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Human rights situation in Palestine and other occupied Arab territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan*

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights pursuant to Human Rights Council Resolution A/HRC/31/36 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. The report reviews trends in settlement expansion, land designation for Israeli use in the West Bank, and related policies and practices pertaining to the Israeli settlement enterprise. It examines the human rights and international humanitarian law violations arising from Israel's continued settlement expansion and land designation policy, including implications of the coercive environment affecting Palestinian communities at risk of forcible transfer. The report also provides an analysis of violations relating to the production and trade of settlement goods.

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

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 31/36 and covers the period between 1 November 2015 and 31 October 2016. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements to the General Assembly and to the Human Rights Council.[1]

2. The report illustrates the persistence of the Israeli settlement enterprise comprising settlement expansion and efforts to exert control over land in the West Bank, including East Jerusalem, as the Israeli occupation of the Palestinian territory entered its 50th year, and the occupied Syrian Golan its 44th.

3. The report highlights how Israel's policies relating to settlement activities remain at the core of a range of human rights violations in the West Bank, including East Jerusalem. It examines how such policies create a coercive environment in areas under Israeli control, placing affected Palestinian communities at risk of forcible transfer. As requested by resolution 31/36, the report includes an analysis of the human rights and international law violations involved in the production of settlement goods and the relationship between trade in these goods and the maintenance and economic growth of settlements.

II. Legal background[2]

4. Israel bears responsibility for implementing its human rights obligations – guaranteed by the seven core human rights treaties and conventions it has ratified – in the Occupied Palestinian Territory. International humanitarian law imposes obligations on Israel as the occupying power. It is obliged to respect the fundamental rights of the protected population in all circumstances.[3]

Transfer of the population of the occupying power to the territory it occupies

5. In resolution 70/89, the General Assembly reaffirmed the illegality of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan.

6. The same determination has been made both by the Security Council in its relevant resolutions[4] and the International Court of Justice as regards settlement activities in the Occupied Palestinian Territory[5]. Settlements amount to the transfer of Israel's population into the territory it occupies, which is prohibited by international humanitarian law. The transfer of an occupying power's population to a

[1] A/HRC/28/44, A/HRC/31/43 and A/71/355, covering the first months of the period under review. See also A/69/348 and A/70/351.

[2] See A/HRC728/44 paras, 5-6, A7HRC/31/43 para 4, A/69/348, paras. 4-5, and A/HRC/25/38, paras. 4-5.

[3] Art. 27 Fourth Geneva Convention.

[4] Security Council C resolutions 2334 (2016) and 465 (1980).

[5] International Court of Justice Advisory Opinion on Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 9 July 2004.

territory it occupies amounts to a war crime that may engage the individual criminal responsibility of those responsible.[6]

Prohibition against forcible transfer of protected persons

7. International humanitarian law prohibits "individual or mass forcible transfers" of protected persons within the occupied territory, as well as deportations outside of the occupied territory, regardless of their motive.[7] Unlawful transfer constitutes a grave breach of the Fourth Geneva Convention (Article 147, GC4) and potentially incurs the individual criminal responsibility of officials engaged in such acts.[8]. While other IHL provisions may be violated within the context of forcible transfer (e.g. the prohibition of the destruction of private and public property[9]), such transfer may imply the violation of several human rights, such as the right to adequate housing including the prohibition of forced evictions[10], the right to non-interference with family and home[11], freedom of movement[12], and the right to education.[13]

Private property and natural resources

8. IHL provides certain protections for private and public property in occupied territories.[14] Accordingly, Israel, as the occupying power, is prohibited from destroying public and private property except where it is rendered absolutely necessary by military operations. In addition, it is limited in how it may use public property; and the property of municipalities must be treated in the same was as private property.[15] Moreover, the water and other natural resources of the occupied territory must be administered in accordance with the applicable rules of international humanitarian law and may not be damaged or depleted.[16]

Extraterritorial application of domestic laws

9. Israel applies a substantial part of its domestic laws to Israeli settlers living in the occupied territories while Palestinians living in the West Bank are subject to Israeli military rule.[17] The extraterritorial application of Israeli domestic law to settlers creates two different legal systems in the same territory, on the sole basis of nationality or origin. Such differentiated application is discriminatory and violates the principle of equality before the law which is central to the right to a fair trial.[18] In

[6] Rome Statute of the International Criminal Court, Art. 8(2)(b)(viii).
[7] Article 49 of the Fourth Geneva Convention and Rule 129 of Customary International Law, International Committee of the Red Cross (ICRC), Customary IHL - Rule 129.
[8] Rome Statute of the International Criminal Court, Arts. 7(1)(d), 8(2)(a)(vii) and 8(2)(b)(viii).
[9] Art. 53 GCIV and art. 46 Hague Regulations.
[10] Art. 11 CESCR. See also CESCR, General Comment 7: The right to adequate housing (Art 11.1): forced evictions (May 1997).
[11] Art. 17 ICCPR.
[12] Art. 12 ICCPR.
[13] Art. 13 ICESCR.
[14] Arts 46,47, 52-56 Hague Regulations, Arts.33, 46 and 53 Fourth Geneva Convention.
[15] Arts.43 and 55, Arts. 53 and 64 Fourth Geneva Convention.
[16] Art. 55 Hague Regulations.
[17] This is not relevant to East Jerusalem, where the Israeli legal system is applied following Israel's illegal annexation of East Jerusalem (that has been categorically rejected by the Security Council in its resolution 252 (1968), reiterated in subsequent resolutions).
[18] Art. 2 and 14 ICCPR.

