



Documents and Source Material

16 AUGUST–15 NOVEMBER 2016

This section comprises international, Arab, Israeli, and U.S. documents and source materials, as well as an annotated list of recommended reports. Documents and source materials are reproduced without editing to conform to *JPS* style or spelling. Along with PDFs of recommended reports, they are available in full at www.palestine-studies.org.

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INTERNATIONAL

A1. UNESCO, RESOLUTION ON THE OLD CITY OF JERUSALEM, PARIS, 12 OCTOBER 2016 (EXCERPTS)

In October 2016, the United Nations Educational, Scientific and Cultural Organization executive board and World Heritage Committee approved a resolution concerning Jerusalem's Haram al-Sharif that focused on Israel's severe restriction of Palestinian worshippers' access to the site. The resolution called on Israel "to allow for restoration of the historic status quo . . . under which the Jordanian Awqaf Department exercised exclusive authority . . . including maintenance, restoration and regulation of access," and referred to Haram al-Sharif by its Arabic name.

Rather than abide by UNESCO and WHC's directives, Israel (and its apologists) condemned that usage as a denial of the holy site's connection to Judaism, even though the resolution clearly affirmed "the importance of the Old City of Jerusalem and its Walls for the three monotheistic religions." Effectively distracting the international community from the issue at hand—preserving the cultural heritage of Palestine—Israel suspended cooperation with UNESCO forthwith.

Presented below are excerpts from the resolution. The full document is available at unesdoc.unesco.org.

[. . .]

3. Affirming the importance of the Old City of Jerusalem and its Walls for the three monotheistic religions, also affirming that nothing in the current decision, which aims, *inter alia*, at the safeguarding of the cultural heritage of Palestine and the distinctive character of East Jerusalem, shall in any way affect the relevant Security Council and United Nations resolutions and decisions on the legal status of Palestine and Jerusalem;
4. Deeply regrets the Israeli refusal to implement UNESCO previous decisions concerning Jerusalem, particularly 185 EX/Decision 14, notes that its request to the Director-General to appoint, as soon as possible, a permanent representative to be stationed in East Jerusalem to report on a regular basis about all the aspects covering the fields of competence of UNESCO in East Jerusalem, has not been fulfilled, and reiterates its request to the Director-General to appoint the above-mentioned representative;
5. Deeply deplores the failure of Israel, the occupying Power, to cease the persistent excavations and works in East Jerusalem particularly in and around the Old City, and reiterates its request to

Israel, the occupying Power, to prohibit all such works in conformity with its obligations under the provisions of the relevant UNESCO conventions, resolutions and decisions. [. . .]

I.B Al-Aqsa Mosque/Al-Haram Al-Sharif and Its Surroundings

I.B.1 Al-Aqsa Mosque/Al-Haram Al-Sharif

7. Calls on Israel, the occupying Power, to allow for the restoration of the historic status quo that prevailed until September 2000, under which the Jordanian Awqaf (Religious Foundation) Department exercised exclusive authority on Al-Aqsa Mosque/Al-Haram Al-Sharif, and its mandate extended to all affairs relating to the unimpeded administration of Al-Aqsa Mosque/Al-Haram Al-Sharif, including maintenance, restoration and regulating access;
8. Strongly condemns the escalating Israeli aggressions and illegal measures against the Awqaf Department and its personnel, and against the freedom of worship and Muslims' access to their Holy Site Al-Aqsa Mosque/Al-Haram Al-Sharif, and requests Israel, the occupying Power, to respect the historic status quo and to immediately stop these measures;
9. Firmly deplores the continuous storming of Al-Aqsa Mosque/Al-Haram Al-Sharif by Israeli right-wing extremists and uniformed forces, and urges Israel, the occupying Power, to take necessary measures to prevent provocative abuses that violate the sanctity and integrity of Al-Aqsa Mosque/Al-Haram Al-Sharif;
10. Deeply decries the continuous Israeli aggressions against civilians including Islamic religious figures and priests, decries the forceful entering into the different mosques and historic buildings inside Al-Aqsa Mosque/Al-Haram Al-Sharif by different Israeli employees including the so-called "Israeli Antiquities" officials, and arrests and injuries among Muslim worshippers and Jordanian Awqaf guards in Al-Aqsa Mosque/Al-Haram Al-Sharif by the Israeli forces, and urges Israel, the occupying Power, to end these aggressions and abuses which inflame the tension on the ground and between faiths;
11. Disapproves of the Israeli restriction of access to Al-Aqsa Mosque/Al-Haram Al-Sharif during the 2015 Eid Al-Adha and the subsequent violence, and calls on Israel, the occupying Power, to stop all violations against Al-Aqsa Mosque/Al-Haram Al-Sharif;
12. Deeply regrets the refusal of Israel to grant visas to UNESCO experts in charge of the UNESCO project at the Centre of Islamic Manuscripts in Al-Aqsa Mosque/Al-Haram Al-Sharif, and requests Israel to grant visas to UNESCO experts without restrictions;
13. Regrets the damage caused by the Israeli Forces, especially since 23 August 2015, to the historic gates and windows of the al-Qibli Mosque inside Al-Aqsa Mosque/Al-Haram Al-Sharif, and reaffirms, in this regard, the obligation of Israel to respect the integrity, authenticity and cultural heritage of Al-Aqsa Mosque/Al-Haram Al-Sharif, as reflected in the historic status quo, as a Muslim holy site of worship and as an integral part of a world cultural heritage site;
14. Expresses its deep concern over the Israeli closure and ban of the renovation of the Al-Rahma Gate building, one of the Al-Aqsa Mosque/Al-Haram Al-Sharif gates, and urges Israel, the occupying Power, to reopen the Gate, and stop obstruction of the necessary restoration works,

- in order to repair the damage caused by the weather conditions, especially the water leakage into the rooms of the building;
15. Also calls on Israel, the occupying Power, to stop the obstruction of the immediate execution of all the 18 Hashemite restoration projects in and around Al-Aqsa Mosque/Al-Haram Al-Sharif;
 16. Deplores the Israeli decision to approve a plan to build a two-line cable car system in East Jerusalem and the so-called “Liba House” project in the Old City of Jerusalem as well as the construction of the so-called “Kedem Center,” a visitor centre near the southern wall of the Al-Aqsa Mosque/Al-Haram Al-Sharif, the construction of the Strauss Building and the project of the elevator in Al-Buraq Plaza “Western Wall Plaza” and urges Israel, the occupying Power, to renounce the above-mentioned projects and to stop the construction works in conformity with its obligations under the relevant UNESCO conventions, resolutions and decisions;

I.B.2 The Ascent to the Mughrabi Gate in Al-Aqsa Mosque/Al-Haram ash-Sharif

[. . .]

19. Deprecates the continuing Israeli unilateral measures and decisions regarding the Ascent to the Mughrabi Gate, including the latest works conducted at the Mughrabi Gate entrance in February 2015, the instalment of an umbrella at that entrance as well as the enforced creation of a new Jewish prayer platform south of the Mughrabi Ascent in Al-Buraq Plaza “Western Wall Plaza,” and the removal of the Islamic remains at the site, and reaffirms that no Israeli unilateral measures, shall be taken in conformity with its status and obligations under the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict;
20. Also expresses its deep concern regarding the illegal demolitions of Umayyad, Ottoman and Mamluk remains as well as other intrusive works and excavations in and around the Mughrabi Gate Pathway, and also requests Israel, the occupying Power, to halt such demolitions, excavations and works and to abide by its obligations under the provisions of the UNESCO conventions mentioned in paragraph 2 above;
21. Reiterates its thanks to Jordan for its cooperation and urges Israel, the occupying Power, to cooperate with the Jordanian Awqaf Department, in conformity with its obligations under the provisions of the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and to facilitate access of Jordanian Awqaf experts with their tools and materials to the site in order to enable the execution of the Jordanian design of the Ascent to the Mughrabi Gate in accordance with UNESCO and World Heritage Committee decisions, particularly 37 COM/7A.26, 38 COM/7A.4 and 39 COM/7A.27. [. . .]

A2. HUMAN RIGHTS WATCH, “PALESTINE: CRACKDOWN ON JOURNALISTS, ACTIVISTS,” NEW YORK, 29 AUGUST 2016 (EXCERPTS)

Since the habba began in October 2015, the number of Palestinian detainees in Israeli and Palestinian prisons and detention centers has increased significantly. Journalists, activists, and artists have been especially targeted for arrest, both by Israeli forces and the Palestinian Authority Security Forces. Whether voicing criticism in social media posts, news articles, television broadcasts,

or some other medium, Palestinians who speak up are susceptible to arrest for so-called incitement when criticizing the PA for colluding with Israel in the occupied Palestinian territories.

In August 2016, Human Rights Watch released a case study featuring the stories of Palestinians arrested and interrogated by PASF. Human Rights Watch interviewed journalists, activists, and musicians who were arrested for alleged incitement or criticism of the PA, arguing that their arrests violate freedom of speech. Presented below are excerpts from the report. It is available in full at www.hrw.org.

The Palestinian authorities in the West Bank and Gaza are arresting, abusing, and criminally charging journalists and activists who express peaceful criticism of the authorities. The crackdown directly violates obligations that [Palestine](#) recently assumed in ratifying international treaties protecting free speech. [. . .]

