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

Written statement* submitted by Charitable Institute for Protecting Social Victims, The, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 January 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Settlement Construction and the Housing of Migrants, Grave Violation of International Law

The settlements construction has been one of Israel's most ambitious dream since 1948, and the first settlement was constructed following the June 1967 War. The occupation power uses the settling of migrants for strengthening its permanent presence, controlling the territories and claiming authority over the lands while disregarding humanitarian law. The occupying power provides bonuses such as free assistance, subsidized housing benefits and suitable financial arrangements for settlements to encourage Jews to live in occupied territories.

In addition to 150 officially recognized settlements, approximately 150 settlements without official government permits have been constructed, in East Jerusalem and the West Bank.⁽¹⁾ The logic behind settling migrants is to disrupt the indigenous people's access to their lands and violation of the right to self-determination which is seen as a cornerstone in the UN Charter and the two International Covenants.

"The transfer by the Occupying Power of parts of its own civilian population into the territory it occupies ... is violation of Article 49 of the Fourth Convention". Settlement of the occupying power migrants in the occupied territories was confirmed as a "grave breach" in accordance with international humanitarian law explained in the First Additional Protocol to the Geneva Convention in 1977. "The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand. (2)

Article 49 does not consider any exemptions. The occupying power is permitted to station military forces and civil servants for the purpose of running and managing the occupied territories, but the transfer of civilian population as settlers is completely prohibited. (3)

In a 2005 comprehensive report, in article 130, the ICRC states that the transfer and settling of migrants and civilians population to occupied territories is prohibited. The article states: "the State cannot deport parts of its civilian population or transfer them to occupied territories" which itself is part of the customary law. (4)

In 2016, resolution 2334 (5), the Security Council referred to its previous resolutions on the illegality of Israeli settlements construction and transfer of population and reiterated that the establishment of settlements by Israel in the Occupied Palestinian Territory since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a just, lasting and comprehensive peace. Five years after the adoption of the resolution, due to Israel's blatant disregard of UN resolutions, the number of settlers in the West Bank reached 4,750,000 and in East Jerusalem to 2,300,000 which indicates a 12 percent growth.

Also, since 1967 the Security Council has reiterated at least 11 times that in accordance with Article 2(4) of the UN Charter, grabbing lands through war and force is unacceptable. (6)

In early 2017, the UN Special Coordinator for the Middle East Peace Process, in 18 separate reports informed the Human rights Council that Israel has taken no measures to meet commitments under resolution 2334. (7)

The Special Rapporteur on the Human Rights Situation in the Occupied Palestinian Territories, deems Israel's policy of settlement construction a "war crime" according to international humanitarian law and the Rome Statute, and confirms the belief that settlement construction is an ongoing crime. (8)

The Special Rapporteur reiterates on resolution A/HRC/s-30/L adopted on 27 May 2021, with regards to observation and attention to human rights principles and international humanitarian law.

The Special Rapporteur confirms that by the end of 2019, approximately there were 300 settlements and 665,000 settlers in East Jerusalem and the West Bank and in 2019 the population had a 3.2 percent growth, which notably is higher than the 1.9 percent population growth of the Israeli population. (9)

Recent reports indicate that the Israeli government is planning on legalise several other settlements constructions, such as the 317million dollar project to double the Jewish settlements population in the Golan Heights which will result in the construction of 7,300 homes for settlers in a five year period.(10)

On 25 October 2021, the Office of, the EU Foreign Policy Chief released a statement pointing out a Israel tender for the construction of more than 1300 new settlements in Occupied Palestinian Territories and called for a halt on the plan. The statement stresses on the illegality of settlements construction.

The statement clarifies that the EU stresses on not recognizing changes to the pre-1967 borders and calls upon the Israeli government to stop settlements construction.(11)

It must be said that according to article 8 of the International Criminal Court Statute, the Court has the jurisdiction for investigation of war crimes stated in the Geneva Convention and its First Additional Protocol. In Article 8 of the Statute, the terms “direct and indirect” have been added to "housing" and "transfer" [of the occupying power population in the occupied territories]. Israel has voted against article 8 of the 1998 statute.(12)

Just like the Special Rapporteur we believe that Israel’s settlements construction is the main source of disagreement, always fired up engine of the occupation and has turned into a war crime. An occupying power which constructs civilian settlements in contrast to international laws and the Rome Statute will never sit at the peace talks table.(13) In addition, we believe that the international community's reluctance to take responsive measures in reaction to an aggressor occupying power, undermines international laws.

Considering all the aforementioned facts, the Charitable Institute for Protecting Social Victims submits the following recommendations on the issue of settlements constructed in occupied Palestinian territories:

- We request all countries to condemn Israeli actions such as settlement of migrants, forced displacement, destruction of homes and construction of illegal settlements in the occupied territories and dispossession of Palestinian lands.
- We recommend that in the event of continuation of Israel’s disagreement on halting settlement construction, the international community present a list of responsive measures and give its backing to ICC investigations.
- We recommend that all UN member states commit to the implementation of the Security Council Resolution 465 (1980) on not providing any assistance to Israel in settlement constructions.
- We recommend that UN’s data on Israel’s settlements construction webpage be updated and speedily be made available to the Special Rapporteur and the international community.

1- <https://undocs.org/A/HRC/47/57>

2- <https://www.icrc.org/ihl.nst/COM/380-600056?OpenDocument>

3- <https://www.icrc.org/ihl.nst/COM/380-600056?OpenDocument>

4- <https://undocs.org/A/HRC/47/57>

5- UNSC Resolution 2334 (23 December 2016)

6- Most recently in UNSC Resolution 2334 (23 December 2016)

7- <https://reliefweb.int/report/occupied-palestian-territory/security-council-briefing-situation-middle-east-reporting> (24 June 2021)

8- U. Aysev, “Continuing or Settled? Prosecution of Israeli Settlements under Article 8(2)(b)(viii) of the Rome Statute”, (2019), 20 Palestine Yearbook of International Law 33

9- https://www.btselem.org/sites/default/files/publications/202103_this_is_ours_and_this_too_eng.pdf

10- <https://bit.ly/3HfLeyg>

11- <https://bit.ly/31ehPF8>

12- http://www.mfa.gov.il/MFA/MFAArchives/1990_1999/1998/7/Judge+Eli+Nathan+at+UN+Diplomatic+Conference+of+Pl.htm

13- <https://undocs.org/A/HRC/47/57>