

INTRODUCTION- The Associazione Comunita Papa Giovanni XXIII (APG23) is a Catholic international association founded in Italy.¹ APG23 is now present in thirty countries on five continents. The Association has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC)². It prepared this submission for the Universal Periodic Review of Israel with the intention to monitor the implementation of the recommendations in the second cycle of the UPR and focused its attention on the following recommendations.

FOCUS ON: Recommendations n. 136.107 up to - n.136.115 (A/HRC/25/15)³

1. Our experience on the field⁴

The Association is present in Palestine and Israel since 2002. Since 2004, upon request of the local community, Operazione Colomba (Operation Dove, hereinafter OD), the Civil Peace Corps of APG23, has been present in the village of At-Tuwani, in the South Hebron Hills. Since the Oslo agreements, the village is located in "Area C", under Israeli civil and military control. This means a massive presence of the Israeli army: soldiers often deny Palestinian inhabitants access to their own land, the possibility to build or to access essential resources such as water. Arrests, demolitions, checkpoints, military trainings and raids in the village are very frequent.

Moreover, there are many Israeli settlements and outposts that are violently expanding into the Palestinian lands. Despite this, the local inhabitants have chosen to remain there and to resist in a nonviolent way. OD supports this choice by accompanying Palestinian farmers and shepherds on their own land, especially in those areas more exposed to settlers attacks and army harassment. Furthermore, every day they monitor the Israeli military escort that should protect Palestinian school children on their way to school and back home. The army, in fact, escorts them on a path where settlers have attacked many times. When the military escort is not present, the volunteers report this absence and personally offer a civil escort. In extreme cases, they interpose themselves between children and settlers. The OD volunteers cooperate with Israeli associations and informal groups of human rights defenders that actively work in the field or give legal support to the Palestinian nonviolent resistance. On July 11, 2016 Israel's parliament passed the 'NGO Bill'⁵. The European Commission condemned it for threatening to undermine Israel's democracy and consequently peace associations too.^{6,7}

2. Settlements, settlers and violence against Palestinians

Area C is scattered by Israeli settlements. Israeli law distinguishes between legal settlements and illegal outposts, where an international law considers both of them as illegal⁸. The settlers living there are generally considered as national-religious settlers⁹. They consider all the occupied Palestinian territories, historically and religiously, as part of Israel, the Great Israel (Eretz Israel). OD volunteers noticed significant collaboration between the army and settlers.¹⁰ The settlers strategy consists of creating "no go zones" for Palestinians on Palestinian land, attacking and scaring shepherds and farmers in order to prevent them working on their private properties: the settlers from Havat Ma'on outpost frequently attack and make unbearable the local Palestinian community's daily life, so that the Palestinians themselves would decide to leave. Havat Ma'on settlers crimes have always been unpunished (84% failures).¹¹

In April 2012, OD volunteers registered an increase in violence coming from Havat Ma'on settlers, more than 58 harassment and violent actions were committed against Palestinians, Israeli activists and international volunteers. During 2013 settlers attacked (overt violence) local inhabitants 28 times (24 the previous year); they harassed them 129

1 Its activities in the world of poverty and marginalization brought it to direct sharing in the lives of the poor in 1973 when the first family-home was opened. See www.apg23.org.

2 Its commitment at the UN is the result of sharing life with the poor and is the fruit of the international elaboration and synthesis of the action for the removal of the root causes that create injustice.

3 Report of the Working Group on the Universal Periodic Review*Israel- Human Right Council 25th Session-UPR -19 December 2013-A/HRC/25/15

4 For OD detailed reports see: 2017 Report_HR_SHH_2017-01_January 2016 Report_HR_SHH_2016-12_December [DRAFT] Report_HR_SHH_2016-11_November [DRAFT] Report_HR_SHH_2016-10_October [DRAFT] NO 2016 September Report_HR_SHH_2016-08_August Report_HR_SHH_2016-07_July Report_HR_SHH_2016-06_June Report_HR_SHH_2016-05_May Report_HR_SHH_2016-04_April Report_HR_SHH_2016-03_March Report_HR_SHH_2016-02_February Report_HR_SHH_2016-01_January 2015 Report_HR_SHH_2015 August-December.

