

Geneva International Centre *for* Justice

Independent, non-profit, non-governmental organization

GICJ is an independent, non-profit, non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights. GICJ is headquartered in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for their victims through all legal means available.

Mission

GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.

Work

GICJ has been tackling issues of justice and accountability since it was established. GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidences of human rights violations and abuses as they occur in several countries. GICJ continues to bring this information to the attention of relevant UN bodies in order to gain justice for all victims.

With regards its continued work on Palestine, GICJ builds on its presence on the ground by members and correspondents. GICJ cooperates closely with NGOs and other civil society actors and stakeholders on the ground to receive accurate, up to date information on violations.

Israel's Third Universal Periodic Review

Geneva International Centre for Justice (GICJ) regrets that Israel rejected the vast majority of the 238 recommendations made by Member States at its delayed UPR in October 2013 – which renders its contempt for this vital mechanism and human rights blatant – and has failed to comply with resolutions adopted by the Human Rights Council since. This submission highlights Israel's continued non-cooperation with UN human rights mechanisms, reviews the domestic legislative and structural frameworks, and finally assesses the human rights situation on the ground, with a focus on right to property; right to life; freedom of expression and assembly; and detention, torture and ill-treatment. The respective human rights violations underpin the findings of ESCWA's report E/ESCWA/ECRI/2017/1 on "Israeli Practices towards the Palestinian People and the Question of Apartheid", which the authors were instructed to withdraw purely for political expediency and pressure by Member States that gravely violate the rights of the people of the region. Israel's violations challenge its claim of representing "the only democracy in the Middle East".

Follow-Up to the Previous Review and Scope of International Obligations

After having failed, as the first country, to appear in front of its UPR as scheduled in January 2013, Israel's delayed attendance and subsequent actions were marked by non-compliance. Contrary to UPR recommendationsⁱ, Israel consistently fails to comply with international human rights law and humanitarian law, to cooperate with human rights mechanisms, and to implement UPR and other UN recommendations. The State continues to refuse to abide by its international obligations, in particular the Fourth Geneva Conventionⁱⁱ, and deprives Palestinians inside Israel and in occupied Palestine of their fundamental human rights.

At its last UPR, Israel rejected all recommendations containing the term "State of Palestine" – an absurd move that must, however, be seen in light of Israel's longstanding, strategic, and organized negation of Palestinian national identity and legitimate national claims. Correspondingly, and in direct contravention to UPR recommendationsⁱⁱⁱ, Israel persists in its illegal occupation and the denial of Palestinian self-determination and the rights, including the right of return, of Palestine refugees, and continues its illegal settlement and annexationist activities and destruction of Palestinian property unabated. Israel rejected recommendations demanding the dismantling of the illegal separation Wall in accordance with the ICJ advisory opinion and the end to the suffocating Gaza blockade, which constitutes an egregious form of collective punishment. Hereby and through other illegal activities, Israel continues to violate Palestinians' most basic human rights.

Israel has also failed to comply with States' recommendations to investigate violations of human rights and international law^{iv}, including those amounting to war crimes, committed by Israeli forces and settlers and continues to act with impunity.

Domestic Legislative and Structural Human Rights Frameworks

Since 1948, Israel has been in a permanent national "state of emergency". On the basis of the Defense (Emergency) Regulations^v, Israeli authorities continue to conduct deplorable

violations against Palestinians living in occupied Palestine, including house demolitions, deportations, administrative detentions, and closures and curfews of Palestinian towns and villages.

While Member States recommended to Israel to explicitly include principles of equality and non-discrimination in its national legislation^{vi} and cease segregationist and discriminatory policies and practices disproportionately affecting the Palestinian population^{vii}, Palestinian citizens of Israel continue to face discrimination in, *inter alia*, access to justice, in property and housing rights, employment, education, health care, as well as in participation in political and public affairs. Human rights violations are thus entrenched in the institutional and normative structure of the state.