Human Rights Watch documented five cases—two in the West Bank and three in Gaza—in which security forces arrested or questioned journalists, a political activist, and two rap musicians based on their peaceful criticism of the authorities. Four of those arrested, two in Gaza and two in the West Bank, say that security forces physically abused or tortured them. The authorities in Gaza denied the allegations, and in the West Bank the authorities said they could not investigate the allegations in the absence of a formal complaint. These crackdowns follow a pattern of violations of the right to free speech and due process that Human Rights Watch has documented in the past five years, most recently in [May 2015](#). In the West Bank, some progress has been made in protecting the rights of those arrested.

In Gaza, Hamas authorities detained and intimidated an activist who criticized the government for failing to protect a man with a mental disability; a journalist who posted a photograph of a woman looking for food in a garbage bin; and a journalist who alleged medical malpractice at a public hospital after a newborn baby died. In the West Bank, the Palestinian Authority (PA) arrested and charged activists and musicians who ridiculed Palestinian security forces for cooperating with Israel and accused the government of corruption. The offending statements were allegedly made in Facebook postings, graffiti, and rap songs.

In the abuse cases, activists and journalists said that security officers beat or kicked them, deprived them of sleep and proper food, hosed them with cold and then hot water, and made them maintain uncomfortable positions for long hours. In Gaza, two detainees said security officials made them sign commitments not to criticize the authorities without proper evidence. In the West Bank, both men arrested faced criminal charges, including defamation and insulting a public official.

These crackdowns on free speech and the use of torture violate the legal commitments that the PA assumed in 2014, when it ratified the International Convention on Civil and Political Rights (ICCPR) and the Convention Against Torture. They also violate provisions of the Palestinian Basic Law protecting speech. At a time when many Palestinians are critical of their leaders, the crackdowns have a chilling effect on public debate in the traditional news media, and on social media. These leaders have remained in power for a decade with no elections planned following a split that left Hamas controlling Gaza and the Fatah-dominated PA controlling the West Bank. [. . .]

The Palestinian penal code should be revised to eliminate criminal defamation, and any provisions that criminalize insulting public officials, Human Rights Watch said. Pending those

revisions, security officers and prosecutors should refrain from enforcing criminal defamation laws and stop arresting people based on their speech and writing. Authorities in Gaza and the West Bank should take measures to prevent abuse by security forces and should investigate and prosecute those responsible.

“In the absence of elections, Palestinians are stuck with the same leaders who took power a decade ago,” Bashi [Israel and Palestine country director at Human Rights Watch] said. “At the very least, those leaders should listen to criticism, not punish it.” [. . .]

Gaza

AYMAN AL-ALOUL

Ayman al-Aloul worked as a journalist for Iraqi and Gulf-based television stations and is also a civil servant, receiving a salary from the Fatah-controlled Palestinian Authority (PA), the Hamas rival. Al-Aloul said that on the evening of January 3, 2016, men who identified themselves as security officials arrested him at his home in Gaza City, confiscated his cell phone and two laptop computers, and took him to Gaza’s Ansar Prison. Interrogators ordered him to reveal the passwords for his social media accounts and cell phone, which they searched.

Referring to his postings, they accused him of distorting Hamas’s image, he said. They also asked him about a photograph he posted on Facebook showing a woman looking through a garbage bin for food and a post critical of Hamas for failing to stop a man from walking into Egypt for medical treatment after he failed to receive permission to leave Gaza, whose borders are mostly closed. Egyptian soldiers shot and killed him. Al-Aloul also said the interrogators asked him about an [interview](#) he gave to al-Aqsa Television, affiliated with Hamas, in which he responded to allegations that the PA is paying him to criticize Hamas. In response, he had said sarcastically, “If any one of you (Hamas) pays me, I promise to shut my mouth. How could I shut up without anyone paying me a shekel?!” Referring to that comment, his interrogators accused him of extortion.

He said that interrogators blindfolded him and made him sit for hours in a child’s chair, in a cold room, without proper clothing or food, then repeatedly slapped him on the back of his neck and accused him of being a foreign agent. On the second day of his interrogation, they transferred him to the military prosecution, where security officers told him he could ask for a lawyer but that it was not necessary. Al-Aloul said he agreed not to request a lawyer. They held him for eight days, allowing visits on the last day from the International Committee of the Red Cross (ICRC) and local Palestinian human rights organizations.

Security officers released him on January 11, after making him sign a commitment not to deviate from custom, tradition, and Islamic law, to be respectful, and to conform to behavioral norms. They did not give al-Aloul a copy.

Security officials apparently continued to monitor his writings and speech, he said, and sent him warnings to stop working as a journalist. Al-Aloul said that a colleague at an office from which he had worked told him that someone who identified himself as representing the internal security service called him and told him not to allow al-Aloul to continue working out of his office space. Another friend of al-Aloul, Nihad Nashwan, who has professional dealings with Gaza’s Internal Security service, told Human Rights Watch that, at a meeting unrelated to al-Aloul’s case, after

al-Aloul's release, Abu Khaled Oda, the head of internal security, told him to tell al-Aloul to stop working as a journalist.

Al-Aloul said that since his detention, he has moderated his criticism of Hamas but continues to comment on Facebook. He said he received warnings from people he did not know, in response to Facebook postings critical of Hamas, and that he assumed those warnings, some of which referred to his detention, came from the security forces. After posting a comment on February 25, referring to an internal dispute between Hamas's military and political branches, he received a comment that he "seems to be itching for another injury." On April 18, after a post in which he criticized the government for compensating the families of those killed by Israel but not supporting ordinary people in need, he received a comment on Facebook, also from someone he does not know, saying, "Mr. Ayman! Won't you stop talking about such issues? Did you forget your commitment before being released from Ansar Prison?"

RAMZI HERZALLAH

Ramzi Herzallah is a 28-year-old employee of a currency exchange business who belonged to Hamas's armed wing until 2011, when he ended his Hamas affiliation. On January 1, 2016, officials at the public prosecutor's office summoned him and told him that the Interior Ministry had filed a complaint, alleging that he had slandered ministry officials over Facebook. The offending post was a video in which Herzallah criticized Hamas authorities for the case that al-Aloul had discussed, in which security officers failed to prevent a man from crossing the Gaza-Egypt border without permission. After a few hours, officials released Herzallah.

Two days later, at about 6 P.M., five uniformed men arrived at his house in Gaza City and identified themselves as members of the internal security apparatus, he said. They produced search and arrest warrants and searched his house. They confiscated two of his computers and a cellphone, blindfolded him, and took him to Ansar Prison, refusing to give the reason for his arrest. Men he could not identify then repeatedly slapped his face, until security officers removed his blindfold and took him to a room to await interrogation.

At 4 A.M., masked interrogators arrived and accused him of collaborating with the rival Fatah faction and Egyptian intelligence. The interrogators demanded his social media passwords, then told him they were deactivating his Facebook account to prevent discussion of his arrest there. They ordered him to unlock his cell phone.

Herzallah said that they also made him sit in a child's chair, where he spent three days with only brief bathroom breaks. They gave him food, but if he fell asleep, interrogators would slap him awake. Interrogators accused him of a pro-Fatah bias, opened his laptop, asked him about the source of some of his Facebook posts, and slapped him and pushed his head against a wall when he argued with them over his writing.

Herzallah said they permitted him to request a lawyer but he declined, saying that he was defending the population of Gaza by writing critically about issues and that he could defend himself, too. He said that initially authorities refused to allow human rights organizations to visit him, but on the seventh day, he received visits from the ICRC and the ICHR [Independent Commission for Human Rights]. They permitted his family to visit him the following day.

They released him on January 11, telling him that while he could express criticism, he could not insult the government, and had to report back to internal security in two weeks.

For the next week, he said, he refrained from making public statements or postings of a political nature. He reported back to internal security about two weeks after his release, together with Ayman al-Aloul with whom he is friendly, and at the meeting security officials warned him that they are monitoring his Facebook account.

Herzallah said he was told to sign two documents during his detention: a confirmation that officials were charging him with “harming revolutionary unity” and a commitment, upon his release, not to insult government officials. He did not receive copies of either document, and has not been approached by security forces since. [. . .]

West Bank

MUTAZ ABU LIHI

Mutaz Abu Lihi is a 21-year-old media student at Al-Quds University in the West Bank and a former member of the rap group Min al-Alef Lal Ya (“From A to Z”). On the morning of November 21, 2014, he said, Palestinian security officials took him from his home to intelligence agency headquarters. They asked him questions about his political affiliation and personal habits and accused him of writing graffiti against Palestinian president Mahmoud Abbas. Abu Lihi said that an interrogator tied his hands, made him sit under a desk and threatened him with a gun. Security officials hit him with a wooden stick and a plastic pipe. An interrogator who identified himself as Husam Abu Saif offered to release Abu Lihi if he would agree to collect intelligence information, but he refused, he said, and was released later that day.

