

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)

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

MADA highlighted that international laws have guaranteed citizens the right to peaceful assembly and protest as a form of expression.

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)

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)

No measures been taken to ensure that journalists in the West Bank, including East Jerusalem, can perform their professional duties freely, without undue interference

According to MADA's Annual Report of 2018, Israeli attacks continued to escalate, in terms of quantity and quality. During 2018, the Israeli attacks have risen by a total of 79 attacks compared to the year 2017 by a rate of 21%. The year 2017 has witnessed a high record by 51% compared to 2016. MADA documented a total of 584 attacks committed in 2018 against Palestinian journalists and media outlets, 455 of which were committed by the Israeli occupation accounting for 78%, while 129 were committed by both Palestinian authorities, in the West Bank and Gaza Strip, accounting for 22%.

The total number of attacks in 2018 has increased by a total of 54 attacks compared to the overall Israeli and Palestinian attacks in 2017. In other words, this increase in percentage terms accounts for more than 10%, even though in 2017 an increase by 38% was monitored compared to 2016. This means that in just two years, (2017 and 2018), a total increase of 52% in the number of attacks against media freedoms in Palestine was documented. This period has also witnessed serious levels of violence in the suppression of media freedoms by the Israeli occupation.

A reading of the total figures of attacks committed against media freedoms in Palestine throughout the past 10 years, including last year 2018, shows that an average of 30 attacks are monitored each month. However, the proportion of attacks in the year 2018 alone exceeded 48 attacks for each month. As a final outcome, a total increase of 60% has been calculated over the past decade.

MADA reviewed the Israeli and Palestinian attacks separately in light of the proportion of their occurrence, and found that an average of 21 Israeli attacks were monitored every month over the past ten years, noting that Israel's proportion has risen in 2018 alone to about 38 attacks every month. As for the Palestinian attacks, its average number over the past 10 years amounted to 9.4 per month, noting that the Palestinian Authority's proportion has risen to 10.7 attacks in 2018 alone for each month.

The following table shows the numbers of violations committed by Israeli occupying powers and Palestinian Authority against Palestinian journalists and media outlets throughout the past 10 years.

Numbers of violations committed by both Israeli occupying power and Palestinian Authority

Year	Israeli Attacks	Palestinian Attacks	Total
2009	97	76	173
2010	139	79	218
2011	100	106	206
2012	164	74	238
2013	151	78	229

2014	351	114	465
2015	407	192	599
2016	249	134	383
2017	376	154	530
2018	455	129	584
Total	2489	1136	

For 2018, the Israeli attacks fall within 15 categories in addition to another varied set of attacks classified and included together under “other attacks”. Among the 15 categories, 7 categories are deemed the most serious attacks, which are as follows: killing of journalists, physical injuries, arrest and detention, destruction or closure of headquarters, confiscation, seizure or damage of equipment. They included a total of 346 out of the total Israeli attacks amounted to 455, equivalent to 76% of the total attacks committed by Israeli occupation forces against media freedoms in Palestine in 2018.

The following table shows the Israeli violations against Palestinian journalists and media outlets in 2018.

Israeli violations against Palestinian journalists and media outlets in 2018		
No.	Type of Violation	Num
1	Physical attacks - injuries	240
2	Administrative arrest- detention- transfer	41
3	Prohibition of media coverage	72
4	Confiscation/seizure/damage of equipment – vehicles	18
5	Detention (including interrogation)	41
6	Raiding institutions – houses	5
7	Human shields	1
8	Summoning and questioning	4
9	Travel ban	2
10	Threatening	5
11	Deleting materials	4
12	Incitement and defamation	1
13	Closure of institutions	2
14	Destruction of institutions	2
15	Murder	2

16	Other attacks	15
Total		455

It is noteworthy that the Israeli attacks were not only confined to the Palestinian journalists in the West Bank, but also did include journalists in Gaza Strip. The most serious attacks were the killing of two journalists, Yasser Abdelrahman Murtaja (30 years old), and Ahmad “Mohammad Ashraf” Hassan Abu Hussein (24 years old), by the Israeli snipers, during their coverage of the peaceful return marches in Gaza Strip, with no more than one week between the two incidents.

