



# International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General  
21 August 2024

English only

---

## Committee on the Elimination of Racial Discrimination

113th session

5–23 August 2024

Item 6 of the provisional agenda

Consideration of communications submitted  
under article 11 of the Convention

### Report of the Ad Hoc Conciliation Commission on the inter-State communication submitted by the State of Palestine against Israel under article 11 of the International Convention on the Elimination of All Forms of Racial Discrimination\*

#### Addendum

#### Assessment of the facts \*\*.\*\*

#### *Summary*

The present document has been prepared pursuant to articles 13.1 of the International Convention on the Elimination of All Forms of Racial Discrimination. It presents the assessment of the Commission on the allegations submitted by the State of Palestine and the responses provided by Israel.

---

\* Established under article 12(1)(b) of the International Convention on the Elimination of All Form of Racial Discrimination.

\*\* The present document is being issued without formal editing.

\*\*\* The present document should be read in conjunction with the report of the ad hoc commission (CERD/C/113/3) and its summary of the facts (CERD/C/113/3/Add.1).



## Contents

	<i>Page</i>
I. Assessment of the facts .....	3
A. General obligation of States parties to combat racial discrimination (article 2) .....	3
B. Prohibition of segregation and apartheid (article 3).....	4
C. Right to equal treatment before tribunals (article 5(a)).....	5
D. Right to freedom of movement and residence (article 5(d)(i)) .....	7
E. Right to leave any country, including one's own, and to return to one's country (article 5(d)(ii))	8
F. Right to marriage and choice of spouse (article 5 (d) (iv)) .....	8
G. The right to own property alone as well as in association with others (article 5(d)(v)) .....	8
H. Right to freedom of thought, conscience and religion (article 5 (d)(vii)) .....	10
I. Labour-related rights (article 5 (e)(i)) .....	10
J. Right to housing (article 5(e)(iii)).....	11
K. Right to public health, medical care, social security, and social services (article 5(e)(iv)) ..	12
L. Right to education and training (article 5 (e)(v)) .....	13

## I. Assessment of the facts

1. In this section, the commission presents its assessment on all questions of fact relevant to the issue between the parties (article 13 of the Convention). The commission's assessment relies on the investigations carried out or reports produced by several United Nations bodies with respect to the situation of Palestinians in the Occupied Palestinian Territory, including East Jerusalem.

### A. General obligation of States parties to combat racial discrimination (article 2)

2. The Committee expressed concern about acts of violence perpetrated by Israeli settlers "against Palestinians and their property in the West Bank, including East Jerusalem, and at the lack of effective accountability for and protection from such acts" by the Israeli authorities.<sup>1</sup> The Committee recommended Israel to take all necessary measures to prevent acts of violence perpetrated by Israeli settlers, to investigate such acts and to provide appropriate remedies to the victims.

3. The Human Rights Committee noted that there is a lack of accountability regarding violence committed by Israeli settlers against Palestinians and their properties.<sup>2</sup> The Human Rights Committee also noted the establishment by Israel of measures to tackle settlers' violence, including the establishment of an interministerial team to deal with ideologically motivated crimes. It, however, expressed its concerns about the sharp increase in the number and severity of settler violence in recent years, the involvement of the Israeli Security Forces in such violence and the lack of prosecutions against the perpetrators.<sup>3</sup> OHCHR noted cases where Israeli security forces were present during settler violence against Palestinians and did not take any action to stop such violence.<sup>4</sup> OHCHR also reported that only 4 per cent of files investigated in the framework of the Nationalistic-Motivated Crimes Unit of the Israel Police established in 2013 resulted in indictments.<sup>5</sup>

4. In 2015, the Human Rights Council deplored a situation of practices and policies of preferred treatment in the Occupied Palestinian Territory, including East Jerusalem, where Israeli settlers are accorded preferential treatment over the Palestinian population regarding access to roads, infrastructure, land, property, housing, natural resources and judicial mechanisms.<sup>6</sup> The General assembly indicated that the use of collective punishment against civilians,<sup>7</sup> including in the Gaza Strip and the imprisonment of thousands of others are also part of a system of violence installed by Israeli authorities.<sup>8</sup>

5. The commission notes that Israel repeatedly affirmed that it has no obligation to report on the issue of racial discrimination in the Occupied Palestinian Territory. The commission is of the view that such a position is contrary to international law, as indicated by the Committee<sup>9</sup> and the ICJ.<sup>10</sup> In this regard, the commission is of the view that Israel shall address the issues of racial discrimination in all the territories under its effective control,

<sup>1</sup> [CERD/C/ISR/CO/17-19](#), 27 January 2020, paras.42 ( c) and 43 ( c).

<sup>2</sup> [CCPR/C/ISR/CO/4](#), para. 16.

<sup>3</sup> [CCPR/C/ISR/CO/5](#), para. 24.

<sup>4</sup> [A/HRC/43/67](#), para. 26, See also the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard, [A/HRC/4/17](#), paras. 32, 34.

<sup>5</sup> [A/HRC/46/65](#), para. 26.

<sup>6</sup> [A/HRC/RES/28/27](#)

<sup>7</sup> This information is also corroborated by the report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967; [A/HRC/31/73](#), para. 28,

<sup>8</sup> [A/RES/65/102](#), Preamble.

