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## Human Rights Council

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**Human rights situation in Palestine and other  
occupied Arab territories**

### **Written statement\* submitted by Norwegian Refugee Council, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 January 2020]

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\* Issued as received, in the language(s) of submission only.



## Humanitarian relief obstruction, defamation of civil society organizations, Human Rights and humanitarian actors

The Norwegian Refugee Council (NRC) submits the following information on the situation of human rights in occupied Palestinian territory (oPt), ahead of the Human Rights Council 43<sup>rd</sup> Regular Session, noting the protection crisis persists, driven by Israel's belligerent occupation. In Gaza, the humanitarian situation remains dire, as evidenced by and deepening poverty and growing dependence on humanitarian relief, with sporadic outbreaks of violence wrongfully directed against Israeli civilians. In the West Bank, the rate of destruction of Palestinian-owned structures and settler violence remains high, and many Palestinians, particularly in Area C, East Jerusalem, and Hebron City (H2), continue to face the risk of forcible transfer.

In 2010, UNOCHA reported 1.7 million people in need in oPt;<sup>1</sup> ten years later, in 2020, their number has increased to 2.4 million, a considerable 41 percent increase, out of step with the 31 percent population growth over the same period. Over one million persons have been identified<sup>2</sup> as affected in some way by the humanitarian consequences related to International Humanitarian Law (IHL) and International Human Rights Law (IHRL) violations, including forced displacement.

Against the backdrop of steadily growing needs, a May 2019 Humanitarian Access Overview by ACAPS<sup>3</sup> ranks oPt among eleven nearly inaccessible humanitarian contexts. The report shows that humanitarian access remains severely constrained, as humanitarian organizations face significant obstacles on the movement of humanitarian personnel and goods across Gaza and the West Bank due to political, security, and administrative measures implemented by Israel.

In the West Bank, Israeli settlement expansion continues at an unprecedented rate,<sup>4</sup> including in East Jerusalem, which is accompanied by declarations Israeli officials of intent to formally apply Israeli sovereignty over significant parts of the West Bank, more recently against the backdrop of a United States of America plan endorsing proscribed acquisition of territory. In Gaza, Israel has maintained wanton access restrictions, in relation to the passage of persons and goods, including imperative relief consignments, despite the desperate humanitarian needs of the population in the health, water and energy, shelter, and education sectors.

The *de facto* annexation of Area C of the West Bank (and growing concern with imminent formal annexation), and the severance of the Gaza Strip violate the rule of the *jus contra bellum*, which prohibits the acquisition of territory by the use of force, amounting to a form of aggression. Since many of the peremptory norms, which have been violated by Israel, apply *erga omnes*, and in the light of the obligation of States to ensure the respect thereof, the Human Rights Council must remain seized by this matter, and States have a legal duty to take measures in order to induce Israel to comply with relevant obligations, including through cooperation in the Council.<sup>5</sup>

Of particular concern to humanitarian organizations are ongoing Israeli government-led defamation campaigns, through statements by public officials, as well as the incentivization of allied lobby-groups whose objective is to delegitimize humanitarians and human rights defenders by erroneously characterizing their humanitarian action and advocacy as support to designated terrorist groups. During 2019, humanitarian and human right organizations – Israeli, Palestinian and International alike – faced a rise in targeted attacks seeking to denigrate their work, ultimately thwarting their ability to deliver on their mandate. This escalating campaign is part and parcel of a broader set of measures that seek to restrict the

<sup>1</sup> [https://unispal.un.org/pdfs/CAP\\_2010\\_oPt.pdf](https://unispal.un.org/pdfs/CAP_2010_oPt.pdf)

<sup>2</sup> [https://www.ochaopt.org/sites/default/files/hrp\\_2020.pdf](https://www.ochaopt.org/sites/default/files/hrp_2020.pdf)

<sup>3</sup>

[https://www.acaps.org/sites/acaps/files/products/files/20190502\\_acaps\\_humanitarian\\_access\\_overview\\_may\\_2019\\_0.pdf](https://www.acaps.org/sites/acaps/files/products/files/20190502_acaps_humanitarian_access_overview_may_2019_0.pdf)

<sup>4</sup> [https://unsco.unmissions.org/sites/default/files/security\\_council\\_briefing\\_-\\_18\\_december\\_2019\\_scr2334\\_0.pdf](https://unsco.unmissions.org/sites/default/files/security_council_briefing_-_18_december_2019_scr2334_0.pdf)

<sup>5</sup> <https://drive.google.com/open?id=1XSM3yUk8xDBjqhp0VpVqfDCxfD5GakhT>

space for humanitarian assistance and civil society presence in oPt. Aid obstruction policies and practices aim to discourage donor-States from committing aid to humanitarian organizations and their Palestinian beneficiaries.