addition, the occupying power is required to respect the laws in force in the occupied territory, unless absolutely prevented.[19]

III. The settlement enterprise – expansion, land takeover, and denial of Palestinian development

10. With the Israeli occupation of the Palestinian territory now in its 50th year, illegal settlement activity continues to advance apace. Through continued expansion of illegal settlements and parallel efforts to consolidate Israel's control over the West Bank, successive Israeli governments since 1967 have overseen the steady growth of the settler population and the unilateral takeover of large swaths of the West Bank's land reserves, in violation of international law.

11. The settler population in Area C and East Jerusalem has doubled since the Oslo Accords, reaching over 594,000 people (including an estimated 208,000 in East Jerusalem) by the end of 2015,[20] living in some 130 settlements and 100 outposts. This number is expected to rise further given the advancement of new construction in settlements. Israeli settlements and designation of land for exclusive Israeli use have resulted in the gradual fragmentation of the West Bank, demographic changes and illegal exploitation of natural resources, while restricting Palestinians' access, and denied possibilities for Palestinian development.

12. In July 2016, the Middle East Quartet questioned Israel's long-term intentions given continued efforts to exert control over the West Bank.[21] It cited Israel's policy of "*settlement construction and expansion"*, "*designating land for exclusive Israeli use*", and "*denying Palestinian development"* as key elements in the steady erosion of the viability of the two-state solution, which undermines hopes for peace.

13. Israel's policies and practices, detailed in the sections below, raise serious concerns. The impact of Israel's settlement policy on the human rights situation of Palestinians in the West Bank, including East Jerusalem, is devastating, as highlighted by the significant developments listed below which occurred during the period under review.

A. Land designation for exclusive Israeli use

14. Since the start of Israel's occupation of the Palestinian territory in 1967, a central feature of its settlement policy in the West Bank has been the gradual takeover and designation of land for exclusive Israeli use. This has been undertaken through various measures, including the declaration of "state land", declarations of closed military zones, State support for informal takeover of lands, declarations of national parks and archaeological sites, and encouragement of economic activities in the settlements. As a consequence of such policies, approximately 70 per cent of Area C land is off-limits for Palestinian construction and development, and the situation in East Jerusalem has been profoundly altered.[22]

[19] Art. 43 Hague Regulations.

[20] Israeli Central Bureau of Statistics data

[21] Report of the Middle East Quartet, 1 July 2016, pp.5-6

[22] Area C comprises approximately 60 per cent of the West Bank, and includes most of the land reserves for a future Palestinian state.

Declaration of 'state lands' and allocation of land for settlements

15. Over one third of Area C is formally designated as public land (referred to as "state land" by Israel), following a process of land registration initiated under Jordanian rule and since 1967 by Israeli authorities. The vast majority of "state land" declarations took place before the start of the Oslo peace process in the early 1990s. "State Land" has been allocated exclusively for use by Israel and its citizens, rather than for the benefit of the local population, as required under international law.[23]

16. Land allocations to 24 Israeli regional and local settlement councils, comprising 126 settlements on approximately 63 per cent of Area C, typically encompass - in addition to settlement built-up areas - farmland, industrial zones, parks, access roads, and security perimeters or buffer zones.[24] This results in a footprint that vastly supersedes settlement built-up areas, which comprise only around 2 per cent of Area C land.[25]

17. During the reporting period, the Israeli authorities declared over 200 hectares south of Jericho as "state land". The Blue Line team in the Israeli Civil Administration tasked with inspecting and amending or validating boundaries of land previously designated as "state land", continued its activities. In a number of cases, this process has enabled the retroactive authorization of prior settlement construction carried out without the permits required under Israeli law.[26]

Impunity and support to informal land takeover

18. Violence against Palestinians, trespassing, and forceful takeover of land have often been conducted as part of a calculated effort by settlers to expand Israeli control beyond settlement jurisdiction areas.[27] These actions became effective land takeover methods,[28] notably due to the passivity of the Israeli authorities in addressing them.[29] Indeed, Israeli settlers in the West Bank have historically enjoyed impunity for trespassing incidents and violent attacks against Palestinians, and orders against agricultural invasions, whereby settlers take over and cultivate private Palestinian land, remain almost entirely unenforced.[30]

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[23] "By Hook and By Crook", B'Tselem, 2010, Chapter 3 http://www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf

[24] Yesh Din, Land Takeover Practices Employed by Israel in the West Bank, September 2016, p.2

[25] Ibid

[26] A/HRC/31/43 paras. 21-23, A/71/355 para.13

[27] A/70/351 paras. 52-60

[28] "The expansion of the unauthorized outposts phenomenon began in the mid nineties, after the building in Judea, Samaria and Gaza was frozen by the Rabin Administration in 1993. Building in settlements was still approved, but the approval rate went decreasing as the negotiations with the Palestinian representatives accelerated. The unauthorized outposts phenomenon began expanding, in light of the government's position opposing the authorizing of the building of settlements in the territories." Summary of the Opinion Concerning Unauthorized Outposts, Talya Sason, Adv., 10 March 2005 (hereinafter - the "Sasson Report")

[29] As extensively documented in the 2005 Opinion Concerning Unauthorized Outposts (supra), privately-led settlement expansion efforts have also received direct support from Israeli authorities, despite an official position opposing settlement construction. See also "The Road to Dispossession", Yesh Din, January 2013.

