



# General Assembly

Distr.: General  
24 June 2021

English only

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## Human Rights Council

Forty-seventh session

21 June–9 July 2021

Agenda item 7

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

### **Written statement\* submitted by United Nations Watch, 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.

[30 May 2021]

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



## Remedies for Protection Gap in Mandate of Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967

United Nations Watch is concerned about the protection gap fostered by the mandate under Agenda Item 7.

Despite the geographic and situational mandate denoted by the title of the position—Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967—the text of the mandate charges the Rapporteur only with investigating “Israel’s violations.”<sup>1</sup> No other country mandate focuses on just one side to a conflict.

Amnesty International has stated that the mandate’s “limitation to Israeli violations undercuts both the effectiveness and the credibility of the mandate.”<sup>2</sup> Amnesty noted that it “fails to take account of the human rights of victims of violations of international human rights and humanitarian law committed by parties other than the State of Israel.”<sup>3</sup>

Unfortunately, the practical effects of this protection gap are that Palestinian and Israeli victims of human rights violations committed by the Palestinian Authority (PA), Hamas, or any other Palestinian actor are largely ignored by the Special Rapporteur. The most recent conflict between Israel and Hamas highlights this disparity.

On May 10, 2021, Hamas launched an unprovoked military attack on Israel, firing seven rockets at Jerusalem. During the next 11 days the terrorist organization fired over 4,000 rockets targeting Israeli civilians, killing 13, injuring 300, terrorizing millions and causing millions of dollars in damage. It did so from deep within the densely populated urban areas of Gaza, using its own civilians as human shields.

During this time, the Special Rapporteur issued three one-sided press releases, on May 11,<sup>4</sup> May 18,<sup>5</sup> and May 21<sup>6</sup> which focused on criticizing Israel while ignoring or minimizing Hamas violations against both Palestinians and Israelis. Ultimately, the statements legitimize Hamas terrorism and deny Israel’s right to self-defense. For example, the statements:

- Justify Hamas attacks on Israeli civilians, as a response to the “dispossession and the denial of rights in the occupied Palestinian territory” and “forced evictions in Sheikh Jarrah and Silwan,” but never acknowledge Israel’s right to self-defense. Just the opposite, the May 18 statement expressly states that self-defense does not justify Israel’s actions.
- Ignore Hamas rejectionism and incitement, such as the May 7th call by Hamas politburo member Fathi Hammad urging the “people of Jerusalem” to purchase five-shekel knives and “cut off the heads of the Jews;”<sup>7</sup> and the statement by Hamas politburo Deputy Chairman Musa Abu Marzouk one week into hostilities about how Hamas intends to eliminate Israel: “This is just one of a [series] of wars, and a war

<sup>1</sup> Mandate to Discriminate, UN WATCH (March 10, 2016), <https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf>.

<sup>2</sup> Mandate of the Special Rapporteur on the OPT should be made comprehensive, AMNESTY INTERNATIONAL (July 11, 2008) <https://www.amnesty.org/download/Documents/56000/mde150282008eng.pdf>.

<sup>3</sup> Id.

<sup>4</sup> East Jerusalem: UN Experts deplore brutal police response to protests, urge eviction threats to be lifted, OHCHR (May 11, 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27083&LangID=E>.

<sup>5</sup> Gaza-Israel escalation: End violence now, then work to end occupation, say UN experts, OHCHR (May 18, 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27102&LangID=E>.

<sup>6</sup> Gaza-Israel: UN experts welcome ceasefire, call for ICC probe, OHCHR (May 21, 2021), <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27108&LangID=E>.

<sup>7</sup> Senior Hamas Official Fathi Hammad To Palestinians In Jerusalem: Buy 5-Shekel Knives And Cut Off The Heads Of The Jews, MEMRI (May 7, 2021), <https://www.memri.org/tv/snr-hamas-official-fathi-hammad-urges-people-jerusalem-cut-off-heads-jews-knives-day-reckoning-moment-destruction>.

will come when we negotiate with them about the end of their occupation, and their leaving of Palestine...”<sup>8</sup>