He said that after his release he received multiple phone calls from Abu Saif, and that intelligence officials came to his house. He went into hiding for four days and then surrendered at intelligence headquarters on November 25. Security officers held him there for two days, during which they beat and kicked him in his groin area, despite a pre-existing medical condition there, punched him, and cursed him. They asked him why he writes against the Palestinian president and told him that if he confessed to spray-painting the word, *intifada* (uprising), they would release him. He signed a confession and was allowed to leave.

Security forces arrested Abu Lihi a third time on January 12, 2015, and held him for 24 days, taking him, on January 19, before a judge, who approved extending his detention. Abu Lihi said that security officers accused him of writing graffiti, including slogans such as “Abbas Leave,” “Down with Oslo,” a reference to the interim peace accords that created the PA, “Gaza is closer than Paris,” a reference to the separation between the two parts of the Palestinian territory, and pro-Hamas slogans. Abu Lihi said his interrogators told him they would not release him unless he confessed or implicated his friends.

He said that four or five officers made him remove his clothing, then opened the windows to the winter air, and beat him with their hands and a fire extinguisher pipe. They broke his teeth, doused him with cold water and then hot water, and beat him in his groin. They did not give him adequate food and beat him again on February 5, the day they released him. [. . .]

According to court documents reviewed by Human Rights Watch, the Palestinian prosecution charged Abu Lihi and his fellow rappers with creating strife, under Article 150 of the penal code, and criticizing a higher authority, under Article 195. The prosecution said that Abu Lihi and others sprayed outdoor graffiti whose content was “defamatory sentences that include insults . . . directed personally against the president of the State of Palestine and against the authorities.” Since his release, Abu Lihi said, he has attended multiple court hearings related to the charges, with the next one scheduled for September.

“I have been going to one court hearing after another, but the witnesses never come,” Abu Lihi said. “Every time they hold a court hearing, I have to miss classes and work.” He said that he had missed final exams due to his 2015 detention and had to repeat the semester. He has stopped making music.

“I don’t want to get in trouble like the rest of my friends who sang about freedom,” Abu Lihi said.

MAJD KHAWAJA

Majd Khawaja, 22, had been a member of the rap group Min al-Alef Lal Ya together with Abu Lihi. On November 19, 2014, security forces arrested and held him for three days, he said. They interrogated him at intelligence headquarters and accused him of painting the word, *intifada* (uprising) on a wall. He said that one of his interrogators kicked him in his left leg, the site of a bullet wound injury from 2013, causing nerve damage and difficulty moving his leg. He was limping at his interview. Human Rights Watch reviewed a medical report that referred to the pre-existing injury. Khawaja said security officials informed his parents of his arrest but did not allow him to see a lawyer.

Khawaja said that following his arrest, an intelligence officer ordered him to return to intelligence headquarters. After hiding out for a few days, he surrendered on January 18, 2015. Interrogators accused him of having weapons and planning to smuggle people into Jordan. Interrogators also asked him about a song about corruption he had recorded, which was written by his friend Wasim. The words include: “Dear President, I wish you could understand these words. A third *intifada* while you are sleeping and dreaming.” The interrogators told him that singing against the PA is considered to be a criminal offense.

Security officers took him to court to extend his detention, he said. At the court hearing the prosecution produced signed confessions that Khawaja said were forged. They also charged him with insulting a higher authority and creating internal strife, related to alleged graffiti criticizing President Abbas. He was released on February 1, 2015, and is being tried together with Abu Lihi.

Khawaja said he lost his job as a security guard after missing work during his detention and that he has trouble standing because of the leg injury. Since his release, he has received calls from unidentified people warning him to stop releasing songs. He said that someone hacked the group’s YouTube account and deleted its songs. The other members of the group no longer rap out of fear, but he continues to sing and record in his own name.

“We had a song, “*Fasad*,” (Corruption), in 2013, before we got arrested,” Khawaja said. “It was on my personal page. It was deleted while I was in prison. We don’t know who deleted it on

YouTube. It did not have bad words or target specific people. It was about corruption by the PA in general.”

Khawaja said he and others are now self-censoring, trying to communicate using hints or code words to avoid further arrests:

“I still rap politics, but I am more conscious about the choice of words, and I sometimes publish things under different names,” he said. [. . .]

Response from Palestinian Authorities

Human Rights Watch interviewed by telephone a Hamas spokesman, Ghazi Hamad, and Brigadier-General Mohammad Lafi, an inspector at the Interior Ministry in Gaza. Hamad offered to meet with Human Rights Watch in person to discuss the case, but for several years Israel has refused to allow Human Rights Watch staff to enter Gaza, and Egypt keeps its border with Gaza mostly closed and has refused Human Rights Watch’s request to cross it.

Hamad denied that security officials torture detainees or made anyone sign commitments to refrain from publishing insults or other criticism of government or military officials. He said that they allow the ICRC, the ICHR, and local human rights groups to visit prisons and monitor treatment, and that in light of complaints from such groups, the authorities have imposed stricter regulations on the security forces. He said that the authorities in Gaza do not arrest people based on political activity:

“We arrest people for criminal offenses,” Hamad said. “People have the freedom to believe and support whoever they want. We make the arrests if they try to use force against society.”

Lafi, of the Interior Ministry, said that authorities respect the right to freedom of speech, and that they follow the rule of law in cases in which people insult others or “libelously attack people in order to instigate public strife.” He said that the political split between Fatah and Hamas and the movement restrictions imposed by Israel “create a unique situation where public disorder and political disagreements and strife can have a detrimental impact on the people.”

He also said that security officials are trained in international humanitarian law by the ICRC, and are trained in human rights, and that all security units are inspected by the Interior Ministry.

“We have very strict regulations,” he said. “We refuse any form of verbal or physical violence. As an inspector, I regularly make unannounced visits; we receive complaints and investigate them; and we have human rights organizations visiting the detention centers.” [. . .]

Human Rights Watch also met with PA officials in the West Bank, including the Palestinian attorney general, the chief military prosecutor, and the foreign minister. [. . .]

Speaking generally, all three officials noted the progress the PA has made, no longer trying civilians in military courts, since 2011, including for speech-related crimes.

Attorney General Ahmed Barrak said that he tries to minimize prosecutions for insulting a higher authority or public official, and that his office closes hundreds of complaints without filing charges. Some of those complaints, Barrak said, come from security officials who accuse others of defaming or insulting them. He said he uses his discretion to prosecute only the most “serious” cases but would not say what his criteria are.

He acknowledged the significance of Palestine’s ratification of the ICCPR but said that as attorney general he remains subject to and is required to enforce existing domestic law and its

criminalization of certain kinds of speech, until those legal provisions are repealed. When asked why he does not use his discretion to avoid prosecuting people for insulting officials, he said, “I am forced to apply those laws until they are changed.” He added that limitations on free speech are necessary in any country, “otherwise there will be anarchy.”

Major General Ismail Faraj, the chief military prosecutor, said that his office has been working to modernize the Palestinian security forces and that any violations of the law are the acts of individuals rather than part of a policy. “We are not perfect,” he said, but “any member of the security force who does not obey the law is prosecuted.” Faraj said that his office encourages members of the public to submit complaints in cases of abuse and takes measures to reassure them that they will not be subject to retaliation. When asked, however, about cases like that of the rappers, who said they will not issue a complaint out of fear, he said that in the absence of a complaint his office cannot investigate. He agreed to look into the allegations against security forces presented to him by Human Rights Watch informally, but he did not subsequently provide additional information.

In response to a question about whether security forces monitor social media, the spokesman for the security forces, Major General Adnan Damiri, said they do, to monitor “terrorist” activity. [. . .]

A3. AGAINST CANARY MISSION, “UNIVERSITY FACULTY CONDEMN CANARY MISSION BLACKLIST,” SEPTEMBER 2016

In May 2015, the Canary Mission database emerged as a blacklist of U.S.-based activists, students, and academics supporting Palestinian rights. Having begun with a list of around fifty individuals, the website now publishes bios, photos, social media accounts, and e-mail addresses for hundreds of individuals, hoping to keep pro-Palestinian activists from landing jobs and other opportunities.

While the Canary Mission’s founders remain anonymous, observers liken the website to projects like David Horowitz’s Freedom Center and similar initiatives targeting Palestine solidarity groups and pro-Palestinian individuals. In September 2016, after the Canary Mission added 100 new individuals to its database, more than 1,000 professors signed onto a letter condemning what they called the group’s “McCarthyist tactics.” The letter urges universities and employers to disregard and denounce the Canary Mission.

The signatories—including Noam Chomsky, Rabab Abdulhadi, Robin D. G. Kelley, Sherene Seikaly, Richard Falk, Shira Robinson, John Mearsheimer, and Steven Salaita—represent an array of academic expertise, reflecting the growing ties between Palestinian activists and other liberation movements. The text of the letter is presented below. It is available, along with the full list of signatories, at againstcanarymission.com.

As faculty who serve, have served, or are likely to serve on an admissions committee at graduate and undergraduate university programs across the country, we unequivocally assert that the Canary Mission website should not be trusted as a resource to evaluate students’ qualifications for admission. We condemn Canary Mission as an effort to intimidate and blacklist students and faculty who stand for justice for Palestinians.

Canary Mission is a website and social media initiative designed to slander student, faculty, and community activists for Palestinian rights as extremist, anti-Semitic, and sympathetic to terrorism.