[30] Yesh Din, Land Takeover Practices Employed by Israel in the West Bank, September 2016. See also GOI-commissioned reports addressing historic law enforcement failures in the West Bank: "Sasson Report", 10 March 2005; Meir Shamgar, The Commission of Inquiry into the Massacre in the Tomb of the Patriarchs, Hebron 5754: Report, Government Commission of Inquiry, 1994; Yehudit Karp,

19. The period under review witnessed the continuation of a significant decline in incidents of settler violence resulting in Palestinian casualties or damage to property over the past three years, from 397 incidents in 2013, to 81 recorded by OCHA from January 2016 to 31 October 2016.[31] During the reporting period, there has also been a decline in the severity of settler violence compared with 2015.

20. This positive trend has been linked to preventive measures implemented by the Israeli security forces, including enhanced presence in friction areas and known hotspots for settler violence, and increased issuance and enforcement of administrative measures against known violent settlers – primarily restraining orders barring them from the West Bank and, in some instances, administrative detention orders. Resort to such measures reportedly intensified following the murder of three members of the Dawabsheh family in Duma, in July 2015, for which two Israeli citizens were indicted.[32]

National parks, archaeology and tourism as a means to entrench Israeli presence in the West Bank

21. The declaration of national parks and archaeological sites and their promotion for Israeli and international tourism continues to contribute to consolidating Israeli civilian presence and control over land in the Occupied Palestinian Territory. Approximately 14 per cent of Area C land is designated for national parks, and the tourism heritage site development rooted in the illegal annexation of East Jerusalem has profoundly altered the shape and character of the areas surrounding the Old City, creating footholds for residential settlement expansion in Palestinian neighbourhoods.[33] Previous reports of the Secretary-General have highlighted how the management of such sites restricts Palestinians' freedom of movement and prevents the right to equal enjoyment of cultural life and heritage.[34]

22. The management of archaeological and tourism sites by private settler groups came under scrutiny, following the intervention by senior officials of Ministry of Justice on behalf of settler group Elad. Elad successfully re-instated original plans for Kedem Compound, a large tourist facility proposed in Silwan, East Jerusalem, after Jerusalem planning bodies had significantly reduced the scope of the plans.[35] A report of the Israeli State Comptroller highlighted lack of poor oversight by government authorities in relation to Elad's management of tourism and ancient sites and lack of transparency in relation to links between the organization's management and government entities.[36]

Designation of occupied land for economic activities

23. In his last report on Israeli settlements to the General Assembly (A/71/355, para. 4), my predecessor reiterated that encouragement of economic activities, including industrial and agricultural activities within and around settlements,

The Investigation of Suspicions against Israelis in Judea and Samaria – Report of the Monitoring Team, Ministry of Justice, 1982.

[31] Figures provided by OCHA

[32] A/71/355, para.19.

[33] A/70/351, paras 29-36 and 63-66.

[34] A/70/351

[35] www.haaretz.com/israel-news/.premium-1.745359

[36] "Management of Tourism Sites in Jerusalem's Historic Basin" State Comptroller, Annual Report 67A (Hebrew).

represented an additional way for Israel to support settlement expansion besides the allocation of land for settlement homes and infrastructure.[37]

24. Through financial incentives, the Government of Israel continued to actively encourage commercial development by Israeli and international businesses in and around the settlements. Almost all settlement industrial zones are designated as National Priority Areas (NPAs), which carries benefits such as reductions in the price of land, grants for the development of infrastructure, and tax breaks for individuals and business enterprises.[38] In its recent report on settlement businesses, Human Rights Watch noted that the physical footprint of Israeli business activity in the West Bank was larger than that of residential settlements. According to the report, industrial zones (1,365 hectares) and agricultural land (9,300 hectares) exploited by Israel in the West Bank cover 1.7 times more surface than the built-up area of residential settlements (6,000 hectares).[39]

B. Settlement construction and expansion

25. Israel's policy of construction and expansion of settlements and related infrastructure, and support to privately-led settlement expansion initiatives throughout the West Bank continued, and an overall acceleration in settlement expansion was observed during the reporting period. Following a period of significant slowdown in planning and tendering since mid-2014, an overall acceleration in settlement expansion was reported during 2016, as measured against main indicators of Government-led settlement activity: construction starts rose compared to previous years, with the highest number of building starts in three years recorded during the second quarter of 2016; and an uptick in plans advanced in both East Jerusalem and Area C.[40] Similarly, settler-led initiatives continued to enjoy State support, as evidenced in the growth of privately-led East Jerusalem settlement enclaves[41] and continued efforts at retroactive legalization of unauthorized Area C outposts.