While Apartheid is prohibited under international law, Israel has been found to represent a *de facto* Apartheid State. Indeed, Israeli policies and practices prevent Palestinians' exercise of their right to the self-determination, seriously interfere with their collective economic, political, social and cultural development, and violate the fundamental human rights of the Palestinian people – regardless of their residency status in occupied Palestine, within Israel, and even in exile. Some Israeli practices amount to crimes against humanity.

The Human Rights Situation on the Ground

Right to Property, Privacy, and Home

Israel continues its long history of violating Palestinian property rights^{viii} for the sake of Jewish settlement on grounds of discriminatory domestic property laws such as the Absentees' Property Law (1950) (applied in Israel and East Jerusalem), military orders designating Palestinian land "state land" and "closed military zones" (in the West Bank), and an apartheid zoning and planning scheme, which, *inter alia*, renders acquiring building permits almost impossible for Palestinians. The recently introduced retroactive "legalization" of outposts hitherto considered illegal even under Israeli law, which allows for the expropriation of privately owned Palestinian land and property, is a continuation of Israel's longstanding violations. Amidst the recent surge in home demolitions^{ix} since spring 2016, Palestinian communities in the Negev in Southern Israel and in Area C of the West Bank again fell victim to rampant destruction of their homes and vital infrastructure. Palestinians in these locations, particularly in Bedouin communities, are permanently confronted with the threat of expulsion from their homes and obliteration of their villages.

As part of its settlement policy, Israel has created segregated physical spaces along ethno-national lines. Through its laws and practices, the State under review has not only gradually expropriated Palestinian land and property and relegated Palestinians to enclaves, but has also entrenched the segregation of these enclaves from Jewish Israeli areas inside Israel and occupied Palestine. This segregation is underpinned by the discriminatory allocation of infrastructure, services and access to resources^x. The dual system of roads in the West Bank, for instance, forces Palestinians to use alternative and circuitous routes. Since the last UPR, violence by Israeli settlers^{xi} against Palestinian property has risen markedly, with settlers consistently destroying vital infrastructure, orchards and agricultural fields, for instance by demolishing water cisterns, uprooting trees, burning plants, and spraying toxic chemicals. Such acts are carried out with impunity.

Right to Life, Liberty and Security

Israeli violations of the fundamental rights to life, liberty and security of person^{xiii} are a reflection of how little weight Palestinian life has when considered against the backdrop of alleged security concerns, which is in stark contrast with the legal protection Israeli settlers are afforded within the Israeli constitutional system. The period since the last UPR saw the continuation of frequent military incursions and raids by the Israeli occupying forces on Palestinian cities, towns, villages and refugee camps, and almost daily clashes with Palestinian youth and protestors, as well as the violent dispersal of protests. Israel's excessive use of force and the failure to prevent settler violence cause immense death and injury to Palestinian civilians. Moreover, cases of extrajudicial killings have mounted since the increase in violence in September 2015 and are carried out with impunity^{xiii}. Numerous cases have been reported in which Palestinians were killed by Israeli occupying forces when posing no threat and when lethal force was fully unjustified and in which emergency medical attention were prevented from reaching shot and wounded alleged assailants.

In July and August 2014, Israel launched a devastating military operation in Gaza, which resulted in massive loss of life, disproportionately affecting civilians, and vast damage to homes, infrastructure, hospitals and schools. Again, serious concerns were raised regarding the IDF's adherence to the legal principles of distinction, proportionality and precaution during attacks. Those who survive must learn to live with the loss of loved ones, with permanent injuries, and severe mental illnesses.

A particularly grave violation of the Fourth Geneva Convention continues to be Israel's imposition of collective punishment^{xiv} on Palestinians through, *inter alia*, indiscriminate and excessive use of force, the demolition of homes, the destruction of vital infrastructure, sweeping restrictions on freedom of movement, the bombardment of civilian areas, and the eviction and deportation of entire families. The most egregious form of collective punishment is the decade-long illegal and immoral blockade on Gaza. Israel's policy of deportation as act of administrative and often collective punishment is a flagrant breach of international humanitarian law.

