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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

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

**Report of the United Nations High Commissioner
for Human Rights on the implementation of
Human Rights Council resolutions S-9/1
and S-12/1***

Summary

The present report is the High Commissioner's fifth periodic report on the human rights situation in the Occupied Palestinian Territory submitted in the light of Human Rights Council resolutions S-9/1 and S-12/1.

* Late submission.

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I. Introduction

1. This is the High Commissioner's fifth periodic report on the human rights situation in the occupied Palestinian territory (oPt).¹ The report covers the period from 16 November 2011 to 29 November 2012. The information in the present report is based primarily on human rights monitoring carried out by the field presence of the Office of the United Nations High Commissioner for Human Rights in the oPt (OHCHR-oPt). Monitoring activities are implemented within the framework of General Assembly resolution 48/141 of 1993 and Human Rights Council resolutions S-9/1 and S-12/1 of 2009.

2. In the present report, the High Commissioner highlights issues of concern with regard to each of the main duty-bearers in the oPt, namely the Government of Israel, the Palestinian Authority and the de facto authorities in Gaza (DFA). The issues addressed do not exhaustively cover all human rights concerns in the oPt. The report focuses on areas requiring priority attention by duty-bearers, and should be read in conjunction with two recent reports by the Secretary-General (A/67/372 and A/67/375), which address additional issues not dealt with in the present report.

3. The addendum to this report covers issues of concern arising from the escalation in hostilities in Gaza and southern Israel between 14 and 21 November 2012, referred to by Israel as "Operation Pillar of Defence," and referred to in this report as "the crisis". During the crisis, according to information available to OHCHR, a total of 174 Palestinians were killed. At least 168 of them were killed by Israeli military action, of whom 101 are believed to be civilians, including 33 children, and 13 women. Hundreds of Palestinians were injured.² Palestinian armed groups fired over 1500 rockets at Israel, reportedly killing three soldiers and four Israeli civilians.³ According to the Government of Israel, 239 others, including 219 civilians, were injured.⁴ OHCHR closely monitored the situation and noted, on numerous occasions, the failure of both parties to respect the laws of war, including the principles of distinction, proportionality and precautions.

4. It should be noted that in March 2012 the Government of Israel announced in the media that its relations with the Human Rights Council and with OHCHR would be suspended following the Human Rights Council's adoption of a resolution establishing a fact finding mission on Israeli settlements. This decision was confirmed in letters of 14 May 2012 from the Permanent Representative of Israel to the United Nations in Geneva to the High Commissioner and the President of the Council. The High Commissioner

¹ Previous reports: A/HRC/19/20, A/HRC/16/71, A/HRC/13/54, A/HRC/12/37.

² Figure varies according to source. The numbers cited refer to the Protection Cluster database on casualties, for which Palestinian and Israeli organizations provided data. The IDF, according to media, estimate the number of Palestinians killed at 177, including 120 combatants and the number of injuries (including unspecified number of civilians) at 900. Gaza's Ministry of Health (MoH) estimates the number of Palestinians killed at 189, and injuries at 1526. No details on casualties of civilians are provided by MoH. For IDF figures see Times of Israel, <http://www.timesofisrael.com/several-casualties-in-explosion-in-central-tel-aviv/>. For Gaza MoH figures, see Ma'an News Agency, 27 December 2012, <http://maannews.net/arb/ViewDetails.aspx?ID=551374>.

³ According to the Government of Israel, one Israeli civilian was located at a legitimate military objective. See http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Memorial/2012/GazaNov2012/Alayaan_Salem_al-Nabari.htm.

⁴ Ministry of Foreign Affairs (MOFA), Israel under fire - November 2012, November 22, 2012, http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm.

responded noting her surprise at this unprecedented decision, urging the Government to reconsider its position and reaffirming OHCHR's readiness to engage with Israel. There was no formal change in Israel's position during the remainder of the reporting period.

II. Legal framework

5. International human rights law and international humanitarian law are applicable in the oPt. A detailed analysis of the applicable legal framework and the basis for the obligations of the different duty bearers, namely the State of Israel as the Occupying Power, the Palestinian Authority and the DFA, can be found in the High Commissioner's first periodic report on the situation of human rights in the oPt (A/HRC/12/37, paras 5-9). This analysis remains valid.

III. Human rights violations by all duty bearers

A. The Government of Israel

1. Right to life and security in Gaza

(a) Killing and injury of civilians in the course of hostilities

6. The right to life, liberty and security continued to be an issue of serious concern during the reporting period as a result of various forms of violence. By 29 November 2012, 130 civilians, including 40 children and 14 women, had been killed due to conflict related violence in Gaza, such as airstrikes, bombardments, incursions, and levelling operations, as well as the use of live ammunition to enforce the access restricted areas (ARA) both on land and at sea. Of these, 101 civilians, including 33 children and 13 women, were killed in the crisis from 14 to 22 November. Excluding Palestinians injured during the crisis – as this information was not yet verified at the time of writing, 369 civilians, including 114 children and 39 women, were injured in Gaza as a result of conflict related violence during the reporting period.⁵

7. Israeli military attacks targeted alleged members of armed groups while present in populated areas, resulting in civilian casualties. Some cases raise concerns regarding the respect by the IDF of the principles of distinction, proportionality and precautions to avoid the loss and injury of civilian life when launching an attack. On 7 October 2012, eight civilians, including a woman and four children, were injured when an Israeli airplane fired a missile that resulted in the killing of two alleged members of armed groups travelling on a motorbike in Rafah. Similarly, on 10 November, following an attack by armed groups that injured four Israeli soldiers, at the fence east of Al-Shojayaa, the IDF launched attacks on different targets in Gaza that lasted for several days. In one such attack, on 10 November, at approximately 16:00, four blasts occurred in a sand dune located a short distance from residential buildings that are located approximately 1000 meters from the Israeli fence between Gaza and Israel. Four civilians, including two children, were killed and 42 injured. OHCHR received information indicating that some of the victims were sitting on the sand dune when the first two blasts occurred, while others were hit by the third and fourth blasts as they were trying to climb up the sand dune to see what was happening.