<sup>9</sup> See: [CERD/C/ISR/CO/14-16](#), para. 10 and [CERD/C/ISR/CO/17-19](#), para.

<sup>10</sup> See: ICJ Advisory Opinion, 2004, para. 78. "The Court would observe that, under customary international law as reflected (see paragraph 89 below) in article 42 of the Regulations Respecting the Laws and Customs of War on Land annexed to the Fourth Hague Convention of 18 October 1907 (hereinafter "the Hague Regulations of 1907"), territory is considered occupied when it is actually placed under the authority of the hostile army, and the occupation extends only to the territory where such authority has been established and can be exercised.

which not only include Israel proper but also the West Bank, including East Jerusalem and the Gaza Strip.

6. The commission observes that several international entities, including United Nations treaty bodies, have confirmed serious acts of racial discrimination committed by settlers in the Occupied Palestinian Territory and that few cases reported to the judiciary have been investigated and prosecuted. Moreover, the commission has no information concerning the implementation of the decisions adopted by the judiciary against Israeli settlers. The commission considers that under the Convention, Israel has the responsibility to investigate all cases of racial discrimination committed in the Occupied Palestinian Territory. Failing to do so constitutes a violation of article 2 of the Convention.

## **B. Prohibition of segregation and apartheid (article 3)**

7. The Committee expressed its concerns about the consequences of policies and practices amounting to segregation in the Occupied Palestinian Territory. In this regard, the Committee underlined the existence in the Occupied Palestinian Territory of two separate legal systems and institutions “for Jewish communities in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand”.<sup>11</sup> The Committee also pointed out the “hermetic character” of the two groups although living in the same territory, but have unequal access to roads, infrastructure, basic services, land and natural resources. This situation is aggravated by a regime of movement restrictions which include the Wall, the settlements, roadblocks, military checkpoints, roads separation and permit regime for Palestinians.<sup>12</sup>

8. The Human Rights Committee noted the difference in the treatment of the Jewish and the non-Jewish population.<sup>13</sup> It also expressed its concerns about the Basic Law: Israel – The Nation- State of the Jewish People (2018). The Human Rights Committee assessed that this approach “may exacerbate pre-existing systematic and structural discrimination against non-Jews” in Israel.<sup>14</sup> In 2019, the Committee on Economic, Social and Cultural Rights, while noting the challenges faced by Israel regarding its security, expressed its concerns about the policies adopted by Israel regarding the Occupied Palestinian Territory. This Committee pointed out, in particular, the closure policy and the permit regime imposed in the Gaza Strip and the occupation and settlement policy in the West Bank, including East Jerusalem.<sup>15</sup>

9. In 2014, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 assessed that Palestinians living in East Jerusalem are considered as permanent residents and that “Israeli measures do divide the population of the Occupied Palestinian Territory along racial lines, create separate reserves for Palestinians and expropriate their land”.<sup>16</sup>

10. The General Assembly indicated that the construction of the wall inside the Occupied Palestinian Territory, including in and around East Jerusalem, by Israel, as well as new settlements in the area, contributed to the deterioration of the socio-economic situation of Palestinians.<sup>17</sup>

11. The commission notes the worrying assessment made by several United Nations bodies regarding segregation between Palestinians and Israelis as part of policies and practices imposed by Israel through two separate legal systems, road separation and movement restrictions, among other means. The commission is of the view that those acts may amount to a situation of apartheid if no action is taken by Israel to effectively address the issues raised.

<sup>11</sup> See: [CERD/C/ISR/CO/17-19](#), para. 22. See also [CERD/C/ISR/CO/14-16](#), para. 24.

<sup>12</sup> *Ibid.*

<sup>13</sup> [CCPR/C/ISR/CO/4](#), para. 7.

<sup>14</sup> [CCPR/C/ISR/CO/5](#), para. 10.

<sup>15</sup> [E/C.12/ISR/CO/4](#), para. 10.

<sup>16</sup> [A/HRC/25/67](#), para. 71.

<sup>17</sup> [A/RES/66/78](#).

### C. Right to equal treatment before the tribunals (article 5 (a))

12. The Committee expressed concern about “the existence of two sets of laws, for Palestinians on the one hand and Jewish settlers on the other hand who reside in the same territory, namely the West Bank, including East Jerusalem, and are not subject to the same justice system (criminal as well as civil matters)” and recommended to Israel to “ensure equal access to justice for all persons residing in territories under its effective control”<sup>18</sup> and to eliminate all barriers preventing minority groups, including Palestinian and Bedouin communities, “from accessing justice and continue facilitating the filing of complaints for victims of racial discrimination”.<sup>19</sup>

13. In March 2017, the Human Rights Council pointed out the existence of two different legal systems in the same territory on the sole basis of nationality or origin. This situation, according to the Council, is inherently discriminatory as it violates the principle of equality before the law.<sup>20</sup> In March 2018, OHCHR established that Israeli domestic law, applicable to settlers, provides suspects with more substantive and procedural guarantees. On the contrary, the military law applicable to Palestinians falls short of fair trial guarantees<sup>21</sup> and does not apply to Israeli settlers.<sup>22</sup> The Special Rapporteur also indicated that “military tribunals are presided over by Israeli military judges and trials are conducted in Hebrew (which many Palestinian detainees do not speak)”.<sup>23</sup> In addition, “Palestinians arrested for security offences can be detained without charge for a much longer period of time than Israeli settlers”.<sup>24</sup> In its resolution [A/66/427](#), the General Assembly expressed its deep concerns about the detention of thousands of Palestinians, including many children and women under harsh conditions. It also expressed concerns at reports of torture and ill-treatment of Palestinian prisoners as well as the enactment of military orders in the Occupied Palestinian Territory, including East Jerusalem, concerning the detention, the imprisonment and the deportation of Palestinians.<sup>25</sup>