Freedom of Expression, Association and Peaceful Assembly

In breach of UPR recommendations, Palestinians and increasingly Jewish Israeli dissidents are persecuted by Israel as "enemies of the State" for their peaceful exercise of their rights to freedom of expression and assembly^{xv}. Israel employs repressive methods to restrict, discredit, and criminalize their opposition to the occupation and to the associated severe human rights violations on the basis of longstanding military orders and anti-democratic laws, such as the "Boycott Prohibition Law" (2011), the "Budget Foundations Law" (2011), and the "NGO Disclosure Law" (2016).

Moreover, human rights defenders (HRDs) are confronted with severe movement restrictions, threats to security, liberty and life, and physical assault, cyber-attacks, and arrests and imprisonment under military and administrative orders^{xvi}. During protest activities and direct action, HRDs experience severe interference with their work by Israeli soldiers and settlers, including harassment, violence, and arrests. Activists are regularly prevented from

documenting violations and face verbal and physical abuse. Israeli HRDs endure an antagonistic public atmosphere, are discredited and attacked by the Government of Israel, the Israeli military, hostile Israeli organizations and unknown individuals or groups, and are subjected to discriminatory legislation by the Knesset. Amidst an atmosphere of distrust and paranoia, people are afraid to speak, fear being spied on, and do not know who they can trust.

In January 2016 it was revealed that over the course of many months, a right-wing, settler-backed organization called Ad Kan had been planting infiltrators into different human rights organizations to spy on and record activities with hidden cameras, in an attempt to acquire any kind of evidence that could be used against them. The arrests of Israeli human rights activists that followed were entirely political, with the purpose of undermining the activities against Israeli violations. Israeli law is strategically arbitrary, and is directed against anyone considered enemy of the state, who can be arrested at any moment for haphazard reasons.

Arbitrary Arrests, Torture and Ill-Treatment

Israel's persistent practices of administrative detention^{xvii} and of ill-treatment and torture^{xviii} are inconsistent with standards set by international humanitarian, human rights and customary law^{xix}. Israel continues to detain Palestinians, including women and children, without charge or trial and to restrict access to legal counsel. Since the last UPR, the number of Palestinians held in administrative detention rose steadily, until it peaked during Israel's operation in Gaza in June and July 2014.

The conditions of imprisonment of Palestinian arrestees, including women and children, remain abhorrent. They are marked by the denial of family visits or extremely short visiting times, solitary confinement, overcrowding in small living spaces far below the international standard, poor hygiene, humidity, lack of basic amenities, the denial of access to education, and lack of medical care, including deliberate medical negligence resulting in cases of death. Methods of torture include painful shackling, fixation in stress positions, sleep deprivation, threats against family members, and physical and verbal abuse. Recent years saw a rise in forms of psychological torture, which permanently harm prisoners.

Women are not given special considerations as provisioned by CEDAW, but are subjected to ill-treatment, including beatings, sexual harassment, and humiliation such as intrusive body searches. On 3 August 2016, the Israeli Knesset adopted the Youth Bill, providing for the imprisonment of Palestinian children as young as 12 years if convicted of acts considered "terrorism" against Israeli civilians or military personnel. Palestinian children continue to be arrested in the middle of the night by Israeli soldiers, and taken to unknown destinations shackled and blindfolded without a goodbye to their families. They are systematically subjected to physical and verbal violence, humiliation, sexual assaults, and threats to their lives or the life of family members.

Jewish Israeli prisoners politically arrested for their opposition to the occupation or human rights work have also reported harsh conditions of imprisonment and the use of psychological and physical violence. The reported methods are aimed at breaking the detainees' spirit and at delegitimizing their human rights and anti-occupation activism and violate fundamental provisions of international law.

Recommendations for Action by Israel

In the light of the issues addressed in the submission we demand Israel to:

- Finally bring an end to the prolonged occupation of Palestine and fulfill Palestinians' right to national self-determination, which involves the end of all annexationist and settlement activity and the illegal blockade on Gaza and the voluntary return and property restitution of Palestine refugees and internally displaced persons;
- Cease its discriminatory planning, development, and land system in occupied Palestine and within Israel and to rescind all policies and practices resulting in the forced eviction and transfer of Palestinians, including demolitions, confiscations, and the creation of a coercive environment.