⁵ OCHA.

8. Local human rights groups documented further cases of attacks that resulted in civilian casualties. On 20 June 2012, a Palestinian child and his blind father were killed and 3 other children were injured by an Israeli air strike in Tal al-Hawa in Gaza City.⁶ On 23 June 2012, a civilian was killed and seven others were injured in an Israeli airstrike targeting two alleged members of armed groups travelling on a motorbike in al-Nasser in Gaza city.⁷

(b). *Access restricted areas*

9. Israel continued to use live ammunition to enforce the ARA by the Israeli fence between Gaza and Israel, as well as at sea.⁸ Though the number of such incidents decreased in comparison to previous years, the life and security of civilians continued to be at risk. According to information obtained from OCHA, during the reporting period 12 civilians, including one woman and two children were killed, and a further 123, including 11 women and 25 children, were injured in the ARA. These figures do not include figures relating to the crisis in November, as these were not verified at the time of writing. With respect to the Mission's recommendation in paragraph 1968(d) of its report, as stated in the Secretary-General's first progress report on the status of implementation of the Mission's recommendations (A/HRC/13/55), the Human Rights Council, in resolution S-12/1, recommended that the General Assembly should consider the report during its sixty-fourth session. By resolution 16/32, the Human Rights Council recommended that the General Assembly reconsider the report at its sixty-sixth session. The Secretary-General observes that the Human Rights Council has implemented the recommendation in paragraph 1968(d) of the Mission's report.

10. On 30 March 2012, Israeli soldiers stationed at the Erez crossing between Gaza and Israel used live ammunition against civilians assembled to mark "Land Day". Dozens of civilians approached the fence at Erez and threw stones at the Israeli soldiers. While the soldiers initially responded with aerial shootings, they later resorted to live ammunition in response to continued stone throwing. As a result, a 19-year old Palestinian civilian was killed and 35 others were injured, including 17 children.

11. On 4 November 2012, a 23-year-old man suffering from epilepsy was shot and killed by the IDF about 10 meters from the fence, east of El Borueij camp. The IDF had requested the victim in Arabic by microphone several times to leave the area, but the victim had not responded. OHCHR received information indicating that the victim was known to the IDF, due to his detention in mid-September, when he had previously approached the fence. The IDF called the victim by his name prior to opening fire. Information received by

⁶ PCHR, weekly report, 14-20 June, 2012, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8557:weekly-report-on-israeli-human-rights-violations-in-the-occupied-palestinian-territory-14-20-june-2012&catid=84:weekly-2009&Itemid=183.

⁷ PCHR Weekly report, 21-27 June 2012, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8582:weekly-report-on-israeli-human-rights-violations-in-the-occupied-palestinian-territory-21-27-june-2012&catid=84:weekly-2009&Itemid=183.

⁸ On a positive note, and as part of the ceasefire of 21 November 2012, the GoI expanded the fishing zone from 3 to 6 nautical miles. State of Israel, Ministry of Defense, Coordinator of Government Activities in Territories, "Humanitarian & Civilian Activities towards the Gaza Strip -Monthly Report for November 2012, http://www.cogat.idf.il/Sip_Storage/FILES/8/3688.pdf. OHCHR received unconfirmed information indicating that the GoI has allowed farmers to access land up to 100 meters from the fence on foot, and up to 300 meters from the fence with tractors and equipment.

OHCHR indicates that the IDF allowed the victim to be evacuated only three hours after having been shot.

12. On 8 November 2012, a 13-year-old boy was shot and killed by the IDF, as he played football with three friends next to his home about 1000 meters from the fence, in Abasan Al Kabira, Khan Yunis. Eyewitnesses reported that several incursions by the IDF took place in the area on the same day.

13. On 11 August 2012, a 17-year-old male farmer cultivating his land, located around 600 meters from the fence, was shot twice, in his left hand and right thigh, east of Khan Younis. In another case, on 29 August, a 42-year-old female farmer was shot three times, in her hand, abdomen and back, in Wadi El Salqa, central Gaza Strip around 700 meters from the fence. Information gathered by OHCHR indicates that the farmers posed no apparent risk to the IDF, and that no armed activities had been or were being conducted from the site of the incident or from the surrounding area at the time when the incidents took place.

14. On 28 September 2012, the IDF opened fire on about 30 fishermen from Beit Lahia, who were on the beach, killing one of them, a 23-year-old, and injuring another. IDF sources, through media, denied that the IDF had attacked any fishermen that day. The same sources admitted that Israeli soldiers at the Gaza-Israel northern fence had shot and injured two Palestinians approaching the fence after they had disregarded the verbal warnings.⁹ OHCHR was informed that the fishermen were fishing on the shore with nets about 300-400 meters from the fence when the incident occurred.

15. On 23 November 2012, dozens of Palestinians celebrating the ceasefire headed toward the fence east of Khan Younis, attempting to cross it. IDF responded with live fire, leaving one civilian dead and 18 others, including 3 children, injured.¹⁰ OHCHR does not have any information regarding whether the civilians in the cases mentioned above were warned in advance.

16. In terms of positive developments, the Israeli Navy appeared to change operating procedures and resorted to more systematic use of warning fire, rather than directly targeting fishermen with live ammunition, as had previously often been the case. However, fisherman continued to be detained and their equipment confiscated and/or destroyed. A local human rights group documented the arrest of 68 fishermen, and the confiscation of 20 boats by the Israeli Navy during the reporting period.¹¹ In October 2012, OHCHR documented the detention of 8 fishermen and the confiscation of their boats by the Israeli Navy in two separate incidents. These occurred at 2 to 2.5 nautical miles from shore, west of Beit Lahia, on 7 and 22 October.

17. As part of the 21 November cease fire, Israel expanded the fishing zone to 6 nautical miles. Still, fishermen continued to be detained within this area. OHCHR received information regarding the detention of at least 18 fishermen, reportedly fishing within the 6 nautical mile limit, between 23 and 29 November 2012.