Housing and infrastructure

26. There were significant developments in planning and construction during the period under review, particularly in East Jerusalem, including the issuance by Israeli authorities, in November 2015, of a tender for 438 housing units in the settlement of Ramat Shlomo, in the northern periphery of the city.[42]

[37] In resolution 31/36, the Human Rights Council requested the Secretary-General to report on the human rights and international law violations involved in the production of settlement goods and the relationship between trade in these goods and the maintenance and economic growth of settlements.

[38] https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian

[39] Ibid.

[40] Construction started on 1,723 housing units during the first three quarters of 2016, 25% more than the equivalent period of 2015. In Area C, 24 settlement plans were advanced without reaching the final approval stage, representing 2,264 housing units. Fourteen additional plans reached a final approval stage (710 units). The figures represent an increase to 2015 but a decrease compared to 2014. Similarly in East Jerusalem, plans for 1572 units were advanced during 2016 compared to 1285 units for 2015, which represented a significant decrease compared to 3,300 units in 2014. Source: Israeli Central Bureau of Statistics

[41] See para. 31 below.

[42] See Peace Now (www.peacenow.org.il)

27. In July 2016, in conjunction with a rare, court-mandated approval of a plan for 600 housing units in the Palestinian village of Beit Safafa, [43] Israeli media reported the advancement of 560 settlement units in Maale Adumim and 240 in East Jerusalem, which were soon followed by the issuance of tenders for additional 323 units in those settlements.[44]

28. Other key developments in East Jerusalem included the advancement of residential planning and construction and infrastructure in the southern perimeter of the city by municipal planning authorities. Non-governmental organizations monitoring settlement expansion have highlighted these developments as part of broader efforts by Israeli authorities to further the establishment of a contiguous Israeli-controlled corridor connecting the Gush Etzion settlement bloc, located in the Bethlehem Governorate, to Jerusalem.[45] In this regard, steps taken during the reporting period included the start of construction of a new road facilitating access between Gush Etzion and Jerusalem;[46] the advancement of housing plans and tenders in Gilo settlement;[47] expected to enable the expansion of the settlement southward towards Beit Jala; a resumption of construction of Israel's wall south of Beit Jala and west of Al Walajeh; and the start of construction of a visitors' centre in an adjacent area located in Beit Jala's agricultural hinterland, which had been designated as a national park in 2013. Furthermore, construction of a road leading to an undeveloped parcel in nearby Givat HaMatos C raised concerns as an indication of possible future construction plans in the area.[48]

29. The acceleration of settlement-related policies and measures in the southern Jerusalem periphery and Bethlehem Governorate resulted in the fragmentation of the area, the shrinking of space available for Palestinian development, and the separation of rural hinterlands from urban areas. Key concerns emanating from these developments include the impact on the rights of Palestinian residents of the area to freedom of movement, an adequate livelihood and the enjoyment of natural resources.[49]

Support to privately-led settlement initiatives in East Jerusalem

30. Israeli civil society organizations reported on the growth of privately-led settlement efforts in East Jerusalem, particularly in the city's Historic Basin, which has seen 25 per cent increase in the total number of settlers between 2009 and October 2016, to approximately 2,500 settlers.[50] These initiatives are supported by Government funding, including a security budget allocated by the Ministry of Housing and Construction, totalling approximately US$ 25 million in 2015.[51]

[43] http://www.haaretz.com/israel-news/1.728768

[44] https://www.un.org/sg/en/content/sg/statement/2016-07-04/un-secretary-general-israeli-decisions-regarding-new-construction

[45] Ir Amim Newsletter, 20 September 2016

[46] Ir Amim Newsletter, 10 February 2016

[47] Part of the 27 July tender announcement for 323 units, mentioned above

[48] While not yet approved at the time of writing, the parcel in question has been designated for 800 housing units. Ir Amim Newsletter, 21 June 2016.

[49] OCHA Fact Sheet: Bethlehem Governorate: Fragmentation and Humanitarian Concerns, January 2015.

[50] "Broken Trust: State Involvement in Private Settlement in Batan Al-Hawa, Silwan", p.5, Ir Amim and Peace Now, May 2016.

[51] Ibid, p.12

31. Intensified efforts by Israeli settler groups to take control of East Jerusalem properties, often located deep within Palestinian neighbourhoods, have generated an increased risk of evictions of Palestinian families.[52]

Retroactive "legalization" of outposts in Area C

32. Successive reports by my predecessor detailed Israel's support to settlement outposts (erected by settlers without official approval from the Israeli Government) through the provision of funds, infrastructure and security, and through inaction to remove them.

33. While no outpost was legalized during the reporting period, and indeed since May 2014, efforts to retroactively approve such settlements took a new form during the period under review, as a draft bill was introduced to avert the impending court-mandated 25 December 2016 deadline for the evacuation and demolition of the outpost of Amona, erected on private lands of residents of Silwad, Ein Yabroud and Taibeh. The "regularization bill" envisaged the retroactive "regularization" of settlement houses built on private Palestinian property, which would remove key legal obstacles to the retroactive legalization of dozens of unauthorized outposts.[53]

C. Production and Trade of Settlement Goods

34. The production and trade of settlement goods raises concerns about the human rights impacts on Palestinians caused and exacerbated by business enterprises and States. Israel's human rights obligations within the Occupied Palestinian Territory stem from the jurisdiction and effective control exercised by Israel as the occupying power. This includes the obligation to protect individuals and communities from adverse human rights impacts by third parties such as business enterprises, operating in territory under its effective control. Under Art. 1 common to the Geneva Conventions, State parties have to respect and ensure respect for the Conventions. Accordingly, third States are under the obligation not to recognize the unlawful situation resulting from Israeli settlements, nor to aid or assist in Israel's violations.[54]

35. The European Union is Israel's main trading partner with trade amounting to over EUR 32 billion in 2015. The Government of Israel reportedly estimated that the annual value of industrial goods produced in settlements and exported to Europe is $300 million. Agricultural production provides the main source of income for settlements in the Jordan Valley, with 66 per cent of their produce being exported.

