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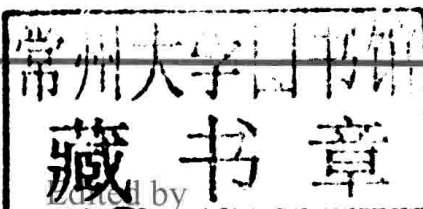
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2012/2013

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Joachim Müller
and
Karl P. Sauvant

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Summary

In its resolution 2012/23, the Economic and Social Council requested the Secretary-General to submit to the General Assembly at its sixty-seventh session, through the Council, a report on the implementation of that resolution. The Assembly, in its resolution 67/229, also requested the Secretary-General to submit a report to it at its sixty-eighth session. The present report, which has been prepared by the Economic and Social Commission for Western Asia, is submitted in compliance with the resolutions of the Assembly and the Council.

In the forty-sixth year of its occupation of Palestinian territory, Israel continued in its practices and policies that violate the occupying Power's obligations under international law. These discriminatory policies, which "amount to de facto segregation", adversely affect the living conditions of the Palestinian population, with a dire impact on various Palestinian social and economic sectors, as well as on the Palestinian natural resources and environment.

Excessive and disproportionate use of force by Israeli security forces continued. The ill-treatment of Palestinian child detainees appears to be widespread, systematic and institutionalized. Israel's frequent use of administrative detention amounts to a policy of widespread and systematic arbitrary detention. Israeli authorities and settlers commit transgressions against Palestinians and their property with impunity.

Since 1967, Israel has revoked the residency status of more than 260,000 Palestinians from the Occupied Palestinian Territory, while Israeli policies and practices, including home demolitions, lead to the forced displacement of Palestinians. Settler violence also is aimed mainly to force Palestinians to move from their lands.

The scale of Israel's settlement project in the occupied territories, as well as the construction of the West Bank wall, are not only illegal but also appear to confirm Israel's intention to retain control over large parts of the Occupied Palestinian Territory, thus violating a core principle of the Charter of the United Nations, which prohibits the acquisition of territory by the use or threat of force.

Palestinians living in the Occupied Palestinian Territory face daily obstacles and humiliation to travel both inside and outside the territory, while the Gaza blockade amounts to collective punishment, also illegal under international law.

The continued Israeli occupation of the Syrian Golan similarly includes policies and practices that discriminate against its Syrian citizens and encourage illegal Israeli settlement therein.

The Economic and Social Commission for Western Asia would like to acknowledge its appreciation for the substantive contributions and inputs of the Department for Political Affairs, the United Nations Conference on Trade and Development, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, the Office for the Coordination of Humanitarian Affairs, the International Labour Organization, the Food and Agriculture Organization of the United Nations, the World Health Organization, the Office of the United Nations Special Coordinator for the Middle East Peace Process, the United Nations Environment Programme, the United Nations Educational, Scientific and Cultural Organization, the Office of the United Nations High Commissioner for Human Rights, the United Nations Population Fund and the League of Arab States.

I. Introduction

1. Economic and Social Council resolution 2012/23 and General Assembly resolution 67/229 expressed the concerns of the two bodies about the practices of Israel, the occupying Power in the Occupied Palestinian Territory and the occupied Syrian Golan, which violate international humanitarian law. These practices included actions that caused death and injuries to civilians, including children, women and peaceful demonstrators, all of whom must be protected in accordance with international humanitarian law, as well as the rising incidence of violence by illegal, armed Israeli settlers against Palestinian civilians and their properties, in addition to the continued detention of thousands of Palestinians, including children and women, under harsh conditions. Of concern also to the Council and the Assembly are the accelerated construction by Israel of settlements, the construction of the wall inside the Occupied Palestinian Territory, the exploitation of Palestinian natural resources, the increased demolition of homes, economic institutions, agricultural lands and infrastructure, the revocation of residency rights of Palestinians in and around occupied East Jerusalem, and the continuing Israeli policy of closures and severe restrictions on the movement of persons and goods, including what amounts to a blockade of the Gaza Strip. The Council and Assembly, through their aforementioned resolutions, also highlighted the detrimental impact of Israeli practices on the natural resources and the social and economic conditions of the Palestinian people and the Arab population in the occupied Syrian Golan.