⁹ Yaakov Lappin, IDF fires on suspects who approached Gaza fence, *Jerusalem Post*, September 30, 2012, <http://www.jpost.com/Defense/Article.aspx?id=286079>

¹⁰ According to PCHR, Weekly Report, 22-29 November 2012, http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=9072:weekly-report-on-israeli-human-rights-violations-in-the-occupied-palestinian-territory-22-29-nov-2012&catid=84:weekly-2009&Itemid=183

¹¹ According to Al-Mezan Centre for human rights, email to OHCHR, November 4, 2012 (period covering 15 November 2011 to 4 November 2012).

18. The use of live ammunition against civilians to enforce the ARA is not in conformity with international law regarding the right to life and security. It does not respect the rules on the use of force and firearms by law enforcement officials, and when taking place in the context of hostilities it violates the principle of distinction, which prohibits the targeting of civilians not directly participating in hostilities. Mere presence in a restricted area cannot be construed as participation hostilities. As the occupying power, Israel has the obligation to protect civilians.

2. The blockade of Gaza

19. In September 2012, Israel permitted the first commercial export of Gaza-made furniture into the West Bank since the imposition of the blockade in 2007. Apart from this, and the export of negligible amounts of agricultural produce to Europe, Gaza's exports remained severely restricted.¹² Continued restrictions on Gaza's exports and imports have stalled the private sector and minimized prospects for economic growth. By August 2012, 44 per cent of Gaza's population was suffering from food insecurity, 39 per cent lived in poverty, and 80 per cent of relied on food assistance from humanitarian agencies.¹³

20. Restrictions on the import of construction material for private and public use continued to create serious challenges for the education sector. By August 2012, the education sector was in need of 230 new schools to meet the growing demand following from demographic growth. The shortage of educational facilities in Gaza forced an estimated 80 per cent of government and 93 per cent of UNRWA schools to operate on double shifts, diminishing the quality of education.¹⁴

21. Since June 2010, Israel has permitted the import into Gaza of construction materials for the particular United Nations projects it has approved. In September 2012, Israel, after a 19 month process, approved 11 United Nations projects related to water, sanitation, education, housing, and electricity. However, Israel rejected 18 other projects, stating security concerns related to the locations of these projects.¹⁵ The United Nations remains hindered from effectively responding to the population's rapidly increasing demand for services.¹⁶

22. Though the tunnel economy between Gaza and Egypt has facilitated the entry of some construction material for private use, by the end of June 2012 approximately 71,000 housing units were needed to fulfil shelter needs.¹⁷ Gazans continued to face electricity cuts of up to 12 hours per day¹⁸ and limited access to clean water.¹⁹ An estimated 75 per cent of Gaza's waste water remains untreated, and 90 million litres of Gaza's raw sewage is

¹² OCHA, The Monthly Humanitarian Monitor, September 2012, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2012_10_23_english.pdf

¹³ UNCT. *Gaza in 2020: A liveable Place?* August 2012. P.4

¹⁴ OCHA, The Monthly Humanitarian Monitor, August 2012, http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2012_09_24_english.pdf

¹⁵ OCHA, The Monthly Humanitarian Monitor, September 2012 http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2012_10_23_english.pdf

¹⁶ Ibid

¹⁷ OCHA, Five Years of the Blockade: The Humanitarian Situation in the Gaza Strip, Fact Sheet, 14 June 2012, http://www.ochaopt.org/documents/ocha_opt_gaza_blockade_factsheet_june_2012_english.pdf

¹⁸ OCHA. Protection of Civilians Weekly report, 24-30 October 2012, http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2012_11_02_english.pdf

¹⁹ UNCT. *Gaza in 2012*. P.11.

pumped into the Mediterranean daily.²⁰ In sum, the blockade of Gaza has a significant negative impact on the enjoyment of economic, social and cultural rights in Gaza.

3. Excessive use of force in the West Bank, including East Jerusalem

23. The use of force by Israeli Security Forces (ISF), including the IDF and Israeli Border Police, led to seven Palestinian deaths and 3,036 injuries in the West Bank, including East Jerusalem. Many of these instances raised concerns regarding the excessive use of force by the ISF.²¹

24. OHCHR received several reports of excessive force being used by ISF in East Jerusalem. On 5 October 2012, at around 13.00, Israeli Border Police engaged with Palestinians in the al-Aqsa compound. Eyewitnesses reported that Border Police fired stun grenades at Palestinians in various locations of the compound, and in surrounding narrow streets, including near Bab el-Selsela where 16-year-old Hassan Afif Afifi and his family live. A dozen Border Police randomly engaged with Palestinians, including Mr. Afifi's parents. The victim came to assist his parents, who were both on the ground. Mr. Afifi was reportedly grabbed by at least three Border Police, who punched and kicked him all over his body, including in his genitals, before dragging him into the al-Aqsa compound. There they reportedly beat him for almost 60 minutes before taking him to a police station and then, due to his injuries, a hospital. The family filed a complaint but had not yet received any information from Israeli authorities regarding an investigation as of the finalization of this report.

25. On 6 October 2012, at around 12.30, 32-year-old Hani Mohammad Abul Hawa witnessed an altercation between Palestinian teenagers and Border Police in the neighbourhood of Mount of Olives. Mr. Abul Hawa saw a Border Police violently grab a young boy. He intervened and asked the Border Police to release the boy. At least four Border Police approached Mr. Abul Hawa and punched him all over his body, wrestled him to the ground and dragged him, before violently pushing him into a police vehicle. Three Border Police entered the back of the vehicle and continued to beat Mr. Abul Hawa including by punching him in the face. One officer hit him on his head with the butt of a rifle, leading him to bleed profusely. This officer also repeatedly stepped on the victim's hand with her boots, causing a fracture to his hand. Mr. Abul Hawa was taken to a hospital at around 14.00, where he alleges the three Border Police continued to beat him. Mr. Abul Hawa was checked into the emergency room while handcuffed and with his feet shackled. He filed a complaint a few days after the incident, but had not yet received any information from Israeli authorities regarding an investigation as of the submission of this report.

