



29th March 2012

A Commentary on the February 2012 Occupied Palestinian Territories Operational Guidance Note

This commentary identifies what the ‘Still Human Still Here’ coalition considers to be the main inconsistencies and omissions between the currently available country of origin information (COI) and case law on the Occupied Palestinian Territories (OPT) and the conclusions reached in the February 2012 OPT Operational Guidance Note (OGN), issued by the UK Border Agency. Where we believe inconsistencies have been identified, the relevant section of the OGN is highlighted in blue.

This commentary is a guide for legal practitioners and decision-makers in respect of the relevant COI, by reference to the sections of the Operational Guidance Note on the OPT issued in February 2012. To access the complete OGN on the OPT go to:

<http://www.bia.homeoffice.gov.uk/sitecontent/documents/policyandlaw/countryspecificasylumpolicyogns/>

The document should be used as a tool to help to identify relevant COI and the COI referred to can be considered by decision makers in assessing asylum applications and appeals. This document should not be submitted as evidence to the UK Border Agency, the Tribunal or other decision makers in asylum applications or appeals. However, legal representatives are welcome to submit the COI referred to in this document to decision makers (including judges) to help in the accurate determination of an asylum claim or appeal.

The COI referred to in this document is not exhaustive and should always be complemented by case-specific COI research.

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3.6 General country situation

Excerpt from the February 2012 OPT OGN

3.6.5 Current security and humanitarian situation in Gaza

The security situation in Gaza remains volatile. In August 2011, a series of Israeli air strikes killed six Palestinians and wounded more than 20 others in a 24-hour period, disrupting a cease-fire that was agreed on 22 August following violence that broke out after militants crossed into Israel from Egypt and killed eight Israelis". On 29-30 October, fighting saw rockets fired from Gaza into Israel and a series of Israel air strikes which left 12 Palestinian militants and an Israeli civilian dead, raising fear of renewed conflict. Unrest continued in December 2011, with reports of Israeli air strikes on Gaza City on 7, 9 and 13 December in which several Palestinians were killed or wounded.

[...] Current security and humanitarian situation in the West Bank [...]

3.6.11 The Israeli army repeatedly destroy rainwater harvesting cisterns used by Palestinians in the West Bank on the basis that they have been built without permission. Israel continues to demolish homes and other properties constructed by Palestinians in areas of the West Bank under Israeli civil control, on the basis that they lack Israeli planning licenses. During 2010, the total number of homes and other structures demolished, together with villages destroyed or farmland levelled, increased on previous years. The Israeli authorities cite lack of planning/building permission, but in fact such permits are only rarely granted if applied for. **Israeli forces in the West Bank killed at least 7 Palestinian civilians in 2010.** These reportedly included 2 young men collecting scrap metal, and two children participating in a demonstration and posing no danger to Israeli forces or civilians.

The OGN includes reasonably recent (from August-December 2011) incidents of violence in Gaza in paragraph 3.6.5 and in paragraph 3.6.11 states the number of civilian deaths killed by Israeli forces in the West Bank in 2010. The volatility of the situation in Gaza cannot be overstated, with further eruptions of violence likely to occur at any moment, leading to the death and/or serious injury of its residents. A more recent update of events serves as an example, with Israel launching air strikes in Gaza on 9th March 2012, leading to a number of civilian deaths, as noted below:

➤ [WAFA Palestinian News and Information Agency, Child Injured in Shelling on Gaza Dies of Wounds, 14/3/2012](#)

Seven-year-old Ghassan Mughrabi died Wednesday, two days after being seriously injured from an Israeli airstrike on al-Zaytoon neighborhood, east of Gaza City, according to medical sources. Mughrabi's death brought to 26 the total number Palestinians killed since Friday, when Israel started its airstrikes on Gaza. Some of the dead were civilians. More than 80 were injured, most of them civilians. Gaza fighters and Israel agreed to an Egyptian-mediated ceasefire that went into effect early Tuesday. Gaza residents said the situation in the Strip was relatively calm following four days of intense Israeli airstrikes during which Palestinians retaliated by firing more than 200 homemade missiles at bordering Israeli towns. However, while the ceasefire was holding for the second day, Israeli air force carried out a raid on a carpentry shop northeast of Gaza City early Wednesday destroying it in total, said witnesses. No injuries were reported. Israel said the raid came following the firing of a grad missile at the town of Netivot, south of Israel, the day before. The missile hit a parking lot damaging cars but without causing any bodily harm.

➤ [Al Mezan Centre for Human Rights Press Release, IOF Continues Its Aggression on Gaza Strip; Number of Palestinians Killed Rises to 18 and Number Injured to 35; Al Mezan Reiterates Its Condemnation and Calls on International Community to Intervene, 11/3/2012](#)

Israeli Occupation Forces (IOF) are continuing their military escalation against the Gaza Strip. Israeli attacks on Gaza continue, and Israeli aircraft, particularly drones, are in the Gazan sky around the clock. The most recent attacks have raised the number of people killed to 18, including a child, and the number injured to 35, including two women and three children. The Al Mezan Center for Human Rights continues its monitoring and documentation of these attacks. Al Mezan has documented the following incidents, presented chronologically. At approximately 2:00 pm on Saturday 10 March 2012, the IOF opened fire at a

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group of young Palestinian men near the separation fence between the Gaza Strip and Israel in the east of the Islamic Shuhadaa Cemetery, east of Jabaliya. The men were holding last rites for a number of people killed by the IOF in Gaza City. The shooting lasted for about one hour. As a result, five persons were injured. Medical sources at Kamal Odwan Hospital described the injuries of two of the victims as critical and referred them to Ash-Shifa Hospital in Gaza City. [...]

➤ [Agence France-Presse, Israeli air strikes kill 15 in Gaza, 10/03/2012](#)

Israeli air strikes on Gaza killed 16 Palestinians, including a top militant, medics said early Sunday, as militants fired 100 rockets into the Jewish state. It was the deadliest violence between Israel and the Palestinians across the Gaza border in more than three years, prompting the United States and the European Union to urge both sides to restore calm. But Palestinian militants vowed to avenge their dead and Israel threatened to hit back if its citizens came under renewed rocket attacks from the coastal enclave. Medics said three Palestinians were killed in air strikes on Saturday: one near the southern town of Rafah on the border with Egypt and two in Khan Yunis. One more was killed early Sunday in a fresh strike on the east of the Gaza Strip. That death brought to 16 the total number of Palestinians killed since Friday, medics said, adding that at least 27 Palestinians had been wounded, five seriously. The Israeli army said more than 100 rockets and mortar rounds had been fired into Israel from Gaza over 24 hours. Four people, three of them Thai labourers, had been wounded inside Israel, media and Israeli medics said. [...]

A [database of useful sources to consult on the security situation in both the West Bank and Gaza](#) has been included in the Appendix.

Excerpt from the February 2012 OPT OGN

3.6.16 Conclusion There is a generalised state of insecurity in the Occupied Palestinian Territories, but current reports of tension and security breaches do not indicate that there would be a consistent pattern of gross and systematic violation of rights under Article 3 of the ECHR. However, the general economic and humanitarian situation in the West Bank and in Gaza in particular is serious and may, in some cases, reach the minimum level of severity for persecution or serious harm, depending on the individual circumstances of the applicant.

3.6.17 In assessing claims based solely or partly on the general economic and humanitarian situation or on account of generalised violence in Gaza or the West Bank, caseowners should refer to the Interim Asylum Instruction on Humanitarian Protection: Indiscriminate Violence, and where appropriate, the Gender Asylum Policy Instruction. Caseowners must consider the particular humanitarian and security situation in the relevant territory, together with the individual circumstances of the applicant.

The concluding guidance states at paragraph 3.6.16 that the generalised state of insecurity in the OPT does not “indicate that there would be a consistent pattern of gross and systematic violation of rights under Article 3 of the ECHR”. It further states in paragraph 3.6.17 that caseowners “must consider the particular humanitarian and security situation” in the West Bank or Gaza. Depending on the individual circumstances of the claimant it could be argued that settler violence, demolition of land and property, as well as the risk of arrest and subsequent ill treatment in detention by Israeli forces for those taking part in peaceful demonstrations against the Wall and settlements, could fall under an Article 3 claim.

For information on settler violence and demolition of land and property consult the sources included below under [Israeli settler violence against Palestinians](#) and for the most current information consult those sources listed in the two appendixes [Useful sources to consult on the security situation in the West Bank and Gaza](#) and [Useful sources to consult on the humanitarian situation in the West Bank and Gaza](#).

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For information on the situation for those participating in peaceful demonstrations against the occupation, the Wall and settlements, and particularly the treatment of human rights defenders, please see the analysis and COI provided under section [3.7 Members of militant groups and those perceived to be involved in security offences](#).

Israeli settler violence against Palestinians

Excerpt from the February 2012 OPT OGN

Current security and humanitarian situation in the West Bank [...]

3.6.13 Palestinians face systematic discrimination due to their race, ethnicity and national origin, which deprives them of electricity, water, schools and access to roads, and limited access to hospitals. Jewish settlers living close by are able to enjoy all of these amenities. Building permits for houses, schools, clinics and infrastructure are denied, and homes and entire communities are regularly demolished. Human Rights Watch reported that the number of settler attacks between January and 31 October 2011 was 42 per cent higher than in the same period in 2010 (which saw 266 settler attacks). The Head of the UN Office for Coordination of Humanitarian Affairs in the OPT noted that in 2011 around 10,000 Palestinian-owned olive trees had been destroyed or damaged in attacks by settlers”.

Only one source of COI on Israeli settler violence against Palestinians is included in this section of the OGN. The sub-section ‘2.4 Actors of protection’ contains the following additional information describing the impunity with which this violence is committed and the inaction by the Israeli authorities to offer effective protection to Palestinians, which is also of relevance to section ‘3.6 General country situation’ and in particular paragraph 3.6.13, highlighted above:

Excerpt from the February 2012 OPT OGN

2.4.4 In recent years, the PA has restored order and personal safety in the West Bank; there are uniformed security forces patrolling. This has improved daily life for Palestinians, though the accompanying security cooperation with Israel, and the crackdown on opposition groups (mainly, but not exclusively Hamas) is less pleasing to them. However, violence by Israeli settlers against Palestinians in the West Bank has increased by 40% in 2011 compared to 2010, and by over 165% compared to 2009. In 2011, 3 Palestinians were killed and 167 injured by Israeli settlers. In addition, 1 Palestinian has been killed, and 101 others injured by Israeli soldiers in clashes between Israeli settlers and Palestinians. In 2011, nearly 10,000 Palestinian-owned trees (mainly olive trees) have been damaged or destroyed by Israeli settlers, significantly damaging the livelihoods of hundreds of people. It is further reported that such incidents are increasing, and that there have been recorded incidents of Palestinians being killed by Israeli settlers, with reportedly little or no intervention by Israeli security forces. Although security in the West Bank has improved to some extent, a few armed militias and terrorist organisations are still active, both there and also in the Gaza Strip.

2.4.10 The Israeli authorities maintain their security presence in the West Bank through the IDF, Shin Bet, the Israeli National Police and the Border Police. In the West Bank, Israeli security forces were reported to have used excessive force against civilians, including killings, torture of Palestinian detainees, improper use of security detention procedures, demolition and confiscation of Palestinian properties, limits on freedom of expression and assembly, and severe restrictions on Palestinians' internal and external freedom of movement. In 2010, there were some instances of the Israeli authorities investigating and punishing abuse and corruption, but there were also many reports of failure to take disciplinary action in abuse cases. Various reports state that impunity remains the norm for Israeli soldiers, police and other security forces, as well as Israeli settlers who commit serious human rights abuses against Palestinians; these include unlawful killings. In a few cases where Israeli security personnel were convicted, punishments have been described as „extremely lenient”.

The following additional sources of COI document the latest violence committed by Israeli settlers against Palestinians and the inability of the Israeli forces to provide effective protection:

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➤ [B'Tselem, Human Rights in the Occupied Territories: Annual Report 2011, 21/03/2012](#)

[...]Turning a Blind Eye: Failure to Protect Palestinians from Violence by Israeli Civilians

Breach of Duty: Settler violence often goes unchecked

One of the principal functions of any government is to enforce the law and protect the life, limb, and property of people under its jurisdiction. Israel, being the occupier in the West Bank, is responsible for the area's Palestinian residents, whom international law classifies as protected persons. Acts of violence carried out by settlers against Palestinians and Palestinian property are an ongoing and widespread phenomenon. In recent years, some of these acts have been referred to as "price tag attacks" – a response to actions of the Israeli authorities that are perceived to harm the settlement enterprise. For example, some of the attacks occurred after the Military's Civil Administration distributed demolition order for settlement structures that were built unlawfully, or after such structures were demolished. In other cases, the violence took place after Palestinians harmed settlers. Security forces do not always deploy in advance to protect Palestinians from settler violence, even when such violence could be anticipated. In the "day of rage" declared by settlers on 3 March 2011, a large contingent of security forces was deployed to prevent acts of violence. However, in other cases, such as following the demolition of structures in the Migron outpost, on 5 September 2011, security forces did not prevent violence as was required of them. A week after the demolition, B'Tselem documented ten incidents in which settlers had damaged Palestinian property, among them the torching of a mosque in the village Qusra and the spraying of offensive graffiti on the walls of two other mosques. In some cases, rather than restricting violent settlers, Israeli security forces imposed restrictions on the Palestinians. In April 2011, for example, settlers threw stones at Palestinian vehicles on Route 60 after Palestinian policeman killed Ben Yosef Livnat at Joseph's Tomb, in Nablus. In response, the military closed the road to Palestinian travel in the section between the Huwara intersection and Jit.

[...] Standing idly by B'Tselem has documented some cases where security forces were present during incidents of settler violence yet did not intervene; in a few cases, they even took part in the violence. From September 2000 to the end of 2011, B'Tselem submitted 57 complaints of incidents in which it was suspected that security forces stood idly by during acts of violence. The responses received from the Military Advocate General Corps indicated that a criminal investigation been opened in only four cases (and in two of these, the file was closed without taking any measures against the soldiers involved). In 30 cases, it was decided not to open an investigation, in 12 cases B'Tselem was informed that its inquiry was still being handled, and in five cases, B'Tselem received no reply. Another four cases were referred to other military bodies for handling, one case was dealt with in a disciplinary hearing, and one file could not be located.

Lenient police treatment of Israelis who harm Palestinians

The Israel Police, which is charged with investigating settler violence against Palestinians, does not properly investigate the claims of violence and does not carry out its law-enforcement obligations. From September 2000 to the end of 2011, B'Tselem submitted 352 complaints to the Israel Police, demanding to know if investigations had been opened in cases in which Israelis harmed Palestinians or damaged their property, and if so, the status of the investigations. The complaints dealt with such actions as gunfire, assault, destruction of property, forcing people off their land, threats, theft of crops, and torching of fields. In 250 cases, an investigation had been opened, but only 29 had resulted in an indictment. Of the remaining cases, 137 files were closed with no measures being taken against anyone involved in the incident. In 67 cases, the investigation was still ongoing, and in 15 cases, the investigation file had been referred to a state attorney. In another two cases, B'Tselem filed appeals, which are pending. Of the remaining 102 cases, B'Tselem was informed that in 80 cases, the police did not open an investigation, primarily because the person injured did not file a formal complaint, though the police are required by law to investigate every time they hear of a suspected crime. In 16 cases, B'Tselem received no response to its complaint. One case was still being processed and in five cases, the file could not be located. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 7-13 March 2012, 16/03/2012](#)

West Bank

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[...]Another two clashes with Israeli forces that occurred during protests against settlement-related activities resulted in the injury of 14 Palestinians. One protest was held against the closure of the main entrance of Beit Dajan village (Nablus), which leads to a road connecting two settlements in the area; and the other was against restrictions on access to agricultural land in the vicinity of Qedumim settlement (Qalqiliya). Another child was physically assaulted and injured by Israeli forces in a clash involving settlers in the Old City of Hebron.

Also this week, Israeli settlers stoned and injured two Palestinians who were traveling on Road 60, near Ofra settlement, and physically assaulted and injured another one in Sheikh Jarrah neighbourhood of East Jerusalem. In addition, settlers reportedly uprooted 450 olive seedlings, the majority of which belong to the communities of Al Ganoub (Hebron) and KHALLET ZAKARIYA (Bethlehem) and cut down around 30 grape vines and over 110 olive trees in the villages of Beit Ummar (Hebron), Qaryut (Nablus) and Beitillu (Ramallah). This brings the total number of trees and other plants vandalized by settlers since the beginning of the year to almost 1,070. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 22-28 February 2012, 02/03/2012](#)

West Bank

[...] Israeli settler-related violence continued, with four settler attacks against Palestinians and one attack by Palestinians against settlers reported this week. Settlers physically assaulted and injured a Palestinian man in At Tuwani village (Hebron). In three stone-throwing incidents by settlers and Palestinians in the Ramallah and Jerusalem governorates, two Palestinian women and two settlers were injured and three Palestinian-plated vehicles were damaged. Settlers also cut down 24 olive trees belonging to Burin village (Nablus). In an incident affecting Palestinians, but causing no injuries, settlers from Nof Hanesher outpost (Hebron) fired live bullets in the air to force a Palestinian herder off land. [...]

➤ [Al Haq, Settlers uproot and steal 150 olive tree saplings from village, 18/02/2012](#)

During January 2012, Al-Haq's field researchers documented more than 15 incidents of settler violence across the West Bank. However, a sharp increase in violence has seen this figure already matched in the first half of February. The current frequency of attacks is close to the high level of documented incidents during last year's October olive harvest.