5 As the "Foreign Government Funding Law". See: https://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=1216.

6 EEAS https://eeas.europa.eu/headquarters/headquarters-homepage/7228/statement-spokesperson-passage-new-ngo-law-israeli-knesset_en.

7 "The reporting requirements imposed by the new law go beyond the legitimate need for transparency and seem aimed at constraining the activities of these civil society organisations".

8 The long-standing anti-occupation group Peace Now vowed to appeal against the law to the high court of justice denouncing it as a "a blatant violation of freedom of expression". See <https://www.theguardian.com/world/2016/jul/12/israel-passes-law-to-force-ngos-to-reveal-foreign-funding>. See also the article 46 of United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1 (7 march 2016):

9 The outposts are little settlements at an embryonic stage, usually composed of a few trailers or containers. In the South Hebron Hills area there are eight between settlements and outposts: Ma'on, Karmel, Suseya, Havat Ma'on, Avigaiyl, Mitpe Yair, Susiya north west, ancient synagogue Susiya.

10 E.g. religious extremists

11 By the way, the collaboration issue has always been a reason of worry. As noticed by Talya Sasson in her report to the Knesset:

The security concept, that wherever there is an Israeli person – IDF will be there to protect him, resulted in a very sad reality. Therefore, any settler who places his home wherever he chooses, even if unauthorized and against the law – gains the protection of the army. The outcome is that the settlers are the ones who set the army's deployment in the territories, not the army. Everyone is king. In order to protect one outpost, forces must be taken out of other places. The forces are not unlimited, and so the security level drops down. The protection supplied by IDF to unauthorized outposts, its mere existence there, drags it unwillingly to give its 'seal' to unauthorized outposts".

11 On July 2013 Yesh Din⁴ published a data sheet⁵ about its monitoring of Police investigation of offenses against Palestinians, since 2005 until 2013, and proved that the vast majority of inquiries, about 84%, were closed up due to police investigation failures.

times (119 the previous year) and 155 times (121 the previous year) they have damaged properties or killed animals. Data show an increase in violence especially in 2014. The cases of harassment are indeed 156 in total. In the same period, the incidents of property damage and animals killings rose to 232. In 2015, OD volunteers reported 127 cases of harassment by Israeli settlers, while in the 2016 they counted 110 cases in which 269 Palestinians adults, 203 children and 50 Internationals suffered from settlers' actions. In the first 3 months of 2017, OD volunteers registered 49 harassments. In 7 cases settlers attacked local inhabitants. The settler commonly damage Palestinian properties too. One of the settlers' main targets is the olive trees because the olive trees are a fundamental part of the Palestinian sustainable economy and have a high economic value.¹² In total, OD volunteers registered 464 olive trees cut, damaged and/or broken throughout the years 2011-2014, out of which 200 during the year 2014 alone. From 2015 to the first trimester of 2017, OD volunteers registered 286 olive trees cut, damaged and/or broken. In the morning of March 5, 2017, a Palestinian farmer found part of his cultivated land poisoned by Israeli settlers, who also uprooted 15 olive trees planted in the last months but Police intervention was not useful.¹³

2.1 Settlement Expansions

The settlers' violence problem increases proportionately to the settlements and outposts expansion.¹⁴ Between 1993 and 2012, the number of settlers tripled.¹⁵ Such data was confirmed again in 2013 (Central Bureau of Statistics: increase of 123% West Bank in 2013 compared with 2012), the expansion budget reserved to the settlements was 58 million NIS¹⁶ and in December it raised to 614 million NIS, ten times more. OD monitoring activities confirm this trend: by the data collected it results that settlers built, since November 2012 to October 2013, at least 11 new houses as expansion of Ma'on settlement, Havat Ma'on and Avigayil outposts. A new road that surrounds the North-West of Ma'on settlement has been built by public funds. On July 2013, the European Union (UE) issued a directive stating that all future agreements between the EU and Israel must explicitly exclude Jewish colonies in the West Bank or East Jerusalem.¹⁷