26. On 8 March 2012, at approximately 15:00, IDF entered Yatta to carry out an arrest. Some Palestinian youths gathered. The situation remained calm, until one youth stabbed a soldier with a box-cutter. The youths immediately fled. The injured soldier opened fire, injuring his assailant, who was about five meters away. Thirty seconds later the soldier again opened fire. Sixteen year old Zakaria Jamal Mohammad Abu Arram, who was standing at a distance of 45 meters from the soldier, was shot in the face and killed. A Palestinian ambulance arrived but was prevented from assisting Mr. Abu Arram until IDF departed. The distance between Mr. Abu Arram and the soldier brings into question

²⁰ Ibid. P.12.

²¹ Statistics provided by OCHA.

whether an imminent threat to life or serious injury existed, when the soldier opened fire the second time.²²

27. On 27 March 2012, three brothers in the village of Rammun noticed two unknown men on their neighbour's car. Thinking they may be thieves, the brothers went out to check, and asked the two men to identify themselves. They responded in Arabic but did not identify themselves. A confrontation ensued and the two unidentified men opened fire at the three brothers. One brother was shot in the leg, another was shot in the neck, and the third was shot in the abdomen. Several dozen uniformed IDF soldiers suddenly appeared. Two of the brothers were shot by uniformed soldiers, with one being struck seven times at close range. The soldiers checked the two men, who it later transpired were undercover IDF soldiers, for injuries and then departed.²³ Palestinian ambulances were prohibited by IDF soldiers from providing medical assistance to the wounded. After approximately 40 minutes, the wounded were put in IDF jeeps and transported to Taybeh junction. Crews from two Palestinian ambulances requested to be allowed to assist the wounded, but the IDF soldiers refused. Israeli ambulances eventually took the wounded to a hospital in Jerusalem. The man who had been shot seven times at close range died of his injuries. An autopsy report obtained by OHCHR confirmed that the victim died as a result of "live fire shot from close range."²⁴ The two other brothers were released from the hospital several days later. According to media reports, the IDF subsequently relieved from duty one of the soldiers involved, for having kicked one of the injured brothers in the head, and ordered the opening of a Military Police investigation into the incident.²⁵

28. On 29 July 2012, fourteen Palestinian workers without entry permits were being smuggled into Israel in a van driven by an Israeli citizen. As the van approached Az Za'ayem Checkpoint, a friend called to advise the driver not to cross, since soldiers there were actively searching vehicles. The van's engine stalled, which prompted two private security guards to approach the vehicle. The driver turned away from the checkpoint toward Az Za'ayem village. The guards shot at the van, with assault rifles, even though it had diverted away from the checkpoint and was heading toward the village. Three workers were hit by bullets, one to the leg and shoulder, one to the head and another to the leg. All three were taken to the hospital, where one died the next day.

29. During the reporting period, the use of force by ISF during demonstrations resulted in the death of four Palestinians.²⁶

30. On 9 December 2011, during clashes between Palestinians and ISF in Nabi Saleh, following the weekly demonstrations that take place in the village, an Israeli soldier in the back of a moving armoured vehicle fired a tear gas canister directly at Mustafa Tamimi, who was approximately five metres behind the vehicle and throwing stones at it. The tear gas canister hit Mr Tamimi below his right eye. He immediately fell and was taken to a

²² According to Israeli media the soldier who opened fire received a citation. Ynet News, *Soldier receives citation for courage*, 23 April 2012. <http://www.ynetnews.com/articles/0,7340,L-4220080,00.html>

²³ On 18 April Israeli media reported that the unit involved in the incident was the "Duvdevan" unit (known for undercover operations) and that they were on a training mission when two undercover soldiers were attacked by three men. See <http://www.ynetnews.com/articles/0,7340,L-4217835,00.html>.

²⁴ Autopsy report for Rashad Deeb Hassan Shoukha dated 24 June 2012 issued by the PNA, Ministry of Justice, Palestinian Medico Legal Center.

²⁵ Ynet, *Soldier dismissed after kicking bound Palestinian*, 18 April 2012, <http://www.ynetnews.com/articles/0,7340,L-4217835,00.html>.

²⁶ Private security guards working for a company contracted by Israeli authorities are present at checkpoints along the Wall.

hospital in Israel, where he died the following morning of injuries sustained from this incident. Statements by IDF indicated that two separate investigations had been initiated by Israeli authorities, one of which was to be concluded by 20 December 2011. In a letter dated 19 January 2012 to the Permanent Mission of Israel to the United Nations in Geneva, OHCHR requested information on the status of the two investigations. At the time of drafting, no response had been received from the Israeli authorities.

31. While the use of live ammunition to disperse demonstrations was limited for most of the reporting period, the IDF made widespread use of it in response to demonstrations against Israeli military operations in Gaza during the crisis of 14 to 21 November 2012, including in Nabi Saleh, Hebron, Huwwarra checkpoint, Ofer, Tuqu' and Bethlehem. Such incidents resulted in the killing of two and the injury of 16 Palestinians. At the entrance of Ofer military camp, ISF responded to stone throwing by Palestinians with live fire on 15, 16 and 17 November, injuring at least five protesters, who were mostly shot in their legs. Several demonstrators were hit in the head and/or chest by tear gas canisters and rubber coated metal bullets.

32. On 19 November 2012, students clashed with IDF in Tuqu' village. The students threw stones and the soldiers initially responded by firing teargas canisters. One of two soldiers standing on higher ground then fired live ammunition at the students around 50 meters away, hitting 17 year-old Mohammad Ahmad Al Badan in the abdomen. Mr. Ahmad Al Badan suffered internal bleeding, damage to his intestines and severe damage to his hip.

33. On 17 November 2012, several boys from the village of Nabi Saleh gathered on a nearby hill overlooking a main road used by Israeli settlers, in order to burn a tire on the road. They were spotted by IDF soldiers, seven of whom climbed the hill and fired tear gas canisters and rubber coated metal bullets. Adults from the village headed to the hill and clashes continued. Several villagers were hit by rubber coated metal bullets, including 31-year-old Rushdi Tamimi. He then turned his back to flee and was hit from behind by live ammunition. The projectile made its way into Mr. Tamimi's stomach, causing internal injuries that resulted in death in the hospital two days later.