2. The present note highlights the practices by Israel, the occupying Power, that are of concern to the Economic and Social Council and the General Assembly and that persisted over the reporting period. Although Israel cites security concerns to justify most of its policies and practices, the note indicates that many of these practices as well as the occupation regime constitute continuous violations of international law.

II. Occupied Palestinian Territory

Israeli policies affecting Palestinians

3. Israel implements policies and practices in the Occupied Palestinian Territory that “amount to de facto segregation”, including the establishment of two entirely separate Israeli legal systems and sets of institutions for Jewish communities grouped in illegal

settlements, on the one hand, and Palestinian populations living under Israeli military occupation in towns and villages, on the other. Furthermore, Palestinians do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of restrictions on movement, the existence of separate roads and a permit regime that only impacts the Palestinian population.¹ Moreover, a matrix of military orders applies, by law or by practice, only to Palestinians to regulate and control most aspects of daily life, including by restricting an extensive range of rights (A/HRC/22/63, para. 40).

4. In June 1967 Israel formally, yet illegally, annexed 70 km² of land incorporating East Jerusalem and a number of nearby Palestinian villages into the expanded boundaries of the Jerusalem municipality of Israel (*ibid.*, para. 25).

5. For decades Israel has pursued a strategy that has led to the debilitation of East Jerusalem in every respect, including socioeconomic.² Furthermore, Israel has employed the following policies and practices: physically isolating East Jerusalem from the rest of the West Bank in part by building the wall; discrimination in planning and building; land expropriation and demolition of houses; revoking residency and social benefits of Palestinians; and inequitably disbursing the municipal budget between the two parts of the city (A/67/379, para. 16). The cumulative effects of these methods have led to the deterioration in the conditions of Palestinian East Jerusalemites.³

6. According to human rights organizations, since 2001, Israeli authorities have closed down at least 28 Palestinian organizations operating in Jerusalem that had been involved in educational, cultural and social activities for Palestinians in East Jerusalem.⁴

Planning and zoning

7. Area C constitutes over 60 per cent of the West Bank, excluding East Jerusalem. As the only contiguous territory, it is the key to economic cohesion and is the most resource abundant space in the West Bank as it holds the majority of the territory's water, agricultural lands, natural resources and land reserves. Israel maintains full security control and control over building and planning in Area C. About 150,000 Palestinians live in 270 communities that are totally or partially in Area C.⁵

8. In Area C the zoning regime applied by Israel benefits the establishment and growth of settlements, while denying the development of Palestinian communities. This regime effectively allows Palestinian construction on 1 per cent of Area C. As a result, many Palestinians are left with no choice but to build without a permit, which leads to "inhumane Israeli responses involving demolition and displacement" (A/67/379, para. 15).

9. From 2005 to 2009, only 13 per cent of the Israeli building permits issued for housing units in East Jerusalem were granted to Palestinian neighbourhoods. In Jewish

¹ CERD/C/ISR/CO/14-16, para. 24.

² ACRI, Policies of Neglect in East Jerusalem, May 2012, p. 2.

³ *Ibid.*; see paras. 86-95 below.

⁴ A/67/372, para. 41; and The Civic Coalition for Palestinian Rights in Jerusalem, submission to the United Nations.

⁵ Information received from the Office for the Coordination of Humanitarian Affairs (OCHA).

neighbourhoods, there is an average of 20 square metres of housing per resident, compared to 11 square metres in Palestinian neighbourhoods.⁶

Residency status

10. Since 1967, Israel has retained control over the residency status of the Palestinian population of the Occupied Palestinian Territory, implementing discriminatory policies that often lead to the displacement of Palestinians.⁷

11. Up until the establishment of the Palestinian Authority in 1994, Israel revoked the residency status of 250,000 Palestinians from the West Bank and the Gaza Strip, in addition to 14,188 Palestinian East Jerusalemites whose residency permits were revoked from 1967 to 2011.⁸