[...] On 9 February 2012, at around 10:00 pm, a group of 20 settlers attacked the home of Yaser Husein 'Umran, a Palestinian resident of Bourin, a village south of Nablus. Settler attacks on the villagers and their property have become a common occurrence for most residents. When Yaser heard the stones hitting his home he went to the roof to see exactly what was happening. He saw settlers hitting his home who then began to target him directly, forcing him to hide behind a wall. He noticed that the home of his neighbour, 30 meters to the east, was also under attack by another, larger, group of settlers.

[...] After around half an hour of stone throwing, several Israeli military jeeps arrived. At the same time, a group of 30 young residents came to try to stop the attack. The Israeli soldiers removed the settlers and stopped the villagers from approaching Yaser's house. While there was limited property damage resulting from this incident, the psychological effects of the attack still weigh on the family. After the incident, Marah, Yaser's seven-year-old daughter was terrified and asked her father to move from their home and away from the persistent violence. (Al-Haq Aff. No. 7046/2012)

➤ [Palestinian Centre for Human Rights, Weekly Report On Israeli Human Rights Violations in the Occupied Palestinian Territory \(02 - 08 February 2012\), 09/02/2012](#)

[...] IOF have continued settlement activities in the West Bank and Israeli settlers have continued to attack Palestinian civilians and property.

IOF implemented bulldozing works in the north of Jayous village, northeast of Qalqilya, with the aim to annex these lands to "Tzufim" settlement.

Israeli settlers organized provocative tours in Hebron under IOF protection.

Israeli settlers raided Palestinian villages and wrote racist slogans against Arabs and offending the Prophet Mohammed.

- IOF bulldozed lands in Kafr Qaddoum village with the aim to annex these lands to nearby settlements.

[...] Settlement Activities:

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Israel has continued its settlement activities in the OPT in violation of international humanitarian law, and Israeli settlers have continued to attack Palestinian civilians and property. At approximately 08:30 on Thursday, 02 February 2012, IOF bulldozers started to raze lands in the north of Jayous village, northeast of Qalqilya, with the aim to annex these lands to "Tsufim" settlement which was established in 1992 on the lands of Jayous village. The bulldozed lands, which measure around 30 dunums, are owned by Fahmi Hussein Slim. During the reporting period Israeli settlers, protected by IOF, implemented 7 attacks in Hebron, Nablus, Qalqilya, Ramallah and the Jordan Valley. The attacks were concentrated in Hebron and included attacks on mosques, religious and archaeological places, farms and civilian property. Israeli settlers attacked Mahdi Daraghmeh, 24, in the Jordan Valley near Tubas, while grazing cows. Daraghmeh was transferred to hospital for treatment. Settlers also raided al-Labal al-Shrqi village, south of Nablus, and wrote racist slogans in Hebrew offending the Prophet Mohammed and calling for taking revenge from Arabs. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 1-7 February 2012](#)

[...] West Bank

Israeli settler violence increases while injuries during demonstrations decrease

Nine Palestinians, around half of whom were children, were injured this week by Israeli forces and settlers in different incidents related to Israeli settlement activity throughout the West Bank. Overall, there were eight settler attacks against Palestinians and their property, an increase compared to the weekly average since the beginning of the year (5). Two people, including a 15-year-old girl and a woman, were injured when settlers stoned Palestinian-plated vehicles in the Nablus governorate on two occasions. Another 17-year-old boy was physically assaulted and injured by settlers in Sheikh Jarrah (East Jerusalem). Two children (aged 12 and 14) and a man were physically assaulted and injured while grazing their livestock in two separate incidents: one by Israeli forces near Bracha settlement (Nablus), and another by settlers next to Rotem settlement outpost (Jordan Valley). Settlers also uprooted 60 olive seedlings belonging to Qaryut village (Nablus) and levelled around 16 dunums of uncultivated land belonging to Kafr Qaddum village (Qalqilya), affecting around four families. In the latter incident, clashes erupted between the settlers and Palestinian farmers, in which Israeli forces intervened and injured an elderly Palestinian man. In another incident, Israeli settlers vandalized the walls of a house in Al Janya village (Ramallah) by writing racist graffiti. The remaining two Palestinian injuries were caused by Israeli forces in weekly protests against the expansion of Hallamish settlement (Ramallah) and restrictions on access to agricultural land near Karnei Tzur settlement, during which Israeli forces uprooted 25 olive saplings. This week's number of such injuries represents a sharp decrease compared to the weekly average of injuries in demonstrations in 2012 (10) and 2011 (15). [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 25-31 January 2012](#)

[...] West Bank

Ten injured in settlement-related protests

Ten Palestinians were injured by Israeli forces in protests against settlement-related measures. Of those, seven Palestinians were injured during weekly demonstrations against the closure of the main entrance to Kafr Qaddum village, next to Qedumim settlement in Qalqilya; and the expansion of Hallamish settlement and the construction of the Barrier in Bil'in village in Ramallah. Three other Palestinians were injured during clashes with Israeli forces that took place while the residents of Beit Ummar village (Hebron) were commemorating the 2011 killing of a Palestinian from the village by settlers. A soldier was also injured by stones. In addition, two Palestinians were injured when a driver lost control of his car, while they were trying to flee an area where Israeli settlers and Israeli forces had gathered, in the vicinity of Eli settlement (Nablus). This week, only one settler attack resulting in property damage was recorded, compared to a weekly average of five since the beginning of the year and eight in 2011. On 24 January, Israeli settlers from Eli settlement raided the village of Al Lubban Asharqiya (Nablus) at night and damaged one house. The family residing in the house, which is located near the settlement, reports repeated attacks by settlers. [...]

➤ [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)

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[...] West Bank [...]

Israel

Israeli forces in the West Bank killed at least five Palestinian civilians as of October. After the end of an arrest operation, soldiers fatally shot two men while they were standing with a group of demonstrators who were throwing stones, B'Tselem reported. In another case, a soldier shot and killed an unarmed resident of Qusra who was protesting against settler incursions on village lands. Soldiers shot and killed an unarmed 66-year-old man in his bed after mistakenly entering his home in search of a suspected Hamas member, according to Palestinian rights groups and international media reports. The Israeli government generally took no action against Israeli settlers who destroyed or damaged mosques, homes, olive trees, cars, and other Palestinian property, or physically assaulted Palestinians. In January a settler shot and killed a 15-year-old boy near the Palestinian village of Safa; in September a settler killed an 8-year-old Palestinian boy in a hit-and-run incident near Hebron. As of October 31 the UN reported 377 attacks by settlers that damaged Palestinian property, including almost 10,000 olive trees, and injured 167 Palestinians. On average Israeli authorities indict only nine percent of the settlers whom police investigate for attacking Palestinians or damaging Palestinian property, according to the Israeli rights group Yesh Din. [...]

- [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 18-24 January 2012](#)

[...] Conflict-related casualties continue to occur as a result of settlement activity

Ten Palestinians were injured this week by Israeli forces during weekly protests against settlement-related measures: the closure of the main entrance to Kafr Qaddum village, next to Qedumim settlement (Qalqiliya); the expansion of Hallamish settlement (Ramallah); and the construction of the Barrier in Al Ma'sara village (Bethlehem), next to Efrat settlement. Another Palestinian was shot and injured when he reportedly attempted to attack soldiers at Qalandiya checkpoint (Jerusalem). A 17-year-old Palestinian boy was also injured this week after being physically assaulted by Israeli settlers while working his land near Karnei Tzur settlement (Hebron). [...]

- [Palestinian Centre for Human Rights, Weekly Report On Israeli Human Rights Violations in the Occupied Palestinian Territory \(12-18 January 2012\), 19/01/2012](#)

[...] Settlement Activities:

Israel has continued its settlement activities in the OPT in violation of international humanitarian law, and Israeli settlers have continued to attack Palestinian civilians and property. On 13 January 2012, a group of settlers guarded by Israeli soldiers moved into the center of Hebron under the pretext of visiting the grave of a Rabbi there according to agreements signed between the Palestinian Authority and Israel. The settlers chanted slogans against the Palestinians. On 15 January 2012, a number of settlers residing in Ramat Yishai settlement that, in Tal al-Rmeida neighborhood in the center of Hebron, set fire to a civil vehicle belonging to Hana' Jameel Abu Haikal, 55, due to which the car was completely burnt. Abu Haikal said that her white Hyundai Intra car was completely burnt, noting that this was the fifth time that vehicles owned by her family had been burnt by the settlers to force them to leave their house adjacent to the said settlement. [...]

- [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 11-17 January 2012](#)

[...] West Bank

"Price tag" attacks and clashes with Israeli forces result in injuries and damages

This week, Israeli forces and settlers injured 17 Palestinians throughout the West Bank. Eight of them sustained injuries in clashes with Israeli forces during raids on 'Azzun (Qalqiliya) and Madama (Nablus) villages; and another four in clashes during a weekly demonstration against the closure of the main entrance to Kafr Qaddum village, next to Qedumim settlement (Qalqiliya). In addition, a Palestinian was physically assaulted and injured by a group of Israelis in West Jerusalem. Also this week, Israeli settlers physically assaulted and injured two Palestinians in Hebron City and stoned and injured another man near Shilo settlement (Ramallah). A settler was also injured when Palestinians stoned Israeli-plated vehicles travelling on Road 60 (Ramallah). [...]

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➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 4-10 January 2012](#)

[...] West Bank [...]

Five Palestinians were injured by settlers this week, including two children (aged 11 and 12), and a man injured in incidents in Tel Rumeida area (in the Israeli-controlled area of Hebron City (H2)), and two Palestinians injured during clashes with Israeli settlers inside the village of Burin (Nablus). Settlers also cut down eight olive trees in Burin village and uprooted another 60 olive trees belonging to Jinsafut village (Qalqiliya). In two incidents, settlers set two vehicles on fire in the Jerusalem and Hebron areas. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, The Monthly Humanitarian Monitor, December 2011](#)

December Overview [...]

Settlement activity is also a root cause of civilian casualties in the West Bank. This year, more than two thirds of Palestinian deaths and injuries occurred in the context of attacks by Israeli settlers or during clashes with Israeli forces at demonstrations protesting settlement takeover of land, or access restrictions that protect settlements and allow their expansion. Human rights organizations report that in some cases Israeli forces use unnecessary or excessive force. In December, a Palestinian activist was killed when shot by an Israeli soldier with a tear gas canister while protesting settler take-over of land in his village. As in past years, restricted access to land in the vicinity of settlements, along with Israeli settler violence, were among the key factors undermining the olive harvest, which ended in December. Despite the increased presence of Israeli security forces on the ground, OCHA recorded 38 incidents resulting in either Palestinian injuries or damage to olive trees. Overall, from 15 September – 15 December, during the time of the olive harvest, there were roughly 24 percent fewer incidents this year from the parallel period in the previous year. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Settler Violence in the West Bank, December 2011](#)

Key Facts

The weekly average of settler attacks resulting in Palestinian casualties and property damage increased by 32% in 2011 compared to 2010, and by over 144% compared to 2009.

- In 2011, three Palestinians have been killed and 183 injured by Israeli settlers. In addition, one Palestinian has been killed, and 125 others injured, by Israeli soldiers during clashes between Israeli settlers and Palestinians.

- In 2011, about 10,000 Palestinian-owned trees, primarily olive trees, have been damaged or destroyed by Israeli settlers, significantly undermining the livelihoods of hundreds of families.

- In 2011, 139 Palestinians were displaced due to settler attacks, with some affected families moving to Areas A and B.

- Over 90% of monitored complaints regarding settler violence filed by Palestinians with the Israeli police in recent years have been closed without indictment.

3.7 Members of militant groups and those perceived to be involved in security offences

Excerpt from the February 2012 OPT OGN

3.7.9 Conclusion Country of origin information indicates that a wide range of individuals may be of interest to the Israeli security forces on the basis of suspected or actual involvement in security offences. Such individuals may face treatment amounting to persecution, and for these applicants a grant of asylum may be appropriate.

The concluding guidance in paragraph 3.7.9 recognises that a “wide range” of individuals may be of interest to the Israeli security forces on the basis of suspected or actual involvement in security offences”. The preceding paragraphs in the OGN include limited information on the treatment of human rights defenders (paragraph 3.7.3) and those Palestinians involved in demonstrations (3.7.2 and 3.7.4). It further fails to include information on another group that faces discrimination against and is targeted by the Israeli forces, namely the Bedouin communities.

Moreover, this section of the OGN fails to identify the correct legal system which operates in the West Bank and the number of current prisoners held under administrative and security detention.

These issues are covered as follows over the coming pages of this commentary:

- [Treatment of human rights defenders](#)
- [Persons involved in peaceful demonstrations](#)
- [Treatment of the Bedouin communities](#)
- [Legal systems in the West Bank and Gaza \(‘Administrative Detention’\)](#)
- [Use of administrative detention](#)

Treatment of human rights defenders

Excerpt from the February 2012 OPT OGN

3.7.3 The UN Special Rapporteur on the situation of human rights defenders raised a number of urgent appeals regarding the arrest and detention without charge of several Israeli and Palestinian human rights activists by Israeli security officials during 2010. Israel defended its actions on the basis of alleged security concerns, but the UN Special Rapporteur expressed concern at increased restrictions on the activities of human rights defenders working in Israel, including arrests, administrative detentions and restrictions to their freedom of movement as well as to their freedom of opinion and expression. The UN Special Rapporteur also expressed concern at allegations of torture and ill-treatment he had received. In 2011, the UK FCO noted an apparent rise over the last year in the number of Palestinian human rights defenders who have been arrested and detained by the Israeli authorities for their involvement in demonstrations. Similarly, in August 2011, Reporters Without Borders condemned the failure to punish abusive treatment of Palestinian journalists by the Israel Defence Forces in the West Bank and noted that many arbitrary arrests have been reported in the past two months.

In paragraph 3.7.3, the OGN fails to include information on other factors which have infringed the rights and freedoms of human rights defenders such as regular night raids by the Israel Defence Force (IDF) on their villages and homes, curfews and military closures around their villages. Travel

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bans have also been imposed on some human rights defenders, including the staff of human rights NGOs. Illustrative examples of sources of information documenting such violations are as follows:

- [UN Office for the Coordination of Humanitarian Affairs, The Monthly Humanitarian Monitor: February 2012, 21/03/2012](#)
[...] INCREASE IN ALLEGATIONS OF VIOLENCE AND ABUSE BY ISRAELI SOLDIERS IN HEBRON OLD CITY
[...] CPT [Christian Peacemakers Team (CPT)] ,also reported 16 incidents of international observers and human rights activists themselves being threatened, detained, and in two cases, even sexually harassed by the soldiers. In one noteworthy incident reported by CPT, on 21 January, Israeli soldiers entered the offices of the human rights organization, Youth Against Settlements, and arrested an activist. They then blindfolded and physically assaulted him, and pointed a gun at him, threatening him with live fire. Afterwards, they made him walk, hand-bound, through Beit Hadassah settlement, allowing its Israeli residents to kick, spit, and verbally taunt him [...]
- [Amnesty International, : Israel must release Palestinian detained for organising peaceful protests against expanding Israeli settlement, 02/03/2012](#)
Palestinian human rights defender Bassem Tamimi is a prisoner of conscience, detained solely for his role in organizing peaceful protests against the encroachment onto Palestinian lands by Israeli settlers, and should be released immediately and unconditionally, Amnesty International said today. Bassem Tamimi was arrested on 24 March 2011 and charged days later with “incitement and support of a hostile organization, organizing and participating in unauthorized processions, incitement to throwing objects against a person or property” and other offences. Bassem Tamimi denies the charges. He is currently detained in Ofer prison while his trial continues. Bassem Tamimi, aged 44, is married with four young children. He has repeatedly affirmed nonviolent principles in his defence of villagers against the construction of settlements on occupied territories which violates international law [...]
- [Amnesty International, Israel/Occupied Palestinian Territories: Israeli authorities should revoke Palestinian human rights defender’s travel ban, 01/03/2012](#)
Having decided to permit Palestinian human rights defender Shawan Jabarin to travel abroad from the West Bank for the first time in six years, Israel should now revoke his travel ban, Amnesty International and Human Rights Watch said today. On 22 February, Israel’s State Prosecutor agreed to a “temporary exception” to the ban, allowing Shawan Jabarin to travel to Geneva at the invitation of the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The two organizations said that the Israeli authorities had never produced any evidence to justify banning Shawan Jabarin from travelling, and should follow this belated “exception” by lifting the arbitrary ban entirely. According to international human rights standards, any restrictions on travel should be issued in only exceptional circumstances, for reasons stated clearly and publicly, and be open to legal challenge. The refusal of the Israeli authorities to make public any evidence to substantiate the reasons for the travel ban means that Shawan Jabarin has been denied a meaningful opportunity to challenge the ban in court. Shawan Jabarin’s lawyer had filed a petition on 16 February asking the Israeli Supreme Court to overturn the ban. It is the first time he has been allowed to leave the West Bank since he became the director of AlHaq, a leading Palestinian human rights organization, in March 2006. Israel recently refused to allow Shawan Jabarin to travel abroad to receive human rights awards, including the Geuzen Medal in the Netherlands in 2010, and the Prize for Freedom in Denmark in 2011. He is also a member of the advisory committee of Human Rights Watch’s Middle East and North Africa Division. [...]
- [UN Office for the Coordination of Humanitarian Affairs, The Monthly Humanitarian Monitor: December 2011, 19/01/2012](#)
[...] December Overview
[...] Human rights organizations report that in some cases Israeli forces use unnecessary or excessive force. In December, a Palestinian activist was killed when shot by an Israeli soldier with a tear gas canister while protesting settler take-over of land in his village. [...]