36. Products that are wholly or partially produced in settlements are frequently labelled as coming from Israel, obscuring their actual origin. This allows the exports to be covered under preferential trade agreements with the EU that exclude settlements. Some measures have been taken to address these issues. During the reporting period, the EU issued new labelling guidelines for products coming from the West Bank, including East Jerusalem, or the Golan Heights. Under these guidelines, any products originating from settlements must not be labelled as "Made in Israel" but must clearly be labelled as produced in settlements.

[52] See below, para. 56

[53] A/HRC/31/43 and A/71/355. See also: www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21003&LangID=E

[54] ICJ Advisory Opinion on the Wall, para. 157-159; ICRC, 2016 Commentary on Art. 1 Common to the Geneva Conventions, para. 163.

37. While States have a primary duty to protect human rights, there is an independent corporate responsibility to respect human rights applicable to all business enterprises, irrespective of where they operate. This is recognized in the Guiding Principles on Business and Human Rights, which are based on existing responsibilities under international law and have been unanimously endorsed by all the Member States of the Human Rights Council[55].

38. The role of Israeli and foreign businesses in supporting and maintaining the existence of the settlements has been highlighted previously.[56] In its 2013 report, 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 (hereafter "the fact-finding mission), concluded that business enterprises have, "directly and indirectly, enabled, facilitated and profited from the construction and growth of the settlements".[57] Furthermore, it found that businesses "contribute to their maintenance, development and consolidation" with full knowledge of the liability risks.[58]

39. Since the fact-finding mission's report, there has been increasing attention on the activities of business enterprises related to settlements. In 2014, the Working Group on human rights and transnational cooperation and other business enterprises emphasized that businesses connected to Israeli settlements "need to be able to demonstrate that they neither support the continuation of an international illegality nor are complicit in human rights abuses; that they can effectively prevent or mitigate human rights risks; and are able to account for their efforts in this regard".[59] The Working Group stated that where companies cannot prevent or mitigate the risks of being involved with human rights violations through their operations and business relationships, they may need to consider termination of operations.[60]

IV. Coercive environment resulting from settlement policies and consequent risk of forcible transfer

40. My predecessor consistently voiced concerns about the impact of settlement policies on the living conditions of Palestinians, including their increased risks of individual and mass forcible transfer.

41. There is concern that Israel as the occupying power is increasing pressure on Palestinians through practices and policies that contribute to a coercive environment in areas under full Israeli control, propelling them to move out of their areas of residence. Previous reports have outlined the existence of a coercive environment in parts of Area C and Hebron's H2 and highlighted factors constituting a coercive environment with respect to East Jerusalem.[61] They have also raised concern over cases where forcible transfer appears to have taken place.[62]

[55] A/HRC/17/31, Principle 11
[56] A/67/379 and A/68/376
[57] A/HRC/22/63 para. 96.
[58] Ibid. para. 97.
[59] http://www.ohchr.org/Documents/Issues/Business/OPTStatement6June2014.pdf.
[60] Ibid.
[61] A/HRC/24/30, para.27, A/HRC/31 paras.46, 68, A/70/421, para.36, A/69/348, paras 12-16, A/HRC/28/80 para 24, A/HRC/31/43 para 54, A/69/348 para 12-16, A /HRC/25/40 para 22, A/71/355 paras.24-33.
[62] A/67/372 para.39, A/HRC/25/40 paras.18-20, A/69/347 para.26, and A/71/355 paras 61-64.

42. The impact of a coercive environment on individuals and communities is specific to their own circumstances and experience. A coercive factor alone or in combination with others may be sufficient to determine the existence of a coercive environment in a given case and its connection with the grave breach of forcible transfer. The coercive factors described below do not represent an exhaustive list.

A. Factors contributing to a coercive environment in the West Bank

43. The following factors generally contribute to the existence of a coercive environment in areas of the West Bank under full Israeli control:

"Relocation" plans and evictions

44. The publicly stated intention of the Government of Israel to relocate or evict thousands of Palestinians currently residing in Area C is a principal source of pressure and coercion for the communities and individuals concerned. Previous reports highlighted that the implementation of these plans would entail forcible transfers, except where individuals affected would express genuine consent to move.[63] This relates in particular to Israeli plans to relocate some 7,500 Palestinian Bedouin and herders to three to nine centralized sites,[64] and to evict some 1,000 Palestinians living in eight villages in the Massafar Yatta area for the enforcement of a firing zone.[65] It also applies to other eviction and relocation plans affecting 55 Palestinian families of Susya,[66] and other communities targeted for relocation outside their areas or residence, such as Dkaika,[67] in the southern Hebron Governorate.