- Create false moral equivalency between offensive, unprovoked Hamas rocket attacks and the targeted, defensive Israeli response, referring to both as “indiscriminate or deliberate,” suggesting both are equally “war crimes.” In fact, Hamas rocket attacks are indiscriminate with the express goal of harming Israeli civilians, while Israeli air strikes are not. Israel employs advanced weapons directed at Hamas military assets and takes many precautions to minimize civilian harm. Under international law, only the Hamas attacks are war crimes.
- Misrepresent Israeli strikes as “indiscriminate” or “deliberate” attacks on “civilians.” In fact, Israel attacked more than 1500 military targets with limited civilian casualties.<sup>9</sup> OHCHR said it verified that 129 of 247 Gaza deaths were civilians.<sup>10</sup> Israel said it killed 200 militants.<sup>11</sup> According to Col. Richard Kemp, these numbers indicate that the IDF was “even more successful in minimizing civilian casualties during this campaign than in previous engagements in Gaza.”<sup>12</sup>
- Distorts International Humanitarian Law (IHL) proportionality rule suggesting it is an after-the-fact “effects test” that examines the “civilian toll and property destruction.” In fact, it is a prospective assessment of whether the expected civilian harm from a particular strike will be excessive relative to the anticipated military advantage.<sup>13</sup> IHL accepts the lawfulness of some incidental civilian casualties.<sup>14</sup> Moreover, proportionality cannot be assessed without access to the data on which the commander based his decision.
- Ignores harm to Gazans caused by Hamas, including at least 16 Gazans killed by Hamas rockets that fell short in Gaza;<sup>15</sup> damage caused by Hamas rockets to electrical lines supplying power to Gaza;<sup>16</sup> and Hamas mortar attacks on the Kerem Shalom crossing which disrupted humanitarian aid to Gaza.<sup>17</sup>

Overall, the mandate-holder’s reports and statements continue to ignore the vast majority of PA and Hamas violations. A list of Palestinian human rights violations ignored by the current mandate-holder is published online.<sup>18</sup> They include:

PA Violations in West Bank Ignored by SR

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- <sup>8</sup> Deputy Chairman of Hamas Political Bureau Musa Abu Marzouk: Israel Will Go The Way Of The USSR And Berlin Wall, MEMRI (May 17, 2021), <https://www.memri.org/tv/musa-abu-marzouk-dpe-chairman-hamas-politburo-israel-go-ussr-berlin-wall-negotiate-end-occupation>.
- <sup>9</sup> @IDF, TWITTER (May 22, 2021, 9:27 PM), <https://twitter.com/IDF/status/1396170789305659402>.
- <sup>10</sup> Regular Press Briefing by the United Nations Information Service, UN GENEVA (May 25, 2021), <https://www.ungeneva.org/en/news-media/bi-weekly-briefing/2021/05/regular-press-briefing-united-nations-information-service-5>.
- <sup>11</sup> Joseph Krauss, EXPLAINER: What was the outcome of the latest Gaza war? AP (May 21, 2021), <https://apnews.com/article/what-was-the-outcome-of-israel-gaza-war-4f94e80a9d6f53ecd5353db83ed27526>.
- <sup>12</sup> Richard Kemp, Trumpets and Tank Engines: A Turning Point in Gaza? GATESTONE INSTITUTE (May 16, 2021), <https://richard-kemp.com/trumpets-and-tank-engines-a-turning-point-in-gaza/>.
- <sup>13</sup> Laurie R. Blank, Asymmetries and proportionalities, THE HILL (July 29, 2014), <https://thehill.com/blogs/pundits-blog/international/213546-asymmetries-and-proportionalities>.
- <sup>14</sup> Id.
- <sup>15</sup> Nine children killed in Gaza Strip as violence escalates, DCI-PALESTINE (May 11, 2021), [https://www.dci-palestine.org/nine\\_children\\_killed\\_in\\_gaza\\_strip\\_as\\_violence\\_escalates](https://www.dci-palestine.org/nine_children_killed_in_gaza_strip_as_violence_escalates).
- <sup>16</sup> AP, Israel says high-voltage power lines supplying Gaza Strip with electricity damaged, AL ARABIYA (May 16, 2021), <https://english.alarabiya.net/News/middle-east/2021/05/16/Israel-says-high-voltage-power-lines-supplying-Gaza-Strip-with-electricity-damaged>.
- <sup>17</sup> Gaza strikes shipments of humanitarian aid, Kerem Shalom crossing Closed, JERUSALEM POST (May 19, 2021), <https://www.jpost.com/israel-news/gaza-strikes-shipments-of-humanitarian-aid-kerem-shalom-crossing-closed-668540>.
- <sup>18</sup> Human Rights Violations Ignored by UN Palestine Rapporteur, UN WATCH (May 27, 2020), <https://unwatch.org/lynk/>.