In the light of its grave and systematic human rights violations, we recommend Israel to:

- Scrupulously abide by its obligations as UN Member State, comply with its international obligations, implement relevant UN resolutions, and fully cooperate with relevant treaty bodies and human rights mechanisms, particularly with the fundamental provisions of equality and non-discrimination;
- Take the necessary measures to ensure accountability for grave violations of international law and humanitarian law, particularly those amounting to war crimes, to adequately investigate all committed crimes, and bring perpetrators to justice.

Shattering the manifold pillars of the occupying system would not only finally guarantee Palestinians their inalienable rights but would also end violence and liberate all inhabitants of the region, particularly minority groups such as Ethiopian and Mizrahi Jews, whose experiences of police violence and discrimination are inherently interlinked with the system of occupation. The system of occupation and apartheid must be disassembled to give way to real democracy and peace in the region for the benefit of all citizens.

We therefore recommend to the UN and the relevant UN bodies to take all necessary measure to ensure that Israel:

- Cease its policies of apartheid that degrade, dispossess, and discriminate against the Palestinian people as a whole;
- Cease and rescind its anti-democratic and racist practices and laws, and guarantee the fundamental rights and freedoms of ethnic and political minorities in Israel;
- Release immediately all political prisoners and administrative detainees and ensure that they are treated in accordance with international humanitarian and human rights law;
- Cease torture and ill-treatment of Palestinian prisoners and facilitate access of independent representatives of humanitarian organizations;
- Discontinue criminal proceedings against Palestinian children in military courts and put an end to the detention of children.