14. The Committee expressed its concern about reports “of an increase in the arrest and detention of children and of the undermining of their judicial guarantees, notably in relation to the competence of military courts to try Palestinian children, which is inconsistent with international law”.<sup>26</sup> The Committee also expressed great concern at the State party’s practice of administrative detention also for children for security reasons.<sup>27</sup>

15. In its Concluding Observations to the 5<sup>th</sup> periodic report of Israel, the Committee Against Torture noted some positive developments on the legal situation of young Palestinian offenders in the West Bank, including the establishment of a juvenile military court in 2009 as well as the increase of the age of majority from 16 to 18 years.<sup>28</sup> The commission notes, however, that according to the Committee Against Torture, there is a lack of implementation of these legal provisions, in particular, regarding minor Palestinian offenders. In this regard, the Committee Against Torture expressed concerns over allegations of torture and ill-treatment by the Israeli Security Forces against Palestinian minors, who were coerced to sign confessions in Hebrew, a language they do not understand.<sup>29</sup> Those minors detained in such conditions are, sometimes interrogated without the presence of a lawyer.<sup>30</sup>

16. In 2013, UNESCO revealed that ill-treatment of young Palestinian children detained in the Israeli military detention facilities “appears to be widespread, systematic and

<sup>18</sup> See: [CERD/C/ISR/CO/14-16](#), para. 27.

<sup>19</sup> [CERD/C/ISR/CO/17-19](#), para. 20.

<sup>20</sup> [A/HRC/34/38](#), para. 40.

<sup>21</sup> [A/HRC/37/42](#), para. 8.

<sup>22</sup> See Report of the High Commissioner for Human Rights, March 2020, [A/HRC/43/67](#), para. 29.

<sup>23</sup> Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, March 2022, [A/HRC/49/87](#), para. 27.

<sup>24</sup> *Ibid.*

<sup>25</sup> Resolution adopted by the General Assembly on 9 December 2011 [on the report of the Special Political and Decolonization Committee (Fourth Committee) ([A/66/427](#))]

<sup>26</sup> [CERD/C/ISR/CO/14-16](#), para. 27

<sup>27</sup> *Ibid.*

<sup>28</sup> [CAT/C/ISR/CO/5](#), paras. 24, 28, 34.

<sup>29</sup> The CCPR Human Rights Committee also noted the same positive development and expressed the same concerns on the implementation of the measures adopted. See: [CCPR/C/ISR/CO/4](#), para. 19.

<sup>30</sup> [CAT/C/ISR/CO/5](#), paras. 24, 28, 34.

institutionalised”.<sup>31</sup> In its resolution 66/79, the General Assembly pointed out that many children continue to be detained in Israeli prisons or detention centres under harsh conditions.<sup>32</sup>

17. In July 2021, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, confirmed the difference in treatment between Israeli children, who are prosecuted in civil, juvenile courts and Palestinian children, “who are treated as adults, in prisons and courts”.<sup>33</sup>

18. In its Concluding Observations, the Committee urged the State party to end its discriminatory practice of administrative detention, which constitutes arbitrary detention under international human rights law<sup>34</sup>.

19. In 2014, in its Concluding observations on the fourth periodic report of Israel, the Human Rights Committee expressed concerns about the practice of administrative detention of Palestinians. Such measure is based, according to this Committee, in many cases, on secret evidence and the denial of the basic fair trial guarantees, including access to counsel and family contacts.<sup>35</sup> In its Concluding observations on the fifth periodic report of Israel, the Human Rights Committee reiterated the same concerns.<sup>36</sup> In her report to the Human Rights Council in 2022, the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, revealed that hundreds of Palestinians are imprisoned through administrative detention for an indefinite period, without formal proceedings, charges, evidence, trial or convictions.<sup>37</sup>

20. The commission observes that according to several reports, there is a discrepancy between the reality and Israel's arguments regarding access to courts. The issue of entry permits to Israeli territory impedes victims or witnesses from accessing Israel to seek justice, even though, procedurally speaking, there is no obligation for such victims to be heard in person. Despite the guarantees provided by Israel concerning the independence and professionalism of the judges in the military courts, the existence of such tribunals has the potential to perpetuate segregation between both communities.

21. The commission notes the existence of a juvenile justice system, which can have a positive impact on young offenders in the West Bank. However, the commission notes the assessment made by United Nations bodies, including the CAT and UNESCO, reporting several flaws in the application of the legal provisions in favour of minors, who were exposed to torture in detention and interrogated without the presence of a lawyer. The commission also considers that differentiation in treatment between Palestinian and Israeli children is a violation of article 5 (a) of the Convention. The commission further notes that the practice of administrative detention by Israel against Palestinian detainees compared to Israeli detainees without fair trial guarantees is contrary to the provisions of article 5(a) of the Convention.