- Censorship: PA arrests political activist Tareq al-Khadairi for cursing Yasser Arafat during a pro-Hamas rally in Ramallah. (May 2021).<sup>19</sup>
- Arbitrary Arrest: PA Security Forces arbitrarily arrest Palestinian political activist Nizar Banat for criticizing PA decision to resume security cooperation with Israel. (November 2020).<sup>20</sup>
- Arbitrary Arrest: PA arbitrarily arrests Palestinians who told an Israeli TV news report on annexation that they would prefer to live under Israeli rule. (June 2020).<sup>21</sup>

#### Hamis Violations in Gaza Ignored by SR

- Human shields: Hamas exploits Gaza civilians as human shields, deliberately embedding military objectives within Gazan homes, schools, hospitals and even high-rise buildings used by journalists to maximize Palestinian civilian casualties, as part of its propaganda war against Israel. (May 2021).<sup>22</sup>
- Violation of Personal Freedoms: Hamas agents assault female journalist for not wearing Hijab. (May 2021).<sup>23</sup>
- Discrimination Against Women: Hamas-run Islamic court rules women cannot travel without permission of male guardian. (February 2021).<sup>24</sup>

#### Palestinian Terrorism Against Israelis Ignored by SR

- Terror Tunnels: Hamas spends millions to construct highly sophisticated network of 60 miles of terror tunnels beneath civilian infrastructure in Gaza, the sole purpose of which is to attack Israel. (May 2021).<sup>25</sup>
- Rocket Attacks: Terrorist groups in Gaza indiscriminately fire over 36 rockets and mortars at Israeli civilian areas along Gaza border, damaging buildings and vehicles and terrorizing the civilian population. (April 2021).<sup>26</sup>
- Murder of Civilian: Palestinian terrorist brutally murders 52-year-old Israeli mother-of-six Esther Horgan while she is out for a run on a local nature trail. (December 2020).<sup>27</sup>

<sup>19</sup> @KhaledAbuToameh, TWITTER (May 24, 2021, 8:38 PM), <https://twitter.com/KhaledAbuToameh/status/1396883244772171779>.

<sup>20</sup> Khaled Abu Toameh, PA arrests political activist for criticizing security coordination, JERUSALEM POST (Nov. 21, 2020), <https://www.jpost.com/middle-east/pa-arrests-political-activist-for-criticizing-security-coordination-649804>.

<sup>21</sup> Alexandra Vardi and Michael Blum, Palestinians said arrested after backing annexation in Israeli TV report, TIMES OF ISRAEL (July 14, 2020), <https://www.timesofisrael.com/palestinians-said-arrested-after-backing-annexation-in-israeli-tv-report/>.

<sup>22</sup> IDF airstrike destroys Hamas rocket launch site 'concealed in Gaza civilian structure,' YOUTUBE (May 19, 2021), <https://www.youtube.com/watch?v=N-gL21TynZc>; IDF attacks Gaza rocket launchers, houses of senior Hamas leaders, I24 NEWS (May 15, 2021), <https://www.i24news.tv/en/news/israel/diplomacy-defense/1621096808-idf-attacks-gaza-rocket-launchers-houses-of-senior-hamas-and-leaders>.

<sup>23</sup> Aaron Boxerman, Hamas officer said to assault journalist for not wearing hijab, TIMES OF ISRAEL (May 2, 2021), <https://www.timesofisrael.com/hamas-officer-said-to-assault-gaza-journalist-for-not-wearing-hijab>.

<sup>24</sup> Hamas court rules women need guardian's approval to travel, TIMES OF ISRAEL (Feb. 15, 2021), <https://www.timesofisrael.com/hamas-court-rules-women-need-guardians-approval-to-travel/>.

<sup>25</sup> How Hamas built an underground terror network in the heart of Gaza, JERUSALEM POST (May 21, 2021), <https://www.jpost.com/arab-israeli-conflict/how-hamas-built-an-underground-terror-network-in-the-heart-of-gaza-668605>; @kann\_news, TWITTER (May 21, 2021), 2:20 AM, [https://twitter.com/kann\\_news/status/1395519761161805825](https://twitter.com/kann_news/status/1395519761161805825).

<sup>26</sup> Judah Ari Gross, Rockets fired from Gaza into Israel as fighting enters second day, TIMES OF ISRAEL (April 24, 2021), <https://www.timesofisrael.com/iron-dome-intercepts-gaza-rocket-over-sderot-as-fighting-enters-2nd-day/>.

<sup>27</sup> Israeli police arrest terrorist who allegedly murdered Esther Horgan, JERUSALEM POST (Dec. 28, 2020), <https://www.jpost.com/israel-news/watch-police-special-unit-arrests-terrorist-who-murdered-esther-horgan-653465>.

We urge the mandate-holder to acknowledge that if universal human rights standards are applied selectively, and systematically denied to any class of people, they cease to be universal standards at all.

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