One of the Israeli army snipers has shot the photojournalist of “Ain Media”, Yasser Abdelrahman Murtaja on 6th April 2018 while covering the events of the return peaceful march in Khuza’a Town of east Gaza. He was shot at a distance of 350 meters away from the other side of separating fence where the Israeli soldiers were deployed according to the data collected by MADA field researcher from an eye-witness who was accompanying him.

Only one week later on 13th April 2018 and in a similar scenario, an Israeli sniper fired an explosive bullet at the freelance journalist of “Sawt AL-Shaab” Radio, Ahmad “Mohammad Ashraf” Hassan Abu Hussein, (24 years old) while he was covering the events of the return peaceful march in Abu Safiya, east of Jabalia, Gaza Strip, resulting in his death 12 days after his injury despite the several attempts of doctors to save his life. According to the field investigations conducted by MADA researcher, and the information collected by eye-witnesses, Abu Hussein was injured by an explosive gunshot in the left side of his abdomen, while he was wearing his Press uniform (a helmet marked TV and a blue vest marked Press).

In conclusion, Israeli physical attacks against Palestinian journalists continued to rise during 2018, amounting to 242 attacks, including two murders, compared to a total of 137 physical attacks monitored during the preceding year 2017.

By monitoring the attacks committed in 2017 and 2018, it can be inferred that the proportion of the annual total Israeli attacks has sharply risen, constituting to 37% out of the total Israeli attacks committed during 2017, noting that these attacks have jumped during 2018 and exceeded 53% out of the registered attacks committed by Israeli forces. In other words, more than half of Israeli attacks are increasingly targeting journalists directly, while the rest ranges between the other 15 types of attacks, aiming eventually at silencing journalists and hindering their work in Palestine.

The majority of physical attacks falls under the term “serious attack” and this per se reflects the Israeli systematic targeting of Palestinian journalists through the excessive use of force in an attempt of deterring them from doing their journalistic work and keeping them away from the field.

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)

No instances of alleged attacks against journalists since the visit of the Special Rapporteur have been investigated.

The most serious attacks that need to be investigated are the killing instances. None of killing instance of Palestinian journalists has been investigated since the last visit of the Special Rapporteur and subsequently no prosecution of any case took place.

Eight instances of killing have occurred since the last visit of the Special Rapporteur and none of them was investigated and. They are as follows:

