



# International Service for Human Rights

## The Reports in Short

ISHR's summaries of documents for the 4<sup>th</sup> session  
of the Human Rights Council

### **Report of the Special Rapporteur on the situations of human rights in the Palestinian territories occupied since 1967<sup>1</sup>**

#### **Mandate Holder**

John Dugard

#### **Mandate**

The mandate of the Special Rapporteur on the situations of human rights in the Palestinian territories occupied since 1967 was created to investigate and examine factual situation in the Occupied Palestinian Territories (OPT) following the commencement of the "Operation Summer Rains" and the "Operation Autumn Cloud" by the Israeli Defense Forces (the IDF) in 2006 and to report on violations of human rights in the course of this operation.

#### **Activities**

- Communications to the Government;
- Mission to the Occupied Palestinian Territories (1-8 December 2006).

#### **Scope:**

The Special Rapporteur visited the OPT and Israel from 1 to 8 December 2006. He visited the cities of Jerusalem, Gaza (including Beit Hanoun, Beit Lahia, Jabalia, Gaza City and Deir el Balah), Jericho, the Jordan Valley (including Jiftlik and Al Aqaba villages), Jenin, Ramallah, and the villages of Bil'in and Bir Nabala. He also observed the checkpoints and roadblocks.

#### **Summary and Key Conclusions:**

Background: In 2006, a group of Palestinian militants attacked a military base near the Israeli-Egyptian border and captured Corporal Gilad Shalit, demanding that Israel release women and children held in Israeli jails in return for Corporal Shalit's release. This together with continued Qassam rocket fire into Israel, led to Israel undertaking repeated military attacks and incursions (around 364 military incursions) into Gaza. Between June and November 2006, over 400 Palestinians were killed and some 1500, injured. During the same period, three Israeli were killed and 18 wounded, two Israeli civilians were killed and some 30 injured due to Qassam rockets fired from Gaza.

- As a result of Israel's military attacks, serious damage was caused to homes, schools, hospitals, mosques, public buildings, bridges, water pipelines and sewage networks. Gaza's only power plant was bombed depriving half the population of Gaza for electricity for months. Citrus groves and other agricultural lands were destroyed.

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<sup>1</sup> A/HRC/4/17, 29 January 2007. Summary prepared by Jumi Rahayu, Intern, ISHR, edited by Meghna Abraham, Information Program, ISHR.

- Israel's assault on Beit Hanoun resulted in the killing of 19 persons and wounding of 55 persons. The Special Rapporteur noted that Israel justified its attack on Beit Hanoun as a defensive operation aimed at preventing the launch of Qassam rockets into Israel. The Special Rapporteur stated that over a thousand home-made rockets have been launched into civilian areas and this constitutes a war crime. However, he stated that Israel's response has been grossly disproportionate and indiscriminate and has resulted in the commission of multiple war crimes.
- **The Construction of the Wall and checkpoints:** The Israeli High Court of Justice has dismissed the Advisory Opinion of the International Court of Justice which held that the Wall that Israel is constructing largely on Palestinian Territory is contrary to violation law. Israel plans to extend the wall for another 703 kms. An estimated 60,500 West Bank Palestinians living in 42 villages and towns will reside in the closed zone between the Wall and the Green Line when it is completed. More than 500,000 Palestinians living within one kilometre of the Wall will need to cross it to get to their farms and jobs and maintain family connections. The Wall has serious humanitarian consequences for Palestinians living within the closed zone and cuts them off from places of employment, schools, universities and emergency and specialised medical care. The construction of the Wall in East Jerusalem has serious implications for the human rights of some 230,000 Palestinians living in Jerusalem. The number of checkpoints, roadblocks and other barriers to freedom of movement increased from 376 in 2005 to 540 in 2006. These barriers and the complex and changing rules governing permits and passage results in Palestinians feeling humiliated. An IDF commander in the West Bank issued an order that prohibits Palestinians from travelling with Israelis in Israeli vehicles in the West Bank without a permit and Israeli human rights NGOs who travel with Palestinians view this as an attempt to curb their activities.
- **Settlements:** Despite the illegality of settlements, the Government of Israel persists in allowing settlements too grow. There is evidence of settler violence, the most extreme instance of which continues to be in Hebron where Palestinian school children are assaulted and humiliated on their ways to school and shopkeepers and residents live in fear of settler terror. Despite rulings of the High Court of Justice, the IDF fails to protect Palestinian farmers from settlers and in some cases collaborates with the settlers in harassing and humiliating Palestinians (the Special Rapporteur witnessed this himself in Hebron).
- **Humanitarian crisis:** The withholding of funds by Israel, sanctions by the USA and termination of funding by the EU and other States, following the election of Hamas; the attacks on the Gaza power plant; and the closure of various commercial crossing points into Gaza by Israel has created a humanitarian crisis. Most workers and service providers including most Government officials are not being paid their salaries in full. About 70 per cent of Gaza's workforce is out of work or work without pay and over 80 per cent lives below the official poverty line. Palestinian have suffered an economic sanction in the most rigorous form though violations by Israel remain unpunished.
- The conflict has widespread effects including on **health**, drugs are in short supply and clinics are closed because of military action. A lot of Palestinians suffer from anaemia due to malnutrition and other chronic illnesses. Many children have mental health problems as a result of trauma from military attack. **Education** is also affected because many schools have been closed or destroyed. As a multiplying effect of the conflict, the rates of **domestic violence and crime** have also increased.
- **Condition of Prisoners.** There are 9,000 (including 400 children and over 100 women) Palestinians in Israeli prisons, charged with security offences from violent acts against IDF to anti-Israeli political activities. There are also over 700 administrative detainees held without trials or any charges being brought against them on the ground that they are regarded as security risks. There are also complaints about pre-trial detention, prolonged isolation, and lengthy interrogation, with threats, deception and sleep deprivation. Prison conditions are poor and

family visits are rare. Political prisoners also held in jails in Israel instead of in the OPT, which violates Article 49 of the Fourth *Geneva Convention*.

- The Special Rapporteur concluded that there have been serious **violations of international law** conducted by Israel: denial of self determination, crimes against humanity, war crimes. Israel has violated *the International Covenant of Civil and Political Rights* (ICCPR) (particularly Articles 6, 7 9, 12 and 24), the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) (notably Articles 11 and 12). He noted that Israel also violates the *International Convention on the Elimination of all Forms of Racial Discrimination* through its discriminatory policies against Palestinians as well as fundamental rules of humanitarian law as prescribed in the *Geneva Conventions* and its Protocols. Israel has also violated the prohibition on collective punishment of occupied people under Article 33 of the Fourth Geneva Convention.
- Israel's occupation of the West Bank, Gaza and East Jerusalem contains elements of colonialism, apartheid and foreign occupation which are all inimical to human rights. Israel continues to exercise effective control over the OPT by reason of its control of Gaza's external borders, air space and sea space. Israel's laws and practices also resemble aspects of apartheid. The OPT is the only instance of a developing country that is denied the right of self-determination and oppressed by a Western-affiliated State for so long.

### **Key Recommendations:**

- Both Palestinians and members of the IDF who commit war crimes by attacking civilian areas should be prosecuted. Law enforcement should not only assess individual criminal accountability but must also consider the responsibility of the State of Israel for violations of international law.
- The Special Rapporteur requested the Quartet - the United States of America, the European Union, the United Nations and the Russian Federation - to demonstrate a real commitment to the human rights of Palestinian people.