By publicizing the names, social media accounts, employment history, and other personal information about student activists, Canary Mission mobilizes a small online community of pro-Israel advocates to harass and threaten these activists. Over the past six weeks, the now two-year-old Canary Mission site has added over 100 new students to its blacklist. As of this writing, in the first half of 2016, Canary Mission has on over 30 occasions tweeted the names of employers in order to rally their followers to intimidate students. In a few cases, Canary Mission also has contacted the prospective graduate schools of these students, claiming without evidence that the students are anti-Semites, terrorists, or both. The goal of their campaign is to use fear and intimidation to pressure activists to cease their human rights advocacy. Though the creators of Canary Mission remain anonymous, it has been linked to, and utilized by, such well-known individuals as Daniel Pipes and David Horowitz, who have been labeled as purveyors of hate speech by the Southern Poverty Law Center.

Although, as individual faculty, we hold a range of viewpoints on Israel-Palestine, we recognize that student advocacy for Palestinian human rights is not inherently anti-Semitic, and that such advocacy represents a cherished and protected form of free speech that is welcome on college campuses. We reject the McCarthyist tactics used by Canary Mission. Canary Mission's aim is to damage these students' futures, and to punish them for their principled human rights activism. We urge our fellow admissions faculty, as well as university administrators and all others, [to join us in signing and standing against such bullying](#) and attempts to shut down civic engagement and freedom of speech.

ARAB

B1. BADIL, "ISRAELI FORCES TARGETING PALESTINIAN YOUTH IN THE WEST BANK," BETHLEHEM, 23 AUGUST 2016

In August 2016, BADIL Resource Center for Palestinian Residency and Refugee Rights released a briefing on Israel's targeting of Palestinians in the Dahaysha and al-Fawar refugee camps where more than 50 youths were shot and injured over a six-week period from July to August. The briefing highlights unlawful threats made by the Israeli commander in the Dahaysha area, who is known to locals as "Captain Nidal," implying a policy of shooting to injure and permanently disable Palestinian youths (see Selections from the Press in JPS 46 [2] for more). In the brief, BADIL argues that the Israeli commanders are using unjustifiable lethal force against Palestinians. The text of the brief is presented below. It is available online, with footnotes, at www.badil.org.

The systematic targeting of Palestinians, particularly youth, by Israeli military forces throughout the occupied Palestinian territory (oPt) has intensified since the beginning of 2016. This targeting has taken the form of injuries and arbitrary killings by the use of live ammunition by the Israeli army in the context of arrest campaigns, military raids and random wide searches which usually trigger clashes. The preliminary investigation conducted by BADIL Resource Center for Residency and Refugee Rights (BADIL) shows that these actions represent an Israeli policy that constitutes a grave breach of international law and could amount to an international crime. While these actions

require international investigation, in particular by the International Criminal Court, the Palestinian National Authority must also take protective measures, especially considering that most of the breaches have been committed in the so-called Area A.

BADIL initiated an ongoing investigation into the events and actions carried out by Israeli forces in the West Bank, particularly in the Palestinian refugee camps that have been significantly targeted throughout July and August 2016. Preliminary examination of the actions in Dheisheh (Bethlehem) and al-Fawwar (Hebron) demonstrates the excessive use of force by the Israeli forces against Palestinian youth, and the residents of the refugee camps more generally. Further and more significantly, these actions have no grounds in international law given the circumstances in which force is being used and the kinds of weapons and ammunition employed.

Dheisheh refugee camp was raided three times by Israeli forces between the end of July and mid-August. During these three incursions 18 youth aged between 14 and 27 were shot in their legs, 8 of which were shot directly in the knee and several more in both legs. Four other youth from areas around Dheisheh were also shot in their legs during these incursions. On 22 August, Israeli forces raided the city of Doha, adjacent to Dheisheh, and shot at least one young person next to the camp. Since the beginning of 2016, 30 people have been shot with live ammunition in Dheisheh camp, the majority in their legs and knees. Medical sources have reported that these injuries cause both permanent and temporary disabilities. In addition, at least 83 people have been shot with live ammunition in the Bethlehem area during this period.

In the case of Dheisheh camp, the unjustified injuries were accompanied by threats from the Israeli commander responsible for that area, known as “Captain Nidal.” Captain Nidal made threats to youth from Dheisheh before, during and after the raids, and during interrogations and arrests. He made statements about his intention to injure the youth of the camp, including: “I will make all the youth of the camp disabled,” “I will have all of you walking with crutches and in wheelchairs,” “I will make half of you disabled, and let the other half push the wheelchairs,” and “I will make all of you stand in line at the ATM waiting for your disability subsidies and assistance.” One of the injured youth told BADIL that Captain Nidal told him to tell his friends that “Nidal will make all of you disabled.”

These threats indicate that these actions are not accidental or isolated incidents, but rather result from a systematic Israeli military policy aimed at suppressing resistance, terrorizing Palestinian youth, and permanently injuring them and/or causing significant damage to their physical and mental well-being. The explicit threats by the Israeli army leadership show the willingness to commit criminal acts and raise significant concerns about the adherence of the Israeli forces to the tenets of international law.

Al-Fawwar refugee camp, located south of Hebron, was raided by the Israeli forces at dawn of 16 August 2016. During the invasion, which lasted around 24 hours, a 17-year old Palestinian was shot dead and 45 were injured. Israeli forces also ransacked homes and placed snipers on rooftops across the camp. In response to this incursion, clashes with the camp residents and youth erupted. The Israeli army responded with live ammunition, tear gas and rubber-coated bullets. Further, they did not permit medics to treat those injured and prevented a Palestinian ambulance from

evacuating a seriously injured young man. Some of those injured reported the use of explosive bullets by the Israeli army, which are illegal according to international law.

The escalating use of excessive force against Palestinians by Israel is alarming and illegal, as under international law. Providing that the Israeli military forces are not the initiators, the use of firearms is only permitted as a last resort in cases of imminent threat of death or serious injury or for self-defense, and the use of force must be strictly necessary and proportionate. Moreover, firearms should only be used when other measures have proved insufficient. The use of lethal force against Palestinians in this case does not fall under the justified grounds for using firearms and is therefore illegal. The aforementioned attacks are also prohibited by International Human Rights Law, which states that “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” is prohibited, and are also a grave breach of the Fourth Geneva Convention considering the ‘protected’ status of the Palestinians who have been targeted. Article 32 of the Fourth Geneva Convention explicitly says that “prohibition applies not only to murder, torture, corporal punishments, mutilation [. . .], but also to any other measures of brutality whether applied by civilian or military agents.”

These cases of intentional wounding, when added to the comparable actions happening in refugee camps such as Aida, al-Arroub, Kalandia, Am’ari and the West Bank at large, prove that these incidents amount to a systematic policy and an implementation of Captain Nidal’s threats. These willful and grave breaches of international law trigger the obligations of third party states and other mandated agencies to put an end to this climate of impunity under which Israeli forces and its officials operate.

B2. ADDAMEER, “DARING TO POST: ARRESTS OF PALESTINIANS FOR ALLEGED INCITEMENT,” RAMALLAH, 24 AUGUST 2016 (EXCERPTS)

In the period since the outbreak of the Palestinian habba in September 2015, a new charge has appeared as grounds for arrest, the accusation of “incitement to violence.” In this briefing, Addameer Prisoner Support and Human Rights Association explores the close collaboration between the Shin Bet, Israeli police, and Israel Defense Forces in monitoring and apprehending Palestinians who publish materials deemed a threat to Israeli security, with increased surveillance of Palestinian social media accounts reaching the point of liaising with the executives of Facebook (see Palestine Unbound in JPS 46 [2] for more). Addameer’s brief explores the legal grounds the Israeli government employs as justification for its surveillance and monitoring of Palestinians, and argues that Palestinians are criminalized for expressing their frustrations with the illegal military occupation. Excerpts from the document are presented below, and it is available in full at www.addameer.org.

Since the beginning of October 2015, with the start of the so-called “Third Intifada,” the number of Palestinian detainees in Israeli prisons and detention centers has increased significantly. A new phenomenon has started to appear in significant portion as a ground for arresting Palestinians, the accusation of “incitement,” whether on social media or TV channels. The Israeli government has accused the Palestinian society of “glorifying” death among Palestinians. A debate has emerged trying to explain all sorts of religious, ideological or psychological reasons behind

Palestinians' alleged incitement. On 23 February 2016, former Israeli Security Minister Moshe Ya'alon stated, "We are facing a society that sanctifies and glorifies death. . . . There is no room for any comparison between our bereavement and the way the loss of life is experienced on their side. We have chosen life."

There has been increased collaboration between the Shin Bet (Israeli Intelligence), Israeli police, and occupation military in monitoring and apprehending Palestinians who publish materials deemed a threat to the Israeli security and purported glorification of death and "terrorist activity." Hatzav is the Military Intelligence unit responsible for monitoring open sources including Palestinian local media. Hatzav is a sub-unit of Unit 8200 which obtains covert information through intercepting communication mediums, including telephone conversations, and recently has become tasked with cybersecurity. It is believed that the Unit was established about one decade ago to provide Israeli intelligence with important information.