45. A history of forced evictions and transfers of entire communities by Israeli authorities places additional pressure on the individuals and communities targeted by these plans.[68]

[63] A/HRC/25/40 paras 18-21, and 78, A/67/372 para 36-37, A/HRC/24/30 para 29.

[64] A/HRC/31/43 para 56-60. On 14 June 2016, the Deputy Head of the ICA, Colonel Uri Mendez referred to nine relocation sites during the "Judea and Samaria" subcommittee meeting. See: www.inn.co.il/News/News.aspx/324002

[65] A/HRC/24/30 para 28.

[66] A/HRC/31/43 paras 50-54.

[67] The Bedouin community of Dkaika has a population of approximately 450, most of whom are Palestine refugees. ICA has proposed its relocation to one of the nearby villages, as per the State's official positions in responses of 13 May 2009 and 23 March 2016 to a High Court petition submitted by Dkaika residents, demanding planning and zoning rights for the community. On 2 November 2016, the High Court of Justice ordered that Dkaika residents and the State to enter into discussions for 90 days to find a solution regarding planning for the village residents. A temporary protection against demolitions is in place. While it remains unclear whether planning in their current location will be an option for the State, the High Court criticized the State's proposed relocation plan, on grounds that there was no public need or benefit. See *http://rhr.org.il/eng/2016/11/update*.

[68] Between 1997 and 2007, Israeli authorities transferred in three waves some 150 Bedouin families in the Jerusalem Governorate to the Al Jabal site despite their opposition. See UNRWA, "Al Jabal: a Study on the Transfer of Bedouin Palestine Refugees", 2013. Experts have assessed that these three waves of displacement amounted to forcible transfer under international humanitarian law. See Boutruche and Sassoli, *Expert Opinion on the Displacements of Bedouin Communities from the Central West Bank under international humanitarian law*, September 2014. In 1999, IDF moved some 700 Palestinian herders out of 12 villages in the Massafer Yatta area, in Hebron Governorate on grounds that the area had been designated as a military firing zone. Affected Palestinians "were placed in trucks and removed by force out of the area". See ACRI Q&A on Firing Zone 918. See also, A/HRC/24/30, para.28, and OCHA, The Massafer Yatta communities, May 2013. In 1986, 25 families were expelled from the residential area at Susya in the southern Hebron Governorate on

46. My predecessor, the High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 have pointed to the seizure of Palestinian homes and forced evictions (and risk thereof) to make way for settlers to move in, as factors suggesting a coercive environment in East Jerusalem.[69] According to the Israeli non-governmental organizations Ir Amin and Peace Now, at least 55 families were evicted from their homes in 2015-2016, and some 300 Palestinian families are under threat of eviction or imminent house demolition in the 'Historic Basin', or areas surrounding the Old City of East Jerusalem.[70] Most of these cases were initiated by Israeli settler organizations on the basis of land ownership claims, as well as claims that the residents are no longer 'protected tenants'. As a result, 818 Palestinians, including 372 children, are at risk of displacement.[71]

Demolitions

47. Demolitions,[72] threats thereof,[73] and lack of long-term protection against demolitions have been identified as key elements of a coercive environment in the West Bank. Demolitions have been identified as a key coercive factor in particular for Area C communities targeted for "relocation",[74] inside closed military zones,[75] and located near Israeli settlements.[76]

48. The reporting period saw the highest number of demolitions of Palestinian homes and structures on record in the West Bank, with 874 structures demolished in Area C in 2016, compared to 456 in 2015; and 190 demolitions in East Jerusalem, compared to 79 in 2015, the highest demolitions rate on record.[77] Between 1988 and 2016, the Israeli Civil Administration issued 14,929 orders to demolish around 16,000 Palestinian-owned structures in the West Bank, excluding East Jerusalem, which had been built without permits from the Israeli authorities.

grounds that the land had been designated an archaeological site. A second transfer took place from the new site in 2001. See OCHA, *Susya: a community at imminent risk of forced displacement,* June 2015, Rabbis for Human Rights, *Susya: Legal Status update* and Btselem, *Khirbet Susya, a village under threat of demolition*.

69 A/70/351, paras.25-51; A/HRC/16/71, paras. 20-22; Communication of Special Rapporteurs on Adequate Housing, Independence of Judges and Lawyers; and on the Situation of Human Rights in the OPT, REF: UA, ISR 1/2015, 30 April 2015.

70 Ir Amim Newsletter, 14 October 2016

71 OCHA East Jerusalem Mapping of Evictions, November 2016

72 A/68/513, para. 30-34; see also A/HRC/25/38, paras. 11-20; See also A/HRC/31/43 para. 44.

73 A/HRC/28/80 para 24 and A/69/348 para 13, August 2014.

74 *Ibid* (A/HRC/31/43 paras. 46 and 68, A/67/ 372 para 55, A/HRC/24/30 para, A/69/348 (para 13) A/HRC/25/40 paras 18-20, A7HRC/28/45, para 53.

