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Palestine, the Occupation and the Fourth Geneva Convention Facts and Figures

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Facts and Figures



“International humanitarian law is meant to strike a balance between military necessity and humanitarian considerations. It does not allow military endeavors that aim to make permanent changes to occupied territory; to force people to leave their homes; or to unlawfully seize land and resources from communities. Humanitarian law is and will remain a tool for the protection of the life and dignity of civilians and combatants and thus for a modicum of stabilization in the midst of conflict.”

Peter Maurer, President of the International Committee
of the Red Cross, 2012

Introduction

Over the past 20 years, Israel as an occupying power has continued to flout international humanitarian law by ignoring its obligations as a State party to the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) of 12 August 1949.

In view of the failure of the judiciary in Israel to undertake serious efforts to prosecute those responsible for violations of the Convention, the international community should introduce specific mechanisms in order to seek restorative justice for the Palestinian victims of such violations.

This booklet summarizes a report entitled *Palestine, the Occupation and the Fourth Geneva Convention*, which will be published by the Economic and Social Commission for Western Asia in December 2014. The report lists key articles of the Convention and examples of their violation by Israel.

The aim of this booklet is to raise awareness of the issue and spark debate on how to restore the rule of international law, and specifically respect for the provisions of the Convention, in the occupied Palestinian territory. There cannot be peace in Palestine, or anywhere else, outside the framework of international law.

“UN agencies, local and international human rights groups and others have documented a pattern of war crimes and other serious violations of international law – both international humanitarian law and international human rights law – committed by Israeli military and security forces since they occupied the West Bank, including East Jerusalem, and the Gaza Strip in 1967.”

Amnesty International, 2014

Applicability of the Convention

Article 2: *“... the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.”*

Israel does not recognize the applicability of the Convention in occupied Palestinian territories, even though:

- Eighteen Security Council resolutions reaffirm its applicability to those territories;
- In 2001, the Conference of High Contracting Parties to the Fourth Geneva Convention reaffirmed its applicability to occupied Palestinian territories, including East Jerusalem;
- The International Court of Justice, in an Advisory Opinion issued in 2004, determined that Israel is under a legal obligation to comply with the Convention in those territories.

“In the Occupied Palestinian Territory – that is, the West Bank, East Jerusalem, and the Gaza Strip – the applicable legal framework is the law of belligerent occupation. This consists of the rules enshrined in the 1907 Hague Regulations, the Fourth Geneva Convention, and customary IHL (International Humanitarian Law).”

Peter Maurer, President of the International Committee of the Red Cross, 2012

Annexation

Article 47: *“Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention ... by any annexation by the latter of the whole or part of the occupied territory.”*

- Some 70 km² of Palestinian land encompassing East Jerusalem and a number of nearby villages was annexed by Israel in June 1967;
- An estimated 1,000 km² (20 per cent of the West Bank, including East Jerusalem) had been confiscated by Israel by 2013;
- A further 680 km² (12 per cent of the West Bank), including around 454 km² of agricultural land, pastures and open areas, will be de facto annexed as a result of construction of the separation wall.



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Disregard for Civilian Life

Article 27: *“Protected persons are entitled in all circumstances, to respect for their persons ... They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof ...”*

- Since 1987, a pattern of excessive use of force by the security forces of Israel against Palestinian civilians has been documented;
- More than 10,000 Palestinians have been killed by security forces since 1987;
- Israeli forces and settlers killed 1,918 Palestinian children between 2000 and 11 November 2014;
- During the 2009 winter offensive on Gaza, 1,715 Palestinian civilians were killed;
- Israeli forces killed 1,486 civilians, including more than 500 children, during the summer offensive on Gaza in 2014;
- More than 1,000 children will suffer from life-long disability as a result of the 2014 offensive.



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Denial of Medical Care and Nourishment

Article 16: *“The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.”*

- At least 10,000 of an estimated 46,000 pregnant women in Gaza were displaced during the summer offensive in 2014;
- At least 67 Palestinian mothers were forced to give birth at Israeli checkpoints between 2000 and 2014;
- Twelve per cent of patients from Gaza were denied permits to seek treatment outside the Strip or did not receive timely replies and missed their hospital appointments in 2013;
- One fifth of applications by Palestinian patients to access medical facilities in East Jerusalem are routinely denied;
- At least 10 persons, including 7 pregnant women, died in 1996 for lack of a permit or as a result of delays at border crossings giving access to better equipped medical facilities in the West Bank, Jerusalem or other locations in Israel.

Article 18: *“Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.”*

- During the summer offensive in 2014, 32 hospitals and 97 primary health clinics were registered as having been damaged or affected by closures;
- In 2009, 48 per cent of the 122 health facilities in the Gaza Strip were damaged or destroyed by Israeli shelling.