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➤ [Observatory for the Protection of Human Rights Defenders, Steadfast in protest: Annual report 2011, 23/11/2011](#)

[...] Israel/Occupied Palestinian Territory

[...] Generally speaking, in 2010-2011, the work conditions of Israeli defenders remained more favourable than those of the defenders from the Occupied Palestinian Territory (OPT) or from other countries in the region. However, attacks to delegitimise or intimidate NGOs and Israeli human rights defenders intensified, either through media smear campaigns or legislative attempts to restrict their scope of action, particularly following their denunciation of the international crimes committed during the operation "Cast Lead". In general, Palestinian, Israeli and foreign defenders continued to face numerous obstacles to their freedom of movement. Defenders of the Arab minority in Israel or those who denounced the construction of the separation wall and the forced evictions in the West Bank and Israel, were subjected to judicial harassment. [...]

Persons involved in peaceful demonstrations

Excerpt from the February 2012 OPT OGN

3.7.3 The UN Special Rapporteur on the situation of human rights defenders raised a number of urgent appeals regarding the arrest and detention without charge of several Israeli and Palestinian human rights activists by Israeli security officials during 2010. Israel defended its actions on the basis of alleged security concerns, but the UN Special Rapporteur expressed concern at increased restrictions on the activities of human rights defenders working in Israel, including arrests, administrative detentions and restrictions to their freedom of movement as well as to their freedom of opinion and expression. The UN Special Rapporteur also expressed concern at allegations of torture and ill-treatment he had received. In 2011, the UK FCO noted an apparent rise over the last year in the number of Palestinian human rights defenders who have been arrested and detained by the Israeli authorities for their involvement in demonstrations. Similarly, in August 2011, Reporters Without Borders condemned the failure to punish abusive treatment of Palestinian journalists by the Israel Defence Forces in the West Bank and noted that many arbitrary arrests have been reported in the past two months.

3.7.4 Human Rights Watch raised the matter of the arbitrary detention of Palestinians advocating non-violent protest against Israeli settlements and the route of the Separation Barrier. They highlighted the case of Abdallah Abu Rahme who was sentenced by a military court to one year in prison on charges of inciting violence and organising illegal demonstrations, largely on the basis of coerced statements by children. Israeli law prohibits arbitrary arrest and detention, and these prohibitions are generally observed for all Israeli citizens. Non-citizens of Palestinian origin who are detained on security grounds fall under military jurisdiction, even when detained in Israel. Palestinians detained on security grounds (security offences range from throwing rocks to membership of a terrorist organisation and incitement to violence) are only rarely acquitted in Israeli military courts.

The OGN at paragraph 3.7.3 and 3.7.4 includes information on the arbitrary detention of Palestinians participating in peaceful demonstrations, but fails to include information on the use of excessive force and live fire from the Israel Defence Force (IDF), which has on a number of occasions resulted in death or serious injury. Illustrative examples of sources of information documenting such violations are as follows:

➤ [Palestinian Centre for Human Rights, Weekly Report On Israeli Human Rights Violations in the Occupied Palestinian Territory \(15 – 21 March 2012\), 22/03/2012](#)

[...] 2. Use of Excessive Force against Peaceful Demonstrations Protesting Settlement Activities and the Construction of the Annexation Wall

During the reporting period, IOF used force against peaceful demonstrations organized by Palestinian civilians and international and Israeli human rights defenders in protest to the construction of the Wall and settlement activities in the West Bank, and in protest to the establishment of a buffer zone in the Gaza Strip. As a result, a number of demonstrators were wounded and dozens of others suffered from

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tear gas inhalation. IOF used dogs to attack the demonstrators, and news agency showed footage of a trained dog attacking a demonstrator who was arrested by IOF. [...]

➤ [B'Tselem, Human Rights in the Occupied Territories: Annual Report 2011, 21/03/2012](#)

[...] Forbidden Protest: Violation of the Right to Demonstrate
Suppression of weekly demonstrations in the West Bank

In recent years, Palestinians, Israelis, and internationals have held demonstrations against the Separation Barrier and Israel's control of land in the West Bank. Regular demonstrations are currently held in several places, such as the villages Bil'in, Beit Ummar, al-Walajah, al-Ma'sara, a- Nabi Saleh, Kafr Qadum, and Ni'lin. Many of the demonstrators are non-violent, but there are also demonstrators who throw stones. In January 2011, the IDF Spokesperson's Office distributed a video on YouTube, in which the former commander of the Judea and Samaria Division, Brig. Gen. Nitzan Alon, spoke about the demonstrations in Bil'in. The approach, as far as we're concerned, is to allow the demonstration so long as it is non-violent. We make a clear distinction between a non-violent demonstration, which is legitimate protest, and a violent demonstration of throwing stones, hurling pieces of metal, physically attacking and damaging the security fence. Against this, we shall use crowd control measures. The claim that the military limits demonstrations in the Occupied Territories only when they are violent is not accurate. As a rule, the military treats every demonstration as an unlawful breach of public order that must be dispersed by various means. Every Friday, Border Police and soldiers come to the demonstrations and disperse them by one means or another. At times, security forces prevent demonstrations before they even begin, and seal off areas where demonstrations are planned, prior to and for the duration of the demonstration. Hundreds of Palestinians from the various villages have been arrested and tried for stone-throwing, and often for taking part in an unlawful demonstration. The military has made a concentrated effort to arrest the organizers of the demonstrations in villages in the West Bank, and more than ten of them have been prosecuted for organizing demonstrations and incitement to violence. Most of the prosecutions rely on testimonies given by minors in procedures that violated their rights: they are detained in the middle of the night, questioned without their parents being present, and are not always properly informed of their rights. In addition, dozens of Israelis have been arrested for taking part in demonstrations and being present in land declared a "closed military area." [...]

➤ [Amnesty International, Israel must release Palestinian detained for organising peaceful protests against expanding Israeli settlement, 02/03/2012](#)

[...] Bassem Tamimi was arrested on 24 March 2011 and charged days later with "incitement and support of a hostile organization, organizing and participating in unauthorized processions, incitement to throwing objects against a person or property" and other offences. Bassem Tamimi denies the charges. He is currently detained in Ofer prison while his trial continues. Bassem Tamimi, aged 44, is married with four young children. He has repeatedly affirmed non-violent principles in his defence of villagers against the construction of settlements on occupied territories which violates international law. [...]

➤ [Palestinian Centre for Human Rights, Weekly Report On Israeli Human Rights Violations in the Occupied Palestinian Territory \(23 – 29 Feb. 2012\), 01/03/2012](#)

[...] In the West Bank, on 24 February 2012, IOF used excessive force to kill a Palestinian who was participating in a peaceful demonstration in al-Ram village, north of Jerusalem, in protest against IOF and Israeli settlers attempts to raid the al-Aqsa Mosque.

[...] Also in the West Bank, during the reporting period, IOF used excessive force to disperse peaceful demonstrations organized in protest against Israeli settlement activities and the construction of the annexation wall in the West Bank. As a result, 5 protesters, including an Israeli Knesset member and a member of the Palestinian National Council, sustained shrapnel wounds. Additionally, dozens of protesters suffered from tear gas inhalation. In the Gaza Strip, on 28 February 2012, IOF opened fire at participants in a peaceful demonstration in the north of the Gaza Strip but no casualties were reported. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report: 15 – 21 February 2012, 24/02/2012](#)

[...] Clashes during protests result in around 40 injuries

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This week, violent clashes erupted between Israeli forces and Palestinian residents of Kafr Qaddum (Qalqiliya) during a weekly demonstration protesting access restrictions to agricultural land in the vicinity of the nearby settlement (Qedumim). As a result, 34 Palestinians were injured, constituting 85 per cent of this week's injuries. Two other Palestinians were injured in another weekly protest against the expansion of Hallamish settlement in the Ramallah area. Three Palestinians were also injured in two demonstrations, which evolved into clashes with Israeli forces, in front of the Israeli prison of Ofer (Ramallah). The protests were held in solidarity with the Palestinian prisoner, Khader 'Adnan, who is being held in administrative detention and whose health is in a critical state after being on a hunger strike for 66 days [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report: 7-13 December 2011, 16/12/2011](#)

[...] A 28-year-old Palestinian man died on 10 December of wounds he sustained the previous day when he was shot at close range by an Israeli soldier with a tear gas canister that hit his face. The incident occurred in the village of An Nabi Saleh (Ramallah) during a confrontation between Palestinians and Israeli forces that took place during the weekly demonstration against the takeover of private land by Israeli settlers from the Hallamish settlement and the lack of law enforcement by the Israeli authorities. The Israeli Military Police opened an investigation into the killing. While the rules of engagement of the Israeli military prohibit the firing of tear gas canisters at people's bodies, since the beginning of 2009, one other demonstrator has been killed and 376 others have been injured in these circumstances. Israeli forces injured another six people this week in the same demonstration. Two Palestinian women and one Israeli peace activist were also injured in clashes with Israeli forces during the man's funeral.

Sixteen Palestinians sustained injuries in other weekly demonstrations throughout the West Bank, including 12 people injured in a protest against the continued closure of the main entrance of Kafr Qaddum village, which leads to Qedumim settlement (Qalqiliya); three in protests against the isolation of agricultural land by the Barrier in the villages of Al Ma'sara (Bethlehem) and Bil'in (Ramallah); and one in a demonstration against access restrictions to agricultural land near the Karnei Tzur settlement in the Hebron governorate. [...]

➤ [Al Haq, Repression of Non-Violent Protest in the Occupied Palestinian Territory: Case Study on the Village of Nabi Saleh, 10/12/2011](#)

According to Al-Haq's documentation, since 2004, at least 13 protesters have been killed at demonstrations across the West Bank, including East Jerusalem. The Israeli military regularly targets protesters as well as bystanders, homes and property with rubber-coated metal bullets, tear-gas canisters, sound grenades and 'skunk,' a foul smelling chemical substance. [...]

Treatment of the Bedouin communities

Other vulnerable groups who are widely discriminated against and targeted by the Israeli forces are the Bedouin communities residing in Area C (under Israeli military and civil control) of the West Bank and in Jerusalem, who are regularly evicted from their land and denied access to water infrastructure. Further information particularly relating to the targeting of Bedouin communities can be found in the suggested sources as follows:

➤ [UN Office for the Co-ordination of Humanitarian Affairs, Protection of Civilians Weekly Report: 29 February – 06 March 2012, 09/03/2012](#)

[...] Demolitions and evictions in Area C and Jerusalem continue

[...] Additionally, five stop building orders were delivered against extensions of existing structures belonging to a Bedouin community near Deir Ammar village (Ramallah), affecting 60 people. [...]

➤ [Amnesty International, Stop the transfer: Asrael about to expel Bedouin to expand settlements, 08/02/2012](#)

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The Israeli army plans to forcibly evict and transfer 20 Palestinian communities, some 2,300 people, from their homes in the area of the Ma'ale Adumim settlement bloc in the occupied West Bank. The plan aims to relocate the communities, a majority of which are Jahalin Bedouin, to a site about 300m away from the Jerusalem municipal garbage dump. Israeli authorities have not consulted with the communities and the residents oppose the move. Military officials have said that the army will begin implementing the plan in early 2012. If carried out, this forced transfer would violate Israel's obligations under international law and uproot some of the poorest communities in the West Bank. [...]

➤ [UN Office of the High Commissioner for Human Rights, United Nations Expert Calls for Solidarity with Palestinians on the International Day of Solidarity with the Palestinian People, 29/11/2011](#)

On the occasion of the International Day of Solidarity with the Palestinian People (29 November), the Special Rapporteur on the situation of human rights in the occupied Palestinian territory, Richard Falk, expresses his solidarity with the Palestinian people in their struggle for self-determination. On this day, the Special Rapporteur calls urgent attention to the plight of the Palestinian Bedouin people of the occupied West Bank. "The recent unprecedented pressure by Israeli authorities and settlers to expel Palestinian Bedouin communities from Area C is deplorable, illegal and must cease." In recent months, approximately 2,300 Bedouins who reside in 20 impoverished communities in the hills east of Jerusalem have been informed by the Israeli authorities that they must leave the area, as part of a plan to expel Bedouin communities living in Area C, where Israel exercises total control. Reports indicate that the relocation plan may be implemented in early January 2012. Mr. Falk stressed that "[t]he proposed relocation of the Palestinian Bedouins, without the free and informed consent of the communities, amounts to forced transfer of protected persons under international humanitarian law." International law prohibits the forced transfer of civilians living under occupation, unless temporarily required for their own security or military necessity. "The Israeli authorities' expulsion of the Bedouins would meet none of these conditions." Furthermore, the destruction or confiscation of private civilian property, including homes, as well as the transfer of settlers into occupied territory, is prohibited. Israel, as the Occupying Power, is obligated to protect the residents of the occupied territory and to administer the territory for the benefit of the residents. The establishment and expansion of settlements is a direct breach of these obligations. "The proposed transfer of Bedouin communities raises a number of concerns under human rights law, especially with respect to forced eviction and forced displacement," noted the Special Rapporteur. Forced evictions transgress the Covenant on Economic, Social and Cultural Rights, to which Israel is party. Israel's claim that the Covenant does not apply in the occupied territory has been rejected by all human rights treaty oversight bodies. The Palestinian Bedouins are the most deprived ethnic group in the occupied territory, residing in the Area C of the West Bank. More than 80% of the Bedouins are registered as 1948 refugees originally from the Negev. Over 66% are children. The communities have all lost access to land due to settlement expansion. Most have demolition orders against their homes. None have access to the electricity network and only half are connected to the water network. Despite receiving humanitarian assistance, 55% of Bedouin communities in Area C are food insecure. The communities are located in an area intended for further Israeli settlement expansion, as set forth in the E1 plan that envisages a major expansion of the unlawful Ma'ale Adumim settlement. If implemented, these plans, along with the continued construction of the Separation Wall, seriously encroach upon Palestinian growth and development prospects. They also further cut territorial contiguity between the northern and southern parts of the West Bank, creating two nearly separate areas. Even more shockingly, Israel proposes to relocate these Bedouin near Jerusalem's principle garbage dump. The garbage dump pose would a serious health hazard to the communities, and would make it impossible for them to carry on their traditional lifestyles based on herding and nomadic agriculture. Mr. Falk concluded "[t]he forty-four year long Israeli occupation of Palestinian lands continues to manifest itself in deprivation and denial of basic rights of Palestinians. Every year, on this International Day of Solidarity with the Palestinian People, we are reminded of Israeli authorities' invidious schemes to permanently empty Palestine of Palestinians. This prolonged human catastrophe must be brought to an end once and for all. Only then can the rights of Palestinians can be realized."

➤ [Minority Rights Group International, Israel's denial of the Bedouin, 22/11/2011](#)

Introduction

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In the next few months, the Israeli parliament is expected to legislate on a plan to demolish homes and displace 30,000 Arab Bedouin from the Negev desert of southern Israel.¹ On 11 September 2011, the Israeli cabinet decided to go ahead with the controversial 'Praver plan', which aims at providing a full resolution to continuing issues between the state and Bedouin over land ownership, recognition of villages, and provision of basic infrastructure and facilities. The government of Prime Minister Benjamin Netanyahu sees the plan as an attempt to end the longstanding dispute between the state and its 200,000 minority Arab Bedouin population. But the plan has been drawn up without any consultation with Bedouin communities and will in effect extinguish Bedouin land claims without adequate compensation. Since the creation of the Israeli state in 1948, Arab Bedouin have been subject to a series of discriminatory policies and practices because of their ethnic and indigenous identity and way of life. Successive Israeli governments have expropriated Bedouin lands and attempted to concentrate Bedouin into specific planned townships in a small area of the north-east Negev region. Tens of thousands of Bedouin have been displaced and lost their lands. The Israeli authorities have pursued a slow and steady process of suppressing Bedouin's most basic human rights by not recognizing their villages and withholding basic facilities such as water, electricity and transport. The state has also disrupted the Bedouin's traditional semi-nomadic way of life by taking over their land and restricting their movement. This has had far-reaching consequences for Bedouin, from increasing poverty levels and already high levels of unemployment to a loss of traditional culture. Today the Bedouin live in impoverished conditions in the Negev desert. They are not recognized by Israel as an indigenous population and are therefore deprived of specific rights accorded to indigenous people under international law. Bedouin who live in villages that are not recognized by the Israeli authorities face frequent home demolitions. Hundreds of families have to watch as Israeli armed forces come with bulldozers and flatten their homes. Demolitions are increasing and will rise dramatically under the proposed government plans. Meanwhile, the government supports the expansion of Jewish settlements in Bedouin lands. Jewish settlers face no similar restrictions on how and where they can live. The Israeli government discriminates against the Bedouin in the Negev and does not treat them as equal citizens to Jews. [...]

➤ [Amnesty International Press Release, Three Palestinian Bedouin Families are facing demolition of their homes, 06/10/2011](#)

On 18 September, the Israeli military served three "stop work" orders against four domestic structures belonging to three Palestinian Bedouin families in the Tubas district in the occupied West Bank. The orders were given in Tell al-Himma and al-Farisiya villages, in the Tubas district in the occupied West Bank. They were issued because the families lack permits to build, despite the structures already being fully built.

[...] The two villages are in Area C, which makes up 60% of occupied West Bank. In this area, the construction of homes and other structures is effectively prohibited. Applications to build are invariably turned-down as the land is mostly designated for Israeli settlements, illegal under international law, or for Israeli military zones. The UN Office for the Coordination of Humanitarian Affairs in the occupied Palestinian territory (OCHA) states that since July 2010, the Israeli authorities have destroyed 117 structures including homes in al-Farisiya. This has led to the displacement of 129 people, including 63 children. [...]

➤ [UN Office for the Co-ordination of Humanitarian Affairs, Bedouin Relocation: Threat of Dislocation in the Jerusalem Periphery, September 2011](#)

[...] Around 2,300 Bedouin reside in 20 communities in the hills to the east of Jerusalem. More than 80% of them are refugees. Over two-thirds are children. The communities have all lost access to land due to settlement expansion, most have demolition orders pending against their homes, none have access to the electricity network and only half are connected to the water network. Despite receiving humanitarian assistance, 55% of Bedouin/herding communities in Area C of the West Bank are food insecure.