#### **D. Right to freedom of movement and residence (article 5(d)(i))**

22. The Committee expressed its concern about “the complex combination of movement restrictions consisting of the Wall, roadblocks, the obligation to use separate roads and a permit regime that only impacts the Palestinian population”.<sup>38</sup> The Committee further expressed its concern about the blockade of the Gaza Strip, which impedes access to basic

<sup>31</sup> Children in Israeli Military Detention, p. 1 ([www.unicef.org/oPt/UNICEF\\_oPt\\_Children\\_in\\_Israeli\\_Military\\_Detention\\_Observations\\_and\\_Recommendations\\_-\\_6\\_March\\_2013.pdf](http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf)), See:

[A/HRC/25/67](#), para. 64.

<sup>32</sup> [A/RES/66/79](#), Preamble.

<sup>33</sup> [A/HRC/47/57](#), para. 23.

<sup>34</sup> See: [CERD/C/ISR/CO/14-16](#), para. 27.

<sup>35</sup> [CCPR/C/ISR/CO/4](#), para. 10(b).

<sup>36</sup> [CCPR/C/ISR/CO/5](#), paras. 34-35 fifth periodic report of Israel to the Human Rights Committee.

<sup>37</sup> Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967/A/HRC/49/87, para. 27.

<sup>38</sup> See: [CERD/C/ISR/CO/14-16](#), para. 24.

services to the Palestinians. The Committee urged Israel to ensure access to freedom of movement for Palestinians.<sup>39</sup>

23. The Human Rights Council noted that due to the construction of new infrastructures in the Occupied Palestinian Territory, which aims at facilitating the settlers' installations, Palestinians' movements are severely restricted. The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 noted several measures which "divide the population along racial lines". In this regard, he noted that the Israeli "military application of land, zoning and property rules in East Jerusalem and the West Bank discriminatorily benefits Israeli Jewish settlers and significantly disadvantages Palestinians". He also mentioned the existence of separate settler and Palestinian highways in the West Bank. He further noted that Israeli settlers are not subjected to all the checkpoints and travel obstructions throughout the West Bank.<sup>40</sup>

24. The independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem noted the evident discrimination in the movement restrictions between settlers and Palestinians in Hebron and the Jordan Valley.<sup>41</sup> The Human Rights Council noted that the restrictions and checkpoints "have been transformed into structures akin to permanent border crossings, other physical obstacles and a permit regime, which are applied in a discriminatory manner affecting the Palestinian population only".<sup>42</sup>

25. The Human Rights Council noted that those restrictions also have a significant impact on the "freedom of movement of persons and goods, including medical and humanitarian goods".<sup>43</sup> Water shortages and the lack of access to education are also part of the consequences of the restrictions imposed to Palestinians according to the Independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social, and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem.<sup>44</sup>

26. The commission notes that several United Nations bodies concluded that the infringement of the right to freedom of movement and residence of Palestinians led to major consequences on their livelihood, including their access to education, land, especially agricultural lands, and natural resources.<sup>45</sup> The commission considers that the issue of freedom has a direct impact on the enjoyment of all fundamental rights of Palestinians living in the Occupied Palestinian Territory. Although the commission takes note of the security challenges faced by Israel, the commission is of the view that any restriction imposed on the freedom of movement should respect the principle of necessity and proportionality. As assessed by several United Nations bodies, the commission considers that the restrictions to the freedom of movement of Palestinians living in the Occupied Palestinian Territory violate article 5(d)(i) of the Convention.

## **E. Right to leave any country, including one's own, and to return to one's country (article 5(d)(ii))**

27. The commission notes that no relevant investigations or fact-finding activities concerning this allegation have been carried out by United Nations agencies or bodies. However, the commission notes that the blockade of the Gaza Strip has direct negative

<sup>39</sup> CERD/C/ISR/CO/17-19, paras. 44-45.

<sup>40</sup> A/HRC/49/87, para. 50(c).

<sup>41</sup> A/HRC/22/63, para. 75.

<sup>42</sup> A/HRC/RES/28/27, Preamble.

<sup>43</sup> A/HRC/RES/25/29, para. 7.

<sup>44</sup> A/HRC/22/63, para. 86.

<sup>45</sup> See Concluding Observations of the Human Rights Committee [CCPR/C/ISR/CO/5](#), paras. 14-15. See also Concluding Observations of the CESCR: [E/C.12/ISR/CO/3](#), para. 12; See also [A/HRC/49/85](#), para. 10.



consequences on the rights of Palestinians living in the area to leave and return to their own country.

#### **F. Right to marriage and choice of spouse (article 5(d)(iv))**

28. The Committee expressed its concern about the maintenance of laws, such as the Citizenship and Entry into Israel Law (Temporary Provision), impacting family reunification “between an Israeli citizen and a person residing in the West Bank, including East Jerusalem, or the Gaza Strip, thus greatly affecting family ties and the right to marriage and choice of spouse”.<sup>46</sup> The Committee urged Israel to revoke the Temporary Provision and to facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin.<sup>47</sup>

29. In its Concluding Observations concerning Israel in 2022, the Human Rights Committee reiterated its concern that the Citizenship and Entry into Israel Law<sup>48</sup> “continues to prohibit family reunification of Israeli citizens with their Palestinian spouses living in the West Bank or Gaza Strip, or with spouses living in States classified as “enemy States”. The Human Rights Committee also expressed its concerns that according to this law, there is an obligation for East Jerusalem residents “to either surrender their residency and live in the West Bank or apply for an annual permit for the non-resident spouse.”<sup>49</sup> This situation prevents these Palestinians from enjoying their right to family life, noted the Committee on Economic, Social and Cultural Rights.<sup>50</sup> In 2022, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pointed out that the Citizenship Law adopted by the Knesset, “restricts the ability of Palestinians from Israel to marry individuals from the West Bank or Gaza”.<sup>51</sup> Such a measure does not apply to Israeli Jews.