- **Yaser Mutaja:** a photojournalist and cameraperson for the Gaza-based media production company Ain Media, was shot on 6th April 2018 by one of Israel army snipers, while he was covering the events of the return peaceful march in Khuza'a Town of east Gaza. He was shot at a distance of 350 meters away from the other side of separating fence where the Israeli soldiers were deployed according to the data collected by MADA field researcher from an eye-witness, his coworker Hossam Hisham Salem, who was accompanying him by then. In response to this incident, Israeli Minister of Defense, Avigdor Lieberman, said by then that "whoever operates drones above Israel Defense Forces (IDF) soldiers needs to understand that he is endangering himself" and "We have seen dozens of cases of Hamas activists were disguised as medics and journalists". On 7th April, the Israeli occupying forces denied targeting of journalists and argued that the circumstances in which Murtaja died will be investigated. Since then no case was officially opened for investigation. In support of MADA statement on the killing of Murtaja, released by Human Rights Watch reported on 3rd April that Israeli soldiers had orders from senior Israeli officials to use live ammunition against Palestinian protesters even if protesters did not pose a threat to the soldiers or civilians.
- **Ahmad Abu Hussein:** a photojournalist working for the Sawt AL-Shaab" Radio (Voice of People) based in Gaza. He was fired on 13th April 2018 by an Israeli sniper with an explosive bullet, while he was covering the events of the return peaceful march in the northern Gaza city of Jabalia, resulting in his death 12 days after his injury despite the several attempts of doctors to save his life. According to the field investigations conducted by MADA researcher, and the information collected by eye-witnesses, Abu Hussein was injured by an explosive gunshot in the left side of his abdomen, while he was wearing his Press uniform (a helmet marked TV and a blue vest marked Press). No measures have been taken for an official or unofficial investigation.
- **Khaled Reyadh Hamad:** A cameraman killed in 20th July 2014 in the Gaza City neighborhood of Shijaiyah, while he was accompanying an ambulance when the vehicle was hit by a shell fired by Israeli forces. In response to Hamad killing, by the Israeli occupation forces spokesman Col Peter Lerner said, "we do not target journalists, but journalists do sometimes put themselves in risky positions. continued, We have to do our best to facilitate and keep them out of harm's way. "The IDF's Chief of General Staff Benny Gantz, he regrets civilian casualties and that Israel takes measures to uphold its "moral obligation" to prevent them. He also blamed Hamas for hiding behind civilians. The Israeli forces Chief of General Staff Benny Gantz, said that he regrets civilian casualties and that Israel takes measures to uphold its moral obligation to prevent them. He also blamed Hamas for hiding behind civilians. On any event, no measures were taken to launch investigation process since then. In its final report published in June 2015, the UN Independent Commission of Inquiry on the 2014 war on Gaza, said that Israeli forces operation in the Shijaiyah on 19th and 20th July, including the killing of journalist Hamad, raise questions as to the respect by the Israeli forces of the rules of distinction, precautions, and proportionality, and may amount to a war crime.
- **Hussam Salama and Mahmoud Al-Kumi:** cameramen working for Al-Aqsa TV killed when an Israeli missile hit their car in the Al-Shifaa neighborhood of central Gaza in 20th November 2012. Avital Leibovich, an Israeli military spokeswoman, said that the men were Hamas operatives. In contrast, in its investigative report issued on 20th December, Human Rights Watch said that no evidence was found showing that Salama and al-Kumi had been Hamas

operatives or had engaged in any military activity. The report concluded that the killings of the two cameramen and the attacks on the Gaza media centers were violations of the laws of war.

- Rami Rayan and Sameh Al-Aryan: journalist Rayan is a photographer for the local news agency, the Palestine Network for Press and Media, and journalist Al-Aryan is a cameraman working for Al-Aqsa TV. They were killed in 30th July 2014 by a Israeli bombardment on a market in the Shijaiyah neighborhood of Gaza. A committee of investigators from Israeli forces concluded in March 2015 that the tragic civilian deaths on 30th July occurred as a result of coincidences that a military commander should not be expected to predict. The committee said that the Israeli forces fired mortar shells in response to enemy fire, not realizing that a previous round of mortar fire had struck a civilian building and led to civilians, including journalists, to gather in the area despite previous orders to evacuate. The committee said that aerial surveillance was unavailable at the time. The committee also said it could not rule out the possibility that some of the casualties that day resulted from Palestinian fire. The UN Independent Commission of Inquiry on the 2014 Gaza published in June 2015, concluded in its report, saying that cast doubt on whether the Israeli forces took full precautions in minimizing civilian casualties in this instance, specifically questioning why the real-time aerial surveillance was unavailable and the forces did not use weapons more precise than mortar rounds. It concluded that the incident may have violated the prohibition against indiscriminate attacks.