12. Israel regulates the Palestinian residents of East Jerusalem almost as if they were foreign nationals living in Israel, with little regard for their status as protected persons under international humanitarian law (A/67/372, para. 38). If they reside outside Israel or East Jerusalem for a period of seven years, Palestinian residents lose their permanent residency status, as stipulated in the Entry into Israel Regulations of 2003.⁹

13. Policies that apply only to Palestinian residents of Jerusalem include the Entry into Israel Law, which stipulates that a permanent resident who marries a non-resident must submit, on behalf of the spouse, a request for “family unification” in order for the partner to reside in East Jerusalem, a process that has frozen for almost 10 years the entry of those spouses from the West Bank and Gaza.¹⁰

Disproportionate use of force

14. Excessive and disproportionate use of force by Israeli security forces, including the Israeli military and border police, continued in the West Bank. Most injuries occurred during demonstrations, where Israeli Military Order 101 outlaws “assemblies”, and Israeli troops use excessive force to disperse them, thereby violating Palestinians’ right to peaceful protest. Civilians were also injured and killed as a result of the excessive use of force during other forms of military operations, including search and arrest raids (see A/67/372, paras. 15-24).

15. Apart from air strikes and military operations, methods used by the Israeli military to enforce the access-restricted areas in the Gaza Strip, including the use of live ammunition, violate the international humanitarian law principle of distinction, which establishes that civilians are not to be targeted (see A/67/372, paras. 8-10).

16. From 30 March 2012 to 29 March 2013, 268 Palestinians were killed and 4,483 others were injured. The vast majority of casualties involved civilians and were inflicted by Israeli

⁶ ACRI, East Jerusalem in Numbers, <http://www.acri.org.il/en/2012/05/16/east-jerusalem-in-numbers/>.

⁷ Information received from OCHA.

⁸ See *Ceased Residency*, <http://www.hamoked.org/Document.aspx?dID=Updates1175>; information received from OCHA.

⁹ Information received from the Office of the United Nations High Commissioner for Human Rights (OHCHR); see also A/67/372, para. 38.

¹⁰ Information received from OCHA.

security forces. A total of 132 Palestinian injuries were the result of settler attacks. Among the casualties, 42 Palestinian children were killed and 615 were injured. During the same period, 3 Israeli civilians were killed and 279 were injured, including 3 injured children.¹¹

17. On 14 November 2012, Israel launched a military offensive against the Gaza Strip that went on until 21 November, during which Palestinian militants also shelled Israeli towns and army posts in Israel. At least 165 Palestinians were killed by Israeli military action, of whom 99 were civilians, including 13 women and 33 children. An additional 1,399 Palestinians were injured, the majority of whom are believed to be civilians. During the offensive, 3 Israeli civilians were killed and 224 Israelis, most of whom were also civilians, were injured by Palestinian shelling. An additional six Palestinian civilians were killed by stray shells from Palestinian militants.¹²

18. A common denominator affecting all victims of unlawful acts of violence against Palestinians is the absence of effective investigations and redress for victims, leaving Israeli security apparatuses to enjoy significant impunity vis-à-vis such acts of violence against Palestinians.¹³

Arbitrary arrests and detentions

19. According to official Israeli figures, at the end of February 2013, about 4,713 Palestinian security detainees and prisoners were held in Israeli prisons, including 253 children.¹⁴

20. In addition to the denial of due process rights during trial and the conviction of Palestinian detainees in the Israeli military court system,¹⁵ it has been reported that considerable physical and psychological pressure to sign confessions is placed on defendants during interrogations. Practices in this regard include beatings and threats, sleep deprivation, position abuse, prolonged cuffing, having family members threatened and, in some cases, arrested.¹⁶ Some of such cases amount to torture (see A/67/550, para. 17).