30. The commission notes the assessment made by several treaty bodies, including the Committee and the Human Rights Committee, concerning the consequences of several legislations, including the Temporary Provision and the Citizenship Law on family ties of Palestinians living in the Occupied Palestinian Territory. The commission is of the view that such laws compromise family reunification of mixed couples, who are constantly subjected to a complex administrative procedure in case of family reunification. The commission further notes that in the context of movement restrictions imposed on Palestinians, the enjoyment of the right to marriage and choice of spouse under article 5(d)(iv) of the Convention is unduly restricted and may lead to a violation of this provision.

#### **G. Right to own property alone as well as in association with others (article 5(d)(v))**

31. The Committee expressed its concern about the continuing confiscation and expropriation of Palestinian land, the demolitions of buildings belonging to Palestinians and the complicated and expensive process for Palestinians when applying for buildings while the Israeli settlements continue to be expanded.<sup>52</sup> In this respect, the Committee reiterated its call to Israel to equally ensure Palestinians the rights to property, access to land, housing, and natural resources.<sup>53</sup> The Committee recommended to Israel to review planning laws and policies in the West Bank, including East Jerusalem in order to make such laws and policies

<sup>46</sup> See: [CERD/C/ISR/CO/14-16](#), para. 18.

<sup>47</sup> *Ibid.*

<sup>48</sup> Temporary Order 5763-2003, as amended in 2005 and 2007 ([E/C.12/ISR/CO/3](#), para. 20)

<sup>49</sup> See [CCPR/C/ISR/CO/5](#), para. 44. See previous Concluding Observations of the Human Rights Committee: [CCPR/C/ISR/CO/3](#), para. 15; [CCPR/C/ISR/CO/4](#), para. 21.

<sup>50</sup> [E/C.12/ISR/CO/4](#), paras. 40-41.

<sup>51</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, [A/HRC/49/87](#), para. 50.

<sup>52</sup> [CERD/C/ISR/CO/17-19](#), para. 42.

<sup>53</sup> [CERD/C/ISR/CO/17-19](#), para. 43; See also previous Concluding Observations [CERD/C/ISR/CO/13](#), para. 19 and [CERD/C/ISR/CO/14-16](#), para. 15.



compliant with the Convention and to “review the permit system to prevent demolitions and forced evictions and to put an end to the expansion of illegal Israeli settlements”.<sup>54</sup>

32. The General Assembly has continuously expressed its concerns over the detrimental impact of unlawful Israeli practices and measures in the Occupied Palestinian Territory, including East Jerusalem, including “the widespread destruction of property and vital infrastructure, ongoing settlement activities and construction of the wall”.<sup>55</sup> Moreover, several United Nations bodies noted the adverse impact of transfer of nationals of Israel into the occupied territories on the Palestinian population’s rights to property. Such transfer led to illegal expropriation and confiscation of Palestinian lands.<sup>56</sup> The Human Rights Committee pointed out that despite the ruling of the Israeli High Court of Justice that declared the Regularization Law of 2017 unconstitutional, it is still possible for Israeli settlers, under other Israeli laws, to allow “the retroactive legalisation of unauthorised outposts and structures in settlements”.<sup>57</sup>

33. In 2014, the Human Rights Council expressed grave concern about “the confiscation of land; the establishment and expansion of settlements; the construction of a wall in the Occupied Palestinian Territory in departure from the Armistice Line of 1949”.<sup>58</sup> In 2015, the Human Rights Council noted all policies and practices which accord to Israeli settlers residing illegally in the Occupied Palestinian Territory and East Jerusalem preferred treatments over the Palestinian population with regard to access to roads, infrastructure, land, property and housing.<sup>59</sup> The Human Rights Committee expressed “concerned about damage to, and demolition of, properties during arrest operations, which seem disproportionate”.<sup>60</sup> The General Assembly pointed out the destruction and confiscation of properties as measures of collective punishment of Palestinians.<sup>61</sup> The Human Rights Committee noted the resumption of the policy of punitive demolitions in the West Bank since July 2014, as well as the discriminatory nature of the zoning and planning policy governing the constructions, including in area C of the West Bank. As a consequence of this discriminatory policy, many Palestinians are forced to build without a permit.<sup>62</sup> Also, in East Jerusalem, “the implementation of the discriminatory zoning and planning policies has led to extensive destruction of Palestinian property, placing individuals and communities at risk of forcible transfer” according to OHCHR.<sup>63</sup> OHCHR also revealed that according to the Jerusalem Municipality Palestinian residents account for 38 per cent of the overall population of Jerusalem, “between 1991 and 2018 only 16.5 per cent of building permits were issued for construction in Palestinian neighbourhoods, mainly for small-scale private projects” while “37.8 per cent of permits were issued for settlement construction in East Jerusalem”.<sup>64</sup> In its report of 2021, OHCHR noted that in east Jerusalem, Palestinians are forced to carry out self-demolitions “as it is almost impossible for them to obtain building permits”.<sup>65</sup>