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)

The year 2018 has witnessed a rise in the number of journalists who were arrested or detained by the Israeli occupation army and authorities compared to the preceding year, amounting to a total of 41 arrests and detentions compared to 33 in 2017; that is, an increase estimated by eight cases. Among these cases is the arrest and detention of five female journalists and media students, as follows: Ola Marshoud, Manal Al-Jabari, Lama Khater, Israa Khader, and Suzan Al-Ewiwi. Journalist, Manal Al-Jabari, who works for B'TSELEM, the Israeli Information Center for Human Rights in the Occupied Territories was arrested and detained for twice during her field work in Hebron in 2018. One of these arrests took place on 22nd April 2018, and she was assaulted by female soldiers who handcuffed her and tried to strip and search her when she attempted to film the occupation soldiers detaining one woman and two young men at a military barrier, near the Cave of the Patriarchs, in Hebron. This was culminated by a decision to keep her away and prevent her from accessing the Cave of the Patriarchs for a period of 15 days. She was also prevented from covering the events in that sensitive and critical area.

The conditions for arrest and detention of these female/male journalists are varied. Some of them were arrested from their homes during night hours, while others were detained in the field while covering events. Preventing from coverage was the main motive for most of these arrests. Similar to what happened with journalist Manal Al-Jabari, who was assaulted during her arrest, derived out of the field, and prevented from coverage for 15 days, many other journalists were arrested, detained, and subjected to physical assaults and measures that prevent them from coverage, or keep them away from the field work, or other measures that lead to the same result.

On 31st May 2011, Wahbi Makiya was beaten by the Israeli police in Jerusalem (with their fists and legs) while he was filming a program for the Fourth Dimension of Media Production, in which he works as a freelance photographer. Afterwards, he was taken to the police investigation center in Salah Al-Din Street in the city, where he was threatened with imprisonment and remained in detention for four hours before he was released at 8:00PM. Ahmad Al-Safadi, the Director of Elia Media Agency, was arrested and detained three times during 2018. In one of them, he was arrested from his home on 5th June 2018 and it ended up with his release on bail after he was forced by the occupation authorities not to participate or attend any popular events for a month, not to mention that he was prevented from media coverage for one month. The same happened to the author Rassem Obeidat, who is also from Jerusalem. After being arrested and interrogated for several hours, he was returned after three days, resulting in four-day arrest followed by a strict conditional release under of paid bail and house arrest for a week provided not to participate in any national economic and social activities for one month. The same scenario of driving out of the field and preventing from media coverage unfolded for various periods, in addition to house arrest, or beatings with another number of journalists who were arrested or detained during 2018.

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)

Yes, Palestinian journalists continue to face travel ban imposed by the Israeli occupation.

The Israeli policy of travel ban imposed on journalists is a long term policy and did not halt one day. It is subject to selectivity and arbitrary rules, and does not adhere to consistent standards. When imposed, no excuse is disclosed to justify the reason.

For example, the freelance journalist Musa'ab Khamis kfesha (23 years) reported to MADA, saying "on 19th November I received a phone call from the Israeli security service, and I went the next day around 12:00 PM I to Etzion prison. I was subject to questioning and interrogation for 3 hours, where the integrator asked me about my work, and for whom I work. At last, he informed that I am banned from travelling".

A Palestinian activist and the journalist, Iyad Al-Hashlamoun, was banned 7th July 2018 by an Israeli security interrogator to enter Bani Al-Naim village or the bypass road for a period of 15 days. He was released at the entrance of Kiryat Arba at around 7:00 PM after he was detained for six hours and a half (between 12:30 PM, and 7:00 PM). (9 July) the occupation forces

On 17 July 2018 the Israeli Occupation Forces prevented the reporter of "Quds Net", the journalist, Abdulmohsen Tayser Shalalkeh from travelling and sent him back from Al-Karama crossing. On the following day, he was summoned for investigation where he stated to MADA, that "in the morning of 17th July, I tried to travel to Amman and when arrived the Israeli side at Al-Karama crossing, around 8:30, I presented my passport, and they kept me waiting until 12:30 PM. An Israeli soldier handed in my passport back to me marked with a label that says I am banned from travelling, "banned for security reasons". On the following day, I went to the Israeli Military Liaison Office to find out the reason of my travel ban for security reasons. However, they did not help me other than explaining that it was a "police ban" without any reasons or justifications. They handed me over an official summoning written call for interview in Etzion Center on Thursday, corresponding 26th July 2018".

