



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

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**Human Rights Council Working Group on the Universal Periodic Review
15th Session, 21 January to 1 February 2013**

ADVOCACY/BRIEFING NOTE

ICJ suggested recommendations: Universal Periodic Review of the Israel

This advocacy note is brought to the attention of all Permanent Missions to the United Nations Office at Geneva. This note addresses issues set out below, as further explained in the UPR Stakeholder Submission of the International Commission of Jurists (ICJ). The ICJ's full submission, along with an analysis comparing recommendations in that submission with corresponding first cycle recommendations and commitments, can be found online at: <http://www.icj.org/icj-stakeholder-submission-for-the-second-cycle-universal-periodic-review-of-israel/>.

1. Israel's obligations under IHL and IHRL

Following Israel's extensive military operation "Cast Lead," the UN's Fact-Finding Mission has concluded that the few cases investigated at the domestic level were either dismissed or resulted in disciplinary measures not proportionate to the gravity of the crimes committed. The Panel of Independent Experts established by the Security Council also raised particular concerns regarding the lack of investigation into all allegations of serious violations of international humanitarian law (IHL) and gross violations of international human rights law (IHRL).

Suggested recommendations:

- Investigate in a prompt, thorough, impartial and independent manner all allegations of serious breaches of international humanitarian law and gross human rights violations committed during Operation Cast Lead;
- Ensure that those responsible for such violations are held accountable through fair trials and, if convicted, ensure that their sentences are commensurate with the gravity of the crimes committed; and
- Provide an effective remedy and full reparation, including compensation and rehabilitation, to all victims and, to this end, remove all obstacles that bar access to justice, including the imposition of prohibitively restrictive court fees.

2. Settlements and the wall of separation

In spite of repeated calls on Israel to reverse its policy and prevent new instalments of settlements, Israel has continued to extend its settlements policy in East Jerusalem and in the West Bank. This policy has led to the restriction of Palestinian movement, isolation, and has allowed for human rights violations allegedly committed by settlers to go without consequence. This has further encouraged annexation of land and isolation within and destruction of Palestinian communities.

Suggested recommendations:

- End the illegal settlement policy in the oPt, including in East Jerusalem, by halting all settlement growth and expansion, dismantling existing settlements and ensuring that no new installation of settlers takes place;
- Take effective measures to prevent "price-tagging" and other crimes against Palestinians and Palestinian property, including by investigating and holding accountable those who are responsible for such crimes;

- Ensure that confiscated privately owned lands are returned to their owners and provide for adequate reparation; and
- Immediately cease construction of the separation wall, dismantle segments already built on Palestinian territory, and provide reparation to individuals whose property has been damaged by its construction.

3. Administrative and arbitrary detention of prisoners and their unlawful treatment

The use of administrative detention in Israel has received much criticism, including that from the Human Rights Committee, which has denounced this practice as incompatible with Israel's obligations under Article 9 of the ICCPR. Under IHL, administrative detention can be used only as an exceptional and temporary measure, and civilians must be detained outside the territory of the occupying power. Instead, Israeli authorities have used administrative detentions indiscriminately and regularly as an alternative to standard criminal procedures.

Suggested recommendations:

- End the abusive use of administrative detention and ensure that any administrative detention is a time-limited exceptional measure that cannot be used, in any circumstances, as an alternative to criminal proceedings;
- Ensure that the internment of those subject to administrative detention is regularly reviewed by independent and impartial courts or administrative boards;
- Guarantee the rights of detainees to have contact and to correspond with, and to be visited by, members of their families;
- Guarantee the rights of detainees to legal counsel of their choosing, to be informed of the basis for their detention and to have access to evidence on which the detention is based;
- Guarantee the right of Palestinian detainees to be incarcerated within the oPt; and
- Ensure detainees on hunger strike are granted access to independent medical care and are not subject to coercive or punitive treatment.

4. International human rights instruments and mechanisms

Though a party to several of the core human rights treaties, Israel has been uncooperative with several human rights instruments and mechanisms.

Suggested recommendations:

- Become a party to the: OP to ICESCR, First and Second OPs to ICCPR, OP to CEDAW, OPCAT, Third OP to CRC, CMW, OP to CRPD, and CED¹;
- Accept at the earliest opportunity the requests to undertake official missions in Israel and the oPt by the Special Rapporteurs on torture, racism, violence against women and on extrajudicial, summary or arbitrary executions; and extend to them all reasonable cooperation and assistance to facilitate timely and effective country missions;
- Issue a standing invitation to the Special Procedures;
- Present to the Council, as soon as possible after adoption of the outcome document for the UPR of Israel, a national plan of action for the implementation of accepted recommendations and voluntary pledges and commitments; and
- Present to the Council, two years after adoption of the outcome document, a mid-term progress report on the status of implementation of recommendations and voluntary pledges and commitments

The ICJ expresses to all Permanent Missions the assurances of its highest consideration.

¹ Since the stakeholder submission, Israel ratified the CRPD on 28 September 2012. Since the stakeholder submission, Israel has also submitted the initial report under the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography on 12 November 2012