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

Written statement* submitted by European Centre for Law and Justice, The / Centre Européen pour le droit, les Justice et les droits de l'homme, 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.

[31 May 2021]

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

REQUESTING THAT THE U.N. CONDEMN HAMAS AND THE PA FOR THEIR MANY VIOLATIONS OF INTERNATIONAL HUMAN RIGHTS LAW

1. INTRODUCTION

Since 1993, the topic occupied Palestinian territories (oPt) has frequently been on the UN agenda.[1] Palestinians claim that the oPt encompass the West Bank, including East Jerusalem, and the Gaza Strip, despite the fact that Israel has consistently asserted claims to the same territory. Because there are competing claims, at best, the West Bank and Gaza Strip constitute disputed territories whose ultimate contours of ownership both Israelis and Palestinians have agreed to determine via bilateral negotiations. Unfortunately, such negotiations have yet to occur.

Because it is simply assumed that the disputed territories belong to the Palestinians, Israel is routinely—and wrongly—accused of violating the human rights of Arab residents of such territories. Nothing could be further from the truth. Both the Palestinian Authority (PA) and the terrorist organisation Hamas bear overall responsibility for the human rights violations that occur where they rule as well as for the economic hardships their fellow Palestinians suffer.

2. BACKGROUND

For many decades, many well-meaning States and organisations (like United Nations Relief and Works Agency (UNRWA)) have quite generously provided all manner of funds and goods to improve Palestinians’ lives.[2] Unfortunately, much of that aid has been diverted from its intended humanitarian purpose to support terrorism against Israel.

The PA, for example, diverts funds to reward murderers who commit terrorist acts against Israelis.[3] The PA pays approximately 300 million dollars annually to support jailed terrorists’ families.[4] In one instance, two Palestinian cousins received significant payments from the PA after massacring a family of five, including a newborn baby.[5] Caring for families of dead or jailed Palestinian terrorists removes a key impediment to undertaking terrorist acts—concern about caring for one’s family.

Hamas diverts funds and supplies meant to improve Gazans’ lives to build weapons storage locations, rocket factories, and tunnels to enter Israel.[6] All of these are intentionally placed in or adjacent to otherwise protected structures like schools, hospitals, mosques, and homes. Such actions constitute war crimes by unnecessarily endangering civilians during periods of hostility and violate the Gazans’ most basic human right, the right to life itself.

As long as Hamas and the PA divert aid from humanitarian to military purposes and endanger Arab residents by their actions, funding should be withheld. Both groups are directly responsible that people in Gaza and the West Bank continue to live in poor economic conditions and suffer human rights violations.

3. VIOLATIONS

Hamas’ and the PA’s frequent violations of the Law of Armed Conflict (LOAC) against Israel contribute significantly to human rights violations. The international community continually condemns Israeli actions that are necessary for its national security and lawful under the LOAC, while turning a blind eye toward what Hamas and the PA do to their own people.

Both groups routinely threaten, beat, torture, and arrest critics. In 2018, the Human Rights Watch (HRW) reported “patterns of arrest and detention conditions in the West Bank and Gaza Strip”.[7] HRW recommended that foreign nations suspend funding “until the [PA

and Hamas] curb those practices and hold those responsible for abuse accountable”.^[8] But the abuse did not stop.

During 2019 anti-Hamas protests, Hamas responded by “viciously beating [hundreds of] demonstrators” and arbitrarily arresting and torturing human rights defenders and political opponents.^[9] In 2020, there were 61 documented incidents of arrest and abuse and 51 instances of torture.^[10]

These human rights violations are not only limited to Hamas. The PA also regularly detains fellow Palestinians who are critical of its actions or show support for other political groups. In 2020, there were at least 21 incidents of the PA “violat[ing] freedom of expression [] and freedom of the press”, 158 cases of the PA arresting opponents and critics, and 95 reported complaints of torture.^[11]

The PA also targets journalists who are critical of its activities.^[12] In 2020, there were at least 36 incidents in the West Bank of “attacks against journalists, including arbitrary arrests, ill treatment during interrogation, confiscation of equipment, physical assaults [,] and bans on reporting”.^[13] As a result, about 88% of journalists in the West Bank practice self-censorship.^[14]

All of these actions by Hamas and the PA constitute a host of violations of international human rights law under, inter alia, Article 7 (prohibition against torture), Article 9 (prohibition against arbitrary arrests and detention), Article 19 (freedom of expression), and Article 21 (right to peaceful assembly) of the ICCPR as well as violation of the Convention Against Torture.

In 2014, the PA passed legislation prohibiting the sale of land to Jews.^[15] If an Arab is caught violating the law, the punishment is life imprisonment with forced labour.^[16] Before 2014, offenders could face the death penalty.^[17] Even with the new law’s reduced penalty, 73.3% of West Bank Palestinians still believe the death penalty should be enforced.^[18]

Both Hamas and the PA vigorously teach anti-Semitism in their education system. The PA teaches children to anticipate the end of Israel and subsequent reunification of Palestine as one nation.^[19] The UN condemned the PA and Hamas for adopting school curricula and textbooks that taught hate toward Israelis, which is akin to child abuse.^[20] Ironically, the new textbooks provided by the UNRWA also promote hatred of Israel.^[21] The textbooks used “martyrs from the First Intifada to calculate equations, told students to ‘defend the motherland with blood’”.^[22] In 2016, Palestinian textbooks invalidated the two-state solution, removed Israel from maps, placed Israeli cities within Palestine, and glorified martyrdom.^[23]

The PA’s children’s TV program told Palestinian children that Israel deliberately kills them,^[24] and a poem encouraged “Martyrdom-death for ‘Palestine’” and told children that “Dark-Eyed Virgins await them in Paradise if they become Martyrs”.^[25] Furthermore, the PA teaches its high school students that normalisation with Israel is “betrayal” of “Martyrs” and “heroic prisoners”.^[26]

4. REQUEST

Hamas routinely commits human rights violations and violations of the LOAC. The PA is no different. Both misuse humanitarian aid and then blame Israel for poor economic conditions in Gaza and the West Bank. Both arbitrarily arrest and torture people. And both pursue apartheid-like policies. It is time that this Council takes an impartial look at the situation and condemns Hamas and the PA for their many violations of international human rights law and the LOAC.

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