[...] The Palestinian Bedouin communities living in the hills to the east of Jerusalem are at risk of forced displacement. The communities have been informed by the Israeli authorities that they have no option but to leave the area, as part of a larger plan to relocate Bedouin communities living in Area C, where Israel retains control over security as well as planning and zoning. Reports indicate that this plan may begin as early as January 2012. At this stage, most of the communities have indicated that they are against the proposed plan. [...] Concerns have been raised about the proposed relocation site. The site is located close to Al Ezariya town, near where Bedouin families were relocated in the late 1990s to allow for the

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expansion of the Ma'ale Adummim settlement. The proposed site does not meet minimum standards in terms of distance from the municipal dumping grounds, which is likely to pose a health hazard to the communities, and provides limited access to grazing lands. Previously relocated families report negative consequences, including health concerns, loss of livelihood, deteriorated living conditions, loss of tribal cohesion and erosion of traditional lifestyles. [...]

Legal systems in the West Bank and Gaza ('Administrative Detention')

The OGN gives the following overview of the legal system which operates in the West Bank with regards to the detention of Palestinians:

Excerpt from the February 2012 OPT OGN

3.7.5 Persons detained on security grounds are likely to fall under one or more of three legal systems. These are: (a) the 2006 „temporary law“ on criminal procedures, where the IPS may hold individuals suspected of a security offence for 48 hours before being brought before a judge, with limited exceptions allowing up to 96 hours; (b) the 1979 Emergency Powers Law which allows the Defence Ministry to detain persons administratively, without charge, for up to six months, renewable indefinitely. These detainees are almost all Palestinians of the West Bank, and are permitted legal representation within seven days, extendable to up to 21 days in limited cases. These administrative detainees are generally held for less than one year, although in 2010, 21 detainees were found to have been held for more than two years; (c) the Illegal Combatant Law 2002 permits the holding of a detainee for 14 days prior to review by a district court judge. Access to counsel may be denied for up to 21 days with the approval of the attorney-general, and detainees may be detained indefinitely, subject to twice-yearly reviews at the district court. In 2008, the government extended a temporary provision that exempts law enforcement officers from the law requiring them to film and audio record all interrogations of detainees suspected of security offences.

The information included in paragraph 3.7.5 is misleading since the Penal Code for security offences in the West Bank is Military Order 1651.¹ On 1st November 2009 the Israeli authorities published a new military order, Order Regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651) 5770-2009 (MO 1651), consolidating twenty military orders that had hitherto formed the bulk of the security related military legislation applicable in the West Bank, which came into force on 2 May 2010.² The new order criminalises activities ranging from membership of a political party to taking part in unauthorised demonstrations, to militant operations by armed groups. The Order does not apply to Israelis living in the West Bank, who are subject to Israel's civil laws. Palestinians detained in accordance with this Order can be held for 8 days before being brought before a military judge, and up to 90 days without access to a lawyer if the Israel Defence Force (IDF) recommends this in the interests of security. In total, a Palestinian can be held for up to 188 days without charge or trial. The Military Order also provides for the administrative detention of those suspected of security offences for up to six months, renewable indefinitely. According to the NGO Addameer – Prisoner Support and Human Rights Association “In practice, Palestinians can be detained for months, if not years, under administrative detention orders, without ever being informed about the reasons or length of their detention. Detainees are routinely informed of the extension of their detention on the day that the former order expires. Under the existing administrative detention procedures, Palestinians have no effective means by which to challenge their administrative detention”.³

¹ To view Military Order 1651 see <http://nolegalfrontiers.org/en/military-orders/mil01>.

² [International Review of the Red Cross, National implementation of international humanitarian law Biannual update on national legislation and case law July–December 2010, Volume 93 Number 881 March 2011](#), page 228.

³ [Addameer – Prisoner Support and Human Rights Association, Administrative Detention, Undated](#), Administrative Detention in the West Bank: Military Order 1651 [Last accessed: 28/03/2012].

Administrative detention in Gaza is authorised through the ‘Internment of Unlawful Combatants Law’, which allows IDFs to hold Palestinians for an unlimited period of time, without effective judicial review.⁴ The law defines an “unlawful combatant” as a “person who has participated either directly or indirectly in hostile acts against the State of Israel, or is a member of a force perpetrating hostile acts against the State of Israel,” and who is not entitled to prisoner of war status under international humanitarian law. According to the NGO Addameer – Prisoner Support and Human Rights Association, “The Unlawful Combatants Law allows for the sweeping and swift detention without trial of large numbers of foreign citizens and Palestinians resident of the Gaza Strip”.⁵ It further reports that “Detainees under the law may be held for 96 hours before the issuance of a permanent detention order, or up to seven days if the government declares the “existence of wide-scale hostilities”. Judicial review of an order in a closed hearing must take place within 14 days of its issuance; if it is approved, the detainee must be brought before a judge once every six months. If the court finds that his release will not harm state security, the judge shall cancel the order”.⁶ According to Addameer,

In practice, the Unlawful Combatants Law contains fewer protections for detainees than even the few that are granted under administrative detention orders in the West Bank. For example, judicial review is conducted less often; the legality of the detention does not require the existence of a state of emergency; and, the detention “is carried out pursuant to an order issued by the chief of staff or by an officer holding the rank of major general”. In addition, the law establishes two troubling presumptions that shift the burden of proof to the detainee: first, the release of an individual identified as an “unlawful combatant” will harm national security unless proven otherwise; second, the organization to which the detainee belongs carries out hostilities, if the Israeli Minister of Defense has made such a determination, unless proven otherwise. This practice patently violates the accused’s right to a presumption of innocence in any criminal proceeding, and results in a system of indefinite detention justified by mere speculation and stacked heavily against the detainee”.⁷

Use of administrative detention

Excerpt from the February 2012 OPT OGN

3.7.6 Various NGOs have stated that Israel continues to overuse the administrative detention process, including in non-security cases. At the end of 2010, B’Tselem stated that 204 Palestinians were being held in administrative detention without having been charged with a particular crime; this is a decrease from the 278 held at the end of 2009. More recently, Amnesty International reported that, according to the Israeli Prison Service statistics, in July 2011, 243 Palestinians were being held as administrative detainees. As a general practice, Arabs without Israeli citizenship detained for security reasons are not granted bail.

[...] 3.13.5 By the end of November 2011, there were 4,803 Palestinian security detainees. Prisoners and detainees had reasonable access to visitors, including via a Red Cross programme that brought prisoners’ relatives from the West Bank into Israel for prison visits. The government ended a similar programme for visitors from the Gaza Strip, following the Hamas takeover of the Gaza Strip in 2007.

⁴ To view the 2002 Internment of Unlawful Combatants Law see

<http://www.jewishvirtuallibrary.org/jsource/Politics/IncarcerationLaw.pdf>.

⁵ Addameer – Prisoner Support and Human Rights Association, *Administrative Detention, Undated*, Administrative Detention in the Gaza Strip: Unlawful Combatant Law [Last accessed: 28/03/2012].

⁶ Addameer – Prisoner Support and Human Rights Association, *Administrative Detention, Undated*, Administrative Detention in the Gaza Strip: Unlawful Combatant Law [Last accessed: 28/03/2012].

⁷ Addameer – Prisoner Support and Human Rights Association, *Administrative Detention, Undated*, Administrative Detention in the Gaza Strip: Unlawful Combatant Law [Last accessed: 28/03/2012].

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In December 2009, a High Court ruled against a petition from prisoners' relatives from the Gaza Strip, finding that such visits did not amount to a humanitarian need.

In paragraphs 3.7.6 and 3.13.5 (please note that this latter paragraph is located in section '3.13 Prison conditions') the information included refers to recent statistics regarding administrative detainees and the overall number of Palestinian security detainees. These statistics predate the prisoner release exchange which took place in October and December 2011, whereby 1,027 Palestinian detainees were released in exchange for the Israeli soldier captured by Gaza militants in 2006, Gilad Shalit.⁸ Although this has led to a drop in the overall number of Palestinians in the custody of the Israeli Security Forces, since then there has been an increase in the number of administrative detainees, with 320 in administrative detention in February 2012.⁹

For regular updates on statistics and other information regarding Palestinian prisoners in Israeli prisons, please refer to the websites listed below:

- [Addameer - Prisoner Support and Human Rights Association](#)
- [B'tselem](#)

⁸ [Al Jazeera, Hamas hails Palestinian prisoners deal, 12/10/2011.](#)

⁹ See statistics provided by B'tselem: http://www.btselem.org/statistics/detainees_and_prisoners [Last accessed: 28/03/2012].

3.8 Fatah members and perceived supporters residing in Gaza

Excerpt from the February 2012 OPT OGN

3.8.3 Treatment At the end of 2010, the US Congressional Research Service reported that “ Hamas also has frequently attacked or repressed Palestinian political and factional opponents, particularly in its struggle with Fatah and other groups for control of the Gaza Strip” and that there are “widespread reports of mistreatment and torture of Hamas” political opponents (particularly Fatah members) and other prisoners. Similarly, it was reported by the joint annual report of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), that in Gaza, “dozens of people were arrested for their alleged support of the Fatah Party”. Freedom House also stated that since 2008 Hamas has significantly restricted freedoms of assembly and association, with security forces dispersing public gatherings of Fatah, culminating in July 2010 with the detention of over 100 Fatah activists, some of whom were tortured.

3.8.4 During the summer of 2010, it was reported that Hamas prevented dozens of Fatah activists from leaving Gaza by confiscating their passports. The representative for the Interior Ministry in Gaza, Ihab al-Ghusein, told the Israeli newspaper Haaretz that 10,000 new passports are needed monthly, and that there is a waiting list of 100,000 applicants urgently awaiting travel documents. It is reported that both Hamas and Fatah use passports as a political weapon against the other side, and that ordinary Palestinians suffer as a result. There have also been reports of targeted attacks against the homes of, and killings of, known figures in the Fatah movement in Gaza. The Palestinian Centre for Human Rights (PCHR) received dozens of complaints and testimonies from Fatah activists, including women, who were repeatedly summonsed and detained in the Gaza Strip during May and June, frequently in poor conditions.

3.8.5 Residents of the Gaza Strip have no right to political participation or to choose their government. Hamas security forces continue to kill, torture and kidnap, arbitrarily detain and otherwise harass Palestinians, particularly Fatah members, with impunity. There are reports of abuse of prisoners and failure to provide fair trials to those accused. Hamas actively restrict the freedom of speech, religion and movement of residents of the Gaza Strip. There are reports that during 2010, masked gunmen affiliated with Hamas unlawfully executed at least 32 people. According to law, the PA president must ratify all death sentences, but Hamas did not contact the PA regarding these executions.

[...] 3.8.7 Conclusion. Applicants who can establish a well-founded fear of the de facto authorities in Gaza, i.e. Hamas, will not be able to obtain protection from these authorities. Individuals known or perceived by Hamas to be involved either in anti-Hamas activities, or affiliated with Fatah are likely to be of adverse interest to the de facto authorities in Gaza. For such applicants, a grant of asylum is likely to be appropriate. Caseowners must give consideration to the latest available country of origin information in order to assess whether there is a significant and non-temporary change in country conditions, such as would indicate that a grant of asylum is not appropriate.

Whilst the country information included in the OGN on the treatment of Fatah members and perceived supporters in paragraphs 3.8.3-3.8.5 and the concluding guidance in paragraph 3.8.7 is illustrative of the current situation as reported in the public domain, the following additional COI is recommended for consideration since it was published after May 2011, which is the publication date of the last source included in the OGN on this issue, and also because it specifically highlights attacks against journalists accused of being Fatah supporters:

- [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)
Hamas police and internal security forces assaulted, arbitrarily detained, and allegedly tortured civil society activists and peaceful protesters who had sought to demonstrate in solidarity with Egyptian and Syrian protesters and had called for an end to the political split between Hamas and its rival, Fatah. Hamas’s Interior Ministry closed several NGOs in Gaza, including the Sharek Youth Forum. In August the Education Ministry banned eight secondary-school students from traveling to the United States, where

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they had won scholarships. Hamas banned three newspapers printed in the West Bank from distribution in Gaza. [...]

➤ [Human Rights Watch, Investigate Attacks on Rights Defenders, 19/01/2012](#)

Hamas and the Palestinian Authority (PA) should investigate recent brutal attacks against human rights defenders in Gaza and the West Bank and hold those responsible to account, Human Rights Watch said today. In Gaza, Mahmud Abu Rahma, the international relations director for Al Mezan Center for Human Rights, a Palestinian rights group, was stabbed repeatedly on the night of January 13, 2012, by masked assailants, after being beaten by a group of unidentified men on January 3. The attacks followed his public criticism of Hamas and the impunity of armed groups in Gaza. Al Mezan had previously informed Hamas of death threats against him.

[...] Human Rights Watch has documented repeated abuses by both Hamas and PA officials against each other's members as well as against internal critics and demonstrators, including arbitrary detention and torture. In other cases, armed groups in Gaza have fired rockets that fell short of their intended targets in Israel, harming Palestinian civilians, and have placed civilians at risk of Israeli attacks by locating military objects near populated areas in Gaza. Human Rights Watch is aware of a handful of cases in which Hamas authorities penalized police officials for abuses against civilians in Gaza. But it has found no cases of such prosecutions against members of armed groups or Hamas's internal security service, which has been accused of torturing detainees and of deaths in custody due to abuse. Nor is Human Rights Watch aware of any criminal convictions of PA security officials for abuses in the West Bank, despite numerous credible allegations of torture and death in custody.

➤ [Amnesty International Report 2011 - The State of the World's Human Rights: Palestinian Authority, 13/05/2011](#)

[...] Arbitrary arrests and detentions

PA security forces in the West Bank arbitrarily arrested and detained suspected Hamas supporters, and Hamas security forces in Gaza arbitrarily arrested and detained suspected Fatah supporters. In both areas, the authorities gave the security forces wide powers of discretion, including to arrest and detain suspects in breach of the law and to torture and otherwise ill-treat them with impunity. [...]

➤ [Human Rights Watch, Gaza: Lift Restrictions on Books, Newspapers, 07/03/2011](#)

Hamas authorities in Gaza should immediately lift bans arbitrarily imposed on books and newspapers, Human Rights Watch said today. Hamas security officers recently confiscated copies of novels from bookstores on the basis of their allegedly "immoral" content, and Hamas officials bar newspapers from being brought into the Gaza Strip that support the rival Fatah movement, which leads the Palestinian Authority in the West Bank. [...]

3.11 Israeli collaborators

Excerpt from the February 2012 OPT OGN

3.11.8 The Israeli government does not officially sanction the practice of forcing or persuading Palestinian civilians to assist in military activities, and available information on this issue is limited. Palestinians are known to have been placed in situations where it was extremely difficult to refuse assistance. Some Palestinians do collaborate for financial gain, or because they are being blackmailed following arrest, or because of their opposition to some militant group members. B'Tselem maintains that some members of the security forces ask Palestinians to collaborate with them in exchange for work permits or to access medical treatment (including life-saving treatment) inside Israel.

3.11.9 It is reported that only a small number of collaborators (relative to the numbers involved) actually receive help and protection from the Israeli authorities. The burden of proof falls on them to demonstrate that they did in fact collaborate with Israel, in order to gain even minimal protection and the right to live in Israel. Hundreds more collaborators remain in Israel without permission to live there legally, no way of leaving the country and no possibility of returning home. Consequently, many are homeless and destitute, and constantly in hiding from the authorities. [...]

3.11.11 Conclusion The evidence indicates that there are thousands of Palestinians collaborating with Israel in Gaza and the West Bank. The lives of those identified as collaborators are at risk, and if discovered, the Israeli authorities have undertaken to provide protection and assistance in Israel for collaborators and their families. However, it is unclear whether the Israeli authorities are able to provide adequate protection and support to all Palestinians and their families who are considered collaborators. Indications suggest that the Israeli authorities are unwilling to provide protection in a large number of cases. Each case should therefore be considered on its own merits and if there is evidence that the applicant is a collaborator and would not receive adequate protection and support from the Israeli government then a grant of asylum or Humanitarian Protection is likely to be appropriate.

Only one source of COI is included at paragraph 3.11.9 to support the concluding guidance in paragraph 3.11.11 that Israeli authorities are “unwilling to provide protection in a large number of cases”. Additional sources of information available in the public domain, even if limited, also report on Israel’s unwillingness to assist Palestinian collaborators, as well as Israel’s persuasion to assist them as follows:

- [The Guardian, Palestinians hoping to leave Gaza Strip asked to collaborate with Israel, 28/12/2011](#)

Palestinian patients and business people hoping to leave the [Gaza](#) Strip are being asked to collaborate with [Israel](#) in exchange for an exit permit, a leading Israeli human rights organisation claims.

Physicians for Human Rights (PHR) say that 172 people, mostly men aged 18 to 40, were called for interrogation by the Shabak, Israel's internal intelligence agency, last month. Some who attended interviews were granted exit permits. [...]

Ramez Kaloub imports dairy products to Gaza and his revenue has halved since the blockade was imposed in 2007. In January this year, he was asked by Israeli corporate giant Strauss to meet in Israel for a deal that could make up his losses.

Kaloub had accompanied his nephew for medical treatment in Israel nine months before so didn't think getting a permit would be a problem. But this time, he was called for an interview.

"After trying to speak with me about Hamas the officer said he would like to help me but I have a black spot on my security record. We could sort this out at a meeting in Jerusalem, he said.

"I said no, I would prefer to sort out any problems now."

Kaloub was sent back to Gaza and his request to enter Israel declined. A competitor won the Strauss contract. His case has now been taken up by Gisha, an Israeli organisation campaigning for freedom of movement for Palestinians.

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"It's possible other businessmen would give intelligence to Israel," he says. "While the majority will say no, there be those who will have no choice."