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- ⁱ See, UPR recommendations 136.13; 136.49; 136.200; 136.160; 136.161; 136.188; 136.194; 136.236; 136.237; Cooperation with human rights mechanisms: supported by Israel: 136.32; 136.34; 136.35; 136.37; 136.40; 136.42; 136.46; 136.47; partially supported: 136.31; 136.36; 136.41; rejected: 136.30; 136.33; 136.38; 136.45; 136.48; 136.50; 136.51; 136.195; 136.196; 136.197; 136.198; 136.199; 136.201.
- ⁱⁱ Recommendations demanding Israel to abide by the Fourth Geneva Convention include 136.13; 136.15; 136.47; 136.48; 136.49; 136.142; 136.143; 136.155; 136.158; 136.161; 136.207.
- ⁱⁱⁱ All relevant resolutions were rejected by Israel: 136.107; 136.108; 136.147; 136.153; 136.154; 136.155; 136.163; 136.164; 136.165; 136.166; 136.167; 136.168; 136.170; 136.171; 136.172 136.173; 136.174; 136.175 136.177; 136.179; 136.180 136.182; 136.183; 136.184; 136.185; 136.186; 136.187; 136.189; 136.190; 136.204; 136.206; 136.221; 136.222; 136.223; 136.224; 136.225; 136.231; 136.232; 136.233; 136.148; 136.149; 136.150; 136.151; 136.152; 136.162; 136.169; 136.176; 136.178; 136.181; 136.192; 136.207; 136.214; 136.216; 136.217; 136.229.
- ^{iv} Recommendations pertaining to investigation into violations include 136.66; 136.140; 136.209; 136.210; 136.135; 136.141; 136.208.
- ^v Pursuant to its establishment, Israel incorporated the Defense (Emergency) Regulations into its domestic legislation, which comprised provisions with regards to “illegal” immigration, military tribunals to try civilians, indefinite administrative detention, house demolitions, imposition of curfews, the prohibition of publication of books and newspapers, and substantial powers of searches and seizure. The Defense Regulations have become permanent, have been introduced as basic provisions in the legal system in the West Bank in their amended form, and have been used extensively in occupied Palestine by Israel for acts of punishment and deterrence.
- ^{vi} Some of the Basic Laws institutionalize discrimination, such as in the field of land policy. 93 percent of land within Israel is State land, or land for “public purpose”, and is exclusively allocated to Jewish Israelis, thereby preventing Palestinian use, development or ownership thereof. Challenging racial discrimination and domination in the “Jewish State” is prohibited by the Basic Law: Knesset.
- ^{vii} Equality and nondiscrimination: Partly supported: 136.17; 136.18; 136.19; 136.21; 136.43; 136.59; 136.61; 136.82; rejected: 136.20; 136.44; 136.54; Minority rights: supported: 136.27; 136.53; 136.58; 136.90; 136.91; 136.92; 136.93; 136.94; 136.95; 136.96; 136.98; 136.99; 136.100; 136.103; partly supported: 136.146; 136.63; segregationist and discriminatory practices: 136.107; Economic, social and cultural rights: 136.67; 136.83; 136.84; 136.85; 136.86; 136.102; 136.110; 136.213; 136.220; 136.142; 136.143; 136.145; 136.205; 136.226; 136.227; 136.228; 136.234; 136.235; 136.109; 136.157; 136.193; 136.202; 136.203; 136.215.
- ^{viii} Recommendations calling on Israel to respect Palestinians’ property rights include: 136.58; 136.99; 136.55; 136.232; 136.229.
- ^{ix} Recommendations demanding Israel to cease the demolition and destruction of homes include: 136.229; 136.207; 136.153.
- ^x Resolutions directly pertaining to the discriminatory allocation of resources, services and infrastructure include 136.91; 136.99; 136.103; 136.107; 136.205; 136.213; 136.227; 136.235.
- ^{xi} France asked Israel to fight impunity through thorough and impartial investigations into human rights violations including by settlers (136.66).
- ^{xii} Violations against the fundamental rights to life, liberty, and security of person were addressed in recommendations 136.65; 136.28; 136.135; 136.111; 136.112, among others.
- ^{xiii} One of the most appalling incidents was the killing of an unarmed Palestinian man, who had been shot at a military checkpoint in Hebron and was lying on the ground without any medical attention, by an Israeli soldier on 24 March 2016 and the killing of a 23-year-old five-month pregnant woman and her 16-year-old brother by Israeli soldiers at the Qalandiya checkpoint on 27 April.
- ^{xiv} Jordan directly called on Israel to refrain from subjecting the civilian population to collective punishment 136.192.
- ^{xv} Recommendations pertaining to freedom of expression include 136.144; 136.55.
- ^{xvi} Austria and Chile demanded Israel to ensure that human rights defenders are able to carry out their legitimate work in a secure and free environment and to lift restrictions (136.80; 136.215).
- ^{xvii} Recommendations calling on Israel to cease its policy of administrative detention include 136.133; 136.65; 136.120; 136.112; 136.124; 36.113; 136.121; 136.125; 136.130; 136.134; 136.139; 136.159; rejected: 136.114; 136.115; 136.116; 136.117; 136.118; 136.119; 136.122; 136.123; 136.126; 136.127; 136.128; 136.129; 136.131; 136.132; 136.136; 136.137; 136.138.
- ^{xviii} Recommendations pertaining to Israel’s use of ill-treatment and torture against Palestinian prisoners include 136.8; 136.111; 136.116; 136.119; 136.128; 136.132.
- ^{xix} Israel fails to comply with, inter alia, the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), the Convention on the Rights of the Child, and the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

Appendix

Settlements and the Separation Wall

In direct contravention to UPR recommendations and uncountable resolution, the latest of them being Security Council resolution 2334 of 23 December 2016 demanding Israel to cease all illegal settlement activity, Israel continued and even exacerbated its settlement construction and consolidation. The introduction by Israeli authorities of policies of retroactive “legalization” of outposts, hitherto considered illegal even under Israeli law, must be seen as a continuation of Israel’s entrenched disregard for its international obligations.

On 24 January 2017, Israeli Prime Minister Benjamin Netanyahu and Defense Minister Avigdor Lieberman approved plans for the construction of 2,500 housing units in illegal Israeli settlements in the occupied West Bank, especially in the major settlement blocs of Ariel, Etzion, and Maale Adumim as well as Beit El. In the meantime, Israel’s “Jerusalem municipality” on 22 January approved construction permits for at least 566 new illegal Israeli settlement units in occupied East Jerusalem, with an additional 105 housing units envisaged in Palestinian East Jerusalemite neighborhoods.

