Prevention of Infiltration Law and amend the law to ensure that any restriction on the right to liberty of refugees, asylum-seekers and migrants are exceptional measures, prescribed by law, necessary in the specific circumstances of the individual concerned, and proportionate to the legitimate aim pursued;
- Desist from pressuring asylum-seekers to “voluntarily” return to their country of origin where they may be at risk of imprisonment, or torture and other ill-treatment, in violation of the principle of *non-refoulement*.

*The death penalty*

- Abolish the death penalty for all crimes.