The provision of humanitarian assistance in occupied territory is governed by IHL and IHRL. Article 43 of the 1907 Hague Regulations imposes a general duty upon an Occupying Power to provide for the wellbeing of the whole protected population as a duty of good governance. This, in turn, forms the basis for the concomitant and secondary duty to accept and facilitate humanitarian relief.<sup>6</sup> Further, the Occupying Power must not divert relief consignments from the purpose for which they are intended and must also “facilitate the rapid distribution”<sup>7</sup> of relief consignments. The consent by the Occupying Power to the provision of relief must not be withheld for arbitrary or capricious reasons.

Consent is said to be arbitrarily withheld when, *inter alia*, such withholding or the reasons behind it, violate other obligations of the Occupying Power. For instance, the unlawful and wanton destruction and seizure of humanitarian assistance; the imposition of an unlawful spatial planning regime; the laying of a siege adversely affecting the civilian population; and the harassment, detention or arrest of relief workers would amount to the arbitrary withholding of consent in the oPt context, and would constitute an unjustified obstruction of humanitarian assistance.

The enactments of the Military Commander designed to facilitate breaches of IHL in an abuse of rights (such as the transfer of the Occupying Powers’ civilian population into occupied territory, the establishment and expansion of settlements; the forcible transfer of the protected population, and the combined maritime and air blockade and land closure besieged the Gaza Strip) are manifestly inconsistent with the permissible legislative jurisdiction exercised by the occupation authorities, as holder of public power, and those should, therefore, be hedged with numerous safeguards.

The scope of Israel’s obligation to agree to relief schemes includes the necessary background of humanitarian assistance and protection, such as the necessary legal, institutional financial facilities, and procedural aspects of humanitarian organizations’ work. In response to a recent communication from the Human Rights Council mandate holders on freedom of opinion and expression, freedom of peaceful assembly and association, and human rights defenders,<sup>8</sup> Israel posited that “entry of humanitarian assistance to the Palestinian territories is facilitated by the Coordinator of Government Activities in the Territories, which seeks to promote humanitarian projects with NGOs [...] for the benefit of the Palestinian population.” It further states that “Israel provides privileges and benefits to registered international NGOs based in Israel, including, for example: Israeli work permits for a period of up to five years without fees, (representing a significant in-kind contribution to their work), free passage between the West Bank and Israel, ability to enter and work in Gaza, passage to Israel for the Palestinian employees of these organizations living in the West Bank.”<sup>9</sup>

Contrary to the claims made in the communication from the Government of Israel, NRC and its partners documented an increase in the destruction of aid,<sup>10</sup> which is indicative of the intentional targeting of humanitarian relief objects. The intentional obstruction of humanitarian assistance has forced humanitarian organizations to conduct responses at reduced scope and standards, contributing to a deterioration in the living conditions of the affected communities and households, making them prone to forcible transfer.

<sup>6</sup> Article 59 of the Fourth Geneva Convention provides that when “whole or part of the population of an occupied territory are inadequately supplied, the occupying power shall agree to relief schemes on behalf of the said population and shall facilitate them by all means at its disposal.”

<sup>7</sup> [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2\\_rul\\_rule55](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule55)

<sup>8</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24647>

<sup>9</sup> <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=34808>

<sup>10</sup> According to UNOCHA, in 2019 the Israeli Military Commander ordered the destruction or seizure of 623 structures in 2019, the vast majority of which were in Area C (63%) and East Jerusalem (33%). Incidents were centered in the Jerusalem periphery, central and northern Jordan Valley and South Hebron Hills, corresponding to areas prioritized for acquisition by Israel. As a result, 66,358 people were adversely affected. Of the 623 structures seized or destroyed in 2019, 127 were funded by donors as humanitarian aid, representing a considerable increase in their relative part, from 12 percent in 2018, to 20 percent in 2020.

Further to directly interfering with the provision of imperative and impartial aid by humanitarian organizations, a recent survey conducted among 80 International NGOs operational in oPt found considerable bureaucratic impediments to establishing the requisite institutional presence and in accessing legal facilities required. 28% of INGOs experienced undue restrictions on registration by Israel, 46% of INGOs experienced undue restrictions and delays in securing work visas and residency permits in the West Bank, including East Jerusalem, and 30% of INGOs experienced undue restrictions and delays in securing permits for international staff to be employed in Gaza.

The intentional obstruction of humanitarian protection and assistance on the part of Israel is another means by which States and impartial humanitarian organizations are actively discouraged from ensuring respect for international law, the protection and promotion of the rights of Palestinians, and constitutes a collective penalty on the population in need. Given the political trajectory, we fear mounting institutional defamation. Council Members should reflect on the relevant legal frameworks governing aid provision,<sup>11</sup> dismiss false allegations against humanitarian and human rights actors, and express support to international aid in oPt in view of the humanitarian imperative, the rules of IHL and IHRL, and the need for protective presence and relief.

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<sup>11</sup> [https://www.nrc.no/globalassets/pdf/legal-opinions/bothe\\_expert-opinion-on-humanitarian-assistance.pdf](https://www.nrc.no/globalassets/pdf/legal-opinions/bothe_expert-opinion-on-humanitarian-assistance.pdf)