34. The resort to live ammunition by ISF to disperse protesters during the week of 14 to 21 November is unprecedented in recent years. There is concern that this may indicate a worrying change in the IDF's riot control policies and/or a lack of appropriate training for soldiers deployed in response to public demonstrations.

35. ISF operating in the West Bank are bound by article 6 of the International Covenant on Civil and Political Rights (ICCPR) and should also act in accordance with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These Principles state that the use of firearms is authorized in extremely limited circumstances, namely self-defence or defence of others against imminent threat of death or serious injury, and only if less extreme means are insufficient. ISF are further bound by the provisions of the ICCPR that prohibit torture or cruel, inhuman or degrading treatment or punishment and guarantee the right to liberty and security of persons²⁷ Israel has an obligation to provide an effective remedy for any violations of the Covenant. This encompasses thorough, prompt, independent and impartial investigations into the use of firearms by law enforcement officials, including the IDF and private security personnel contracted by Israeli authorities. Should negligent or unlawful behaviour be identified during such an investigation, judicial and/or disciplinary proceedings must be initiated against the person(s) responsible. In addition, Palestinians in the occupied territory, including East Jerusalem, are protected

²⁷ Articles 7 and 9 ICCPR

persons in line with article 4 of the Fourth Geneva Convention of 1949. They are therefore entitled to protection against all acts of violence and threats thereof.²⁸ Additionally, Israel has the duty to ensure that all persons wounded, including those wounded by the action of its security forces, receive the medical attention required by their condition with the least possible delay.²⁹

4. Settler violence

36. Israeli settlers continued to perpetrate acts of violence against Palestinians and their property. 383 incidents were reported during the reporting period, which resulted in injury to 169 Palestinians, destruction or damage to 8054 trees, and other types of damage to property. Lack of accountability for these acts remains a concern. This phenomenon is analysed in detail in the Secretary-General's 2012 report to the General Assembly on Israeli settlements (A/HRC/67/375).

37. Many incidents of settler violence occur during the olive harvest period. Incidents during the 2012 harvest included: damages to olive trees, theft of olives before or after the harvest, settlers trespassing onto private Palestinian land, physical attacks by Israeli settlers against Palestinians, and harassment by settlers of Palestinians attempting to access their land to harvest their groves. According to OCHA, the 2012 olive harvest saw a decrease in the overall number of incidents of settler violence compared to the same period in 2011. While the number of trees damaged during the olive harvest in 2012 was lower³⁰, damage to trees by settlers is on-going throughout the year and particularly intensive before the olive harvest, and the impact on the livelihoods of farmers is cumulative. In the words of a Palestinian farmer "There is nothing left to burn or cut." The efforts of Israeli authorities to improve coordinated access of Palestinian farmers during the olive harvest are welcomed. However, the main issue remains regular and unimpeded access of Palestinians to their agricultural lands throughout the year, in addition to the effective prevention of and protection from settler violence and a general culture of impunity.

B. The de facto authorities in Gaza and Palestinian armed groups

1. Rocket and mortar shells firing from Gaza

38. Palestinian armed groups continued firing rockets and mortar shells at Israel. A total of 1,605 home-made rockets (HMR), 906 Grad rockets, and 436 mortar shells were fired during the reporting period. Of these, 765 HMRs, 741 Grad rockets and approximately 135 mortar shells were fired during the crisis from 14 to 21 November 2012.³¹ The projectiles fired from Gaza towards Israel resulted in the death of six Israelis, including four civilians. According to Israeli sources, a further 239 Israelis including 219 civilians were injured.³² While the majority of injuries seem to be among civilians, verified figures were unavailable

²⁸ Article 2 ICCPR

²⁹ Rule 110, ICRC study on Customary International Humanitarian Law and Article 10 Additional Protocol 1 of 1977. Israel must also respect its obligations regarding the right to health, namely article 12 of ICESCR.

³⁰ Information provided by OCHA.

³¹ Information provided by UNDSS.

³² Ibid and Israel MOFA, Israel under fire - November 2012, November 22, 2012, http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm

at the time of drafting.³³ A significant number of these rockets landed in civilian areas within Israel. Some projectiles appear to have been directed at military objectives in Israel, yet the indiscriminate nature of the overwhelming majority of these projectiles makes it impossible to determine whether they were directed at military objectives.

39. In some cases Palestinian armed groups continued to fail to uphold the principle of distinction when launching attacks on Israel, by targeting areas populated by civilians. On 9 March 2012, eight Israeli civilians were injured, one of them seriously, as a result of rockets fired at Israel.³⁴ Five Israeli civilians were injured as a result of rocket firing on Israel on 24 October 2012.³⁵ On 12 November, four Israeli civilians were injured when a Grad rocket hit a home in Netivot city.³⁶

40. During the reporting period at least 237 rockets and mortar shells aimed at Israel fell short and exploded in Gaza, causing Palestinian casualties. Of these, 138 occurred before 13 November³⁷ and 99 fell short and exploded in the period from 14 to 19 November 2012.³⁸ Two Palestinian civilians were killed and 12 were injured until 13 November 2012.³⁹ A further three Palestinian civilians, including a woman and an 11-month-old infant, were killed al-Zaitoun on 14 November. OHCHR received reports related to a case involving the death of two additional civilians, including a child, and the injury of five others, including three children, as a result of what seemed to be a rocket fired by Palestinian armed groups that hit a house in Jabalya on 16 November 2012.

41. Targeting civilian areas and using weapons that cannot be directed accurately at a military objective, such as the HMRs and Grad rockets, are contrary to the rules of international humanitarian law prohibiting the targeting of civilians and indiscriminate attacks. OHCHR has received information that such rockets are often fired from densely populated areas. It has been alleged by the Government of Israel that these weapons are often stockpiled in structures that appear to be civilian in nature. Should this be the case, this would also violate the rules of international humanitarian law requiring parties to a conflict to protect the civilian population and objects under their control from the effects of attacks, including by avoiding locating military objectives within or near densely populated areas.⁴⁰

2. Right to life including the death penalty

42. The DFA continued to pass death sentences and carry out executions in violation of the right to life. During the reporting period, six persons were executed by the DFA. Five were sentenced by civil courts and one by a military court. All death sentences were executed without the approval of the president of the Palestinian Authority, which is a requirement under the Palestinian Basic Law.