75 Approximately 18% of area C has been designated by the Israeli authorities as "firing zones" and 38 Palestinian communities are located within these areas. Because the Israeli Civil Administration prohibits construction in these areas, wide-scale demolitions frequently take place. During 2016, at least five communities located in areas designated as firing zones experienced demolitions including Halaweh and Jinba, in the Massafer Yatta area of Hebron, and are at risk of forcible transfer in implementation of firing zone 918; Ein ar Rashash (Ramallah, firing zone 906); Al Jiftlik-abu al Ajaj (Jericho Governorate) and Khirbet Tana in the northern Jordan Valley (firing zone 904). OCHA, "Wide-scale demolitions in Khirbet Tana", March 2016.

76 A/HRC/28/45 para 45 and A/HRC/22/63, paras 32-38, A/HRC/67/375, paras 10-11.

77 OCHA began collecting demolitions data in 2009.

49. The reporting period also saw an alarming acceleration in the pace of demolitions in East Jerusalem, reaching 190 between 1 January and 31 October 2016, compared to 79 in 2015.[78]

Pressure from Government officials

50. Pressure, including threats and harassment during repeated visits from ICA and other Government officials, including members of the Israeli security forces, continued to be documented as an ongoing form of coercion.[79] During visits, in particular following demolitions, officials have reportedly solicited the relocation or removal of the affected individuals outside their area of residence and have threatened that transfers would otherwise be carried out forcibly.[80]

51. My predecessor has reiterated that even where individuals may express consent to relocate, including formal expressions of consent, "the transfer would be forcible, and in violation of international law, unless there is genuine consent of the affected individuals".[81]

Impact of military operations and settler violence

52. In Hebron's H2, the general sense of insecurity caused by the heavy military presence and security operations, which often involve the use of force by Israeli security forces, as well as harassment and arbitrary arrests, contribute to the coercive environment.[82] Meanwhile, Area C communities located inside and in areas surrounding areas defined by Israel as Firing Zones continued to face a coercive environment, notably as a result of military trainings including with live fire. OCHA has documented instances in which this situation caused displacement during the reporting period.[83]

53. For communities located in close proximity to settlements and known hotspots for settler violence, violence and harassment by settlers exacerbate the coercive nature of the environment; yet the frequency of such reported incidents have dropped notably during the reporting period.[84]

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78 Ir Amim report, 13 November 13, 2016.

79 In Khirbet Tell el Himma (northern Jordan Valley), OCHA has documented regular harassment by ISF officials and settlers during visits to the community following the demolition of their homes and other structures in September. *See OCHA, Monthly Humanitarian Bulletin*, October 2016. In January 2016, OHCHR documented the testimonies of Abu Nwar residents referring to threats received from ICA officials and the liaison officer following the demolition of five residential structures as well as livelihood and other structures on 6 January 2016, leaving 26 refugees, including 17 children of which four children live with disabilities, displaced and without a home in the middle of winter. In the days following, on 10 and 14 January, humanitarian materials donated by the international community as part of the post-demolition response were confiscated by the ICA.

80 For further reports on intimidation and threats related to Jerusalem periphery communities see A/70/421 para 46 and A/HRC/31/43 para 59; UNRWA Official Statement http://www.unrwa.org/newsroom/official-statements/unrwa-condemns-demolition-homes-palestine-refugee-bedouins-families

81 A/67/372 para.37.

82 A/71/355 paras.25-50

83 Al 'Aqaba community in the North Jordan Valley was exposed to sustained live fire inside its residential area for two days while an Israeli military training exercise was conducted in the vicinity. Residents of the nearby community, Humsa al Bqai'a, were also temporarily displaced as a result. OCHA Humanitarian Bulletin oPt, October 2016.

84 Systematic intimidation by Israeli settlers has created a coercive environment in Susya. A/HRC/31/43 para 54. See also supra fn 41 (Khirbet Tell el Himma). Documented intimidation and physical violence by settlers and Israeli Security forces against Bedouins in Umm al Khair at A/68/513 para. 37, October 2013.

Restrictions on freedom of movement and access to essential services

54. As noted by the Quartet, the policy of denial of Palestinian development extended to the "complex system of physical and administrative restrictions on the movement of people and goods, which Israel justifies as necessary for security", including closures, checkpoints, limits to access to natural resources and agricultural land, and impediments to accessing basic services, including medical care and education.[85]

55. These restrictions and their impact have previously been identified as directly contributing to the coercive environment in areas under full Israeli control.[86] Similarly, interference by Israeli authorities with the provision of humanitarian assistance and destruction of such assistance in Area C heightened the risk of forcible transfer for affected communities.[87]

Additional coercive factors

56. Other factors contributing to the coercive environment include the strict residency regime for East Jerusalem residents and restrictions on family unification between residents of East Jerusalem and of other parts of the West Bank.[88]

57. Similarly, policies and practices in the context of the five-decade long Israeli occupation can contribute to a coercive environment, notably Israel's confiscation of Palestinian land and restrictions on access to and control over natural resources, including water, impeding the development of the Palestinian economy; restrictions on the freedom of movement of Palestinians in the West Bank including East Jerusalem; the lack of access to effective legal remedies; and collective punishment measures such as punitive demolitions, may also contribute in specific cases to the existence of a coercive environment.