Since the beginning of October 2015, Addameer has documented more than 200 cases of arrests of Palestinians, including children, for alleged incitement. The prosecution of Palestinians for social media posts is based on information obtained from the intelligence. The intelligence and prosecution analyze the detainees' publications by addressing its content, the number of people that interacted with the post (likes and shares), and the comments received. Israeli military and civil courts have issued sentencing against Palestinians exceeding one year on charges of incitement.

The Israeli civil courts rely on Article 144 from the Penal Code (1977) which addresses "incitement to violence and terrorism" to prosecute individuals for up to five years in prison if their alleged incitement has allegedly caused violent or terrorist activities. Meanwhile, the Israeli military courts rely on Article 85 from the Emergency Regulations (1945) which also deals with alleged incitement and those who express sympathy with "terrorist activities."

While these laws do not specify social media mediums as sources of alleged incitement, in the past few years, there has been a significant peak in their application in the social media context. This has resulted from the Israeli government launching a campaign focusing on Twitter and Facebook. On 2 July 2016, the Israeli Minister of Internal Security called Facebook a "monster" and accused it of complicity in violence against Jewish Israelis. As a result, Facebook has shut down several Palestinian accounts and pages that were accused of promoting incitement.

Issuance of incitement charges by Israeli authorities, as practiced exclusively against Palestinians in recent months, constitutes a violation of freedom of expression, and also exemplifies a discriminatory policy of selective application. Palestinians are routinely investigated and arrested for incitement to violence for comments that do not come close to the edge of violent speech as claimed by Israeli authorities. Meanwhile, Israeli right wing and extremist groups, as well as state officials who have advocated for the killing and ethnic cleansing of Palestinians through social media and public speeches have not been arrested on incitement charges. This exemplifies the selective use of such arrests which reflects a double standard in applying these apprehensions between Jewish Israelis and Palestinians. Through this policy, incitement has become a common allegation used against Palestinians by the Israeli occupation, as justification for limiting the freedom of expression on media, including social media websites and journalistic work. [. . .]

Addameer attorney Mohammad Mahmoud has observed that the Israeli government has been significantly relying on "incitement" charges against Palestinians in Jerusalem since December 2014

on purported security grounds. The attorney stated that the court began issuing sentences ranging between 6 and 12 months, where each social media post corresponds its own charge. For example, if a person posted three separate posts, this would result in three separate charges. The attorney noted that the sentencing is often contingent upon and makes references to the number of Facebook friends the individual has, as well as the number of “likes” and “shares” the post received. Some instances of this policy of alleged incitement through Facebook from Addameer documentation include the following:

- *27-year-old Nader Halahleh from Jerusalem was arrested on 25 November 2015 and was charged with incitement. Mr. Halahleh had previously published seven posts on Facebook, including pictures and statuses. He was convicted of seven charges related to incitement, and as a result was sentenced to seven months in prison.*
- *17-year-old Qathem Sbeih from Jerusalem was arrested on 17 October 2015 and was accused of incitement on Facebook based on intelligence secret information and was given 3 months administrative detention.*
- *18-year-old Shadi Muhaisen from Jerusalem was arrested on 16 October 2015 and was detained for nine days before being placed under administrative detention for three months. Shadi was interrogated about his Facebook posts which included a picture of Palestinian Fadi Alloun, who was extrajudicially executed on October 4th, 2015. It was claimed by prosecution that Shadi poses a threat to Israeli national security.*
- *19-year-old A.H. from Nazareth was arrested on 05 October 2015 and was interrogated about a Facebook post in which she purportedly hoped for martyrdom. After interrogation that lasted for five hours, she was detained for ten days and was subsequently placed under administrative detention for three months.*
- *19-year-old Dunya Musleh, from Deheisheh refugee camp in Bethlehem was arrested on 15 November 2015 for incitement. Dunya, a student at Al-Ahliyah University was indicted with three charges related to Facebook posts, which included pictures of extrajudicially executed Palestinians with captions that were deemed incitement by occupation authorities. The military court claimed that Dunya was encouraging Palestinians to carry out attacks against Israelis and inciting violence. The court also claimed that Dunya’s posts were praised by many people and received many “likes.”*
- *19-year-old Jureen Qaddah from Ramallah was arrested on 29 October 2015 for alleged incitement. Jureen, a second year media student at Birzeit University, was placed under administrative detention for three months. During the confirmation hearing, the military judge refused to reveal the nature of the secret information, but stated that Jureen glorified “terrorist activities” against Israeli citizens in her Facebook posts.*

It is worth mentioning that a significant portion of the documented cases of arrest for alleged incitement have been placed under administrative detention due to lack of evidence, coupled with the fact that Israeli laws do not explicitly include articles that criminalize Facebook posts. Among these documented cases, none of the evidence demonstrated that the social media posts did in fact lead to any violent activities or posed a viable threat to the Israeli national security as claimed by the prosecution. The criteria that the prosecution relies on (numbers of “shares” and “likes”) display the lack of adequate evidence connecting the individual to any future violent activities.

Effectively, Palestinians are being arrested, silenced and prosecuted for expressing anger and frustration against the protracted Israeli occupation that regularly violates their human rights.

**B3. "PALESTINIAN STATEMENT OF SOLIDARITY WITH STANDING ROCK SIOUX TRIBE,"
ELECTRONIC INTIFADA, WASHINGTON, 10 SEPTEMBER 2016**

In June 2014, a 1,172-mile oil pipeline project was announced by Dakota Access, LLC. Known as the Dakota Access Pipeline, the pipeline's route stretches from North Dakota to Illinois and is planned to run beneath the Missouri River near the Standing Rock Sioux Reservation in North Dakota.

Although the route crosses major water sources, the Army Corps of Engineers exempted the pipeline from the full environmental review required under the Clean Water Act and the National Environmental Policy Act.

In spring 2016, the Standing Rock Sioux Tribe began massive protests against the pipeline, calling for a construction halt until an environmental review was conducted. The protest camps grew throughout the summer and fall, culminating in a series of crackdowns against protesters by the National Guard, state troopers, police, and the private security companies hired to protect the pipeline, including G4S which works with the Israeli Prison Service to detain Palestinians.

Indigenous groups from across North America have flocked to the Standing Rock protest camps in solidarity with the tribe. Additionally, activists from across the U.S. have joined protestors at the camps, including Palestinian-Americans (see Palestine Unbound in JPS 46 [2] for more). In September 2016, a group of Palestinian activists released a statement in support of the Standing Rock Sioux, drawing connections between their respective indigenous struggles. At the end of the quarter, the statement had 95 signatories from around the world, including Hanan Ashrawi, Yousef Munayyer, Diana Buttu, Iyad Burnat, and Remi Kanazi. The text of the statement is presented below and is available online, with the list of signatories, at docs.google.com.

We the undersigned Palestinians—artists, academics, activists, elders, laborers, musicians, authors, businesspersons, attorneys, students—hereby declare our unqualified and heartfelt solidarity with the Standing Rock Sioux Tribe in their epic struggle to protect what remains of their ancestral lands, waters and sacred sites.

As an indigenous people whose lands have been robbed and pillaged, and who face existential settler-colonial expansion in Palestine, we recognize that Native American and First Nation peoples have endured centuries of violent settler colonialism that has dismantled and robbed them of home, heritage, dignity, security, narrative, land, language, identity, family, trees, cemeteries, animals, livelihoods and life.

We recognize the multitude of ways that Native American and First Nation struggles to protect indigenous territories have ultimately been struggles on behalf of all of humanity to save the Earth we share from toxic globalization of neoliberal and capitalist ethos that threaten our collective survival.

We also heed the wise leadership of a people who first conceived of mountains and rivers as sacred, who look upon a prairie with reverence, who consider trees as family and who risk their lives to protect the water and the integrity of their ancestral lands.

ISRAEL

C1. ADALAH, "EXTRA-JUDICIAL EXECUTIONS OF PALESTINIANS BY ISRAELI POLICE AND SECURITY FORCES," HAIFA, SEPTEMBER 2016 (EXCERPTS)

In September 2016, Adalah released a briefing that addresses Israel's open-fire police regulations, the state's failure to investigate alleged extrajudicial killings, and its denial of autopsies in cases of Palestinians killed by Israeli forces. (See Doc. C in JPS 46 [1] for more on Israel's updated open-fire regulations.) Concluding with a few cases of Palestinian deaths at the hands of Israeli forces over the previous year, the briefing argues that these regulations and practices amount to a policy of extrajudicial killing. Excerpts from the brief are presented below. The full brief is available with footnotes at www.adalah.org.

I. Open-Fire Police Regulations and "Shoot-to-Kill" Policy

In September 2015, during a peak in the violence, the Israeli government announced a relaxation in the police's detailed "rules of engagement." **The amendment of these rules of engagement led to a dramatic increase in the unjustifiable use of lethal force by police**, apparently in unjustifiable circumstances, including many instances of what appear to be extra-judicial executions (EJEs), with police resorting to the harshest, often lethal means rather than first attempting to arrest the suspects. In numerous cases, the police appear to have engaged in extrajudicial executions (EJEs), which are effectively prohibited under the UN Convention Against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR). This conclusion is corroborated by video evidence and/or first-hand witness accounts in many cases. This "shoot to kill" phenomenon against Palestinian youth has become alarmingly widespread, particularly in East Jerusalem, as well as other parts of the West Bank.