From 2014 to the first trimester of 2017, OD volunteers reported expanded work in the settlement of Karmel, Ma'on, Suseya and Havat Ma'on, Mitzpe Yair outposts¹⁸. The month of January 2017 saw the approval of a massive construction program of new settlement homes, in clear opposition of December's UN Security Council resolution 2334¹⁹, which described settlement building as a "flagrant violation" of international law and an obstacle to peace. Israeli authorities announced the plan to build almost 600 new houses in occupied East Jerusalem and other 2,500 in the West Bank, the possibility of annexing Ma'ale Adumim settlement, and the willingness to give the Palestinians "not exactly a state with full authority, rather a state minus". In the South Hebron Hills area, OD volunteers recorded a wide range of human rights violations against Palestinians carried out by both Israeli forces and Israeli settlers.

2.2 Demolitions and stop work orders

The military occupation uses numerous means to be invasive in the occupied Palestinian territories. Many Palestinian villages are located in Area C; in such areas every construction must be approved by the Israeli civil administration. According to OCHA OPT20, 70% of Area C is off-limits to Palestinian construction, 29% is heavily restricted and less than 1% has been assigned by the Israeli Civil Administration for Palestinian development. The Israeli administration interferes with every single Palestinian activity causing daily difficulties. From 2013 to first trimester of 2017, OD volunteers reported the DCO delivered in South Hebron Hills 107 demolition orders²¹ and 119 stop working orders²²: it means that Palestinians have to ask for permits in order to build new constructions and renew structures already built. These permits are usually denied. Moreover they live constantly under demolition risk, carried out by companies escorted by the army. In the same period OD volunteers counted 137 structures demolished.²³

12 For instance on the 10th of May 2013, 62 olive trees were broken by settlers as a result of a price tag attack. The settlers broke the trees at night and wrote on a wall nearby the sentence "price tag for those who steal". The "price tag" attacks are: "act of violence aimed at the Palestinians population and Israeli security forces. They generally follow actions by Israeli authorities that are perceived as harming the settlement enterprise, or follow Palestinian violence against settlers".

13 The poisoned crop is located in Khelly valley, between At-Tuwani Palestinian village and Ma'on Israeli settlement. The Palestinian owner of the land complained to the Israeli Police that reached the spot with the Israeli Civil Administration. They questioned the Palestinian owner and took some photos, and after about one hour they left the spot.

14 According to *The Times of Israel*: "New construction in the West Bank skyrocketed in 2013 compared to 2012, new Israeli data revealed on Monday. The Central Bureau of Statistics reported an increase of 123 percent in construction of new homes in the West Bank in 2013 compared to 2012, a ratio dramatically higher than in the other six districts examined. The southern district, coming in second, witnessed an increase of 12%, Haifa 8%, Jerusalem 3%, central Israel 2%, and northern Israel 1%. New construction in the Tel Aviv district dropped 19% between 2012 and 2013. (...) According to the Israeli numbers, there were 2,534 new housing starts in the West Bank in 2013, compared to 1,133 units in 2012"

15 In Israel's featured political landscape, nearly every prime minister who has engaged in negotiations with Palestinians has also thrown a bone to the settlers and their supporters in order to prevent a collapse of his coalition government.

16 New Israeli Shekel

17 The new EU guidelines will prohibit the issuing of grants, funding, prizes or scholarships unless a settlement exclusion clause is included. Israeli institutions and bodies situated across the pre-1967 Green Line will be automatically ineligible. In order to secure agreements with the EU in the future, the Israeli government will be required to concede in writing that settlements in the West Bank and East Jerusalem are outside the state of Israel. The directive, part of the 2014-20 financial framework, covers all areas of co-operation between the EU and Israel, including economics, science, culture, sports and academia.

