



PALAIS DES NATIONS • 1211 GENEVA 10, SWITZERLAND
www.ohchr.org • TEL: +41 22 917 9000 • FAX: +41 22 917 9008 • E-MAIL: registry@ohchr.org

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Follow-up Report on Country Visits

Call for Submissions

Israel and the Occupied Palestinian Territories

The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression will present a follow-up report pursuant to country visits conducted under the auspices of the mandate. He will examine the impact of five country visits on the promotion, protection, fulfilment and overall enjoyment of the right to freedom of opinion and expression. He will analyse the level of implementation of recommendations made following the visits, and consider any other developments impacting upon the rights which may have occurred since the visit was completed. The findings will be presented at the 41st session of the Human Rights Council in June 2019. For more information, please see the concept note attached.

In order to facilitate the preparation of the report the Special Rapporteur would welcome information from States and relevant stakeholders in response to the questions below, based primarily on recommendations made in the country visit report.

Please provide responses in the table below. We hope to receive your submission no later than 22 February 2019 to freedex@ohchr.org with "Submission to the follow-up study on country visits of the Special Rapporteur on the right to freedom of opinion and expression" as the title of the email. All submissions will be posted on the OHCHR website at the time of the report's publication, with the exception of submissions from non-state actors clearly stating their desire to remain anonymous.

On the implementation of recommendations made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression following the visit of the Mandate Holder to Israel and the Occupied Palestinian Territories

Concerning recommendations made to the Government of Israel

Has the Basic Law on Human Dignity and Liberty been amended to include principles of non-discrimination and equality, and the right to freedom of opinion and expression? If so, what changes have been made? Have any other changes been made to the Basic Law with implications for the right to freedom of opinion and expression?

(See: A/HRC/20/17/Add.2 para 99)

Limit: 500 words

Have changes been made to the Penal Code of 1977, in particular to Article 1A of the Code at paragraphs 144B, 144D2 and 144D3, Article 5 at paragraph 166, and Article 7 at paragraph 173? If so, what amendments have been made?

(See: A/HRC/20/17/Add.2 para 100)

Limit: 750 words

Has the post of Chief Censor within the Israeli Military Censor unit been abolished?

(See: A/HRC/20/17/Add.2 para 101)

Limit: 250 words

Have restrictions of freedom of expression on the grounds of national security been enumerated in law? If so, is this law accessible, unambiguous and precise? Does it meet the tests of necessity and proportionality flowing from Article 19(3) of the International Covenant on Civil and Political Rights?

If no such law has been enacted, have restrictions of freedom of expression on the grounds of national security continued?

(See: A/HRC/20/17/Add.2 para 101)

Limit: 750 words

Have steps been taken towards repealing IDF Order No.101 Regarding Prohibition of Incitement and Hostile Propaganda Actions, also known as Military Order 101? If so, at what stage is this process?

(See: A/HRC/20/17/Add.2 para 102)

Limit: 500 words

Have steps been taken to ensure that there is no excessive use of force against peaceful protesters in the West Bank?

(See: A/HRC/20/17/Add.2 para 102)

The information in this section is in relation to the situation [in the Gaza Strip](#), which is also occupied Palestinian territory, and where continuous use of force against protesters was documented in 2018.

No steps were taken to stop the excessive use of force against unarmed protesters in the Gaza Strip. Israeli soldiers killed and wounded protesters unwarrantedly almost every week, despite legal interventions and international condemnation. Al Mezan documented the killing of 218 protesters, of them 40 children, one woman, two journalists and three paramedics. Meanwhile, 16,031 persons were wounded, including 3,166 children, 605 women and 162 journalists in the period from 2012

until the end of 2018, in protests in Gaza, including the Great March of Return demonstrations (GMR).

Limit: 500 words

Is a procedure in place to investigate injuries or deaths resulting from the use of force by Israeli security forces? If so, what steps are involved in this procedure and what remedies are in place? Can you provide examples of its operation in practice?

(See: A/HRC/20/17/Add.2 para 102)

Al Mezan and Adalah demanded an investigation into the killing of 15 Palestinians and wounding of over 1,000 on the first day of demonstrations in the Gaza Strip in March 2018. Information about this demand can be found here <http://mezan.org/en/post/22595>, with links to letters to Israeli authorities in this regard.

Over the following months, Al Mezan submitted 39 criminal complaints demanding investigations into the killing and wounding of unarmed protesters, journalists and health workers who did not pose a threat to life or safety when they were shot, and into the lethal and excessive force used by the Israeli military. Al Mezan received a notification from the Israeli Military Advocate General confirming their receipt of the complaints; however, only three criminal investigations have been opened, into cases of killing.