➤ [Palestine Monitor, Collaborator, 28/10/2010](#)

Various different types of collaborators are used in Palestine. They vary from those buying land from Arab owners and selling it to Israelis, to the armed collaborators who assist the IDF (Israeli Defence Force) on military raids. The most common form of collaborator is the low level informant or 'Jasous'. The Jasous provides information on the activities and movements of certain activists and general information on resistance activity. If caught by the Palestinians, collaborators face severe punishment. Much has been made by the international media of the failings of the Palestinian legal system, which allowed the summary execution of collaborators by lynch mobs and Kangaroo courts. In the West Bank these are no longer officially sanctioned, but in Gaza they continue. The reasons why Palestinians risk collaborating derive from the vice-like grip Israel has on the occupied population. There are few Palestinians that have not needed a 'favour' from the military authorities and it is here that pressure is exerted. For Palestinians to work in Israel, where the wages are vastly higher, they require a permit. Their circumstances are exploited by the Shin Bet (Israeli secret police), who frequently demand that the applicant turn informer. With numerous hungry children to feed at home it becomes a difficult decision even for the most patriotic of Palestinians. One Fatah spokesman I talked to believed that about 70% of the collaborators had worked in Israel at some point. Many collaborators are lured from the Palestinian student body. It is common practice for soldiers to pick up school children in their final year of school and demand that they either collaborate or be imprisoned, missing their final exams and preventing them from graduating. University students experience similar levels of harassment. Many can barely afford the tuition fees. Soldiers and intelligence agents at the checkpoints offer them money or if that doesn't work again threaten to detain them during the exam period. With the deficiencies of Palestinian health facilities, permits to travel for hospital treatment in Israel or abroad have become useful bargaining chips for recruiters. The illegal siege of Gaza has bought health services to their knees and provided a stream of collaborators. In August 2008 the Israeli branch of Physicians for Human Rights released the details of 32 sick Gazans who claimed that they had been denied permits after refusing to become informants. Bassam Waheidi, a 28 year old Gazan, went blind in one eye after being denied a permit for treatment after refusing to collaborate. [...]

In the beginning an informer may be offered around 500 - 1,000 shekels (\$135-\$274) a month. However once they've been bought they are at the mercy of the Israelis. Their fees are sometimes slashed as low as 50 shekels (\$14) a month. There is no authority they can appeal to and it is too late to turn back. Mohammed likens Israeli treatment of collaborators to lemons, "the Israelis squeeze them for all the information they've got and then throw them away". Even when a collaborator's position is compromised and his life is in jeopardy, only those most valuable to the Israelis are rescued. Those that escape are put into housing in Arab-Israeli neighbourhoods in Israel. Here they are despised by their neighbours and abandoned by the military, just another tool for Israel's brutal machine.

➤ [The Jerusalem Post, Report highlights collaborators' plight, 08/04/2010](#)

Thousands of Palestinian collaborators who have moved to Israel in search of protection live here without basic human rights, financial assistance or adequate social benefits, according to a first-of-its kind report on the living conditions of those who have risked their lives for the Jewish state. Published last month by the Legal Forum for Eretz Israel, the report highlights the plight of more than 6000 individuals and their families who are either not officially recognized, or only partially recognized, as being collaborators with Israel, and who are basically left to fend for themselves after being deemed traitors by the Palestinian authorities. [...]

"There are literally thousands of threatened people who have been living in Israel for more than ten years with a special [temporary] permit but who are not allowed to work and do not receive health benefits," said Teplow, explaining that many are employed on the black market for very low pay and under terrible conditions. "These people go through serious mental anguish every three months when their permit has to be renewed. They never know if they might be suddenly arrested [by the Israeli authorities] and returned across the border." [...]

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In addition to the terrible conditions facing collaborators who live under the shadow of constant threats, or the even lower status of those labeled traitors by their own people but not recognized at all by Israel, Teplow also points out the struggle faced by those who are fully recognized collaborators. Cared for the Defense Ministry's specially created Rehabilitation Agency, Teplow, in his report, points out that even though many of them receive a blue identity card – in essence full citizenship – they still struggle to fit into their new lives in Israel, unable to live comfortably in either a Jewish or Arab Israeli communities. Although figures are not officially published by the Defense Ministry, Teplow estimates that there are roughly 2000 families in this situation.

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3.12 Statelessness and the right of re-entry

The OGN concludes with regards to those Palestinians who are stateless that

Excerpt from the February 2012 OPT OGN

3.12.6 Conclusion The UK is a signatory to the 1954 Convention on the Status of Stateless Persons, but that Convention does not require signatories to grant leave to stateless persons. There is no provision in primary legislation, the Immigration Rules or Home Office published policies that require leave to be granted to a person on the basis that they are stateless. A claim on this basis alone would therefore fall to be refused on the grounds that leave is being sought for a purpose not covered by the Immigration Rules.

3.12.7 No distinction is made between applications for leave to remain from stateless people and from people who have a nationality. Stateless people whose applications are successful are granted leave to enter or remain in the usual way. Those whose applications fail are expected to leave the United Kingdom, usually to return to their countries of habitual residence. The fact of being stateless is not, per se, a reason for granting leave to enter or remain in the UK, and would not give rise to a grant of asylum or Humanitarian Protection.

For further information on the issue of statelessness, please consult the following report published by Asylum Aid and UNHCR detailing the number, profile and situation of stateless people in the UK. Specifically chapters 5 ('The Human Rights Challenges faced by Stateless and "Unreturnable" persons in the UK) and 6 ('The Reduction and Prevention of Statelessness in British Nationality Law) will be of particular use to legal representatives:

- [Asylum Aid/UNHCR, Mapping Statelessness, November 2011](#)

3.13 Prison conditions

Israel

Excerpt from the February 2012 OPT OGN

3.13.4 In 2011, the U.S. Department of State noted that NGOs filed numerous complaints alleging that security forces tortured or abused Palestinian residents of the West Bank and the Gaza Strip. Amnesty International also reported consistent allegations of torture and other ill-treatment, including beatings, threats to the detainee or their family, sleep deprivation, and being subjected to painful stress positions for long periods.

The OGN refers to allegations of torture by Israeli security forces, and cites two sources which have raised this as a concern. However, the systematic nature of torture and ill-treatment of Palestinians in Israeli prisons could be further highlighted. Given the [military judicial system outlined above](#), whereby Palestinians can be held for up to 90 days without access to a lawyer, the risk of torture or ill treatment during that period should be considered high. The general impunity of Israeli security forces interrogating Palestinian detainees, due in part to Israel's provision for 'military interrogation techniques', used in 'ticking bomb' cases (see sources listed below), further exacerbates this risk. These concerns are supported by a number of reports by local NGOs and international organisation, some of which are cited below:

- [Physicians for Human Rights – Israel/Adalah/Al Mezan Center for Human Rights/Public Committee Against Torture in Israel, ISRAEL : ADOPTION OF LIST OF ISSUES PRIOR TO REPORTING BY THE COMMITTEE AGAINST TORTUR, 26/03/2012](#)

OVERVIEW

1. Since the UN Committee Against Torture (henceforth: the Committee or CAT) considered Israel's previous report in 2009, the Israel Security Agency/General Security Service (henceforth: ISA)¹ has continued to employ torture and cruel, inhuman or degrading treatment (henceforth: other ill-treatment) in the interrogation of dozens of Palestinian detainees. The use of techniques of torture, officially referred to as "special measures" or "necessity interrogation," is officially sanctioned and justified by the claim of "necessity" under Israel's Penal Law. Torture victims' complaints are invariably closed by the State Attorney's Office or the Attorney General, without steps being taken either to investigate complaints or to prosecute interrogators or their superiors.²

[...] 3. Violence and humiliation constituting ill-treatment, and at times torture, are inflicted by soldiers, police and other security forces (besides the ISA) during the arrest and detention of Palestinians in the OPT. Preventative measures are half-hearted and inefficient; investigations are rare, prosecutions are rarer and convictions rarer still.

4. While there is no disagreement that the Convention applies in Israel, Israel continues to claim that the Convention does not apply to the OPT despite the Committee and other human rights treaty bodies' position to the contrary. The Committee has repeatedly emphasized that, "as stated by the International Court of Justice in its Advisory opinion, international human rights treaties ratified by the State party, including the Convention, are applicable in the occupied Palestinian territories."⁶ Practices in the OPT must be part of Israel's report.

5. Israel has failed to implement the Committee's recommendations. [...]

- [Amnesty International, Palestinian hunger striker 'at risk of death' highlights injustice of administrative detention, 23/03/2012](#)

The Israeli authorities should immediately release a Palestinian detainee or charge her with a recognizable criminal offence and promptly try her, Amnesty International said amid fears that the woman could die in detention after 37 days on hunger strike.

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Hana Shalabi, 30, from the village of Burqin in the northern West Bank, is allegedly affiliated with the Islamic Jihad movement but has never been charged with a criminal offence. She was transferred to Meir Hospital in the central Israeli town of Kfar Saba on Tuesday night, but remains under Israeli custody and constant armed guard.

“When her lawyers and independent physicians met her, Hana Shalabi reported to them that Israel Prison Service officers handled her violently while transferring her to hospital or the military court, and have consistently pressured her to end her hunger strike,” said Ann Harrison, Amnesty International’s interim deputy director for the Middle East and North Africa.

“Amnesty International has repeatedly called on the Israeli authorities to release Hana Shalabi and other Palestinians held in administrative detention, unless they are promptly charged with internationally recognizable criminal offences and tried in accordance with international fair trial standards.” Israeli military orders allow the authorities to detain Palestinians from the occupied West Bank without trial indefinitely under administrative detention if they are deemed to be a “security threat”.

Hana Shalabi began her hunger strike in protest against ill-treatment during her arrest on 16 February, and continued in protest against her detention without charge or trial after receiving an administrative detention order five days later. [...]

➤ [UN Office of the High Commissioner for Human Rights: Israel: United Nations Expert Restates Concern for Palestinian Prisoner on Hunger Strike and Calls for His Immediate Release, 21/02/2012](#)

The United Nations Special Rapporteur on the situation of human rights in the Palestinian territories, Richard Falk, reiterated today his urgent appeal to the Government of Israel to release Palestinian prisoner Khader Adnan. Mr. Adnan is now on the 66th day of a hunger strike, protesting his humiliating detention and treatment by Israeli security forces, and his objection to Israel’s use of detention without charges. “I am informed that Mr. Adnan’s health has already suffered irreparable damage, he is in jeopardy of dying at any moment.” Mr. Falk said at the end of a ten-day fact-finding mission* to the region. “I reiterate my call on the Government of Israel to uphold Mr. Adnan’s rights, taking full account of the extreme urgency of the situation.” “In addition to his release,” the independent expert stressed that “allegations of torture and other mistreatment should be promptly, independently and impartially investigated.” Mr. Falk added that torture and cruel and degrading treatment “is not only a grave violation of human rights and a war crime; it may also be subject to international criminal accountability, including through universal jurisdiction.” For the Special Rapporteur, Mr. Adnan’s case is emblematic of the Israeli practice of detaining Palestinians without charges. “The Government of Israel calls this ‘administrative detention,’ but it is more honestly termed detention without charges, or arbitrary detention,” he said. “I was reliably informed that Israel currently has approximately 300 Palestinians detained without charges,” Mr. Falk said. “I have requested information regarding each of these persons, and I intend to follow up on each case and address this matter in my forthcoming report to the Human Rights Council,” due in June 2012. There are also an estimated 4,400 Palestinian detainees in Israeli prisons. Several experts on prison conditions consulted by the independent expert raised concerns regarding physical, verbal and psychological abuse; lack of access to proper medical treatment; medical neglect; widespread use of solitary confinement for extended periods; overcrowding and decrepit cells; and the lack of family visits.[...]

➤ [Public Committee Against Torture in Israel, Periodic Report: Accountability Still Denied, January 2012](#)

[...] As an ISA [Israeli Security Agency] agent, the IIC [Inspector of Interrogee Complaints] is an authority whose identity is shrouded in obscurity, whose independence is dubitable, and whose recommendations are one and the same: the closing of every complaint without further criminal investigation. The State Attorney’s Office invariably accepts these recommendations fully and unquestioningly.

The result has been the comprehensive closure, without criminal investigation, of over 700 complaints of torture and ill-treatment since 2001 by an official who lacks proper authority to make these decisions, and on the basis of an entirely non-transparent and unacceptable procedure of inquiry.

[...] As part of its ongoing efforts to pursue all legal remedies following complaints of torture handled by the organisation, in 2010 and 2011 PCATI’s legal department filed five petitions to the High Court of Justice on behalf of 26 victims of torture. Each of the petitioners in question were subjected to particularly

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gruelling physical and psychological torture and/or ill treatment in the course of ISA interrogations - in all cases the closure of the victims' complaints have been unquestionably approved by the legal authorities following the IIC's preliminary inquiry. It is worth noting that the majority of detainees who have reported torture or ill treatment to PCATI lawyers ultimately refuse to submit complaints to the authorities, citing lack of trust in official mechanisms of investigation or fear of reprisals. [...]

➤ [The Public Committee Against Torture in Israel/Physicians for Human Rights – Israel, DOCTORING THE EVIDENCE ABANDONING THE VICTIM, October 2011](#)

[...] E: Summary and Conclusions

This report is a product of the long, frustrating experience of two organizations which have struggled since their founding against torture, the professionals who enable it, and in attempting to understand the circumstances which allow them to persist. Our experience on this matter is unequivocal: medical professionals are indeed among those working for the authorities who interact with prisoners and take part in what goes on in the prison system and the interrogation rooms. Medical professionals abandon their duty by failing to document and report torture; by passing on medical information to interrogators; returning interrogees to the custody of their interrogators when in danger of being exposed to further torture or ill-treatment; and in extreme cases, by taking an active part in the interrogation. Because of their unique social status, the presence of medical professionals in facilities where torture or ill-treatment are carried out indicates the boundary between the permissible and the impermissible; it grants ISA[Israel Security Authority] interrogators a stamp of approval, whether explicit or tacit, that their conduct is acceptable. Such behavior by doctors has far-reaching consequences for the victims of torture or ill-treatment: not only do medical professionals fail to serve as effective recourse for victim's complaints of injuries inflicted upon them by their interrogators or other authorities; their conduct furthermore precludes the victim from presenting evidence which can aid in pursuing justice through various legal and administrative proceedings [...]

➤ [Addameer - Prisoner Support and Human Rights Association, Addameer Calls for End to Impunity for Torture of Palestinians, 26/06/2011](#)

[...]On 6 February 2010, 16-year-old Mohammad Halabiyeh was arrested by the Israeli Border Police in his hometown of Abu Dis. Although Mohammad broke his left leg during the arrest, this did not shield him from torture and ill-treatment. Over the next couple of days, Israeli soldiers would repeatedly punch him in the face and abdomen, apply pressure to his broken leg, push syringes into his hand and leg and deprive him of sleep, and an interrogator would threaten him with sexual abuse. On 6 June 2011, a year and four months after his arrest, Mohammad, who is now 17, was found guilty on all charges. Although the Israeli military judge explicitly stated in her ruling that she believes that the boy was tortured, she also argued that the torture did not influence his confession and should therefore not be taken to nullify his statements. Mohammad's experience is by no means an isolated case, but it is emblematic of the Israeli authorities' continued willingness to condone torture and their systematic failure to effectively punish its use within their ranks. The 6 June 2011 ruling echoes the spirit of the 1999 Israeli High Court of Justice decision on torture, which is largely considered to have imposed an absolute prohibition on torture, but in fact left the door open for torture to continue with complete impunity under certain circumstances. [...]

➤ [UN Committee Against Torture, CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION: Concluding Observations of the Committee against Torture, 14/05/2009](#)

[...] 14 Notwithstanding the State party's assurances that following the Supreme Court's decision in H.C.J. 5100/94, *Public Committee against Torture in Israel v. The State of Israel* determined that the prohibition on the use of 'brutal or inhuman means' is absolute, and its affirmation that 'necessity defense' is not a source of authority for an interrogator's use of physical means, the Committee remains concerned that the 'necessity defense' exception may still arise in cases of 'ticking bombs,' i.e., interrogation of terrorist suspects or persons otherwise holding information about potential terrorist attacks. The Committee further notes with concern that, under Section 18 of the *Israel Security Agency Law 5762-2002*, "an ISA employee (...) shall not bear criminal or civil responsibility for any act or omission performed in good faith and reasonably by him within the scope and in performance of his function". Although the State party reported that Section 18 has not been applied to a single case, the Committee is concerned that ISA

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interrogators who use physical pressure in “ticking bomb” cases may not be criminally responsible if they resort to the necessity defense argument. According to official data published in July 2002, 90 Palestinian detainees had been interrogated under the “ticking bomb” exception since September 1999.

The Committee reiterates its previous recommendation that the State party completely remove *necessity* as a possible justification for the crime of torture. The Committee requests that the State party provide detailed information on the number of “ticking bomb” Palestinian detainees interrogated since 2002.

[...] 21 While noting the State party’s clarification that “every claim regarding the use of allegedly impermissible means of interrogation is examined by the Inspector for Complaints,” the Committee is concerned that none of the over 600 complaints of ill-treatment by ISA interrogators received by the Inspector of Complaints between 2001 and 2008 has resulted in a criminal investigation. Although under supervision of the Attorney General, the Inspector of Complaints is an ISA employee. The Committee notes that, according to information received by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, out of 550 examinations of torture allegations initiated by the General Security Services (GSS) inspector between 2002 and 2007, only four resulted in disciplinary measures and none in prosecution. While the State party’s representatives explained that there is a lack of evidence for pursuing and substantiating these complaints, and that the persons submitting them are engaged in a “campaign” alleging false information, the Committee has been informed by NGOs that there is a decline in the number of complaints submitted, allegedly due to a sense of futility based on the absence of indictments and a sense of *de facto* impunity. [...]