34. The commission is of the view that the concerns raised by several United Nations bodies concerning the confiscation and destruction of Palestinian properties in the Occupied Palestinian Territory, following discriminatory policies and practices, are fully substantiated. The commission considers that such policies and practices, if they continue, will further prevent Palestinians from accessing properties while, according to several assessments, Israeli settlers continue to take over Palestinian lands in the Occupied Palestinian Territory. The commission notes that this situation amounts to the violation of article 5(d)(v) of the

<sup>54</sup> CERD/C/ISR/CO/17-19, para. 43.

<sup>55</sup> See Preamble and para. 4 of [A/RES/67/118](#), [A/RES/68/80](#), [A/RES/69/90](#), [A/RES/70/87](#) and [A/RES/71/95](#).

<sup>56</sup> [A/RES/65/104](#); [CCPR/C/ISR/CO/5](#), paras. 14-15; the Security Council resolution 2334 (2016),<sup>10</sup> Human Rights Council resolution 31/36 (2016)<sup>11</sup> and the General Assembly resolution 75/97 (2020).

<sup>57</sup> [CCPR/C/ISR/CO/5](#), paras. 14-15.

<sup>58</sup> [A/HRC/RES/25/29](#), preamble.

<sup>59</sup> [A/HRC/RES/28/27](#). See also [A/RES/62/109](#).

<sup>60</sup> [CCPR/C/ISR/CO/4](#), para. 13.

<sup>61</sup> Preamble and para. 4 of [A/RES/67/118](#), [A/RES/68/80](#), [A/RES/69/90](#), [A/RES/70/87](#) and [A/RES/71/95](#).

<sup>62</sup> [CCPR/C/ISR/CO/4](#), para. 9.

<sup>63</sup> [A/HRC/43/67](#), para. 56.

<sup>64</sup> *Ibid.*, para. 42.

<sup>65</sup> [A/HRC/46/65](#), para. 50.

Convention concerning the right of Palestinians to own property alone as well as in association with others.

## H. Right to freedom of thought, conscience and religion (article 5 (d) (vii))

35. In its resolution 34/30 adopted during its 34<sup>th</sup> session, the Human Rights Council expressed its concern at “the restrictions imposed by Israel that impede access of Christian and Muslim worshippers to holy sites in the Occupied Palestinian Territory, including East Jerusalem”.<sup>66</sup> The General Assembly has continuously expressed grave concern about “provocations and incitements regarding the holy places of Jerusalem, including the Haram al-Sharif” as the consequence of the tensions and violence in the Occupied Palestinian Territory, including East Jerusalem, provoked by Israeli policies.<sup>67</sup>

36. In its report issued in 2013, the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, revealed that access to places of worship was denied to Palestinians. The mission also reported that during holy days, Palestinians were prevented from attending scheduled rituals due to checkpoints and area closures.<sup>68</sup> This situation happened, for instance, in September and October 2015, when Israeli authorities imposed restrictions on Palestinians to access the Al-Aqsa compound, as reported by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.<sup>69</sup> In his report issued in 2021, the same mandate noted the same situation when, in the last days of Ramadan, Israeli security forces restricted the access of Palestinian worshippers to the Aqsa Mosque.<sup>70</sup> The Committee on Economic, Social and Cultural Rights expressed its concern that “the Palestinians living in the Gaza Strip are impeded from visiting religious sites in the West Bank, including East Jerusalem due to the closure policy of the State party and that Palestinians living in the West Bank too are restricted from visiting religious sites in East Jerusalem.”<sup>71</sup>

37. The commission notes that movement restrictions impacted the freedom of thought, conscience and religion as the Israeli authorities prevent Muslim and Christian Palestinians from access to their holy sites in the Occupied Palestinian Territory. Allowing Palestinians to move freely from Gaza to holy sites in the West Bank and vice versa is fundamental to the enjoyment of freedom of religion of Palestinians living in the OPT, including East Jerusalem as required by article 5(d)(vii) of the Convention.

## I. Labour-related rights (article 5 (e)(i))

38. The Committee expressed concern at the lack of equal enjoyment of the right to work in all territories under Israel's effective control.<sup>72</sup> In 2011, the Committee on Economic, Social and Cultural Rights noted that the construction of the Wall and the limited number of permits to Palestinians living in the West Bank led to the difficulty for Palestinians to access their agricultural lands.<sup>73</sup> In its resolution 28/27, adopted in 2015, the Human Rights Council demanded that Israel cease “its imposition of prolonged closures and economic and movement restrictions, including those amounting to a blockade on the Gaza Strip, which severely restricts the freedom of movement of Palestinians within, into and out of Gaza” and their access to work and other basic utilities.<sup>74</sup> In his report issued in 2014, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

<sup>66</sup> [A/HRC/RES/34/30](#), para. 26.

<sup>67</sup> Preamble of [A/RES/79/87](#), [A/RES/71/95](#) and [A/HRC/4/17](#), para. 30.

<sup>68</sup> [A/HRC/22/63](#), para. 60.