Politicians and senior police officers have also openly called for the extra-judicial killing of suspects, and have urged civilians to carry guns in statements that effectively endorse the extra-judicial execution of Palestinians. For example, Jerusalem District Police Commander Moshe Edri was quoted as saying, "Anyone who stabs Jews or hurts innocent people is due to be killed." Interior Security Minister Gilad Arden declared that, "every terrorist should know that he will not survive the attack he is about to commit." MK Yair Lapid stated, "You have to shoot to kill anyone who pulls out a knife or screwdriver." Jerusalem Mayor Nir Barkat called on Israeli civilians who own firearms to carry them at all times. [. . .]

The new regulations permit officers to open fire with live ammunition, as an initial option, preceding any prior attempt to deploy non-lethal weapons—against stone-throwers and those shooting fireworks. The regulations were updated, then vetted and authorized by Israeli Attorney General (AG) Avichai Mandelblit, and distributed to officers in December 2015 but remained classified. Sections of the regulations were finally revealed in June 2016, in response to a court petition submitted by Adalah after the police refused to release specific details. [. . .]

The conclusion that the Israeli security forces are implementing a *de facto* and illegal policy of "shoot to kill" against Palestinians is supported by five case examples from Adalah's case docket (see Appendix attachment). Adalah, together with Addameer – Prisoner Support and Human

Rights Association, has represented the families of the deceased in five cases of suspected EJE before the Israeli authorities. The cases concern incidents in which police opened deadly fire at Palestinians who appear *not* to have posed an imminent danger to them or to others when they were shot. To date, **four of these cases have been closed** with the finding that “no crime was committed.” The fifth case currently remains pending.

II. Failure of Israeli Authorities to Investigate EJEs

The decisions by **Mahash**, the Police Investigation Unit within the Israeli Ministry of Justice, to close nearly all the EJE cases so far are the latest examples of the extensive impunity granted to Israel’s security forces for the killings of and brutality against Palestinians. To place it into context: based on official figures, between 2011 and 2013, 11,282 complaints against the police were filed to Mahash. Out of these complaints, **93% were closed** by Mahash with or without investigation; **3.3% led to disciplinary actions** against police officers; and **only 2.7% led to any prosecution**. The recent cases of EJEs demonstrate again the ongoing absence of accountability and unwillingness of Mahash to genuinely investigate alleged violations of the law by its security forces.

In response to a letter sent by Adalah in October 2015 demanding an immediate investigation into the killing and injury of Palestinians in violation of the rules of engagement by the Israeli police, the **Attorney General (AG)** merely stated that he had **stressed the importance of the open-fire regulations** to the police and other relevant forces working on the ground, and that the cases in question had been passed to the “relevant authorities.” In the letter, Adalah cited three cases of suspected EJEs, including the case of Fadi Alloun, subject of one of the aforementioned complaints by Adalah and Addameer, and 30-year-old Esaraa Abed, a mother of three from Nazareth who was shot dead by police at the central bus station in Afula as she stood motionless before them. [. . .]

III. Denial of Autopsies, Failure to Release the Bodies of the Deceased

Perhaps the starkest indication of Israel’s unwillingness to conduct proper investigations into these killings is its repeated failure to conduct and/or denial of permission to conduct autopsies. Further, the Israel police have followed a policy of **withholding the bodies of extrajudicially-executed Palestinians**, storing the bodies of the deceased in deep-freezers, and conditioning their release to the families on several provisions, including that the bodies should be buried immediately without autopsy. Other conditions to receive the body include requiring the families to bury the deceased in one a few cemeteries chosen by the Israeli police, only to invite 25 family members to the funeral and to pay thousands of shekels as a guarantee that they would abide by the rules. In some cases the authorities have also reneged on agreements made with the families of the deceased for their release for autopsy and/or burial. The withholding of bodies obstructs the possibility of conducting a credible investigation into the circumstances of the alleged EJEs and a proper autopsy and creates strong fears of attempts to cover-up the facts of these killings.

In addition to the denial or at least the delay of an autopsy, the withholding of the bodies in itself constitutes a **serious violation of international humanitarian and human rights law**. All human beings have the right to a prompt, decent, and dignified burial as an integral part of the right to human dignity, which also applies after death. The policy further violates the rights to freedom of

religion to practice culture, by preventing the families from mourning and burying the bodies in accordance with their faith and the traditional rites and ceremonies of their communities.

On 5 May 2016, representatives of the state announced Israel's intention to release the dead bodies of Palestinians that it has been withholding "within a short space of time." The announcement came during an Israeli Supreme Court hearing held on petitions submitted by Adalah and Addameer to demand that Israel immediately release the bodies of dead Palestinians from East Jerusalem detained by the Israeli police. In the aftermath of the hearing Israel released several of the bodies, including that of Mu'taz Ewisat (see case study 4). However, as of early September 2016, according to information received by Adalah from victims' families, 12 bodies are still being held by Israel.

IV. Position of the UN Committee Against Torture on EJs by Israeli Forces

On 13 May 2016, the UN Committee Against Torture issued over 50 concluding observations to Israel following its review of the state's compliance with the UN Convention Against Torture (CAT), to which it has been a party since 1991.

Addressing the cases of EJs brought by Adalah and human rights partners, the Committee raised concerns at the allegations of excessive use of force, including lethal force, by Israel security forces against Palestinians in the West Bank, including East Jerusalem, and the access-restricted areas (ARAs) of the Gaza Strip, particularly in the context of demonstrations, in response to attacks or alleged attacks against Israeli civilians or security forces, and to enforce the ARAs of the Gaza Strip.

Thus, the Committee concluded, Israel should ensure that "the rules of engagement or regulations on opening fire are fully consistent with the Convention and other relevant international standards" and that "all instances and allegations of excessive use of force are **investigated promptly, effectively and impartially** by an independent body, that alleged perpetrators are duly prosecuted and, if found guilty, adequately sanctioned" (para. 32, 33).

Notably the UN High Commissioner for Human Rights, in a report in March 2016, also stated that, "some of these responses **strongly suggest unlawful killings, including possible extrajudicial executions**" (A/HRC/31/40, para. 10).

The UN CAT also issued concluding observations regarding the **return of the deceased Palestinian bodies**. While noting Israel's new agreement to initiate the return of the bodies, the Committee urged Israel "to return the bodies of the Palestinians that have not yet been returned to their relatives as soon as possible so they can be buried in accordance with their traditions and religious customs, and to avoid that similar situations are repeated in the future." (para. 42, 43) [. . .]

C2. B'TSELEM, "ISRAELI HUMAN RIGHTS ORGANIZATIONS CONDEMN TARGETING OF GAZA AID ORGANIZATIONS," JERUSALEM, 22 AUGUST 2016

In June 2016, Israel arrested Mohammad El Halabi, the Gaza director of the Christian charity, World Vision. El Halabi was interrogated for over fifty days, and after they extracted confessions from him, the Israeli authorities accused him of diverting \$43 million to Hamas's military wing. World Vision CEO Kevin Jenkins responded with a statement that his organization's Gaza budget had been around \$22.5 million over the course of the previous ten years, so it was very unlikely El

Halabi had committed the alleged crimes. As the international community criticized Israel for cracking down on an aid group, Israel's Shin Bet announced on 9 August that a UN Development Programme employee in Gaza, Wahid Abdullah al-Bursh, had been arrested in July for transporting 300 tons of rubble from a UNDP site to a Hamas site on orders from a Hamas official (see this issue's Photos from the Quarter and Update on Conflict and Diplomacy for more).

This quarter, Haaretz reported (8/25) that Western officials had complained about Israel's failure to provide any evidence supporting these charges, implying that the Israeli government was interested in creating a diplomatic "buzz" rather than achieving justice. Israel continued litigating both cases and froze World Vision's bank accounts. (See Update in JPS 46 [1–2] for more.)

In response to these cases and Israel's growing crackdown on nongovernmental organizations, sixteen Israeli human rights groups issued a statement highlighting the necessity of humanitarian aid for Palestinians in the Gaza Strip. The signatories include B'Tselem, Breaking the Silence, Adalah, and other groups that have been recently targeted by the Israeli government for discussing Palestinian rights. The statement is presented below and is available with the list of signatories at www.btselem.org.

Approximately 1.8 million people live in the Gaza Strip. After almost a decade of siege and repeated rounds of bombardments, the economic situation is on the verge of collapse. The unemployment rate is one of the highest in the world, civilian infrastructure is in ruins, water supply is contaminated, and poverty is widespread.

International aid organizations have addressed this reality for years, displaying tireless commitment in extremely difficult conditions. Given that Israel imposes conditions of poverty and isolation on residents of the Gaza Strip, the activities of humanitarian organizations are vital. Approximately 70 percent of Gaza residents are dependent on humanitarian aid.

The Israeli authorities recently indicted two employees of international aid organizations active in the Gaza Strip. On the basis of these indictments, Israeli authorities have made sweeping, far-reaching, and irresponsible allegations claiming that humanitarian operations in the Gaza Strip as a whole are connected to Hamas and serve the organization.