V. Settlements in the occupied Syrian Golan

58. Settlement expansion and land appropriation by the Government of Israel in the occupied Syrian Golan continued in direct violation of international law. In October 2016, the Government reportedly approved the construction of 1,600 new homes in the illegal settlement of Katzrin.[89] As noted in previous reports, Israeli settlements in the Golan are encouraged by financial incentives and a disproportionate allocation of water resources, contributing to a higher agricultural yield for settlers.[90] The Israeli Government is also reportedly seeking to appropriate approximately 20,000 acres of occupied land to create the Hermon National Park. The land in question is currently used for agriculture and housing by the nearby Syrian towns of Majdal Shams and Ein Qynia.[91] The appropriation of the land would

[85] Middle East Quartet Report, July 2016, p. 6.
[86] A/71/355, A/HRC/31/43
[87] Approximately 170 EU humanitarian structures have been demolished between 2009 and mid-2016. 91 of these were demolished in the first six months of 2016. http://www.haaretz.com/israel-news/1.733729 and http://www.unrwa.org/newsroom/official-statements/un-officials-call-immediate-revocation-plans-transfer-palestinian.
[88] http://www.btselem.org/jerusalem/revocation_of_residency
[89] http://www.timesofisrael.com/liveblog_entry/israel-okays-1600-new-homes-in-golan-heights/
[90] A/HRC/28/44 para. 54 and A/HRC/31/43 para. 64.
[91] http://golan-marsad.org/al-marsad-calls-on-international-community-to-act/

severely restrict the possibility for development and expansion of the town of Majdal Shams.[92]

59. Israeli authorities reportedly undertook the first home demolition in the Syrian Golan on 7 September 2016, in the village of Majdal Shams, on the basis that it was built without the necessary permit.[93] Discriminatory land, housing and development policies established by the Israeli authorities have made it difficult for Syrians to obtain building permits, which results in increasingly overcrowded Syrian towns and villages.[94] The human rights organization Al Marsad reported that a number of Syrian homeowners have received demolition notices and expressed concern that this first demolition could manifest the beginning of a new policy of home demolitions.[95]

60. Of further concern are reiterations by senior Israeli Government officials, including the Prime Minister, during 2016 that Israel will never give up its claim to the Golan Heights. My predecessor has repeatedly reaffirmed the continuing validity of Security Council resolution 497 (1981), which states that "the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights is null and void and without international legal effect."

VI. Conclusions and Recommendations

61. **Israeli settlement activity is incompatible with Israel's obligations under international law. Settlement activity is a key driver of humanitarian need in the West Bank, including East Jerusalem, and lies at the core of a range of human rights violations. Israeli settlement activity further constitutes one of the main obstacles to a viable Palestinian State. The significant role that the production and trade of settlement goods plays in helping to support and maintain settlements is also of concern.**

62. **Israel must implement all relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from territory it has occupied since 1967. To meet its obligations under international law, Israel must stop building settlements, reverse any settlement development activity, and make full reparations to individuals and communities concerned, which include the obligation to re-establish the situation affected by violations.[96]**

63. **Within the scope of its obligation to respect and ensure respect for human rights within the Occupied Palestinian Territory, the Government of Israel has the duty to protect the Palestinian population against human rights abuses by third parties, including business enterprises. It should implement the United Nations Guiding Principles on Business and Human Rights and, in particular, take the necessary legislative, administrative policy and remedial actions to prevent, investigate, punish and redress abuses. The Israeli authorities must rescind all policies**

[92] http://golan-marsad.org/press-release-al-marsad-submits-objection-to-hermon-national-park-plan/

[93] http://golan-marsad.org/press-release-israeli-authorities-demolish-home-in-majdal-shams-in-the-occupied-syrian-golan/

[94] http://golan-marsad.org/press-release-israeli-authorities-demolish-home-in-majdal-shams-in-the-occupied-syrian-golan/

[95] http://golan-marsad.org/press-release-israeli-authorities-demolish-home-in-majdal-shams-in-the-occupied-syrian-golan/

[96] International Law Commission, draft articles for the responsibility of States for internationally wrongful acts, 2001, arts. 30-31.

and practices that, directly or indirectly, are likely to lead to the forcible transfer of Palestinians, including policies and practices that contribute to the creation of a coercive environment that forces people to leave their communities. Specifically, Israeli authorities must:

(a) **Refrain from any initiative to relocate communities in Area C in contravention of international law.**

(b) **Cease the implementation of a planning and zoning regime that is discriminatory and restrictive and that facilitates the construction and expansion of settlements and the Wall, in violation of international law.**

(c) **Cease the demolition of homes and private property of Palestinians and take all measures to prevent violence and other coercive measures perpetrated by public officials or settlers;**

(d) **Ensure that any incident of violence by private actors, including settlers, against Palestinians and their property are investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with effective remedies in accordance with international standards.**[97]

64. **Third-Party states should provide guidance on implementing the United Nations Guiding Principles on Business and Human Rights to business enterprises domiciled in their territory and/or jurisdiction which operate in conflict-affected areas, including in the context of military occupation, such as in the Occupied Palestinian Territory.**

65. **Business enterprises should undertake human rights due diligence in order to identify, prevent, mitigate and account for how they address any adverse human rights impact on Palestinians they may cause or contribute to, or which may be directly linked to their operations, products or services.**

[97] CCPR/C/ISR/CO/4 (21 November 2014), para. 16.