³³ Israel MOFA, Israel under fire - November 2012, November 22, 2012, http://www.mfa.gov.il/MFA/Terrorism-+Obstacle+to+Peace/Hamas+war+against+Israel/Israel_under_fire-November_2012.htm

³⁴ Yaakov Lappin, Escalation in South: 8 hurt, 1 seriously, by Gaza rockets, *Jerusalem Post*, March 9, 2012, <http://www.jpost.com/Defense/Article.aspx?id=261152>

³⁵ UNDSS emails to OHCHR, November 1, and 13, 2012

³⁶ JPOST.COM, Palestinians fire 20 rockets into South; 4 hurt, *Jerusalem Post*, November 12, 2012, <http://www.jpost.com/Defense/Article.aspx?id=291432>

³⁷ UNDSS emails to OHCHR, November 1, and 13, 2012

³⁸ IDF, Watch: How terror groups endanger Gaza's civilians, November 19, 2012, <http://www.idf.il/1283-17668-en/Dover.aspx>

³⁹ UNDSS emails to OHCHR, November 1, and 13, 2012

⁴⁰ Rules 22 and 23 identified in the ICRC Study, Customary International Humanitarian Law.

43. DFA courts passed three new death sentences, two of which were imposed on civilians by military courts for treason and murder. The trial of civilians in military courts is prima facie inconsistent with international human rights standards, in particular with regard to procedural guarantees pertaining to fair trial. In general, concerns remained with regard to due process and fair trial guarantees.

44. On 17 October 2012, a 27-year-old civilian died while in the custody of the DFA criminal investigation unit (CIU) in Khan Younis. OHCHR was informed by family members that the victim was arrested by the CIU without a warrant, allegedly in relation to a dispute with his uncle. OHCHR received information that the DFA had committed to launching an investigation into the incident. Yet at the time of writing no information was available regarding such an investigation

3. Treatment in detention and civil liberties

45. Arbitrary detention, torture and ill treatment remained issues of concern. These practices typically targeted members and supporters of Fatah in relation to their political affiliation or opinion.⁴¹ Fatah detainees were reportedly blindfolded and handcuffed at the time of detention or shortly after arrival at a designated security location. During interrogations, in some cases while blindfolded, questions were asked about social affiliations, professions, family members, and connections to Fatah and the Palestinian Authority.

46. On 3 July 2012, the Internal Security Agency (ISA) arrested a 33-year-old Fatah member from Khan Younis and detained him for nearly a month. The victim was questioned about his Fatah-related activities, subjected to shabeh⁴², slapped, intimidated and solitarily confined.

47. The DFA continued to curtail freedom of expression, opinion and assembly. Journalists were detained and ill-treated in relation to their perceived political affiliation or alleged lack of objectivity, in other cases DFA security forces used excessive force to disperse peaceful assemblies. In one case monitored by OHCHR, on 11 June 2012, a freelance journalist from Al-Shojayea was arrested by ISA and detained until 4 July. During his detention he claims to have been questioned about his media-related work, and accused of establishing ties with the Palestinian Authority. During his detention he was intimidated, ill-treated and tortured, including through beatings of different parts of his body and the use of shabeh.

48. Others not linked to the media were harassed in relation to their opinion. In July 2012, for instance, the DFA banned the travel of the Palestinian Contractors Union's director, in reference to a statement he had made voicing concerns over the quality of cement smuggled via tunnels.⁴³

49. OHCHR documented cases in which the DFA violated the right to peaceful assembly, sometimes by using force to disperse participants. The DFA presented justifications for these violations. In some cases the need to ensure public order was

⁴¹ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=7988:pchr-concerned-over-summons-and-arrests-of-fatah-activists-by-internal-security-service-in-gaza-&catid=36:pchrpressreleases&Itemid=194

⁴² *Shabeh*, refers to forcing a detainee to hold a painful position for extended periods of time.

⁴³ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8692:pchr-is-concerned-about-a-decision-issued-by-the-attorney-general-in-gaza-to-prevent-the-palestinian-contractors-unions-director-and-8-journalists-from-traveling-on-the-grounds-of-freedom-of-expression-and-union-freedom-&catid=36:pchrpressreleases&Itemid=194

invoked, in other cases the DFA Ministry of Interior blamed individual police personnel for taking inappropriate action. On 18 July 2012, the DFA's police detained two women while participating in a peaceful protest against the electricity crisis. Both were detained for day and reportedly harassed and ill-treated by female police.

50. In an incident on 26 September 2012, a demonstration blaming the DFA for extreme poverty and unemployment was forcibly dispersed by the DFA's security forces in El-Boureij refugee camp.

51. In an incident on 6 November 2012, around 50 people, mostly women, organized a peaceful gathering in Gaza city, to protest the continued stalemate in national reconciliation. Information received by OHCHR indicates that the DFA police forcibly dispersed the gathering by beating several participants with sticks. The DFA Ministry of Interior claimed that the demonstration could not take place for reasons of public order, but also regretted the "wrong acts by policemen". The DFA Ministry of Interior announced the establishment of a commission of inquiry to investigate the incident.⁴⁴

52. Incidents of intervention in the work of civil society organizations were reported. In July 2012, the deputy-director of the Journalists' Syndicate, a West-Bank based non-governmental organization, and seven of the Gaza-based board members were prevented from travelling abroad in relation to the Syndicate's elections. Reportedly, the deputy-director of the Journalists' Syndicate disclosed that he was summoned by DFA Attorney-General and questioned about the Syndicate's elections in the West Bank. He noted that he was asked to sign an oath to not work for the Syndicate any more, which he refused.⁴⁵