West Bank

The current guidance with regards to prison conditions in the West Bank states:

Excerpt from the February 2012 OPT OGN

3.13.13 Conclusion Prison conditions in Palestinian Authority run prisons are extremely poor, but in most cases will not be sufficiently severe to breach the Article 3 threshold. However, members or perceived supporters of Hamas, or of Islamic Jihad who are held in prisons or detention centres in the West Bank are at risk of inhuman and degrading treatment, including torture. Where applicants in this category can demonstrate a real risk of imprisonment on return to the West Bank, a grant of Humanitarian Protection is likely to be appropriate. If the imprisonment is for a Convention reason, a grant of Asylum will be appropriate.

However, the COI included in the OGN at paragraph 3.13.12 (see below) shows that most sources do not differentiate who is more likely to be at risk of inhuman and degrading treatment, including torture, but rather document that all detainees face such risks.

Excerpt from the February 2012 OPT OGN

3.13.12 Human Rights Watch (HRW) have documented cases of arbitrary arrest and torture of individuals, primarily those associated with Hamas, by the PA’s security services. According to HRW, complaints of torture committed by West Bank PA security services increased in 2010, with the Independent Commission for Human Rights having received 106 complaints by September 2010. The PA courts have not found any security officers responsible for torture or arbitrary detention. This is despite documented cases of detainees whose deaths were caused directly by torture. The Palestinian Centre for Human Rights obtained testimonies from a number of recently released prisoners, and concluded from these that many detainees had been subjected to torture, and to various forms of cruel and degrading treatment. Amnesty International noted in April 2011, that it had received reports that torture and other ill-treatment of detainees were committed by the Palestinian Authority’s Preventive Security force.

Additional sources available in the public domain corroborate that detainees in general face the risk of torture and inhuman and degrading treatment:

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- [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)
[...] West Bank
Palestinian Authority
Complaints of torture committed by West Bank PA security services decreased slightly compared to the same period last year, with the ICHR receiving 91 complaints as of September. PA courts have not found any security officers responsible for torture, arbitrary detention, or prior cases of unlawful deaths in custody. The ICHR received 479 complaints of arbitrary arrests by PA security forces. [...]
PA security officials also arbitrarily arrested and detained, confiscated equipment from, and physically abused journalists perceived to be critical of the PA or 5 supportive of Hamas. In several cases, security officials ignored court orders to release detained journalists. [...]
- [The Association for Civil Rights in Israel, The State of Human Rights in Israel and the OPT 2011: Situation Report, December 2011](#)
[...] The Occupied Territories
In the Occupied Territories, the violation of the rights of suspects, arrestees, and prisoners occurs on a massive scale, at every stage of the criminal process. The period of arrest is prolonged and discriminatory; close relatives are not informed; arrestees are prevented from meeting with their lawyers; the rights of arrested minors are severely violated; there are severe deficiencies and failures in preserving the basic rights of arrestees that underlie due process in the military courts; prison conditions for security prisoners are inadequate; the external monitoring of cell conditions for GSS detainees is insufficient; 16 administrative detention is employed; complaints of abuse and torture are not sufficiently investigated 17 – the number of rights violations could fill (and have) entire reports, and are beyond the scope of this report. Here we will focus on two subjects – prolonged, discriminatory arrest periods and administrative detention. The treatment of minors by the military court system will be discussed later in the report in the chapter dealing with the rights of children.
- [Freedom House, Freedom in the World 2011 - West Bank, May 2011](#)
[...] According to the Palestinian Human Rights Monitoring Group, alleged collaborators are routinely tortured. These practices are not prohibited under Palestinian law. [...]
- [U.S. Department of State, 2010 Country Reports on Human Rights Practices - Israel and the occupied territories, 08/04/2011](#)
[...] THE OCCUPIED TERRITORIES [...]
Section 1 Respect for the Integrity of the Person, Including Freedom From: [...]
c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment
The PA Basic Law prohibits torture or use of force against detainees; however, international human rights groups reported that torture remained a problem. Following allegations of abuse in the deaths of four prisoners in PA custody in 2009 (see section 1.a.), Prime Minister Fayyad dismissed a number of PA security officials and issued a directive against prisoner mistreatment, abuse, or torture, with a corresponding order for Palestinian prison and detention center monitoring. As a result the PA provided all security forces with written guidelines for interrogation and detention that remained in effect during the year, including a section on prisoners' rights. Nevertheless, according to HRW, reports of mistreatment were common during the year, and the PA was lax in prosecuting security officials for detainee mistreatment. Palestinian detainees registered 163 complaints of torture with the ICHR during the year. Reported abuse by PA authorities in the West Bank included forcing prisoners to sit in a painful position for long periods, beating, punching, flogging, intimidation, and psychological pressure. International observers noted that abuse was not systematic or routinely practiced in PA prisons, although some prisoners experienced abuse during arrest or interrogation. [...]
- [United Kingdom: Foreign and Commonwealth Office, Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report, 31/03/2011](#)
[...] Israel and the Occupied Palestinian Territories [...]
Torture and other ill treatment
Palestinian and international NGOs, including Human Rights Watch and Amnesty International, have made detailed allegations of mistreatment of detainees by the 228 Palestinian Authority security forces. Most

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allegations refer to physical abuse and the use of stress positions and other coercive interrogation techniques. [...]

Gaza

Excerpt from the February 2012 OPT OGN

3.13.16 Gaza Strip

Prison conditions in the Gaza Strip are generally considered to be poor, but objective evidence is limited. Detention facilities have been unofficially reported to be below international legal or humanitarian standards. The ICRC conducted monitoring visits to some prisoners in the Gaza Strip, but Hamas authorities denied their representatives permission to visit the captured Israeli soldier, Gilad Shalit (since released). Human Rights Watch report that the practice of shabeh, a form of torture in which the detainee is forced to stand or sit in painful positions for long periods, is “common” in Gaza. They also noted that the judicial authorities in Gaza, under Hamas control, have failed to respond to complaints of torture filed against Hamas security services with the Ombudsman. There were 87 complaints filed in 2009, and 156 in 2010. Beatings, sleep deprivation and the use of shabeh during interrogation of detainees in Gaza have been reported by Amnesty International. Further to this, judicial executions have been carried out by the Hamas authorities in 2010, often after military trials conducted without due process of law. It is alleged that Hamas have tortured scores of detainees. Both Amnesty International and Human Rights Watch reported on deaths in custody after Hamas security officials arrested individuals.

3.13.17 Conclusion Reports suggest that prison and detention facilities in Gaza do not meet international standards, although such reports are unconfirmed. Applicants who can demonstrate a real risk of imprisonment on return to Gaza may be at risk of inhuman and degrading treatment, including torture. This applies particularly to individuals with actual or perceived allegiance to Fatah. These applicants may also be at risk of incurring the death penalty at the hands of the Hamas authorities.

Whilst recognising that information about the prison conditions in Gaza can be considered limited (see above highlighted sentence in paragraph 3.13.16), reports about the practice of ill-treatment and torture in prison and detention facilities in Gaza do exist and therefore it is considered that those at risk of imprisonment on return to Gaza are likely to be at risk and not just “may be at risk” (see concluding paragraph 3.13.17) of inhuman and degrading treatment, including torture. Information included in paragraph 3.13.16 about such practices is corroborated by additional sources available in the public domain as follows:

- [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)
[...] Gaza Strip [...]
Hamas [...]
The internal security service of the Interior Ministry and Hamas police in Gaza allegedly tortured 102 people as of September, according to complaints received by the Independent Commission for Human Rights (ICHR), a Palestinian rights body. In April Hamas authorities arrested ‘Adel Razeq, 52, without a warrant, denied his family access to him in detention, and allegedly tortured him to death. The ICHR received 163 complaints of arbitrary arrest by Hamas security forces. [...]
Hamas police and internal security forces assaulted, arbitrarily detained, and allegedly tortured civil society activists and peaceful protesters who had sought to demonstrate in solidarity with Egyptian and Syrian protesters and had called for an end to the political split between Hamas and its rival, Fatah. [...]
- [The Association for Civil Rights in Israel, The State of Human Rights in Israel and the OPT 2011: Situation Report, December 2011](#)
[...] The Occupied Territories
In the Occupied Territories, the violation of the rights of suspects, arrestees, and prisoners occurs on a massive scale, at every stage of the criminal process. The period of arrest is prolonged and discriminatory; close relatives are not informed; arrestees are prevented from meeting with their lawyers; the rights of

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arrested minors are severely violated; there are severe deficiencies and failures in preserving the basic rights of arrestees that underlie due process in the military courts; prison conditions for security prisoners are inadequate; the external monitoring of cell conditions for GSS detainees is insufficient; administrative detention is employed; complaints of abuse and torture are not sufficiently investigated – the number of rights violations could fill (and have) entire reports, and are beyond the scope of this report. [...]

➤ [US Department of State: Country Report on Human Rights Practices 2010: Israel and the occupied territories, 08/04/2011](#)

[...] The Occupied Territories [...]

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment [...]

Torture carried out by the Gaza Strip Hamas Executive Force was not restricted to security detainees but also included persons associated with the Fatah political party, those held on suspicion of "collaboration" with Israel, or those considered to engage in immoral activity. There were reports that Hamas deployed undercover officers to attack, beat, and (in some cases) detain these persons, usually without intent to kill. Hamas took no action to investigate reports of torture, and documentation of abuses was limited, due in part to fear of retribution by victims and, in part, to PA officials and NGOs lacking access to Gaza Strip prisoners. The ICHR reported that complaints of abuse included being forced to stand in an uncomfortable stress positions, flogging, hand binding, suspension, blindfolding, punching, and beatings with clubs or hoses. According to human rights NGO reports and photographic documentation released on May 12, Hamas forces beat Jamal Abu Qumsan, an unmarried art gallery owner, regarding the accusation that he had nonmarital sexual relations. Abu Qumsan sustained blows along his back, legs, and buttocks. Human rights organizations claimed that such attacks and interrogations were common, but victims were reticent to come forward. [...]

2.4 Actors of protection

West Bank

Excerpt from the February 2012 OPT OGN

2.4.7 The Palestinian Basic Law provides for an independent judiciary. In practice, the PA does generally respect judicial independence; the autonomy of the High Judicial Council maintains authority over most court operations within the West Bank. The efficiency of PA courts has improved in recent years, and there are improvements in several procedural areas, including case management, organisation, transparency, evidence collection and record-keeping. However, PA affiliated prosecutors and judges complain that restrictions on movement imposed by the Israeli authorities interfere with their ability to dispense justice, transport detainees and collect witnesses. Palestinian NGOs have criticised the practice of trying civilian defendants in military courts, but the PA defends this practice on the grounds of the security nature of the crimes involved. In 2011, the U.S. Department of State highlighted human right violations by the PA, including mistreatment in detention, arbitrary and prolonged detention, impunity, corruption, and lack of transparency.

Only one source of information is included in the whole section of '2.4 Actors of protection' at paragraph 2.4.7 regarding the human rights abuses committed by the Palestinian Authorities in the West Bank. Only at paragraph 3.6.12 (see below) in the section '3.6 General country situation' does the OGN also refer to complaints of torture committed by the Palestinian Authority security services in the West Bank.

Excerpt from the February 2012 OPT OGN

3.6.12 **Complaints of torture committed by West Bank PA security services increased in 2010**; the Independent Commission for Human Rights had received 106 complaints by September 2010. The PA courts have failed to find any security officer responsible for torture or arbitrary detention. The PA security services arbitrarily or violently dispersed numerous nonviolent protests and press conferences during 2010, also assaulting and arbitrarily detaining journalists covering these incidents.

This limited information does not include sufficient information about the human rights abuses, particularly ill-treatment and the use of torture, committed by the Palestinian Authorities (PA) in the West Bank. The section also fails to acknowledge occasions of apparent PA collaboration with the Israeli authorities, whereby Palestinian detainees released by the PA are shortly thereafter arrested by the Israeli forces and subjected to torture and ill treatment, and vice versa; and the PA's 'revolving door' policy, whereby Palestinians are detained on consecutive occasions by the different branches of the PA security forces. The following additional sources report on such practices:

➤ [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)

[...] West Bank

Palestinian Authority

Complaints of torture committed by West Bank PA security services decreased slightly compared to the same period last year, with the ICHR receiving 91 complaints as of September. PA courts have not found any security officers responsible for torture, arbitrary detention, or prior cases of unlawful deaths in custody. The ICHR received 479 complaints of arbitrary arrests by PA security forces. [...]

The PA's security services, and men in civilian clothes whom witnesses identified as security employees, arbitrarily prevented or violently dispersed numerous nonviolent protests during the year and assaulted and arbitrarily detained journalists covering the incidents. PA security officials also arbitrarily arrested and detained, confiscated equipment from, and physically abused journalists perceived to be critical of the PA

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or supportive of Hamas. In several cases, security officials ignored court orders to release detained journalists. [...]

➤ [Human Rights Watch, Investigate Attacks on Rights Defenders, 19/01/2012](#)

Hamas and the Palestinian Authority (PA) should investigate recent brutal attacks against human rights defenders in Gaza and the West Bank and hold those responsible to account, Human Rights Watch said today. [...]

In the West Bank, a member of the Palestinian Authority's Preventive Security agency beat Yazan Sawafta, a lawyer and researcher for the Independent Commission for Human Rights on January 9, according to a statement by the group. Sawafta had been covering a demonstration by relatives of prisoners detained by the PA. [...]

➤ [The Independent Commission for Human Rights, Monthly Report on Human Rights and Freedom Violations in the Palestinian Controlled Territories during December 2011, January 2012](#)

[...] 7. Torture While in Detention – Cruel and Degrading Treatment

[...] In the West Bank, ICHR received during the month of December (99) complaints against the Security Services, including (8) complaints from citizens alleging torture, constituting (8%) of the total number of complaints against the Security Services. All these complaints were against the administration of the General Intelligence in the police. Allegations of torture focused on beatings, Shabah, punching and ill-treatment. In Gaza Strip, ICHR received during the month of December (34) complaints against the Security Services, including (10) complaints from citizens alleging their exposure to torture or ill-treatment, representing (29%) of the number of complaints against Security Services in Gaza Strip during detention. All complaints of torture were recorded against the police.

[...] Second: Violation of the Right to Fair Legal Procedures

During the month of December 2011, ICHR received in the West Bank (197) complaints, including (99) complaints against the Security Services, of which (31) focused on the invalidity of arrest procedures, the fact that the complainants were either arrested for political reasons or arbitrary detention. In Gaza Strip, the ICHR received during the same month (76) complaints, including (34) complaints against the Security Services affiliated to the Ministry of Interior in the government in Gaza, of which (22) complaints citizens claim invalidity of arrest procedures and detention on political grounds. [...]

➤ [Amnesty International Report 2011 - The State of the World's Human Rights: Palestinian Authority, 13/05/2011](#)

[...] Arbitrary arrests and detentions

PA security forces in the West Bank arbitrarily arrested and detained suspected Hamas supporters, and Hamas security forces in Gaza arbitrarily arrested and detained suspected Fatah supporters. In both areas, the authorities gave the security forces wide powers of discretion, including to arrest and detain suspects in breach of the law and to torture and otherwise ill-treat them with impunity. The Independent Commission for Human Rights (ICHR) reported receiving complaints of more than 1,400 arbitrary arrests in the West Bank and more than 300 in Gaza.

Torture and other ill-treatment

Torture and other ill-treatment of detainees by security and police forces were reported – by the PA's Preventive Security force and the General Intelligence Service in the West Bank; and by Internal Security in Gaza. The ICHR said it had received over 150 complaints of torture or other ill-treatment by the PA in the West Bank and over 200 by Hamas in Gaza. New reports emerged of cases from 2009. In both areas, torture and other ill-treatment were committed with impunity. [...]

➤ [The Palestinian Centre for Human Rights, Annual Report 2010, 09/05/2011](#)

[...] Section 2: Palestinian Violations of Human Rights and Obstacles to Democratic Reform [...]

Arrests, Torture and Other Form of Cruel, Inhuman or Degrading Treatment

Arrests and Summons on Political Grounds [...]

The West Bank

Palestinian security services in the West Bank waged campaigns of illegal arrests and summons against members of Hamas and Islamic Jihad, including a number of academics, members of local councils and women. In some cases, they used unjustified force against families of the detainees. They also searched

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houses and confiscated personal belongings of detainees. In 2010, a number of civilians were arrested and tried by military services and judicial authorities. PCHR also documented a number of cases in which security services did not adhere to civil court rulings ordering release of civilians who were illegally detained. [...]

Torture and Ill-Treatment [...]

West Bank

In 2010, Palestinian security services in the West Bank continued to practice torture and other forms of cruel treatment against detainees. A number of detainees were taken to hospitals when their health condition deteriorated due to effects of torture. PCHR also received testimony from detainees who had been released indicating that many of those who were arrested during repeated campaigns of arrests against activists of Hamas were detained under cruel and degrading conditions. [...]

➤ [Freedom House, Freedom in the World 2011: West Bank, May 2011](#)

[...] Journalists who criticize the PA or Fatah face arbitrary arrests, threats, and physical abuse [...]

Protests against PA policies are generally disallowed and forcibly dispersed, and Hamas has been effectively banned from holding demonstrations in the West Bank. [...]

There are reportedly hundreds of administrative detainees currently in Palestinian jails. According to the Palestinian Human Rights Monitoring Group, alleged collaborators are routinely tortured. These practices are not prohibited under Palestinian law. Defendants in military courts are not granted the right to appeal sentences; trials are often summary and occasionally result in death sentences. [...]