21. On 24 February 2013, a Palestinian prisoner, Arafat Jaradat, lost his life during his incarceration in an Israeli prison, sparking wide protests across the West Bank amidst allegations that torture and ill-treatment caused his death. On 2 April 2013, another Palestinian prisoner, Maysara Abu Hamdiyeh, died while incarcerated in an Israeli prison from cancer amidst accusations of medical negligence and ill-treatment.¹⁷ The Palestinian Prisoner Support and Human Rights Association (ADDAMEER) maintains that since 1967, a total of 72 Palestinian prisoners have died under torture and 53 have died owing to medical neglect.¹⁸

¹¹ OCHA, Protection of Civilians: Casualties Database, <http://www.ochaopt.org/poc.aspx?id=1010002>; and OCHA Protection of Civilians Weekly Report, 19-25 March 2013; casualties include those who were injured or killed during the November 2012 offensive (see para. 17 below).

¹² Information provided by OCHA.

¹³ Information provided by OCHA.

¹⁴ Btselem, http://www.btselem.org/statistics/detainees_and_prisoners, and http://www.btselem.org/statistics/minors_in_custody.

¹⁵ Information provided by OCHA; see also the concerns raised in the report of the United Nations Special Rapporteur on the independence of judges and lawyers (A/HRC/14/26/Add.1).

¹⁶ Information provided by OCHA.

¹⁷ <http://www.guardian.co.uk/world/2013/apr/02/palestinian-prisoners-israel-hunger-strike>.

¹⁸ ADDAMEER, <http://www.addameer.org/etemplate.php?id=578>.

22. Although the Israeli military issued an order raising the age of majority for Palestinians to 18 for security-related matters, children are not treated in a manner that takes into account their age, needs and special circumstances.¹⁹ To the contrary, the ill-treatment of Palestinian children who are arrested, detained or prosecuted by the Israeli military system appears to be widespread, systematic and institutionalized.²⁰

23. Sixty per cent of all detentions of Palestinian children by Israeli security forces occur between midnight and 5 a.m. Eighty-seven per cent of Palestinian children in detention are denied bail and thus remain detained until the conclusion of a legal process. Ninety per cent plead guilty in order to avoid extended pretrial detention. Israel uses solitary confinement for 12 per cent of Palestinian child detainees (see A/67/550, paras. 10-12).

24. Israel's treatment of Palestinian child detainees is grossly inconsistent with the treatment it affords the children of Israeli settlers in the Occupied Palestinian Territory. This discrimination includes the minimum age of the child to receive a custodial sentence or an adult sentence; the right to have a parent present during interrogation; having interrogations recorded audiovisually; the time limit for being held in custody before being brought before a judge; having access to a lawyer and without charges being brought; and the maximum period of time between charges and a trial (see A/67/550, para. 16). UNICEF reports that: "In no other country are children systematically tried by juvenile military courts that, by definition, fall short of providing the necessary guarantees to ensure respect for their rights".²¹

Administrative detention

25. Israel's frequent use of administrative detention amounts to a policy of widespread and systematic arbitrary detention (A/67/550, para. 20). One of the most problematic issues with such detention is that in most cases, evidence on which the detention order is based is kept secret and neither the detainee nor his or her counsel has access to it (see A/67/372, paras. 26-27). By the end of February 2013, 169 Palestinians remained under administrative detention, which constitutes a decline from the number of administrative detainees in 2012.²²

26. Throughout 2012, more than 1,200 Palestinian prisoners reportedly participated in a series of hunger strikes to protest their conditions of detention and treatment by Israeli authorities, including the widespread use of administrative detention.²³

Population displacement, property destruction and confiscation

27. Israeli military operations have been the main cause of forced displacement in the Gaza Strip. The November 2012 offensive led to the displacement of an additional 3,000 Palestinians whose homes had been destroyed or severely damaged.²⁴

¹⁹ Information provided by OCHA.

²⁰ United Nations Children's Fund (UNICEF), *Children in Israeli Military Detention*, February 2013, p. 1.

²¹ UNICEF, *Children in Israeli Military Detention*, February 2013, p. 1.

²² Btselem, http://www.btselem.org/statistics/detainees_and_prisoners.

²³ A/HRC/21/33/AUV, para. 19.

²⁴ Information received from OCHA.