4. Women's rights

53. Local human rights organisations estimated that four women were killed in the name of honour.⁴⁶ On 23 December 2011, a 45-year-old woman from Al-Sheik Radwan was killed by her nephew by strangulation, allegedly to "maintain the family's honour".⁴⁷ Similarly, on 22 March 2012, a 22-year-old girl from Khan Younis was admitted to Al-Naser hospital suffering serious health complications due to poison, allegedly because she had attempted to commit suicide. Though she received medication on the same day, resulting in a significant improvement of her health, one of her relatives came to the hospital and shot and killed her.⁴⁸ The information available to OHCHR indicates that the DFA has not made serious efforts to investigate these cases.⁴⁹

⁴⁴ <http://www.moi.gov.ps/en/news/35714/Important-press-release-issued-by-Ministry-of-Interior-about-what-happened-in-unknown-soldier-square-in-Gaza>

⁴⁵ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8692:pchr-is-concerned-about-a-decision-issued-by-the-attorney-general-in-gaza-to-prevent-the-palestinian-contractors-unions-director-and-8-journalists-from-traveling-on-the-grounds-of-freedom-of-expression-and-union-freedom-&catid=36:pchrpressreleases&Itemid=194

⁴⁶ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=7975:pchr-condemns-killing-of-palestinian-woman-in-gaza-to-qmaintain-family-honorq-&catid=36:pchrpressreleases&Itemid=194

⁴⁷ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=7975:pchr-condemns-killing-of-palestinian-woman-in-gaza-to-qmaintain-family-honorq-&catid=36:pchrpressreleases&Itemid=194

⁴⁸ http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=8287:pchr-condemns-murder-of-woman-on-the-ground-of-family-honor-in-khan-yunis-&catid=36:pchrpressreleases&Itemid=194

⁴⁹ Al-Mezan email to OHCHR, November 11, 2012

C. The Palestinian Authority

1. The ending of security vetting based on political belief or affiliation

54. In September 2007, the Palestinian Authority's Cabinet issued a decision requiring "security vetting" by the Palestinian Authority's security services for public sector employment. Thus, the security services made recommendations to the Palestinian Authority's ministries regarding the hiring, continuation and/or termination of contracts based on political affiliations. Since, hundreds of school teachers, for example, were dismissed on the basis of interventions by the two security agencies. According to information available to OHCHR, since 2008 such practices had adversely affected at least 640 people who were excluded from public sector employment on the basis of their political beliefs or affiliations.

55. In positive developments, the Palestinian Authority's Cabinet, on 24 April 2012, suspended this decision. Further, on 4 September 2012, the Palestinian High Court ruled in favour of teachers who had been dismissed from their positions due to negative reports by security agencies. Following the court order, the Palestinian Ministry of Education and Higher Education announced that it would comply with the court ruling and rehire the dismissed teachers.

56. OHCHR continued to monitor detention by Palestinian law enforcement agencies, as well as engage with and provide technical assistance on human rights to relevant Palestinian authorities and institutions. The number of complaints of arbitrary detention by the Palestinian Authority received by OHCHR in 2011 decreased significantly, as did the number of complaints received by the Independent Commission for Human Rights (ICHR) and other Palestinian human rights organizations. ICHR reported 755 complaints in 2011, compared with 1559 in 2010. However, the first half of 2012 witnessed a considerable increase of allegations of arbitrary detention by the Palestinian Authority's security forces.

57. OHCHR documented cases that indicate that the security services are still arbitrarily detaining Palestinians, especially persons affiliated with Islamist parties, demonstrators supporting the Arab Spring and national reconciliation efforts, and media professionals and bloggers critical of the Palestinian Authority. The cases documented include detention of individuals without warrants, not informing the individuals detained of the charges against them or the reasons for their detention, prolonged detention without presenting the detainee before a competent court, and non-implementation of judicial decisions ordering the release of individuals.

58. Journalists were targeted by security services during the reporting period. In early 2012, OHCHR monitored the detention of journalist Youssef al-Shayeb, a Palestinian journalist for various local and regional newspapers. On 30 January, Mr. al-Shayeb published a report in the Jordan-based al-Ghad newspaper, where he criticized corruption at the Palestinian diplomatic mission in Paris. On 31 January, Mr. al-Shayeb was summoned and interrogated by the General Intelligence Service in Ramallah. On 25 February, Mr. al-Shayeb was informed that he had been fired from his position with al-Ghad. On 22 March, he was summoned by the police and was detained for 48 hours. On 28 March, he was taken to court where the prosecutor accused him of incitement against the Palestinian Authority and falsely accusing people of spying, among other things. The judge ordered the extension of his detention for 15 days, whereupon Mr. al-Shayeb declared that he was starting a hunger strike. On 2 April, however, a court ordered his release on 10,000 Jordanian Dinars bail. After his release, he was in a hospital for two days because of his medical condition. The court denied the prosecution's request that he be returned to prison. On 2 May, OHCHR sent a letter to President Mahmoud Abbas and Prime Minister Salam Fayyad outlining its concerns with regard to the detention of journalists. OHCHR has yet to receive a response.

2. Ill treatment by Palestinian Authority security forces

59. OHCHR continued to receive complaints regarding ill-treatment by the Palestinian Authority's security services. Allegations of ill-treatment received by OHCHR consisted of shabeh, beating, threats, deprivation of sleep and solitary confinement.

60. In April 2012, OHCHR interviewed a person who had been detained by the Palestinian Authority's Preventive Security (PPS) in the south of the West Bank. The person stated that he had been ill treated by PPS officers, who informed him that he had to spend the 45-day interrogation period in solitary confinement. He was brought to a small and cold cell; forced to raise his hands up for several hours during the night without break; forced to take off his clothes during interrogation; forced to sleep naked on the ground without a blanket or mattress; and beaten and kicked several times. He was often slapped on the face and hit with a water-filled plastic bottle on the left ear. He received no medical treatment. Another detainee interviewed by OHCHR in June 2012 informed that he was subjected to daily interrogation and occasional shabeh during the first few weeks of his detention. He spent 22 days without being allowed to shower. He explained that shabeh usually started Thursday afternoon and lasted until early Sunday, when neither the ICRC nor human rights organizations conduct visits. He noted that shabeh often lasted for extremely long periods, even through the night, during which he was not allowed to sleep. He was also beaten once while handcuffed.