➤ [The Independent Commission for Human Rights, Monthly Report on Human Rights and Freedom Violations in the Palestinian Controlled Territories during March 2011, April 2011](#)

[...] II. Violation of the Right to Proper Legal procedures – Arrests Based on Political Affiliation

[...] ICHR noticed during March, 2011 that a large number of detainees were freed from the detention centers of the Preventive Security and General Intelligence Agencies. It also noticed that the security agencies in the West Bank have begun bringing detainees they hold before civilian courts, a total transfer of civilians to civilian courts has not yet taken place, as some detainees are still presented before the military courts, which ICHR considers detention with no legal basis, and so it is gravely concerned over continuing arbitrary detention and detainment without the due process, denying detainees the right to appear before the civilian judiciary. Such a conduct constitutes a blatant violation of the Palestinian Basic Law and Criminal Procedures Law [...] ICHR received during March 2011 several complaints from citizens claiming they were arbitrarily detained. It received 180 complaints, including 120 against the security agencies in the West Bank. 41 of these complaints focused on arbitrary detention and political detention. In the Gaza Strip, ICHR received during the same month 70 complaints, including 59 against the security agencies operating in Gaza under the supervision of the Ministry of Interior of the Palestinian Government/Gaza Strip. 29 of these complaints focus on arbitrary detention and political detention. [...]

➤ [Human Rights Watch, Palestinian Authority: Thugs, Police Abuse Peaceful Protesters, 16/02/2011](#)

The Palestinian Authority should open criminal investigations into members of its security services who apparently beat, kicked, and sexually molested protesters in Ramallah, Human Rights Watch said today. The US and European Union, which provide direct support to the Palestinian security services, should suspend such aid pending concrete steps by the Palestinian Authority (PA) to end a culture of impunity for security service abuses, including torture, Human Rights Watch said. The violence on February 5, 2011, was the third instance since January 30 in which Palestinian security officials have harassed, interrogated, arbitrarily detained and viciously beat peaceful demonstrators. [...]

➤ [Addameer - Prisoner Support and Human Rights Association, Stolen Hope: Political Detention in the West Bank, February 2011](#)

[Please note - The report offers numerous case studies and affidavits from Palestinians held by the General Intelligence and Preventive Security Forces]

This report examines the phenomenon of political arrests by the Palestinian Authority's security forces in the West Bank. It is part of Addameer's ongoing efforts to end the Palestinian Authority's policy of politically driven arbitrary detention, which threatens political stability, causes social tension and destroys

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the Palestinian social fabric.

[...] Chapter III: Arbitrary Political Detention

[...] I. Torture

[...] Further case studies

[...] M.A., 30 years old, [Student arrested in November 2009 and detained by the General Intelligence Service]...“I served 45 days in a GIS facility in Tulkarm. During this time, they subjected me to several forms of torture, including keeping me seated on an iron chair for 140 consecutive hours with a black plastic bag over my head and my hands tied behind my back. After 45 days of interrogation, my health condition deteriorated and I began to suffer from asthma attacks because of the high degree of moisture in the cells. They transferred me to medical services on three consecutive days but returned me to my cell after every medical examination. Finally, after a severe deterioration in my health, they gave me some medicine and transferred me to a cell with other detainees. They stopped interrogating me for 15 days but later resumed their interrogations on a daily basis for 5-10 hours per day”

[...] E.W., 24 years old, [Student arrested in November 2009 and detained by the General Intelligence Service]...Some of the forms of torture E.W. experienced include: Shackling to a plastic chair for 5 days with short rounds of interrogation, including breaks at prayer time, covering his face with a foul-smelling black bag while shackled to a wooden chair inside his cell with his hands cuffed, tying his hands using the banner of the Islamic Bloc, slapping and punching.

[...] V. Political Detention of Individuals Released from Israeli Prisons: “Back to Back” Detention

[...] H.A., 35 years old, was released from the Israeli occupation prisons in July 2009 after serving a 20-month sentence. The IOF dropped him off at the Tarqumia checkpoint near Hebron where his family was waiting for him. Before he even had time to embrace his wife, who had been banned from visiting him throughout his detention, a group of men in plain clothes who were already present in the area, some pretending to repair a car, others ostensibly praying, suddenly attacked him. They tied his hands and told him that they were affiliated with the PSF [Preventive Security], leaving him no time to greet his family members. They held him for 45 days in solitary confinement in a cell with no natural light. He was released after the Palestinian High Court issued a decision ordering his release, but he was rearrested only a few weeks later by the PSF in October 2009 and held for 40 days. In June 2010, he was again detained in Bethlehem and held for 40 days. Just a few days after his release, the GIS (General Intelligence) arrested him and held him for 14 days to find out why he had been detained by the PSF as there had been no coordination between the two apparatuses according to the GIS. It should be noted that H.A. was detained by the PSF due to his participation in the election campaigns of the Change and Reform Bloc. His 20-month sentence in Israel fails was also for the same reason. [...]

Death sentences and executions in Gaza

Excerpt from the February 2012 OPT OGN

2.4.8 Laws governing Palestinians in the Gaza Strip derive from the previous British Mandate, plus Ottoman, Jordanian, Egyptian, PA and Islamic law, in addition to Israeli military orders. The judicial system is not considered to be independent, and the judiciary lack appropriate training and experience. Since 2007, Hamas replaced PA-appointed prosecutors and judges in the Gaza Strip with their own appointees. The PA declared this action illegal, but courts operated by Hamas appointees continue to function in the Gaza Strip. **Hamas-run military courts sentenced 16 people to death during 2009 and 2010, eight of them for treason. In April 2010, two men were publicly executed by firing squad for spying on Israel’s behalf.** In July 2010, Fatah officials stated that Hamas security forces had detained over 100 Fatah activists and former PA security commanders in Gaza, and that some of these were tortured.

The OGN includes in paragraph 2.4.8 information on death sentences and executions carried out in 2010 taken from the latest annual report by Freedom House published in May 2011. The following sources have been published reporting on the latest issuance of death sentences and executions carried out by Hamas in Gaza:

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- [B'Tselem, Human Rights in the Occupied Territories: Annual Report 2011, 21/03/2012](#)

[...] Death penalty by Palestinian Authorities
In 2011, Palestinian Authority courts in the West Bank sentenced one person to death, and Hamas courts in the Gaza Strip sentenced eight persons to death (one of them an Israeli, who was tried and sentenced in absentia). Hamas executed three persons: Muhammad Ahmad Abu Qanis, 51, and his son Rami, 22, who were convicted, on 29 November 2004, in the Magistrate's Court in Gaza for collaboration with Israel and for causing the death of Palestinians and were executed by hanging, and 'Abd al-Karim Muhammad 'Abd Sharir, 35, who was convicted on 29 October 2010 for collaboration with Israel and was executed by firing squad. [...]
- [Al Haq, Capital Punishment in Gaza: A Continuing and Alarming Practice, 08/03/2012](#)

[...] Since 2007, Al-Haq monitored 16 executions illegally carried out in the Gaza Strip. Most have been implemented unlawfully without respecting the required procedures including the necessary Presidential decree, in order to avoid protests and criticism at local and international level. (Al-Haq 2011 Field Report on Death Sentences in the Gaza Strip, available in English and Arabic). The convictions in these cases usually relate to crimes of murder, abduction, treason or collaborating with a hostile party in accordance with the provisions of the Revolutionary Penal Law of the Palestinian Liberation Organisation of 1979. This law is unconstitutional as it has not been presented to, nor approved by, the Palestinian legislature. [...]
- [Euro-Mediterranean Human Rights Network, PCHR: Military Court in Gaza Issues a New Death Sentence, 16/01/2012](#)

On Wednesday, 11 January 2012, the Permanent Military Court sentenced (A. M. A.), 48, from Gaza City, to death by hanging after convicting him of collaboration with hostile parties and complicity to murder in violation of the Palestinian Revolutionary Penal Code of 1979.
According to information available to PCHR, this is the first death sentence to be issued in 2012. Thus, the total number of death sentences issued by the Palestinian National Authority (PNA) has risen to 122 sentences since 1994, of which 25 have been issued in the West Bank and 97 in the Gaza Strip. Among those issued in the Gaza Strip, 36 sentences have been issued since 2007.
- [Human Rights Watch, World Report 2012: Israel/Occupied Palestinian Territories, 22/01/2012](#)

[...] Gaza Strip [...]
The Hamas Interior Ministry carried out three judicial death sentences. Hamas executed, by hanging, a father and son convicted of murder and collaboration with Israel. Abd al-Karim Shrair was executed by firing squad, following an unfair military court trial for collaboration that did not address evidence that security forces had tortured him.
- [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 11-17 January 2012](#)

[...] Gaza Strip [...]
Concerns over death sentences and suppression of civil liberties
On 11 and 16 January, a court in Gaza sentenced two men to death, one of whom was convicted of collaborating with hostile parties and the other of murder. According to the Palestinian Center for Human Rights (PCHR), these are the first death sentences issued in 2012. Palestinian authority courts have issued 123 death sentences since 1994, 25 of which were issued in the West Bank and 98 in the Gaza Strip. Among those issued in the Gaza Strip, 36 sentences have been issued since 2007, following the Hamas takeover of Gaza. Eight people have been executed since 2007, and 11 others were executed in the Gaza Strip between 1994 (establishment of the Palestinian Authority) and 2007. [...]
- [Human Rights Watch, Hamas Should Stop Executions: Due Process Violations Common in Territory's Criminal Justice System, 01/08/2011](#)

The latest executions by Hamas authorities in Gaza highlight the urgency of imposing a moratorium on all executions and investigating due process violations in the Gazan justice system, Human Rights Watch said today. On the morning of July 26, 2011, Hamas authorities executed by hanging Mahmud Abu Qenas, 58, and his son Rami Abu Qenas, 29. A criminal court in [Gaza](#) had convicted the father and son in November

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2004 on charges of murder and collaborating with Israel, a Hamas Interior Ministry statement said. The Court of Cassation rejected their appeal on July 14.[...]

In the four years since Hamas took control of the Gaza Strip, courts have imposed 33 death sentences and authorities carried out eight executions, according to the Palestinian Independent Commission for Human Rights. At least nine of the death sentences were issued against defendants *in absentia*. Hamas authorities executed two men by firing squad on April 15, 2010, three men by hanging on May 18, 2010, and another man by firing squad on May 4, 2011. [...]

➤ [UN Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 25-31 May 2011](#)

[...] Gaza Strip [...]

A man sentenced to death

On 31 May, a military court in Gaza sentenced a Palestinian man to death after being convicted of collaborating with Israel. According to the Palestinian Centre for Human Rights (PCHR), this is the fourth recorded death sentence in Gaza in 2011. PCHR reports that since the establishment of the Palestinian Authority in 1994, 116 people were sentenced to death, including 93 in the Gaza Strip. Of the latter, 17 people were actually executed, six of whom were killed in 2010 and 2011. [...]

2.5 Internal relocation

Excerpt from the February 2012 OPT OGN

2.5.2 The Basic Law provides for freedom of movement, and the Palestinian Authority generally does not restrict freedom of movement. Since the early 1990s, Israel has restricted Palestinian movement in the West Bank. The Israeli Defence Force (IDF) does restrict the movement of Palestinians to varying degrees, citing military necessity. Restrictions on movement affect virtually all aspects of life, including access to places of worship, employment, agricultural lands, schools, hospitals and the conduct of journalism and NGO activities. Barriers to movement include checkpoints, a separation barrier between the West Bank and Israel, internal road closures and a Blockade on the Gaza Strip. In September 2011, the UN reported that the number of roadblocks and checkpoints that obstruct Palestinian movement in the West Bank to be 522, compared to 503 in July 2010. In addition, one or more of the main entrances are blocked to Palestinian traffic in ten out of eleven major West Bank cities, Palestinians holding West Bank IDs require entry permits to enter East Jerusalem and four of the five roads into the Jordan Valley are not accessible to most Palestinian vehicles.

2.5.3 The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) stated that the Israeli authorities had halted work on the remaining planned construction of a separation barrier along parts of the Green Line, and in the West Bank. If the barrier were to be completed, it would separate approximately 9.5% of the West Bank (and approximately 50,000 Palestinians) and some parts of Jerusalem from the rest of the West Bank territory. Israel continues to restrict movement within these areas, including access from some NGOs. During 2010, approximately half of the checkpoints along the separation barrier were restricted to Israelis and Palestinians with permits. Palestinians with worker permits are required to pass through one of the 11 pedestrian crossings. Palestinians with permits, those working in international organisations, and biometric card holders and their immediate family members are allowed to pass in vehicles through any of the crossings. The barrier was deemed to be contrary to international law by an International Criminal Court advisory body in 2004. Of the accessible gates, operating hours are very limited, although normally announced. Israeli authorities frequently prohibit travel between some or all West Bank towns. These internal „closures“ are said to have significant, negative economic effects. During major Jewish and Muslim holidays, the Israeli authorities enact comprehensive external closures, which prevent Palestinians from leaving the West Bank. Movement is also restricted for tens of thousands of Palestinian villagers south of Hebron, as road blocks on Route 60 cut direct access for businesses to the city’s commercial centre. Palestinians not resident in the Jordan Valley are generally unable to drive on the main north-south route, Highway 90.

2.5.4 The restrictions on movement during the second intifada split the West Bank into six geographical areas: North, Centre, South, the Jordan Valley and northern Dead Sea, the enclaves resulting from the Separation Barrier and East Jerusalem. Movement between these sections, and within each section, became slow and complicated. Israel does now permit Palestinian movement between most parts of the West Bank but continues to restrict Palestinian movement to East Jerusalem, the Jordan Valley and the enclaves west of the Separation Barrier. Palestinians are prevented from travelling between the West Bank and the Gaza Strip in almost all cases. [...]

2.5.6 Personal travel in and out of Gaza is limited to one crossing point, and is restricted to humanitarian cases only. In fact, Israeli authorities denied many Gazans access to Israel or Egypt for medical treatment and detained some of them during 2010. The Israeli authorities are said to have refused requests for Palestinians to exit the Gaza Strip for medical treatment on security grounds, and also on the grounds that Palestinians might migrate to the West Bank. Hamas authorities in the Gaza Strip enforce movement restrictions on Gazans attempting to exit to Israel via the Erez Crossing, but maintain more relaxed restrictions on transfer to Egypt via the Rafah Crossing, although Fatah-affiliated individuals are subject to greater restrictions. Hamas do not appear to enforce routine restrictions on internal movement within Gaza, although there are reportedly some „no go“ areas to which Hamas prohibit access. The Rafah Crossing is currently closed, but does open occasionally.

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The above paragraphs 2.5.2-2.5.4 and 2.5.6 describe the restrictions on movement within the West Bank and Gaza, as well as the continued development of the barrier and the erection of numerous checkpoints hindering the freedom of movement of people and goods. The evolving and ever-changing situation with regards to restriction on movement imposed by the Israeli authorities on Palestinians entering, living and moving around in Gaza and the West Bank makes it very difficult to include the most up-to-date information in the OGN. The sources currently included in the OGN cover mainly the situation in 2010.

Sources detailing the current situation with regards to restrictions on movement and which should be consulted by decision-makers and legal representatives alike when assessing an internal relocation alternative include:

- Palestinian Centre for Human Rights: Their [Weekly reports](#) include a section on 'Restrictions on Movement' in both the Gaza Strip and the West Bank
- UN Office for the Coordination of Humanitarian Affairs – OPT: [Protection of Civilians Weekly reports](#) include, when available, information about the latest incidences at and changes to crossings in the Gaza Strip and the West Bank
- UN Office for the Coordination of Humanitarian Affairs – OPT: [Access and Movement reports](#) are regularly published specifically looking at the Gaza Strip and the West Bank respectively and include information on the latest information and maps
- UN Office for the Coordination of Humanitarian Affairs – OPT: [Closure maps](#) provides regular maps that show the access, movement and closures for the Gaza Strip and the West Bank
- UN Office for the Coordination of Humanitarian Affairs – OPT: [Barrier maps](#) show the latest route of the barrier around specific areas of the OPT
- [Human Rights Watch, "Forget About Him, He's Not Here": Israel's Control of Palestinian Residency in the West Bank and Gaza, 05/02/2012](#). This report describes the "arbitrary exclusion by the Israeli military of hundreds of thousands of Palestinians since 1967 and documents the impact that exclusion continues to have on individuals and families. The way Israel's military has exercised its control over the Palestinian population registry – the list of Palestinians whom it considers to be lawful residents of the West Bank and Gaza territories – has separated families, caused people to lose jobs and educational opportunities, barred people from entering the Palestinian territories, and trapped others inside them. Egypt also has problematic policies on Palestinians trying to enter Gaza that are based on the Israeli-controlled population registry".

2.7 Country guidance caselaw

Excerpt from the February 2012 OPT OGN

El-Ali and Daraz [2002] EWCA Civ 1103

The Court of Appeal made three findings in respect of the application of Article 1D of the 1951 Refugee Convention.

First of all, the Court held that only Palestinians who were in receipt of UNRWA assistance when the Refugee Convention was adopted on 28 July 1951 fell within the scope of Article 1D.

Secondly, the Court held that the words “such protection or assistance has ceased for any reason” in Article 1D could only mean “the cessation of UNRWA assistance” overall, that is to say when the United Nations decides to end that Agency” s mandate. It did not include the cessation of assistance consequent on a Palestinian refugee leaving a territory in which he or she is registered and receiving assistance except in “exceptional circumstance”, for example where the refugee is actually prevented from returning there by the relevant authorities.

Thirdly, the Court held that if an individual passed the first two limbs of the test, the phrase “these persons shall ipso facto be entitled to the benefit of the Convention” is automatic and, thus, they should be entitled to the benefits of the Convention. This finding justified the interpretation of the other elements of Article 1D because „so great a parcel of rights would not likely be conferred...unless the class of its recipients were clear and certain...”.