Also, Al Mezan submitted a petition to the Israeli High Court of Justice on 22 April 2018, jointly with a group of human rights organizations, and called on the Israeli army to stop using snipers and live ammunition against the protests in Gaza. However, the court adopted the Israeli army's allegations that the soldiers' use of live ammunition is legal, alleging that the protesters constituted a serious threat to the soldiers and citizens in Israel, and ignoring the fact that the protesters were unarmed and—for the most part—hundreds of meters away from the fence at the time of the incident. The court proceeded to allow the use of excessive force against protesters that continues today. The following links provide more detailed information about this petition:

<http://mezan.org/en/post/22754>

<http://mezan.org/en/post/22797>

<http://mezan.org/en/post/22875>

Wounded protesters were also denied access to medical care outside of Gaza on punitive grounds due to their participation in the demonstrations. This policy led to the amputation of at least young men's legs. Before the amputations, Al Mezan and partners petitioned the High Court. The Court took a relatively long time to issue a decision, during which period the minors' legs were amputated. Eventually, the Court allowed one of the minors to be transferred to the West Bank for medical care to save his second leg. More information can be found here:

<http://mezan.org/en/post/22654>

<http://mezan.org/en/post/22707>

<http://mezan.org/en/post/22709>

Limit: 750 words

Have measures been taken to ensure that journalists in the West Bank, including East Jerusalem, can perform their professional duties freely, without undue interference?

(See: A/HRC/20/17/Add.2 para 103)

In the Gaza Strip, journalists have been a target of the Israeli forces, including during military attacks and by snipers, especially during the demonstrations near the fence. Some of those who have been attacked were only passers-by. Al Mezan documented the killing of 16 and the injury of 163 journalists during the period from 2012 to 2018.

Limit: 500 words

Have instances of alleged attacks against journalists since the visit of the Special Rapporteur been investigated? Have prosecutions occurred in any cases?

(See: A/HRC/20/17/Add.2 para 103)

Two journalists were killed in the GMR in the Gaza Strip. Al Mezan submitted requests for criminal investigations into the incidents:

1. On 26 April 2018, Al Mezan submitted a request to the Israeli Military Attorney General (MAG), to open an investigation into the killing of the journalist *Ahmed Mohammed Abu Hussein*. The investigations materials, including affidavits, medical reports and videos, were sent to the MAG, but no criminal investigation was opened nor judicial follow-up carried out.
2. On 9 April 2018: Al Mezan submitted a request to the MAG to open an investigation into the killing of the journalist *Yasser Abdelrahman Morjata*. Al Mezan sent all the investigation materials required, including affidavits, medical report etc., but no criminal investigation was opened nor judicial follow-up carried out.

More details are available here: <http://mezan.org/en/post/23465>.

Limit: 750 words

Are there currently any journalists in detention? If so, on what grounds have they been detained and have they been given prompt access to a court in accordance with their right to a fair trial?

(See: A/HRC/20/17/Add.2 para 103)

Limit: 750 words

Do journalists continue to face travel bans? If so, how many are in place and on what grounds are they justified?

(See: A/HRC/20/17/Add.2 para 104)

Journalists in the Gaza Strip face travel bans like the rest of Gaza's residents, who endure severe restrictions on their movement. The Israeli authorities ban and hinder journalists' travel via Erez Crossing throughout the year. Only a small number of journalists are allowed to travel and only after going through a long and complicated permit application process. Between 2012 and 2018, Al Mezan documented the arrest of one journalist at Erez, who had been granted permission to travel by the Israeli authorities and had obtained the requisite travel permit from the Israeli side.

Limit: 750 words

Have measures been taken to ensure that Palestinian citizens of Israel can fully exercise their right to freedom of opinion and expression, including through their own media and language? In what ways does the 2018 Basic Law concerning Israel as the Nation State of the Jewish People, and in particular section 4, concerning language, impact upon this right?

(See: A/HRC/20/17/Add.2 para 105)

Limit: 750 words

Have any steps been taken towards a review of the requirement of "loyalty to the State of Israel" for residency in East Jerusalem? How has this requirement been affected by passing of the 2018 Basic Law concerning Israel as the Nation State of the Jewish People?

(See: A/HRC/20/17/Add.2 para 105)

Limit: 750 words

Is the right to freedom of opinion and expression of Arab Knesset members fully respected? Have steps been taken to ensure this is the case?

(See: A/HRC/20/17/Add.2 para 106)

Limit: 250 words

Has the residency status of the four members of the Palestinian Legislative Council revoked in 2006 been reinstated?

(See: A/HRC/20/17/Add.2 para 107)

Limit: 250 words

Have measures been taken to ensure that all Palestinians living in East Jerusalem can exercise their right to freedom of expression without fear of reprisal?

(See: A/HRC/20/17/Add.2 para 107)

Limit: 500 words

Have steps been taken to ensure that cultural activities can be held without undue restriction in East Jerusalem?

(See: A/HRC/20/17/Add.2 para 108)

Limit: 500 words

Concerning recommendations made to the Palestinian Authority

Has the Press and Publication Law of 1995 been revised? If so, what changes have been made to it? If a revision process was undertaken, what was done to ensure the involvement of civil society representatives?