61. According to information gathered by OHCHR, ill-treatment, including shabeh, beatings, etc., has also been used during interrogations in civil, i.e., non-security related, cases.

3. Civil liberties, including freedom of expression, association and assembly.

62. During a peaceful protest against a meeting between the Palestinian Authority's president and an Israeli official at the end of June 2012, Palestinian security forces physically assaulted journalists and protesters. One of several journalists covering the demonstration, Muhammad Jaradat, was beaten, detained, and had his camera confiscated by four security officers in civilian uniform while covering the protest on 30 June 2012. Mr. Jaradat was taken to the police station, where he was again assaulted by police officers in civilian uniform with a baton, in the presence of fellow officers, who took no action. Mr. Jaradat was released a few hours later.

IV. Conclusions and recommendations

63. Serious violations of international law continue to be committed in the oPt throughout the reporting period. The general human rights situation remains of heightened concern and needs to be addressed as a matter of urgency.

64. OHCHR is especially concerned by the recurrence of violations highlighted in several previous reports of the High Commissioner and the Secretary-General. Most such violations could have been avoided, should the relevant duty-bearers have taken the necessary preventive and corrective actions that are highlighted in the recommendations below.

65. The lack of accountability for violations of international human rights and humanitarian law remains a fundamental concern.

A. Recommendations to the Government of Israel

66. The Government of Israel must take all possible measures to ensure full respect of its obligations under international humanitarian law, in particular the principles of distinction, proportionality and precautions, and international human rights law, during the conduct of hostilities in the oPt.

67. Israel must review the methods and mechanisms used to enforce the ARA in Gaza, in order to ensure full compliance with international human rights law and international humanitarian law. In situations other than hostilities, these methods should be in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

68. The Government of Israel must fully lift the blockade of Gaza, with due regard to legitimate security concerns.

69. The Government of Israel must take the necessary measures to prevent incidents of excessive use of force during law enforcement operations. These measures should include a reassessment of the regulations allowing the use of live ammunition; the adoption of adequate disciplinary and penal sanctions for members of the security forces who do not respect these regulations; and the provision of adequate riot-control training to all police and troops deployed in the West Bank, including East Jerusalem.

70. The Government of Israel must initiate thorough, prompt, independent and impartial investigations into all instances in which firearms are used by its law enforcement personnel, including members of the IDF operating in that capacity and private security personnel contracted by Israeli authorities.

71. Israel must ensure that all persons wounded receive the required medical attention with the least possible delay. To this effect, the IDF should issue clear instructions that the wounded must receive immediate attention, without discrimination, and staff must refrain from obstructing the work of medical personnel, including Palestinian ambulance crews.

72. The Government of Israel must take measures to prevent attacks by settlers against Palestinians and their property. Attacks must be thoroughly, promptly, independently and impartially investigated, perpetrators held accountable, and victims compensated.

73. The Government of Israel must ensure full accountability for violations of international human rights law and international humanitarian law, including thorough, prompt, independent and impartial investigations into all instances of alleged violations and the prosecution of those allegedly responsible, where appropriate. Civilian oversight of investigations and prosecutions should be positively considered. All victims of violations must be provided with adequate, effective and prompt reparation for the harm suffered.

B. Recommendations to the de facto authorities and Palestinian armed groups in Gaza

74. The DFA should impose an immediate moratorium on the use of the death penalty, and cease the use of military tribunals to try civilians.

75. The DFA must respect and ensure respect for, and Palestinian armed groups must respect, international humanitarian law by all members or other armed actors under their control, especially in relation to the principles of distinction and

proportionality. In all circumstances, they must avoid targeting civilians. The DFA and Palestinian armed groups must avoid locating military assets in densely populated areas and launching attacks from these areas. Accountability for any violations or abuses of international human rights law and international humanitarian law, including the killing of civilians, must be delivered.

76. There is a need for thorough, prompt, independent and impartial investigations into all types of criminal acts, including killings related to honour, and for prosecution of those responsible for such acts.

77. There is a need for all necessary measures to be taken to ensure that detentions are in line with international human rights principles, bring an immediate end to the use of ill-treatment and torture by members of its security forces, impartially and thoroughly investigate all allegations of ill-treatment and torture, and impose appropriate disciplinary and penal sanctions against those responsible. All victims of violations must be provided with adequate, effective and prompt reparation for the harm suffered.

78. The DFA must respect the rights to freedom of opinion, expression, peaceful assembly and association.

C. Recommendations to the Government of the State of Palestine⁵⁰

79. The Government of the State of Palestine must adopt measures to ensure the restitution or compensation of persons who have been removed or excluded from employment on the basis of security vetting.

80. The Government of the State of Palestine must ensure that any person detained, including those by security forces or agencies, is referred without delay to the appropriate courts.

81. The Government of the State of Palestine must ensure that all judicial decisions are complied with promptly by Palestinian law enforcement agencies.

82. The Government of the State of Palestine must issue clear instructions to law enforcement officials to refrain from arbitrary detention, ill treatment and torture. The Government must create an effective mechanism to ensure that any complaint of arbitrary detention, ill treatment, or torture is investigated in thorough, prompt, independent and impartial manner. Officials found responsible must be held to account, including through appropriate penal or disciplinary sanctions. All victims of violations must be provided with adequate, effective and prompt reparation for the harm suffered.

⁵⁰ In a letter to the Secretary-General of the United Nations, dated 12 December 2012, the Permanent Observer Mission of Palestine to the United Nations informed that, in line with General Assembly resolution 69/17 of 29 November 2012, the designation “State of Palestine” should be used in all official documents of the United Nations. On 3 January 2013, Mahmoud Abbas, President, State of Palestine issued a decree instructing that “Official documents, seals, signs and letterheads of the Palestinian National Authority official and national institutions, shall be amended, by replacing the name 'Palestinian National Authority' whenever it appears by the name 'State of Palestine', and by adopting the emblem of the State of Palestine. The relevant authorities shall be in charge of monitoring the implementation of this Decree, taking into account the requirements of use”.