In the interview, I was asked about the reasons traveling and the answer was for study purposes as the specialization I wanted was not available. He told me that I was banned for security reasons because I

am a “terrorist” and that this ban was decided personally by him. He threatened me with arrest right from my house in the future. He also turned on my phone, opened my personal page of Facebook, checked the posts and noticed one post I have published about Khan Alahmar in which I described the occupation as Nazi for assaulting a child. He asked me about the post and I answered that he had to watch the video and after watching the video, he threw the phone hard on the ground. Finally, he told me that the ban is existing and I will not travel. They released me at about 3:30 PM..

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)

No steps have been taken.

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)

In September 2017, the Israeli High Court of Justice ruled that the Ministry of Interior did not have the right to revoke the permanent residency status of four Palestinian parliamentarians from East Jerusalem with ties to the Hamas terror group, 10 years after their residency permits were revoked for “breach of trust”. 10 years after move, judges say new law is required in order to justify expelling the four East Jerusalem parliamentarians.

The High Court also ruled that its decision to cancel the revocation of these four permanent residency permits would not take effect for the next six months, in order to give the Knesset the opportunity to pass legislation that would give it the authority to revoke their residency status. In its ruling, the High Court said that the interior minister lacks the authority to revoke a residency permit for breach of trust and that the move was overly drastic.

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)

No measures have been taken to ensure that all Palestinians living in East Jerusalem can exercise their right to freedom of expression without fear of reprisal.

To do so, laws need to be enacted or amended by the Israel Parliament (Knesset) and this has not happened. On the contrary, the laws being enacted are in favor of the 2018 Basic Law concerning Israel as the Nation State of the Jewish People; meaning that Israeli domestic laws and regulations governing the State of Israel go in parallel side by side with the 2018 Basic Law, lacks principles of diversity, pluralism, and ethnic and religious minorities. .

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)

No steps have been taken to ensure that cultural activities can be held without undue restriction in East Jerusalem.

Mohammad Shukri Akram Asho, (32 years old from Jerusalem), was at Al-Khan Al-Ahmar to cover the events, and while he was filming the attempt of some protesters to get in the way of the Israeli bulldozers with their bodies, he was attacked, beaten, and pushed by an Israeli police from the special units which caused him bruises in his hand not to mention crashing the viewfinder. He was also chased by other police officers to keep him away from the location and prevent him from covering the event.

On 1st October 2018, some Israeli police officers have assaulted the freelance journalist, Yazan Haddad, while he was covering some events taking place in the city of Jerusalem. According to MADA field researcher, it was a general strike in the West Bank, Jerusalem, as well as some cities and towns within the green line, to protest against the National State Bill approved by Israeli Knesset, stating that the right to self-determination in Israel belongs only to the Jewish people, in addition to other discriminatory provisions against the Arab Palestinians. This strike coincided with Shavuot Holiday where large numbers of settlers have taken part in provocative celebratory tours across the occupied Jerusalem, repeating racist chants against Arabs and Palestinians. Between 5:30 PM and 6:00 PM on that day, Yazan Ahmed Mohammed Haddad, (22 years old) a freelance journalist, lives in Al-Thawri neighborhood, in Silwan, Jerusalem, was near Damascus Gate, a main and vital area of Jerusalem, to cover the strike, when a large group of Israeli occupation forces detained a number of young Palestinians in that place, even though they did not raise any flags or yelled any chants. As he was reporting live through his cell phone, some soldiers wearing green uniforms have suddenly attacked the demonstrators with pepper gas spray in the faces (in few minutes), as he stated, which is

why he lost concentration for a little while. He was beaten by some Police officers, one of them has raised an iron barricade and hit him, which caused him a wound in his hand, not to mention that his cell phone has smashed.