28. In 2012 the Israeli authorities demolished 540 Palestinian structures in Area C in the West Bank, including 165 homes. This resulted in the displacement of 815 people, including 474 children.²⁵ In January 2013 alone at least 139 structures, including 59 homes and other residential structures, were destroyed in 20 separate incidents.²⁶

29. In a number of cases, emergency shelters and other items provided as a form of emergency response have similarly been demolished and/or confiscated by Israeli authorities.²⁷

30. During 2012, the Israeli authorities demolished 64 Palestinian structures in East Jerusalem comprising 24 residential structures and 40 others, including livelihood and animal structures, and 15 “self-demolitions” imposed by these authorities.²⁸

31. Overall, there are at least 93,100 residents of East Jerusalem who live in structures built without permits and are therefore at potential risk of displacement.²⁹

32. The forced eviction of Palestinians from their homes by settlers, backed by the Government, is in itself incompatible with international human rights law (see A/67/372, para. 31) and has contributed to changing the demography of East Jerusalem. The Government of Israel supports the settlers’ actions by sending security forces to accompany the takeover of Palestinian homes (A/67/379, para. 16).

33. In July 2011 Israeli authorities indicated their intention to “relocate” approximately 27,000 Bedouin and herding Palestinians living in Area C. Should this plan be implemented, it would amount to individual and mass forcible transfers and forced evictions contrary to Israel’s obligations under international law (A/67/372, para. 37).

34. Since the beginning of the occupation, Israel has seized over 1 million dunums³⁰ of Palestinian land (approximately 40 per cent of the West Bank) and placed it within the jurisdictional boundaries of local and regional settlement councils, prohibiting Palestinian access to that land (A/HRC/22/63, paras. 63-64).

Settlements and settler violence

35. The establishment of the settlements on occupied territories is a violation of the Fourth Geneva Convention and the Hague Convention IV of 1907. In building settlements and associated infrastructure, Israel further violates international law through the appropriation of Palestinian property not justified by military necessity (see A/67/379, paras. 11-12).

36. Israel defined settlements as “national priority areas”, whose residents benefit from housing and education subsidies and direct incentives (A/HRC/22/63, para. 22). This

²⁵ Information received from OCHA.

²⁶ OCHA, Humanitarian Monitor Monthly Report, January 2013, p. 14.

²⁷ Information received from OCHA.

²⁸ http://www.ochaopt.org/documents/ocha_opt_Jerusalem_FactSheet_December_2012_english.pdf.

²⁹ See paras. 7-9 above; see also OCHA Fact Sheet, *East Jerusalem: Key Humanitarian Concerns Update*, December 2012, at http://www.ochaopt.org/documents/ocha_opt_Jerusalem_FactSheet_December_2012_english.pdf.

³⁰ 1 dunum = 1,000 m².

amounts to the transfer by Israel of its population into the Occupied Palestinian Territory (see A/67/375, para. 10), which is prohibited under international law.³¹

37. The scale of Israel's settlement project and the massive financial investment in it appear to confirm Israel's intention to retain control over these areas, thus violating a core principle of the Charter of the United Nations, which prohibits the acquisition of territory by the use or threat of force (see A/67/379, para. 12).

38. At present there are about 150 settlements together with approximately 100 unauthorized outposts.³² The number of settlers in the Occupied Palestinian Territory stood at 536,932 in 2011, including 267,643 in East Jerusalem.³³ The settler population (excluding that of East Jerusalem) has grown over the past decade at an average yearly rate of 5.3 per cent, compared with 1.8 per cent for the Israeli population as a whole. Israeli settlers now represent approximately 19 per cent of the overall population of the West Bank (see A/67/375, paras. 7 and 12).

39. On 30 November 2012, the day after the General Assembly accorded Palestine non-member Observer State status in the United Nations, the Government of Israel announced the advancement of the E1 settlement plan, comprising several thousand housing units.³⁴ This plan, if implemented, would completely sever East Jerusalem from the rest of the West Bank and compromise the territorial contiguity between the northern and southern parts thereof.³⁵

Settler violence

40. As the occupying Power, Israel has the obligation to protect the right to life and physical integrity of Palestinians.³⁶ Yet, various aspects of Palestinian life are significantly affected by a minority of settlers who are engaged in violence and intimidation with the aim of forcing Palestinians off their land (see A/HRC/22/63, para. 50).