Any use of funds intended for humanitarian aid to support violence is illegal and is an extremely grave matter. Even if the defendants are found guilty—at present they should benefit from the presumption of innocence—this will not detract from the importance, integrity, and dedication of international humanitarian organizations assisting residents of the Gaza Strip.

We, the undersigned Israeli human rights organizations, attach great importance to the work of international aid organizations active in assisting residents of Gaza, so many of whom live in extremely dire conditions. We urge the Israeli government to refrain from impeding the activities of these organizations, and to avoid vilifying the vital work of the aid community.

C3. KEREM NAVOT, "OWN GOAL: ISRAELI FOOTBALL CLUBS IN WEST BANK SETTLEMENTS," JERUSALEM, OCTOBER 2016 (EXCERPTS)

In 2015, the Fédération Internationale de Football Association (FIFA) established a monitoring committee to explore complaints against the Israel Football Association (IFA), including the allegation that IFA clubs located in Israeli settlements in the West Bank violate FIFA regulations.

The monitoring committee presented its findings at the FIFA Council meeting in Zurich in October 2016.

In the lead-up to the meeting, human rights organizations, activists, and international figures all urged FIFA to ban IFA's six settlement clubs since they benefit from freedom of movement policies not afforded to Palestinian clubs in the West Bank (see this issue's Settlement Monitor for more). The Palestinian Football Association has also petitioned the association, arguing that the settlement clubs violate FIFA rules prohibiting members from holding competitions on one another's territory without permission. In line with Israel's stance, IFA argues that the clubs are located on disputed, not Palestinian, territory. Since the settlement clubs are based in Israeli military-controlled Area C of the West Bank, the IFA argues that the clubs are on disputed territory, not Palestinian territory.

In response to IFA's claims, Israeli research group Kerem Navot documents the status of the land on which the settlement clubs sit, tracing Israel's illegal appropriation of the land for the exclusive use of its settler population. Additionally, the report explains the legal mechanisms employed by Israel to expropriate Palestinian land for settler use. Excerpts from the report are presented below and it is available in full at www.keremnavot.org.

On September 26, 2016, Human Rights Watch released a short report titled Israel/Palestine: FIFA Sponsoring Games on Seized Land. The report addresses the participation of six Israeli football clubs, located in five different settlements, in the league's games in Israel. The settlements at hand are Oranit, Ariel (home to two different teams), Givat Ze'ev, Ma'ale Adumim and Tomer. All these settlements are located in Area C, which constitutes approximately 61% of the West Bank and is part of the occupied Palestinian territories. Area C has remained under Israeli civil and military control, although according to the Oslo Accords, signed in 1993–1995, it was supposed to be transferred to Palestinian civil control within five years, which did not take place.

The worldwide football association, FIFA, has been at the heart of an ongoing dispute between the Israeli Football Association (IFA) and the Palestinian Football Association (PFA). The PFA claims that the IFA is violating FIFA rules that prohibit member associations from holding competitions on one another's territory without permission from the respective party. The IFA regularly conducts matches in settlements that are recognized as occupied Palestinian territories under international law, though Israel and the IFA insist that the territory is "disputed," and that FIFA should not take a stance on the matter. [. . .]

As the problematic legal and political nature of this reality was made very clear by the authors of the report, the purpose of this new short report by Kerem Navot is to clarify the status of the land on which the six compounds were established to host the league's matches in the settlements. The report also includes brief descriptions of the mechanisms that enabled Israel to take over the land and transfer it to settlers for their exclusive use. It is important to make clear that all of the mechanisms systematically and contiguously used by Israel are considered strictly illegal according to international law and by the vast majority of the international community.

Kerem Navot urges FIFA not to accept football clubs that play on stolen land, and to suspend their participation in the Israeli football association. [. . .]

Land Registration in the West Bank and Its Suspension in 1968

Prior to Israel's occupation of the West Bank in 1967, the regulation and registration of about one third of the West Bank was completed. The regions included land around Ramallah, Nablus, Jenin, Tulkarem, Qalqilya and the northern part of the Jordan Valley. In these regions land registry was advanced by British mandatory authorities, and then under Jordanian rule, which included the distribution of village land into blocks and plots, and registration of the owners of each tract. Land registered in the West Bank listed, among other things, approximately 600,000 dunams under the ownership of the "state," which originally belonged to British mandatory authorities and thereafter to the Jordanian Treasury, upon Jordan's annexation of the West Bank. In time, in many cases Israel gained control of these lands (as in the case of the settlement of Tomer—see below) and transferred them to Israeli settlers. In December of 1968, a year and a half after Israel entered the West Bank, the process of land registration in the area was suspended through a military order signed by a regional commander. With that, land registration in the West Bank has effectively ceased to date.

Land Seizure for Security Purposes and the Allocation of Settlements

In the first decade after the occupation of the West Bank, most settlements were established through land seizure supposedly intended for "security purposes." About forty settlements in total were established over the years in this fashion. International law permits the seizure of land for security purposes under the assumption that the seizure of the areas is temporary, as a security situation is inherently variable by nature. To evade the issue of "temporariness" regarding these seizures, Israeli authorities retroactively declared a substantial portion of the territories that were seized and transferred to settlements (as is the case in parts of the settlement of Ariel, for instance), state land.

The Case of Elon Moreh and the Transition to the Strategy of Declaring State Land

The Supreme Court's ruling on Elon Moreh (HCJ 390/79—Duweikat et al. v. the Government of Israel et al.) led to severe limitations on the country's ability to use "seizure for security purposes" in order to establish new settlements or expand pre-existing settlements. As a result, a new mechanism needed to be instated that would allow for ongoing control over the land in order to transfer it to dozens of settlements that the Likud government planned to establish or expand. The transition to an "active" policy of state land declaration transformed what previously appeared to be a coincidental matter with limited implications, to an issue with far-reaching implications regarding Israel's land regime in the West Bank. For the two-thirds of the West Bank in which the process of land registration was not initiated or completed, Israel makes use of Article 68 of the Ottoman Land Code of 1858, according to which it is permissible (according to its own interpretation of the law) to take possession of uncultivated land—or even land not thoroughly cultivated—for a period of over three years.

Declaration of State Land—the Quantitative Aspect

Over the years, the State of Israel has declared approximately 755,000 dunams of the West Bank to be state land. Approximately 100,000 dunams of this land includes territories (in Areas A and B) transferred over the years to the Palestinian Authority throughout the implementation of the Oslo Accords in the 90s, and as such, approximately 655,000 dunams of land in Area C were declared.

About 273,000 dunams (which comprises 42% of the declared land designated for Area C) were included in Israeli settlements' area of jurisdiction. The rest of the territory—aside from the most isolated areas that were transferred to Palestinians—was declared state land and included in the areas of jurisdiction of six Israel regional councils in the West Bank. [. . .]

Expropriation for Public Use

In a number of individual cases throughout the 70s and 80s, Israel made use of various executive mechanisms in order to establish settlements. Expropriation of land for “public use” was carried out through Land Law Order 321 (Judea and Samaria) in 1969. The land registration rights were permanently transferred to the supervisor of government property. Land expropriated through this mechanism is intended to serve the general public in the West Bank. In practice, Israel established several settlements on expropriated land in this fashion. The largest among them is Ma'ale Adumim, which was established in the mid-70s following the expropriation of an area comprising over 28,000 dunams from several villages located east of Jerusalem. It is important to note in this context that in March of 1997, Israeli settlements were declared closed military zones for all Palestinian residents of the West Bank, who are solely permitted entry with special permits to date.

Pirate Tactics

In parallel to the various official mechanisms through which Israeli authorities transferred hundreds of thousands of dunams of expropriated land from Palestinians in the West Bank to settlers exclusively, Israel has continued to foster an alternative tactic—informal, so to speak—intended to advance the takeover of land. Through use of pirate tactics, Israel encourages, organizes, and finances settler takeover of private Palestinian land for which there is no legal way to allocate to settlers. In the vast majority of settlements, there are pirate takeovers of Palestinian territories that even Israel recognizes as privately owned Palestinian land.