Article 55: *“... the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.”*

- Prior to the 2014 offensive, 57 per cent of households in Gaza did not enjoy food security due to the blockade of the Gaza Strip;
- At the same time, 122 essential drug items and 471 types of medical goods and disposables were out of stock;
- In 2009, Israel fired white phosphorus shells and hit the main United Nations Relief and Works Agency for Palestine Refugees (UNRWA) compound in Gaza, destroying hundreds of tons of food and medicine;
- In 2010, Israeli forces attacked six ships of the Gaza Freedom Flotilla, which was carrying 10,000 tons of humanitarian supplies and had no military capacity or objective;
- During the 2014 offensive, the entire population of the Gaza Strip depended on food aid.

Article 56: *“... the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local*



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authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory ...”

- During the 2009 offensive, 16 medical workers were killed and 26 injured while on duty, and 29 ambulances were damaged or destroyed;
- During the 2014 offensive, 16 medical workers were killed and 83 injured while on duty, and 45 ambulances were damaged or destroyed;
- Access from the West Bank into Jerusalem is denied to 90 per cent of Palestinian Red Crescent ambulances;
- The entry of ambulances, mobile units and health workers into restricted, isolated or marginalized areas in the West Bank is often obstructed or subject to delays.

Population Displacement

Article 49: *“Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory ... are prohibited, regardless of their motive.”*

- The forced displacement of Palestinians from their land has continued for more than three generations;



Shareef Sarhan - United Nations Photo

- Evictions and house demolitions in occupied Palestinian territories left 135,000 Palestinians displaced between 1967 and August 2014;
- From January to October 2013, 969 Palestinians, including 441 children, were displaced;
- In the first 10 months of 2014, 1,023 Palestinians were forcibly displaced as a result of the demolition of their homes by the Israeli authorities in the West Bank and East Jerusalem;
- More than 250,000 Palestinians were effectively exiled through the revocation of their residency permits up until 1993;
- By 2013, 15,000 Palestinians had lost their East Jerusalem residency permits;
- By July 2014, 62 per cent of the separation wall had been built, with 10 per cent under construction passing through 150 Palestinian communities.

Denial of Detainees' Rights

At the end of August 2014, there were 5,504 Palestinians, among them 201 minors, in Israeli prisons.

Article 5: *"Where ... an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person ... shall nevertheless be treated with humanity, and in case of trial,*

Administrative detention is legal under Israeli law. On the basis of Military Order Number 1229 of 1988, military commanders are empowered to detain an individual for up to six months, extendable for unlimited additional six-month periods, without any charge or trial.

shall not be deprived of the rights of fair and regular trial prescribed by the present Convention.”

- At the end of August 2014, 473 Palestinians were being held in administrative detention in Israeli prisons;
- Their detention has been renewed as often as 12 times, leaving some detainees without trial for as long as five years;
- In February 1998, the number of Palestinians in administrative detention reached 500.

Article 31: *“No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.”*

Israeli security forces use forms of torture and ill-treatment that include: sleep deprivation; excessive use of handcuffs; beatings; verbal abuse; stress positions; solitary confinement; humiliation; and threats of killing, sexual assault and house demolition made against the detainee or his or her family.

- In 2010, 645 complaints were filed against Israeli security interrogators for alleged ill-treatment and torture of Palestinian detainees;
- Up until 2013, 125 Palestinian prisoners had died due to torture or medical neglect;
- No criminal investigation resulted from 776 complaints of torture against Palestinians in Israeli prisons between 1999 and 2013;
- During 2013, the United Nations Children’s Fund (UNICEF) and partners documented 107 cases of ill-treatment of children by the Israeli security forces, including 11 cases of children under the age of 14.



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Article 76: "Protected persons accused of offenses shall be detained in the occupied country, and if convicted they shall serve their sentences therein."

- After the withdrawal of the Israeli army from major Palestinian towns in the West Bank in 1995, all Palestinian prisoners were transferred to Israel;
- Since 2009, at least 215 Palestinian children have been transferred from the occupied Palestinian territory to be detained or serve prison sentences inside Israel.

Destruction of Property

Article 53: *"Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations."*

- Approximately 24,800 Palestinian structures were demolished in the occupied Palestinian territory between 1967 and 2010;



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- Between January and October 2013, 533 Palestinian structures, including 205 residences, were demolished by the Israeli authorities;
- As a result of the 2014 offensive in Gaza, 13 per cent of the housing stock was damaged and up to 20,000 homes were destroyed or rendered uninhabitable.

Collective Punishment

Article 33: *“No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.”*

- The blockade imposed by Israel since 2007 on 1.7 million Palestinians in Gaza amounts to collective punishment;
- Approximately 680,000 persons, or 30 per cent of the population of the West Bank, will be directly harmed by the separation wall;
- In 1996, the Gaza Strip endured closure for 287 days;



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- In 2014, Gaza's only power plant was destroyed in an Israeli strike, leaving 1.5 million people with limited or no access to water supplies;
- In February 2014, 99 fixed checkpoints and more than 400 other physical obstacles hindered Palestinian movement in the West Bank;
- Between October 2001 and 2009, 666 family homes of suspected or actual Palestinian militants were demolished by Israeli authorities as a punitive measure.