18 For detailed information see note 4

19 <https://www.un.org/webcast/pdfs/SRES2334-2016.pdf>. And <https://www.un.org/press/en/2016/sc12657.doc.htm>.

20 The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) Occupied Palestinian Territory. <https://www.ochaopt.org/>.

21 See: (year : cases) 2013 : 26; 2014: 19; 2015: 45; 2016: 15; 2017: 2

22 See: (year: cases) 2013: 63; 2014: 2; 2015: 2; 2016: 49; 2017:3

23 As houses, tents, bathrooms, roads, animal shelters. (2013: 10; 2014: 40; 2015: 17; 2016: 65; 2017: 5)

2.3 Checkpoint

During 2013, soldiers set up 67 temporary check-points (47 the previous year) stopping and checking out 388 adults and 59 children, and 46 ones during 2014 stopping and checking 382 adults and 57 children. During 2015, soldiers set up 41 temporary check-points stopping and checking out 365 adults and 65 children, and 33 during 2016 stopping and checking 246 adults and 29 children. In the first 3 months of 2017, OD reported 19 temporary check-points where 164 people were stopped.

2.4 Evictions: Masafer Yatta/Firing zone 918

The so-called Firing zone 918 area encompasses twelve Palestinian villages and some 1000 inhabitants²⁴ In the early 1970s, Israel declared the area a 'closed military area'. Because of this declaration, in 1999 Israeli military forces, accompanied by civil Administration officials, expelled the residents. Challenging the expulsion, inhabitants petitioned the Israeli High Court of Justice (IHCJ) that issued a temporary injunction allowing people to return to their houses and forbidding the state to expel them pending a final decision, but life for Palestinian communities in the area worsened²⁵. On the 19th of July 2012, the state, following Ministry of Defense instructions, submitted a detailed notification to the IHCJ in which it claimed that the petitioners are not "permanent residents" of the firing zone area and hence have no right to live there. On the 7th of August 2012 the Court decided that the state's announcement constituted "a change in the normative situation" and as a consequence the specific petitions "were no longer relevant" and so dismissed. Therefore a new petition has been submitted by the lawyers of the Palestinians on the 16th of January 2013 to the IHCJ. If the Court rejects the inhabitants' petition, eight of the twelve villages could be evicted.²⁶

The Israeli military requirement has no direct relation to the occupation because it refers to a need of general training but according to international law, 'military general training' can't for any reason be considered as a military need.²⁷ Article 46 of the Hague Declaration states that private property must be respected and it cannot be confiscated²⁸. Under these circumstances, the expected destruction of the villages with the purpose of using Firing Zone 918 would constitute a clear violation of art. 53 of the IV Geneva Convention and would amount to a grave breach according to art. 147. In the matter of prohibition of forcible transfer, IHL (International Humanitarian Law) does not differentiate between permanent and non-permanent residents as Israeli legislation does.

During the hearing on the 4th of October 2013, the IHCJ proposed a mediation²⁹. While the Palestinians immediately accepted the proposal, Israel took some time to think about it. On October 21 the state attorney notified the IHCJ that the Minister of Defense has agreed to enter mediation. On February 1, 2016 the parties notified the Court that they had been unable to reach an agreement. On February 2, 2016 – the day after the mediation ended – Israeli military forces destroyed 15 residential buildings in Jinba and 9 buildings in Al- Halaweh. 78 people, including 60 children, lived in the buildings that were destroyed. Following the demolitions, two urgent petitions were filed in the IHCJ with the intention of preventing further demolitions. The first petition was filed on February 2nd by The Society of St. Yves (HCJ 857/16) and the second petition was filed on February 4th by Rabbis for Human Rights (HCJ 983/16).³⁰ At a hearing on 23 March 2016³¹, the respondents presented a proposed outline for a new training area. The proposal was even worse than the proposals submitted during the mediation: people evacuation for long period and includes the villages of Maghayir al-'Abid and Mufqara, which were before excluded. On 11 January 2017, the IHCJ at last issued an order according to the petitioners, requiring the State to provide alternative propositions within 45 days. The petitioners stated that they are not willing to be evacuated from their homes because the establishment of the firing zone in a populated area of the Occupied Territories was done in violation of IHL.