On 6 February 2017, the Israeli Knesset passed the so-called “Regulation Bill”, which provides for the retroactive “legalization” of around 4,000 illegal settlement homes built on privately owned Palestinian land. The bill “legalizes” outposts hitherto deemed illegal even under Israeli law due to their location outside Government-held land in Area C, and allows for the expropriation of land in more than fifty settlements and outposts. Numerous demolition orders against Palestinian property have since been issued by Israeli authorities.

On the evening of Palestine’s Land Day, on 30 March 2017, Israel’s government unanimously voted in favor of the construction of a new illegal settlement in an area called “Emek Shilo” in the occupied West Bank amidst an alarming surge in settlement activity – less than two weeks after the United Nations criticized Israel’s continued settlement policy in violation of uncountable resolutions, the latest of them being Security Council Resolution 2334 of 23 December 2016.

Blockade on Gaza

Contrary to UPR recommendations, Israel persists in its decade-old illegal blockade on Gaza, which has completely paralyzed economic development with most factories and hundreds of businesses shutting down, has deepened socioeconomic hardship, and has hurled Gaza into a protracted humanitarian and human rights crisis. Gaza remains besieged and imprisoned territory with Israel retaining overall control^{xix}. Exceedingly stringent restrictions on the movement of goods compared to the pre-blockade level remain in place^{xix} and Israel maintains and enforces the access restricted areas^{xix}.

As a result of the blockade and recurring military operations, Gaza’s economic growth is negative, its unemployment rate ranks among the highest in the world^{xix}, especially among youth, and the region depends on humanitarian aid. Infrastructure and public services lie in ruins: Gaza residents receive electricity only few hours each day, partly due to fuel shortage. The electricity shortage also devastates water and sewage facilities, while about 95 percent of water received is contaminated and non-potable. Medical services are far from meeting the

requirements of the population. Imports and especially exports remain at a significantly low level since the imposition of the blockade.

Anti-Democratic Laws

Notably, legislation that criminalize and impose drastic restriction and economic sanctions on individuals and institutions that “act against state policies” and express opposition to Israeli policies and practices in occupied Palestine include:

- The **Law for Prevention of Damage to State of Israel through Boycott** (“Boycott Prohibition Law”), approved by the Knesset on 11 July 2011, declares any support of and advocacy for cultural, economic or academic boycott of Israel, one of its institutions or the goods it produces, a civil offence, which is punished with stringent penalties. Institutions supporting boycotts are divested of their tax-exempt status, are ineligible for vital forms of public funding, and can be sued by those affected by boycotts.
- The **Budget Foundations Law** (Amendment No. 40) 5771 (“Nakba Law”), adopted on 22 March 2011, enables the Minister of Finance to withdraw state funding to public institutions, including schools and other local bodies, that organize activities commemorating “the day of the establishment of the state as a day of mourning” or which contest the “the existence of Israel as a Jewish and democratic state”. Particularly, the law penalizes cultural, academic or other institutions that commemorate the 1948 Nakba and question Israel as “Jewish democracy”.
- The **Law Requiring Disclosure Supported by Foreign Governmental Entities** (“NGO Disclosure Law”), approved in July 2016, obliges Israeli NGOs that acquire more than half of their funding from foreign state sources to display this information in communications with Israeli authorities, in internet and media outlets, and research and advocacy documents. Failure to do so entails high fines (NIS 29,000, approximately \$7,500 US).

The entrenched stigmatization of Palestinian citizens as “enemy of the state” and “security threat” is increasingly applied to political opponents, including Jewish Israeli dissidents. **Statute 103 of the Israeli Penal Code, entailed “Defeatist Propaganda”,** stipulates:

“Anyone who, during a period of warfare, and with the intention of causing public panic, disseminates information that might undermine the spirit of the soldiers and inhabitants of Israel in their resilience against the enemy, will be sentenced to five years imprisonment; anyone who does so with an intent to harm national security will be sentenced to ten years imprisonment.”

As this vague provision can be widely interpreted and arbitrarily applied, it has already resulted in the incarceration of numerous HRDs and Israeli citizens opposing the brutal occupation.