Analysis of the Statutory Status of the Six Football Fields

[. . .] ORANIT

- Executive means of land takeover: declaration of state land
- Formal commencement of takeover: likely from 1988–1989
- Land cultivation prior to construction: seasonal crops
- Years of construction: 1997–1999

FOOTBALL FIELD IN ARIEL

- Executive means of land takeover: seizure for security purposes followed by declaration of state land
- Commencement of formal takeover: seizure for security needs was declared on November 7, 1979 (Order 22/79). The precise date of the declaration of state land is unknown, though it likely occurred during the '80s
- Land cultivation prior to construction: seasonal crops
- Years of construction: construction likely took place during the '90s, though the exact years unknown

ARIEL INDOOR FOOTBALL FIELD (FUTSAL)

- Executive means of land takeover: military seizure for security purposes followed by declaration of state land
- Commencement of formal takeover: the military takeover took place on April 6, 1978 (Order 13/78); though the precise date of the declaration of state land is unknown, it likely occurred during the '80s
- Land cultivation prior to construction: we don't possess old enough aerial photographs to enable us to appraise the land's conditions prior to construction
- Years of construction: the precise years are unknown, though it likely occurred during the '90s

GIVAT ZE'EV

- Executive means of land takeover: there was no executive procedure, as this was a pirate takeover of private land owned by the al-Qurt family along with another Palestinian family that seeks to protect the privacy of its name
- Land cultivation prior to construction: seasonal crops
- Years of construction: 1999–2014

MA'ALE ADUMIM

- Executive means of land takeover: expropriation for public use
- Commencement of formal takeover: April 1, 1975 (Order 14/75)
- Land cultivation prior to construction: seasonal crops were cultivated in the northeastern portion of the land prior to construction, while the remaining territory likely served as pastureland
- Years of construction: 1997–2000

TOMER

- Executive means of land takeover: transfer of territory that was listed as state land in the land registry (Tabu) prior to 1967, to settlers
- Commencement of formal takeover: unknown
- Land cultivation prior to construction: fallow desert land that was likely used for grazing
- Years of construction: unknown, though likely during the early to mid-'90s

UNITED STATES

D. SEN. KIRSTEN GILLIBRAND ET AL., SENATORS URGE OBAMA TO VETO ANY UNSC RESOLUTION AGAINST ISRAEL, WASHINGTON, 19 SEPTEMBER 2016

In September 2016, days before U.S. president Barack Obama was scheduled to meet with Israeli prime minister Benjamin Netanyahu on the sidelines of the UN General Assembly, 88 U.S. senators sent a letter to the president urging him to veto any UN Security Council resolution censuring Israel. As the November 2016 presidential election approached and Obama's tenure reached its end,

legislators were concerned that Obama would allow such a resolution to pass in the Security Council to ensure that his successor would be held to certain standards on Israel and Palestine.

The letter, initiated and sponsored by the American Israel Public Affairs Committee (AIPAC), argues that any “one-sided” resolution would make a solution to the conflict more challenging. That a vast majority of U.S. senators would sign such a letter reflects enduring bipartisan efforts in the U.S. to scuttle any criticism of Israel even as other Western countries increasingly condemn Israeli settlements.

The text of the letter is presented below. It is available with the full list of signatories at www.gillibrand.senate.gov.

Dear Mr. President:

As you prepare to attend the United Nations General Assembly, we write to address the issue of Israeli-Palestinian negotiations. At a time of great challenges in the Middle East, we are disappointed that talks between Israelis and Palestinians remain stalled. The only way to resolve the conflicts between the two is through direct negotiations that lead to a sustainable two-state solution with a future state of Palestine living in peace and security with Israel. This outcome would provide Israel with greater security and strengthen regional stability. We remain optimistic that, under the right circumstances, Israelis and Palestinians can successfully resume productive negotiations toward this goal.

At this delicate stage the international community should both provide hope to the parties and avoid taking action that would harm the prospects for meaningful progress. Even well-intentioned initiatives at the United Nations (UN) risk locking the parties into positions that will make it more difficult to return to the negotiating table and make the compromises necessary for peace. The United States remains an indispensable trusted mediator between the parties, and we must continue to insist that neither we nor any other outsider substitute for the parties to the conflict.

Your administration has consistently upheld the longstanding U.S. policy of opposing—and if necessary vetoing—one-sided UN Security Council (UNSC) resolutions. As U.S. Ambassador to the UN, the Honorable Susan Rice summarized your Administration’s position well when she exercised America’s veto on a February 2011 resolution: “It is the Israelis’ and Palestinians’ conflict, and even the best-intentioned outsiders cannot resolve it for them. Therefore every potential action must be measured against one overriding standard: will it move the parties closer to negotiations and an agreement? Unfortunately, this draft resolution risks hardening the positions of both sides. It could encourage the parties to stay out of negotiations and, if and when they did resume, to return to the Security Council whenever they reach an impasse.”

Mr. President, you also clearly stated in your September 2011 address to the General Assembly, “Peace will not come through statements and resolutions at the United Nations—if it were that easy, it would have been accomplished by now. Ultimately, it is the Israelis and the Palestinians who must live side by side. Ultimately, it is the Israelis and the Palestinians—not us—who must reach agreement on the issues that divide them. . . . Ultimately, peace depends upon compromise among people who must live together long after our speeches are over, long after our votes have been tallied.”

We could not agree more with these statements. We urge you to continue longstanding U.S. policy and make it clear that you will veto any one-sided UNSC resolution that may be offered in

the coming months. Any such resolution, whether focused on settlements or other final status issues, will ultimately make it more difficult for Israelis and Palestinians to resolve the conflict.

RECOMMENDED REPORTS

R1. B'TSELEM, *WHITEWASH PROTOCOL: THE SO-CALLED INVESTIGATION OF "OPERATION PROTECTIVE EDGE,"* JERUSALEM, SEPTEMBER 2016

In its third report on Operation Protective Edge since hostilities ceased in August 2014, Israeli human rights group B'Tselem discusses how Israel chose to investigate alleged breaches of international humanitarian law during its assault on Gaza. As outlined in its previous report (see Doc. R1 in JPS 46 [1]), B'Tselem has stopped referring complaints to Israeli military law enforcement because the system ignores complaints of injury or harm to Palestinians by Israeli forces, whitewashing Israeli crimes. This 27-page report serves as an assessment of the Israeli military's policies that led to the killing of hundreds of Palestinians and the destruction of thousands of homes and vital infrastructure in the summer of 2014. The report is available at www.btselem.org.

R2. ADDAMEER, *ADMINISTRATIVE DETENTION IN THE OCCUPIED PALESTINIAN TERRITORY: A LEGAL ANALYSIS REPORT,* RAMALLAH, 1 NOVEMBER 2016

In the fourth edition of its report on the policy of administrative detention, which enables Israel to hold Palestinian prisoners indefinitely without charge, Addameer examines the policy through the lenses of international law, Israeli law, and administrative detention in practice. The 49-page report includes updates that document and analyze Israel's increased use of administrative detention since the habba that began in October 2015. The report is available at www.addameer.org.

R3. HUMAN RIGHTS WATCH, *ISRAEL/PALESTINE: FIFA SPONSORING GAMES ON SEIZED LAND,* NEW YORK, 25 SEPTEMBER 2016

In this special online report, Human Rights Watch argues that by allowing six Israeli football clubs to compete in settlements, the Fédération Internationale de Football Association is engaging in business activity in the illegal West Bank settlements. Released a few weeks before FIFA was scheduled to discuss the issue of Israeli settlement clubs in October 2016, the report draws from research published by HRW in January 2016 demonstrating how settlement businesses contribute to Israeli violations of Palestinian rights (see Doc. R1 in JPS 45 [3] and Doc. C3 above for more). The report is available at www.hrw.org.

R4. PALESTINE LIBERATION ORGANIZATION, *ISRAEL'S AGGRESSION AGAINST OCCUPIED PALESTINE: SEPTEMBER 13, 2015–SEPTEMBER 30, 2016,* RAMALLAH, 10 OCTOBER 2016

This 15-page report by the Palestine Liberation Organization documents Israeli military and settler violations against Palestinians from 13 September 2015–30 September 2016, covering the habba. It provides data on 10 different categories of violations: killings, injuries, raids, detentions, temporary detentions, flying checkpoints, gunfire attacks, demolition incidents, destruction of property, and

settler violence. Additionally, it includes the names of all Palestinians killed in that year. The report is available at plodelegation.us.

R5. INTERNATIONAL CRIMINAL COURT, *REPORT ON PRELIMINARY EXAMINATION ACTIVITIES 2016*, THE HAGUE, 14 NOVEMBER 2016

In November 2016, the International Criminal Court released its annual status report on the preliminary examinations currently under investigation. Included was the ICC's second report on the case of Palestine, wherein the court is investigating possible Israeli war crimes, the annexation of East Jerusalem, settlements, and Hamas. Since the preliminary investigation began on 16 January 2015, the court has created a database of 3,000 incidents and alleged crimes that occurred during Operation Protective Edge in Gaza in 2014. This report notably claims that "it may be argued that Israel nonetheless remains an occupying power [in Gaza]." The report did not include any conclusive statements nor give any indication of whether the court would initiate a formal investigation. The full 73-page report, including the seven pages devoted to Palestine, is available at www.icc-cpi.int.

R6. UNCTAD, *REPORT ON UNCTAD ASSISTANCE TO THE PALESTINIAN PEOPLE: DEVELOPMENTS IN THE ECONOMY OF THE OCCUPIED PALESTINIAN TERRITORY*, GENEVA, 1 SEPTEMBER 2016

In its annual report to the UN General Assembly, the coordinator of the United Nations Conference on Trade and Development's Assistance to the Palestinian People Unit aimed to document, for the first time, the economic cost of Israel's occupation. The report highlights how Palestinian dependency is inescapable with the Palestinian economy remaining a captive market for Israel: in 2015, an estimated \$600–\$700 million in Palestinian public funds leaked into the Israeli treasury. The report concludes that the Palestinian economy would be twice its current size without the occupation and that a systemic framework must be established to regularly report to the UNGA on the Palestinian economy. The 17-page report is available at unctad.org.