(See: A/HRC/20/17/Add.2 para 109)

Limit: 750 words

Has defamation been decriminalized? If so, what changes to law the governing it have been made?

(See: A/HRC/20/17/Add.2 para 110)

Limit: 500 words

Has the practice of detaining and interrogating individuals on the basis of their criticism of public officials been halted? If so, what measures have been taken to ensure this?

(See: A/HRC/20/17/Add.2 para 111)

Limit: 500 words

Have steps been taken to ensure that the right to freedom of expression on the Internet is fully guaranteed?

(See: A/HRC/20/17/Add.2 para 111)

Limit: 500 words

Have measures been taken to promote tolerance of diverse opinions in the West Bank?

(See: A/HRC/20/17/Add.2 para 111)

Limit: 500 words

To what extent has reform of the Palestinian Broadcast Corporation been undertaken, in particular towards ensuring its independence as an institution?

(See: A/HRC/20/17/Add.2 para 112)

Limit: 500 words

Do any newspapers remain banned in the West Bank? If so, on what grounds is this justified?

(See: A/HRC/20/17/Add.2 para 113)

Limit: 500 words

Have measures been taken to ensure that peaceful demonstrations can take place in the West Bank without undue restrictions?

(See: A/HRC/20/17/Add.2 para 114)

Limit: 500 words

Concerning recommendations made to the de facto authorities in Gaza

Have measures been taken to promote a culture of tolerance to divergent views in Gaza, and in particular tolerance of critical voices, since the visit of the Special Rapporteur?

(See: A/HRC/20/17/Add.2 para 115)

There has been no positive development in this regard—with violations continuing to escalate between 2012 and 2018. Al Mezan documented more than 283 arrests during this period of people posting opinions on Facebook considered critical of the local authorities and of people participating in sit-ins and expressing political beliefs.

Limit: 500 words

Do any newspapers remain banned in Gaza? If so, on what grounds is this justified?

(See: A/HRC/20/17/Add.2 para 116)

No newspapers are currently banned. All of the newspapers in the Gaza Strip are allowed to work, including those that were previously banned.

Limit: 500 words

Have measures been implemented to ensure that all journalists working in Gaza can carry out their work without undue interference or harassment?

(See: A/HRC/20/17/Add.2 para 116)

On the contrary, since 2012 the authorities in Gaza have consistently intervened in the work of journalists and hindered their ability to carry out their work, including by arresting them. Al Mezan documented the summoning and arrest of 123 journalists, and also documented a number of cases in which the local authorities banned journalists from carrying out their work.

Limit: 500 words

Have steps been taken to ensure that the right to freedom of peaceful assembly can be exercised in Gaza without undue interference and restrictions?

(See: A/HRC/20/17/Add.2 para 117)

No steps have been taken to ensure access to the right to peaceful assembly. The violation of this right has continued since 2012. Al Mezan notes that the local authorities require that their approval is obtained before assemblies may be organized, even those taking place in enclosed halls, which had not previously been the case. Al Mezan documented 59 assaults against peaceful assemblies since 2012, resulting in the injury of 52 persons. The authorities prevented activities from being held in enclosed spaces 12 times.

Limit: 500 words

Has the practice of short-term detentions, including of journalists, been halted? If so, what measures have been taken to ensure this?

(See: A/HRC/20/17/Add.2 para 118)

No. Notably, this practice has increased during escalated periods of political tension between the authorities in Ramallah and the authorities in Gaza. Since 2012, 489 persons have been arrested for political affiliation.

Limit: 500 words

Do foreign journalists remain required to name a local contact in order to enter Gaza?

(See: A/HRC/20/17/Add.2 para 118)

Yes, foreign journalists have to complete an electronic application for the Ministry of Interior in Gaza and attach a copy of their passport and a personal photo. In addition, they have to name their sponsoring organization in Gaza.

Limit: 250 words

Have any further laws, regulations, policies, administrative decisions or other

measures affecting the right to freedom of opinion and expression been implemented following the Special Rapporteur's visit?

On 25 May 2009, the "Change and Reform Bloc" issued Resolution Number 3 of 2009, an amendment to the Palestinian Penal Code number (74) of 1936. The amendment introduced Article 262 relating to the use of technology, and criminalized acts vaguely corresponding with what is described as "disturbing others". Based on this charge, the courts in the Gaza Strip have tried a number of activists. The following are examples:

- On 29 September 2016, the journalist Ihab Fafos, who was summoned on grounds relating to the right to freedom of opinion and expression.
- On 13 July 2016, the journalist Hajar Harb, who was summoned by the General Prosecution in Gaza and was sentenced in absentia over her journalistic work.

Relatedly:

- On 25 July 2013, the general prosecutor in Gaza, Ismail Jabr, decided to close the office of Ma'an News Agency in the Gaza Strip.

Limit: 1,000 words

Is there any relevant additional information you would wish to add?

You may respond with specific questions and requests for information.

Limit: 500 words