Bolbol v Bevandorlasi es Allampolgarsagi Hivatal (C-31/09) Unreported June 17, 2010 (European Court of Justice)

The Court of Justice of the European Union considered the correct interpretation of Article 12(1)(a) of the Qualification Directive. That Article provides:

“1. A third country national or a stateless person is excluded from being a refugee, if:

(a) he or she falls within the scope of Article 1 D of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Directive.”

The Court of Justice held that:

“Contrary to the line of argument developed by the United Kingdom Government, it cannot be maintained, as an argument against including persons displaced following the 1967 hostilities within the scope of Article 1D of the Geneva Convention, that only those Palestinians who became refugees as result of the 1948 conflict who were receiving protection and assistance from UNRWA at the time when the original version of the Geneva Convention was concluded in 1951 are covered by Article 1D of that convention, and therefore, by Article 12(1)(a) of the Directive.”

And;

“...for the purposes of the first sentence of Article 12(1)(a) of the Directive 2004/83, a person receives protection or assistance from an agency of the United Nations other than UNHCR, when that person has actually availed himself of that protection or assistance.”

Consequently, the findings on this issue in El-Ali should no longer be applied.

It is imperative that legal representatives and decision-makers no longer rely on findings from the judgement [El-Ali v Secretary of State for the Home Department \[2002\] EWCA Civ 1103 \(26 July 2002\)](#) which as also mentioned in the last sentence following the excerpt from the [Bolbol \(Area of Freedom, Security & Justice\)](#) judgement, should no longer be applied. As highlighted above, the European Court of Justice ruled in June 2010 in [Bolbol \(Area of Freedom, Security & Justice\) \[2010\] EUECJ C-31/09 \(17 June 2010\)](#) that

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For the purposes of the first sentence of Article 12(1)(a) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted, a person receives protection or assistance from an agency of the United Nations other than UNHCR, when that person has actually availed himself of that protection or assistance

Excerpt from the February 2012 OPT OGN

MA (Palestinian Arabs – Occupied Territories – Risk) Palestinian Territories CG [2007] UKIAT 00017 promulgated 20 February 2007. Upheld by Court of Appeal 9 April 2008 EWCA Civ 304

The AIT found that:

para 121. Palestinian Arabs who would be at real risk in the Occupied Territories: If the personal history of an individual Palestinian Arab is such that it is reasonably likely that he/she would be suspected by the Israeli security forces of being involved in suicide bombing missions or terrorist activities against Israel or Israeli settlements, it is reasonably likely that he/she would be arrested and detained and held in "administrative detention". This is so whether the individual is picked up in military incursions, round ups or at checkpoints. A returnee who is reasonably likely to fall under such suspicion is reasonably likely to be persecuted or subjected to ill-treatment amounting to serious harm (or in breach of their rights under Article 3) although questions as to whether there is an applicable Geneva Convention reason and as to the possible exclusion of an applicant under Article 1F of the Geneva Convention or paragraph 339C of the Immigration Rules may then arise.

para 124. At checkpoints and in general round-ups, the fact that an individual is a Palestinian Arab male aged between 16 and 35 from the West Bank or the Gaza Strip is reasonably likely to lead that individual being more closely examined by the Israeli security forces but it is not reasonably likely that he would fall under suspicion for those reasons alone. There must be something more to attract the adverse attention of the Israeli security forces.

para 129 „the difficulties faced by Palestinians in the Occupied Territories (economic situation, food insecurity, travel restrictions etc) taken cumulatively are not such that the minimum level of severity for persecution or serious harm is reached, nor is the minimum threshold for a breach of a returnees' rights under Article 3 reached. This applies even in the case of a Palestinian male within the 16 to 35 age group who is from the northern part of the West Bank who would have to endure greater restrictions on his ability to move in the Occupied Territories.”

para 128 „There is no evidence to suggest that individuals who are forcibly returned and/or who have lived abroad for some time would be treated any differently from other Palestinians, whether at the time of seeking re-entry into the West Bank via the King Hussein Bridge, or thereafter.”

para 122 „.....However, if a Palestinian Arab who comes from the West Bank is refused re-entry by the Israeli security forces, this would not, of itself, amount to persecution or serious harm or Article 3 ill-treatment. Palestinian Arabs from the West Bank are stateless and have no right of re-entry into the Occupied Territories unlike a citizen. If a Palestinian Arab returnee is refused re-entry into the West Bank at the Israeli checkpoint on the King Hussein Bridge, then he would simply have to turn back to Jordan. The guidance in NA (Palestinians – Not at general risk) Jordan CG [2005] UKIAT 00094 that ethnic Palestinians, whether or not recognised as citizens of Jordan, are not persecuted or treated in breach of their protected human rights by reason of their ethnicity although they may be subject there to discrimination holds good. Appeals on asylum grounds and humanitarian protection grounds must be determined on the hypothetical assumption that a returnee will be successful in regaining entry into the West Bank.”

Whilst it can be argued that the findings of the CG case of [MA \(Palestinian Arabs, Occupied Territories, Risk\) Palestinian Territories CG \[2007\] UKAIT 00017 \(20 February 2007\)](#) should be contested given that the latest COI evidence included in the 'background materials' of the determination is dated 13 November 2006 and the situation on the ground has demonstrably changed since then, in particular in the case of Gaza, for accessibility purposes, it is recommended that legal representatives are also aware of the following findings of MA, which have not been included in the current OGN:

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Merely being a Palestinian Arab in the Occupied Territories , even if male aged between 16-35 from the northern part of the West Bank, does not mean that a person would face on return a real risk of persecution, serious harm under paragraph 339C of the amended Immigration Rules or ill-treatment contrary to Article 3 of the ECHR. This Determination, made with the benefit of up-to-date and detailed background evidence, updates and replaces AB & others as country guidance. [...]

Summary of our conclusions [...]

123. Relevance of the separation wall: The lawfulness or otherwise of the separation wall and the occupation by the Israeli authorities of land between the Green Line and the separation wall do not affect the outcome of an appeal if the appellant does not claim to have suffered from any loss of any land due to the building of the separation wall or to have to travel on a regular basis to the land between the separation wall and the Green Line in order to gain access to land lying between the two. Where an appellant gives evidence to this effect, the question as to whether he or she would face persecution or serious harm is a question of fact in all the circumstances of the case which would involve considerations such as the necessity of such travel and the reasons for it and the frequency with which such journeys would have to be made. [...]

125. Travel restrictions: It is reasonably likely that Palestinian Arab males aged between 16-35 face greater restrictions in their ability to travel from the northern part of the West Bank south towards East Jerusalem or towards Nablus. However, the restrictions are not such that they are reasonably likely to be unable to make the journey, although the possibility that the Israeli security forces may, at any moment, restrict all movement by this group southwards cannot be excluded. Palestinian Arab males in this age group who originate from the northern part of the West Bank face fewer difficulties in travelling away from Israeli settlement areas in or near the centre (such as Ramallah or East Jerusalem) or Nablus. Even then, however, the journey is likely to take longer than a journey without such restrictions would.

126. Palestinian Arabs who do not fit the profile we have considered above – i.e. Palestinian women and males younger than 16 or older than 35 – are not in general subjected to the additional restrictions which Palestinian Arab males between 16 and 35 are. Nevertheless, they have to pass through the checkpoints and endure the situation at the checkpoints.

127. The evidence before us does not show a reasonable likelihood of physical ill-treatment of Palestinians at checkpoints, although we accept that there is evidence that incidents of violence can occur. They appear to be due to unpredictable matters, such as sudden movements on the part of a traveller and tempers getting short in the poor conditions. We accept that it is a possibility that Palestinian Arabs seeking permission to pass through checkpoints may face violence but this is not reasonably likely to happen. We accept that the treatment which Palestinian Arab travellers face at checkpoints in the West Bank and the Gaza Strip (whether fixed or flying checkpoints) and the conditions they endure are very unpleasant but this is not reasonably likely to reach the minimum level of severity for persecution or serious harm (or treatment in breach of Article 3). In reaching this decision, we have taken into account not only the nature of the restrictions and the general situation at the checkpoints but also the very fact that restrictions exist which impede the freedom of movement of Palestinian Arabs. [...]

130. Notwithstanding the deterioration in the situation since AB and Others was decided, the conclusion of the Tribunal in that case that the general situation is not such that it can be said that all Palestinian Arabs are at real risk of persecution holds good, as does its conclusion that young Palestinian Arab males are not at real risk of persecution. In our view, these conclusions hold good with regard to an individual's claim to humanitarian protection or Article 3.

131. Although the conclusions in AB & others summarised at paragraph 55 above remain valid, this Determination replaces it as country guidance because we have had the benefit of considering more up-to-date and detailed background evidence.

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APPENDIX

Useful sources to consult on the security situation in the West Bank and Gaza

Source	Type of source	Website's search function
AlertNet Palestinian Territories page	Humanitarian news site from Thomson Reuters providing information on natural disasters, conflicts, refugees, hunger, diseases and climate change. Country page includes sections on: <ul style="list-style-type: none"> ○ Breaking stories ○ News 	<ul style="list-style-type: none"> ● Country page ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Keyword search ○ Searches limited by source; content partner; aid agency; country; topic; sub-topic; crisis and by time frame ○ Search results can be organised by date
Al-Haq	Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. The organisation conducts research; prepares reports, studies and interventions on breaches of international human rights and humanitarian law in the OPT. Publications can be found on the following issues: <ul style="list-style-type: none"> ○ Right to life and body integrity ○ Wall and Jerusalem ○ Gaza ○ Population transfer and residency rights ○ Military administration and legal remedies ○ Civil and Social rights ○ Settlements and Settler violence ○ Housing, land and natural resources ○ Human rights defenders ○ Palestinian violations It also produces <ul style="list-style-type: none"> ○ field reports, which are three-monthly reports covering human rights abuses that occurred during the reporting period. Since the beginning of 2006, each report highlights a specific trend ○ Interactive maps that illustrate aspects of the occupation of the West Bank and the Gaza Strip and present Al-Haq's written and visual documentation of human rights violations. 	<ul style="list-style-type: none"> ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Exact phrase search ○ Keyword search ○ Search results can be organised by date, relevance or hits
Al Mezan Center for Human Rights	The Al Mezan Center for Human Rights aims to promote and protect human rights in the OPT and especially in the Gaza Strip with a focus on Economic, Social and Cultural Rights. It produces reports and studies orders by year of publication and news by day.	Limited search function which allows searches by key word only
International Middle East Media Centre	IMEMC is a media center developed in collaboration between Palestinian and International journalists to provide	Limited search function which allows searches by key word only.

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(IMEMC)	independent media coverage of Israel-Palestine.	However, it also lists news articles by topic and region.
Jerusalem Media and Communications Center (JMCC)	<p>The Jerusalem Media and Communications Centre (JMCC) seeks to empower both Palestinians and internationals by disseminating information on the Palestinian-Israeli conflict and Palestinian politics.</p> <p>It provides:</p> <ul style="list-style-type: none"> ○ News ○ Documents ○ Maps ○ Polls ○ Comments 	<ul style="list-style-type: none"> ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”)
Palestinian Centre for Human Rights	<p>The Palestinian Centre for Human Rights (PCHR) is a NGO based in Gaza City. The Centre is a non-profit company, dedicated to protecting human rights, promoting the rule of law and upholding democratic principles in the Occupied Palestinian Territory (OPT). It holds Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations.</p> <p>Weekly Reports list Israeli violations of international and humanitarian law in both Gaza and the West Bank</p>	N.A.
Palestinian News & Info Agency	The Palestinian News & Info Agency is the official broadcast authority offering news and headlines, reports, editorials, and an electronic archive.	<ul style="list-style-type: none"> ● Limited search function which allows searches by key word or exact date
The Palestinian Chronicle	The Palestine Chronicle is an independent online newspaper that provides daily news, commentary, features, book reviews, photos, art, etc, on a variety of subjects. However, it's largely focused on Palestine, Israel, and the Middle East region.	<ul style="list-style-type: none"> ● Limited search function which allows searches by key word
Relief Web Occupied Palestinian Territories page	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. Provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and disasters ○ Maps ○ Database of who’s reporting 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language
UN Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory page	<p>Protection of Civilians weekly reports cover weekly incidences including Palestinian casualties, number of air strikes and settlers violence</p> <p>Protection of Civilians: Casualties Database lets user create own report according to time period, incident type and casualty identity</p>	<ul style="list-style-type: none"> ● Thematic report ordered by date of publication ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”)

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	<p><u>Situation maps</u> cover distinct issues, for example:</p> <ul style="list-style-type: none">○ Settler Violence in the West Bank – December 2011○ Impact of the Conflict on Palestinian Children – June 2010 – July 2011○ West Bank: Israeli Demolitions of Palestinian Property – January 2010 – December 2011○ Settler Violence in the West Bank – December 2011	
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Useful sources to consult on the humanitarian situation in the West Bank and Gaza

Source	Type of source	Website's search function
Al-Haq	<p>Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank.</p> <p>The organisation conducts research; prepares reports, studies and interventions on breaches of international human rights and humanitarian law in the OPT. Publications can be found on the following issues:</p> <ul style="list-style-type: none"> ○ Right to life and body integrity ○ Wall and Jerusalem ○ Gaza ○ Population transfer and residency rights ○ Military administration and legal remedies ○ Civil and Social rights ○ Settlements and Settler violence ○ Housing, land and natural resources ○ Human rights defenders ○ Palestinian violations <p>It also produces</p> <ul style="list-style-type: none"> ○ field reports, which are three-monthly reports covering human rights abuses that occurred during the reporting period. Since the beginning of 2006, each report highlights a specific trend ○ Interactive maps that illustrate aspects of the occupation of the West Bank and the Gaza Strip and present Al-Haq's written and visual documentation of human rights violations. 	<ul style="list-style-type: none"> ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ Exact phrase search ○ Keyword search ○ Search results can be organised by date, relevance or hits
Al Mezan Center for Human Rights	<p>The Al Mezan Center for Human Rights aims to promote and protect human rights in the OPT and especially in the Gaza Strip with a focus on Economic, Social and Cultural Rights.</p> <p>It produces reports and studies orders by year of publication and news by day.</p>	Limited search function which allows searches by key word only
Internal Displacement Monitoring Centre (IDMC) Occupied Palestinian Territory page	<p>The IDMC is an international body which monitors conflict-induced internal displacement worldwide. Its country pages include:</p> <ul style="list-style-type: none"> ○ Statistics ○ Maps ○ Internal Displacement Profile ○ IDP News alert ○ Key documents; news and reports from other organisations on the situation and treatment of IDPs and returnees. ○ The Occupied Palestinian Territory Profile was last updated in July 2011 	<ul style="list-style-type: none"> ● Country and thematic pages ● Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ○ It is not possible to search within particular time frames

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<p>IRIN News OPT page</p>	<p>A service of the UN Office for the Coordination of Humanitarian Affairs. It provides:</p> <ul style="list-style-type: none"> ➤ Humanitarian news and analysis by country and theme. 	<ul style="list-style-type: none"> • Country and thematic pages • Advanced search function which allows for <ul style="list-style-type: none"> ○ Keyword searches (Exact Wording; All the Words; Any Words) ○ Limits searches by Services; Country; Theme; Report Type ○ Searches within time frames (From: To)
<p>Relief Web Occupied Palestinian Territory page</p>	<p>Relief Web is a database of reports from international and non-governmental organizations, governments, research institutions and the media for news, reports, press releases, appeals, policy documents, analysis and maps related to humanitarian emergencies worldwide. It provides:</p> <ul style="list-style-type: none"> ○ In-depth profiles, updates and reports on countries and disasters ○ Maps ○ Database of who's reporting 	<ul style="list-style-type: none"> • Country and thematic pages • Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”) ➤ Limits searches by: Country; source; theme; content format; feature; disaster type; vulnerable groups; published date (by month); language ➤
<p>UNHCR Occupied Palestinian Territory country page</p>	<p>UNHCR country pages provide:</p> <ul style="list-style-type: none"> ○ Statistical snapshot ○ Latest news ○ UNHCR fundraising reports ○ Background, analysis and policy ○ Statistics ○ Maps ○ Operational Updates ○ Iraq Situation Protection Issues (including Eligibility Guidelines) 	<ul style="list-style-type: none"> • Country page does not have a search function • UNHCR home page has an advanced search function which allows for : <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT, ALL) ○ Keyword by title ○ Limits searches by category, country of origin, country of asylum ○ Searches within time frames
<p>UN Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory page</p>	<p>The Humanitarian Monitor monthly reports cover the humanitarian situation in the West Bank and Gaza</p> <p>Fact Sheets cover distinct issues, for example:</p> <ul style="list-style-type: none"> ○ Demolitions and Forced Displacement in the Occupied West Bank – January 2012 ○ The Humanitarian Impact of Israeli Settlement Policies – January 2012 ○ East Jerusalem: Key Humanitarian Concerns Fact Sheet – December 2011 ○ Israeli Settler Violence in the West Bank – November 2011 <p>Humanitarian Atlas maps – Latest published in December 2011 providing 31 maps (including infographics and statistics) on humanitarian issues facing Palestinians in the OPT including: access and movement, protection (settler violence, demolitions etc.), water scarcity, access to health</p>	<ul style="list-style-type: none"> • Thematic report ordered by date of publication • Advanced search function which allows for: <ul style="list-style-type: none"> ○ BOOLEAN searches (AND, OR, NOT) ○ Searches for phrases (“...”)

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	care facilities etc.	
United Nations Relief and Works Agency for Palestine Refugees (UNRWA)	<p>The publication section of the website contains links to relevant reports, for example:</p> <ul style="list-style-type: none"> ○ West Bank Labour Market first-half 2011 ○ Gaza Labour Market first-half 2011 ○ Socio-Economic Developments in the OPT 2010 – published 2011 ○ Palestine Refugees in the West Bank - 2011 	<ul style="list-style-type: none"> • Search for publications by keywords, category, year, series