41. There has been an increase in "racist violence and acts of vandalism on the part of Jewish settlers in the Occupied Palestinian Territory targeting non-Jews, including Muslims and Christians and their holy places", with impunity.³⁷

42. Since 2008, Israeli settlers committed at least nine arson attacks against Palestinian mosques and 21 incidents where graffiti was used to desecrate mosques, churches and burial grounds (see A/HRC/22/63, para. 60).

43. In 2012 355 settler violence incidents were recorded, resulting in injuries to 169 Palestinians, in addition to 240 incidents resulting in damage to Palestinian private property.³⁸

³¹ A/HRC/22/63, para. 38; Fourth Geneva Convention, article 49.

³² Information provided by OCHA.

³³ Palestinian Central Bureau of Statistics, http://www.pcbs.gov.ps/Portals/_pcbs/PressRelease/settlement2011E.pdf.

³⁴ Information provided by OCHA.

³⁵ Btselem, http://www.btselem.org/settlements/20121202_e1_human_rights_ramifications.

³⁶ See A/67/375, paras. 30-35; see also article 43 of the Hague Regulations annexed to the Fourth Geneva Convention, respecting the laws and customs of war on land, of 18 October 1907.

³⁷ See CERD/C/ISR/CO/14-16, para. 28.

³⁸ Information provided by OCHA.

Israeli security forces have, in numerous instances, failed to protect Palestinians from acts of violence committed by Israeli settlers, even when those acts occurred in their presence. Instead, in a number of documented cases, the Israeli military focused on dispersing Palestinians (see A/67/375, para. 19).

44. From March 2012 to January 2013, a total of 5,832 trees were destroyed or uprooted by settlers.³⁹

45. Settler violence continues with a culture of impunity.⁴⁰ Of 162 Israeli-monitored police investigations of cases of vandalism of Palestinian-owned trees in the West Bank since 2005, only 1 resulted in an indictment.⁴¹

West Bank wall

46. In combination with the gate and permit regimes, the wall continues to be the single largest obstacle to Palestinian movement within the occupied West Bank.⁴² The International Court of Justice concluded in its advisory opinion of 9 July 2004, that “the wall and its associated regime are contrary to international law” and that Israel is obligated to cease construction of and dismantle the wall and to make reparations for damages caused by the construction of this 708 km wall (see A/ES-10/273 and Corr.1). Israel has yet to comply with the advisory opinion.

47. Israel cites security reasons for the construction of the wall, even though most of its planned route runs within the Occupied Palestinian Territory, not along the Green Line. In addition, the wall’s route shows that its aim was to encircle as many Israeli settlements as possible, so as to enable de facto annexation to Israel of lands that lie to the Israeli side of the wall.⁴³

48. These lands constitute 9.4 per cent of the territory of the West Bank, including East Jerusalem and some of the most fertile land (238 km² of agricultural land)⁴⁴ of the West Bank.⁴⁵ About 21 per cent, 31 per cent and 13.1 per cent of the grasslands, forests and shrub lands, respectively, will also be annexed behind the wall upon its completion under the planned route.⁴⁶

49. Palestinians aged 16 and above require “permanent resident” permits from the Israeli authorities to continue to live in their homes if located in the seam zone,⁴⁷ while Israelis and foreign visitors have unrestricted access (see A/HRC/22/63, para. 40).

³⁹ Information received from United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).

⁴⁰ Information received from OCHA.

⁴¹ Yesh Din, Police investigations of Palestinian tree vandalization in the West Bank, October 2012.

⁴² Information received from OHCHR; see A/67/372, para. 44.

⁴³ Btselem, Arrested development: the long-term impact of the separation barrier, October 2012, p. 4.

⁴⁴ Information provided by the United Nations Environment Programme (UNEP).

⁴⁵ Btselem, Arrested development: the long-term impact of the separation barrier, October 2012, p. 13.

⁴⁶ Information provided by UNEP.

⁴⁷ Information received from OCHA; the seam zone is the West Bank area that lies between the wall and the 1967 armistice Green Line.