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)

The Press and Publication Law of 1995 has not been revised.

Articles 10, 19, and 27 stipulated in the Palestinian Basic Law that was amended in 2003 guarantee freedom of press. According to the latest annual index of 2018 on the freedom of press in Palestine made by the Palestinian Center for Development and Media Freedoms “MADA” issued in February 2019, shows that safeguards to freedom of press and the index for so was scored 1000 points.

However, the safeguards of such a freedom remains vague and lacks to mechanisms of implementation. Good example comes from Article 27, which provides a set of legal safeguards to media outlets and prohibits official authorities from any kind of interference that contravenes the Basic Law is still impractical and insufficient to protect the freedom of press. In support of MADA’s view, Mendel and Khashan in a joint article “The Legal Framework for Media in Palestine and Under International Law” note that authorities in violation of constitutional rights do not fear sanction due to the vagueness of existing legal provisions, lack of explicit stipulated punishment, and absence of proper mechanism to enforce the law.¹

Violations, in general, are committed under the pretext of maintaining public order or national unity or prevailing morals, and therefore further administrative regulations are imposed by the 1995 Press and Publication Law on journalists, activists, bloggers, and ordinary individuals to prevent a so-called defamation of any kind, which is deemed as a criminal offense, and journalists have been prosecuted for publishing criticism of Palestinian officials, which will be discussed further below in the questionnaires on defamation and criticism of public officials.

In violation of Press and Publication Law, MADA reported that the Palestinian Authority in the West Bank were responsible for 147 attacks on media freedom during the year of 2017. These included arbitrary arrests, ill-treatment during interrogations, confiscation of equipment, physical assaults, bans on reporting and the banning of 29 websites critical of the West Bank authorities. The de facto authorities in Gaza were responsible for 35 such attacks.

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)

Defamation has not been decriminalized and the discussion below shows further, as follows:

¹ Mendel, Toby, Law Programme Director at ARTICLE 19, an international human rights NGO focusing on freedom of expression and based in London. He has extensive experience working on media law reform issues, including in a number of countries in the Middle East. Khashan, Ali, founder and former Dean of the Faculty of Law at Al-Quds University. He is the Secretary of the Committee for drafting the Palestinian Constitution

The Palestinian Basic Law guarantees protection to public officials against defamation, slander, offense, or contempt of any kind committed by journalists, activists, bloggers, or ordinary individuals. In meantime, no law exists to guarantee protection to journalists, activists, bloggers, or ordinary individuals against defamation, slander, offense, or contempt of any kind committed by public officials. According to MADA's annual index of 2018 on the freedom of press in Palestine, no laws exist on criminalization/conviction of public officials making incitement and defamation against such categories mentioned above, particularly media professionals. Such missing safeguards are scored zero points. The index notes that exposition of individuals and media professionals to defamation over internet due to publishing of sensitive reports scored 53 points.

According to both authorities in the West Bank and Gaza Strip, defamation or slander against public officials is criminalized under lawful liability. For both authorities, such a criminalization is justified under the pretext of maintaining public order or national unity or prevailing morals, and therefore administrative regulations are imposed by the Press and Publication Law on journalists, activists, bloggers, and ordinary individuals to prevent a so-called defamation of any kind, which is deemed as a criminal offense, and journalists have been prosecuted for publishing criticism of Palestinian officials.

Decriminalization of defamation in Palestine is still missing and harmonized national legislation with international treaties on freedom of press/media signed by the Palestinian Authority following its recognition by UNGA as an observer State is still unachievable and will remain so at least in the foreseeable future. In its 2018 annual Index on freedom of press in Palestine, MADA recommends to refrain from arresting and imprisoning media professionals on the basis of their journalistic work, and to merely be satisfied with filing civil complaints in case of defamation.