Colonization

Article 49: *"The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."*

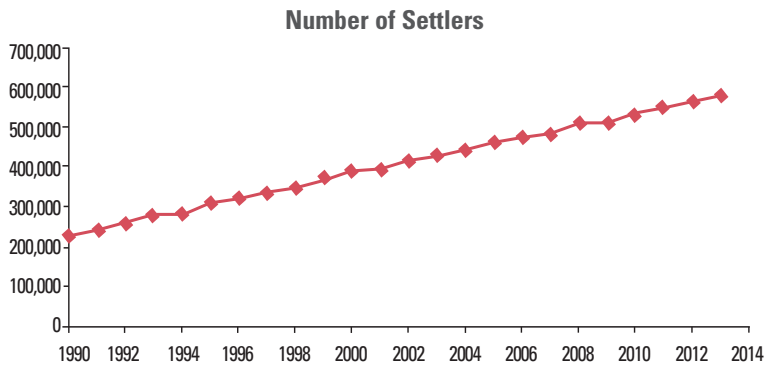
- By the end of 2013, 206,705 Israeli settlers were living in occupied East Jerusalem and 374,096 in the West Bank;

Since 1967, consecutive Israeli Governments have participated in the creation of settlements through planning policy provisions. Settlement building has been facilitated by the legalization of outposts; the acquisition of control over land on which settlements are subsequently built; the provision of infrastructure and public services; benefits and incentives to settlers; and sponsorship for economic activities.

- Between 1995 and 2013, Israel built more than 50,000 settlement-housing units in the occupied Palestinian territory;
- By 2013, 100 Israeli settlements in the occupied Palestinian territory had been placed on the Israeli Government's level A national priority area list, thereby becoming entitled to maximum benefits in all fields.



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Source: Foundation for Middle East Peace, www.fmep.org/settlement_info.

Impeded Education

Article 50: *“The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.”*

- After the 2014 offensive in Gaza, nearly half a million Palestinian children were unable to return to primary and secondary schools at the start of the new academic year;
- In 2014, 244 schools, 6 universities and 5 colleges in Gaza were damaged by Israeli shelling;
- The Gaza blockade has prevented the construction of schools. At least 475 additional schools will be needed by 2020 to meet the increase in the student population;
- Some 10,000 Palestinian students in the West Bank attend classes in tents, caravans or tin shacks, because permits to build classrooms or upgrade dilapidated buildings cannot be obtained from the Israeli authorities;
- By the end of 2014, 27 demolition orders, 20 orders to stop work and one sealing order had been issued by the



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Israeli authorities with regard to Palestinian education facilities in the West Bank;

- Another 2,200 classrooms are needed in East Jerusalem to accommodate Palestinian students;
- During 2013, 5,000 Palestinian students faced daily delays at Israeli checkpoints in the West Bank.

Definition of grave breaches

Article 147: "Grave breaches ...shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: willful killing, torture or inhuman treatment, including biological experiments, willfully causing great suffering or serious injury to body or health."

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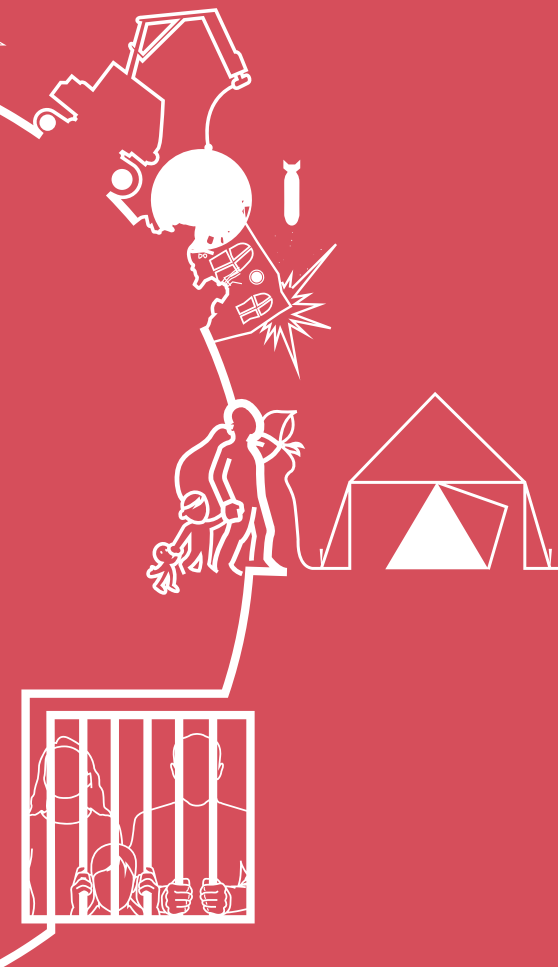
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UN House

P.O.Box: 11-8575

Riad El Solh 1107-2812

Beirut, Lebanon

T. +961 1 981 301

F. +961 1 981 510

www.escwa.un.org