2.5 School Patrol

One of the most dramatic consequences of the situation is the difficulty for the children from Tuba and Maghayir al-Abeed to reach the only school in the area, which is located in At-Tuwani. The settlers for years prevented them from taking the direct road that connects Tuba with At Tuwani village³² by threatening and beating them. Some families gave in to this situation by forbidding their children to go to school and some others had to send their children to school through a much longer path, which takes one hour walking and even so it's dangerous because of settler's violence³³. However, the children were attacked even along this longer path, in spite of the civil escort provided by the international volunteers of OD and Christian Peacemaker Teams since 2004. During one of these widespread attacks, an

24 Tuba, al-Mufaqqarah, Isfey, Maghayir al-Abeed, al-Majaz, at-Tabban, al-Fakheit, Halaweh, Mirkez, Jinba, Kharoubah and Sarura.

25 Because of the destruction of private properties during the eviction, the expansion of settlements, and the ongoing settlers violence. Moreover, the military and civil Administration carried out demolition orders and delivered stop work orders, preventing the construction of new houses and the renovation of the old ones.

26 In this case, the Israeli authorities could make a decision that would be against International Common Law. Israel claimed that after the end of the II Lebanon War (2006) security levels increased and, as a consequence, troops needed to return to regular training: that meant the necessity for more firing zones, including the one in the Masafer Yatta area.

27 This means that the measures that could be taken would be unlawful because they are not permitted under the Hague Regulations and would constitute grave breaches of the IV Geneva Convention. If a firing zone for general military training is established, according to International Humanitarian Law (IHL), it would not justify expropriations or movement restrictions in the twelve villages.

28 Also, destruction of private property for the establishment of a firing zone, intended for military trainings, cannot be justified because it does not constitute a military need.

29 Conducted by the judge Yitzhak Zamir.

30 Temporary injunctions were awarded in both petitions, to prevent the use of additional demolition orders until a further decision is made.

31 Before Judges Meltzer and Barak-Erez.

32 Located just in the middle between Ma'on settlement and Havat Ma'on outpost.

33 While normally it took twenty minutes on the shortest way.

international suffered quite serious injuries. At that point, the Commission for Protection of Child Rights of the Israeli Parliament, moved by the indignation of public opinion and press, started considering the problem and concluded that from that moment onward, children would have to go to school taking the direct street escorted by an Israeli army patrol which would have the task to protect them from threats or attacks. That was 2004. The escort is still assured to the children, however, it is not able to guarantee the complete security of children, since settlers often attack them anyway and the Israeli military patrol is frequently late or doesn't even show up putting children at very high risk while waiting for the escort.³⁴

During the school years the military escort was often in late in the morning (2011-12³⁵: 35% of cases; 2012-13: 25%; 2013-14: 25%; 2014-15: 48%; 2015-16: 47%) causing children the loss of many hours of school instruction (2011-12: 19; 2012-13: 19; 2013-14: 10; 2014-15: 17; 2015-16: 18). During the first semester of the 2016-17 school year, the escort arrived late 23 times (in the morning) out of a total of 88 monitored school days.³⁶ In addition, in several of the cases (2013-14: 52%; 2014-15: 79%; 2015-16: 64%; first semester 2016-17: 37%), the military escort arrived late after school, forcing the children to wait in a dangerous place (the gathering point), close both to the settlement and the outpost, for a total time of respectively 23 h, 40, 54, and 27 hours. In contravention of the escort's protective mandate the Israeli army failed to fully complete the escort (2013-14: 90%; 2014-15: 79%; 2015-16: 76%; first semester 2016-17: 73%) and the soldiers did not accompany the children to the end of the established path, leaving them in dangerous places. Furthermore in the first semester of school year 2016-17, in 52% of the cases the escort didn't walk with the children, as established (2013-14: 59%; 2014-15: 54%; 2015-16: 47%).