<sup>69</sup> [A/HRC/31/73](#), para. 18.

<sup>70</sup> [A/HRC/47/57](#), para. 7.

<sup>71</sup> [E/C.12/ISR/CO/4](#), paras. 70-71.

<sup>72</sup> [CERD/C/ISR/CO/14-16](#), para.20

<sup>73</sup> [E/C.12/ISR/CO/3](#), para.12.

<sup>74</sup> [A/HRC/RES/28/27](#), para. 7.

noted the consequences of the Wall on the freedom of movement of Palestinians, who have to obtain prior permission by Israeli authorities “to have access to farming land beyond Israeli-controlled access gates, leave and return for work”.<sup>75</sup> In its resolution 66/78 adopted in 2011, the General Assembly deplored “settlement activities in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan and any activities involving the confiscation of land, the disruption of the livelihood of protected persons...”<sup>76</sup>

39. The commission notes that the right to work for Palestinians in the OPT is difficult to guarantee in the context of restrictions of movements imposed on Palestinians within and outside of Gaza as they cannot freely access their place of work, including their agricultural lands. Such restrictions constitute a violation of the right to work of the Palestinians in the Occupied Palestinian Territory as enshrined in article 5 (e)(i) of the Convention.

## J. Right to housing (article 5(e)(iii))

40. The Committee expressed its concerns about the enjoyment of the right to housing of Palestinians in the West Bank, including East Jerusalem. The Committee also recommended that Israel review its laws and policies to ensure that they are compliant with its obligations under the Convention in relation to access to housing.<sup>77</sup> The Committee noted that reports indicated that only a limited number of houses and civilian infrastructures could be rebuilt, due to Israel’s blockade on the import of construction materials into the Gaza Strip.<sup>78</sup> The Committee further urged Israel to review its blockade policy in the Gaza Strip and facilitate the rebuilding of the homes of those affected.<sup>79</sup>

41. The Committee on Economic, Social and Cultural Rights expressed its concerns about the punitive demolition of family homes of alleged authors of attacks against Israeli civilians and security forces. In this regard, the Committee reported information from OCHA indicating that from 1 January to 31 May 2018, 53 residential structures were demolished as a form of punishment or sealed, leading to the forced eviction of 323 persons.<sup>80</sup> In 2022, the Human Rights Committee, reiterated its recommendations to Israel to “refrain from implementing evictions and demolition orders based on discriminatory planning policies, laws and practices affecting Palestinians, including Bedouins, in the West Bank, including East Jerusalem”.<sup>81</sup> Those policies make it difficult for Palestinians to build their homes and make them at risk of demolition and forced eviction. The Committee further notes that such practices are discriminatory and “has led to the separation of Jewish and Palestinian communities in the Occupied Palestinian Territory, which amounts to racial segregation”.<sup>82</sup> The Human Rights Committee expressed concern about the discriminatory nature of the zoning and planning regime instituted in Palestinian constructions in Area C of the West Bank and by Palestinian Bedouins in the central West Bank, including in the periphery of East Jerusalem. Such a regime, while complicating the obtention of construction permits for Palestinians, facilitates the establishment of Israeli settlements in the Occupied Palestinian Territory.<sup>83</sup> The Committee on Economic, Social and Cultural Rights noted the effect of the discriminatory nature of the planning and zoning policy used by Israel, which is “illustrated by the fact that less than 1 per cent of the land in Area C and 13 per cent of the land in East Jerusalem is allocated for the construction of infrastructure for Palestinians.”<sup>84</sup>

42. The commission notes that according to the information available, the enjoyment of the right to housing is continuously infringed by Israel in the context of the occupation, extension of settlements, forced evictions, and punitive demolitions of houses belonging to

<sup>75</sup> [A/HRC/25/67](#), paras. 13-14.

<sup>76</sup> [A/RES/66/78](#).

<sup>77</sup> [CERD/C/ISR/CO/17-19](#), para. 43.

<sup>78</sup> [CERD/C/ISR/CO/14-16](#), para. 26.

<sup>79</sup> [CERD/C/ISR/CO/17-19](#), para. 45; See also [CERD/C/ISR/CO/14-16](#), para. 26.

<sup>80</sup> [E/C.12/ISR/CO/4](#), para. 52.

<sup>81</sup> [CCPR/C/ISR/CO/5](#), para. 43.

<sup>82</sup> *Ibid.*, para. 42.

<sup>83</sup> [CCPR/C/ISR/CO/4](#), para. 9.

<sup>84</sup> [E/C.12/ISR/CO/4](#), para. 50.

Palestinians. The commission considers that there is no clarity in the practice of delivering building permits to Israelis and Palestinians and the implementation of the zoning and planning regime in the West Bank, which may be implemented in a discriminatory manner. Those policies and practices may amount to the violation of article 5(e)(iii) of the Convention.