During 2013-2014 school year, the military escort did not arrive on 14 out of 328 instances (2014-15: 13 on 336; 2015-16: 12 on 240; first semester 2016-2017: 3 on 176) and the children were not escorted on their walk to or from school. From the 2012-2013 school year to the first semester of the 2016-17 school year, OD volunteers registered a total of 31 acts of violence (2012-13: 13; 2013-14: 7; 2014-15: 3; 2015-16: 5; first semester 2016-17: 3) carried out against the Tuba and Maghayir Al Abeed schoolchildren by settlers from Ma'on and Havat Ma'on. Although there were instances of effective intervention by the military in protecting the children, it can be concluded that the escort continues to be insufficient and often negligent in defending the Palestinian schoolchildren from violence and in ensuring their right to education, in violation of the CRC 37 and Art.26 of UDHR.³⁸

3. Recommendations to the State of Israel:

1. to stop military and civil occupation of the Palestinian territories
2. to ensure and provide the freedom of movement, in particular for all Palestinians accessing the Palestinian public road that connects the village of Tuba to At-Tuwani, in South Hebron Hills³⁹
3. to stop demolitions and evictions in the Palestinian territories, cancelling all stop-work orders and all demolition orders and in particular to provide the right to exist for the villages in Massafer Yatta area, Um Al Kher village and Susiya village, allowing them to access to the basic services.⁴⁰
4. to respect the international law regarding civilians under occupation⁴¹ and to take severe measures in order to punish the Israeli settlers' attacks with Israeli Army's collaboration and complicity in the Palestinian territories especially with settlers living in illegal outpost according to Israeli law.
5. to ensure effective access to education for Palestinian children
6. to modify any Israeli law⁴² which is delegitimizing Israeli peace organizations and to respect Israeli peace activists human rights.

34 Everyday OD volunteers monitor the regular implementation of the IDF escort for an average number of 16 children, aged between 6 and 15 years old, coming from the villages of Tuba and Maghayir al Abeed.

35 That means year-number cases: percentage

36 As a result the children missed a total of 7 hours of school (441 minutes).

37 International Convention on the Rights of the Child - Articles 2-3-6-16-19-38

38 Universal Declaration of Human Rights

39 It is located just between Ma'on settlement and Havat Ma'on outpost, very close to both of them. It has been about twenty years since Palestinians stopped taking this path along which they were repeatedly attacked by the settlers, even though it's a public street and is neither part of the official borders of Ma'on settlement or of the illegal border of the outpost. This is the shortest path for vehicles and it connects the village of Tuba to the rest of the West Bank. The fact that it's impossible to use it has huge consequences. In order to reach At-Tuwani or Yatta, the Palestinians from Tuba usually take a steep path on foot or, at the most, riding a donkey, and to carry out all the activities which require to use a vehicle (transfer of animal feed, water supply, etc.) they are forced to take a path that is about four times longer, causing the increase of the costs of movement. Even so the alternative path is very dangerous because of settlers violence.

One of the most dramatic consequences of this situation is the difficulty for the children from Tuba and Maghayir al-Abeed to reach the only school the whole area that is located in At-Tuwani.

40 We are talking of villages at risk of demolition, whose people (more than one thousand and five hundred persons) might suffered of a forced eviction. As U.S. State Department spokesperson John Kirby said regarding Susiya village on July 16th 2015: *"We're closely following developments in the village of Susya in the West Bank, and we strongly urge the Israeli authorities to refrain from carrying out any demolitions in the village. Demolition of this Palestinian village or of parts of it, and evictions of Palestinians from their homes would be harmful and provocative. Such actions have an impact beyond those individuals and families who are evicted. We are concerned that the demolition of this village may worsen the atmosphere for a peaceful resolution and would set a damaging standard for displacement and land confiscation, particularly given settlement-related activity in the area. We urge Israeli authorities to work with the residents of the village to finalize a plan for the village that addresses the residents' humanitarian needs."*

41 See § 2.4

42 See note 6 and 7