### **K. Right to public health, medical care, social security, and social services (article 5(e)(iv))**

43. The Committee expressed concerns about access to social and economic benefits for Palestinians in the Occupied Palestinian Territory, which is the consequence of the maintenance of discriminatory laws imposed by Israel.<sup>85</sup> The Committee also expressed concerns about “the disproportionately poor health status of the Palestinian and Bedouin populations, including shorter life expectancy and higher rates of infant mortality compared with those of the Jewish population”.<sup>86</sup> The Committee noted with concern that the blockade of the Gaza Strip by Israel continues to impede the access of the Palestinians to basic services, especially health care and safe drinking water.<sup>87</sup>

44. The Committee on Economic, Social and Cultural Rights expressed its concern about the poor quality of care services in the Gaza Strip. According to the Committee, such a situation is the consequence of the restrictions on medical equipment and medical supplies and the escalation of hostilities. The difficulty of obtaining the exit permit prevents Palestinians living in Gaza and in the West Bank, including East Jerusalem from seeking necessary treatment in Israel or abroad. This Committee revealed that the number of permits refused or delayed has been significantly delayed in recent years.<sup>88</sup> The Committee also noted the long-standing blockade of the Gaza Strip imposed by Israel, hampering the freedom of movement of Palestinians, who cannot easily leave the area for medical treatments.<sup>89</sup>

45. In 2011, the Committee on Economic, Social and Cultural Rights expressed its concern that Palestinians living in the Occupied Palestinian Territory did not have access to sufficient and safe drinking water and the “continuing destruction of the water infrastructure in Gaza and in the West Bank, including in the Jordan Valley...”.<sup>90</sup> In 2016, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 reported that one of the consequences of the existence and expansion of the settlements in the West Bank, including East Jerusalem is the discriminatory supply of water.<sup>91</sup> In its resolution 28/27, adopted in 2015, the Human Rights Council noted “the discriminatory allocation of water resources between Israeli settlers who reside illegally in the Occupied Palestinian Territory, and the Palestinian population of the said Territory”.<sup>92</sup> In a subsequent resolution adopted in 2017, the Human Rights Council urged Israel to ensure that water resources in the Occupied Palestinian Territory is not allocated in a discriminatory manner.<sup>93</sup>

46. The commission considers that the lack of access to basic social services, healthcare, medical supplies, and social security for Palestinians living in the area under Israeli occupation is a consequence of the restrictions imposed on the Occupied Palestinian Territory. Such restrictions, which prevent Palestinians from accessing healthcare outside the Occupied Palestinian Territory, including in Israel, are contrary to the Convention. The commission also considers that the discriminatory allocation of water between both communities has a direct consequence on the health and well-being of Palestinians living in the Occupied Palestinian Territory and, as such, constitutes a violation of article 5(e)(iv) of the Convention.

<sup>85</sup> CERD/C/ISR/CO/17-19, para. 15

<sup>86</sup> *Ibid.*, para. 38.

<sup>87</sup> *Ibid.*, para. 44.

<sup>88</sup> E/C.12/ISR/CO/4, para. 58.

<sup>89</sup> CCPR/C/ISR/CO/4, para. 12.

<sup>90</sup> E/C.12/ISR/CO/3, para. 29.

<sup>91</sup> A/HRC/31/73, para. 32.

<sup>92</sup> A/HRC/RES/28/27, Preamble.

<sup>93</sup> A/HRC/RES/34/30, para.24.

## L. Right to education (article 5 (e) (v))

47. The Committee expressed its concerns about segregation between Jewish and non-Jewish communities, including in the Occupied Palestinian Territory in the education sector, where there are two systems with unequal conditions for the learners<sup>94</sup>. The Committee also urged Israel in the context of the blockade of the Gaza Strip, to ensure access to the right to education to the Palestinians in compliance with the Convention<sup>95</sup>.

48. The Committee on Economic, Social and Cultural Rights expressed its concern about “the serious shortage of classrooms in schools for Arab Israeli children, as well as in the Occupied Palestinian Territory”.<sup>96</sup> This situation is a consequence of the restriction of the freedom of movement of children and teachers, attacks on schools and the poor quality of school infrastructure.<sup>97</sup> Obtaining prior permission by Israeli authorities to access education is a major issue, as highlighted by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.<sup>98</sup> The Committee on Economic, Social and Cultural Rights further revealed in the Occupied Palestinian Territory “the precarious learning environment in which Palestinian students are being educated due to the armed or non-armed searches of Palestinian schools carried out by Israeli security forces” and the “frequent incidence of harassment of or threats” at checkpoints or along roads by Israeli settlers or security forces against teachers and children.<sup>99</sup> The Committee on the Rights of the Child reported in 2013 incidents occurred in 2009 during the Operation Pillar of Defence where Israeli soldiers and settlers attacked Palestinian schools and used them as military outposts or detention centers.<sup>100</sup>

49. The commission notes that the unequal access to education for Palestinian students in the Occupied Palestinian Territory due to the blockade of Gaza, the lack of resources for Palestinian schools and the infringement of freedom of movement in the entire Occupied Palestinian Territory due to the Israeli occupation have a major impact on the enjoyment of the right to education of Palestinians. Therefore, the commission is of the view that this situation constitutes a violation of article 5 (e) (v) of the Convention.

---

<sup>94</sup> CERD/C/ISR/CO/17-19, para. 21.

<sup>95</sup> *Ibid.*, para. 45.

<sup>96</sup> E/C.12/ISR/CO/3, para. 33.

<sup>97</sup> *Ibid.*, para. 35.

<sup>98</sup> A/HRC/25/67, paras 13- 14, 17.

<sup>99</sup> E/C.12/ISR/CO/4, para. 64.

<sup>100</sup> CRC/C/ISR/CO/2-4, para. 63.