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)

No practice of detaining and interrogating individuals on the basis of their criticism of public officials have been halted.

MADA's Annual Index of 2018 on the freedom of press in Palestine, states that legal restrictions on freedom of press/expression with respect to protecting public officials from defamation or slander are still on and legal safeguards are stipulated in the applicable laws in both West Bank and Gaza Strip. The indicator of the West Bank received 37 points and 0 in Gaza Strip, meaning that the applicable law provides protection in full to the public officials against defamation or slander in Gaza Strip. MADA's indicator on the number of cases in which fines were imposed on journalists under judicial decisions for committing publishing offences received 111 points.

The Palestinian Authorities argue that such practices, are carried out under domestic law that criminalizes defamation and insulting public officials. However, such a law is in contradiction with international legal obligations to which the Palestinian Authority is committed after acceding to international treaties, particularly those concerned with free speech. The Basic Law needs to be compatible with the international treaties ratified by the Palestinian Authority and therefore legal amendments or new laws need to be adopted or enacted. According to MADA Index, the harmonization of national legislation with the international treaties/conventions/covenants signed or ratified by the Palestinian Authority are still the worst indicators as each of them received zero points.

In support of MADA Index to the freedom of press in Palestine, Human Rights Watch (HRW) in two reports issued respectively in 2016 and 2017 notes that both authorities in the West Bank and Gaza

Strip arresting, abusing, and criminally charging journalists, activists, and bloggers who express peaceful criticism of the authorities.² According to its country director Sari Bashi, Both authorities have apparently arrived at similar methods of harassment, intimidation and physical abuse of anyone who dares criticize them. Following the ratification of International Covenant on Civil and Political Rights (ICCPR) and Convention Against Torture, the Palestinian Authority continues to violate its international legal commitments by means of torture and crackdowns on free speech.

Both authorities in the West Bank and Gaza Strip arrested dozens of journalists throughout the past years, many of them reported torture or other mistreatment in custody. Journalists are typically detained over reporting that is deemed critical of the authorities, and Human Rights Watch documented additional cases during the year of 2016 and 2017 in which Palestinian security forces arrested activists and others for ridiculing the authorities on Facebook. Such arrests rarely lead to formal charges or prison sentences, amounting instead to a form of harassment and intimidation.

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)

No steps have been taken to ensure the right to freedom of expression on the Internet to be fully guaranteed. On the contrary, steps were taken adversely through the adoption of Cybercrime Law by presidential executive decree in July 2017. This Law imposes restrictions on journalists, activists, bloggers, and individual publishing statements or articles not in favor of the authorities, particularly public officials, allowing for imposing prison sentences or heavy fines against peaceful criticisms of public officials published over the internet, particularly social media.

According to Sarah Leah Whitson, Middle East Director at Human Rights Watch, the Cybercrime Law grants thin-skinned authorities virtually unrestrained power to block websites, conduct surveillance, and assemble reams of data on ordinary people.³ The rights to freedom of expression, privacy and protection of data over internet are therefore in real violation and necessary amendments to this Law are required to be in harmony with international legal obligations.

As a result, the Palestinian Center for Development and Media Freedoms “MADA” along with other civil society organizations calls for amendments to this law through which specific provisions that impose restrictions on the internet users for their unfavorable publications against public officials can be removed and that punitive procedures are omitted subsequently.

According to international law, freedom of expression could solely be restricted under strict public necessities such as protection of national security, public safety, health, and order. For the Palestinian case as perceived by MADA, this does not apply as these strict conditions are irrelevant and not linked to the peaceful criticisms of public officials over internet. MADA has been calling for amendments to the Palestinian laws that restrict freedom of press/expression to be harmonized with international treaties, including but not limited to, the International Covenant on Civil and Political Rights, to which the Palestinian Authority is a contracting party and has legal obligations towards its applicable articles and provisions concerned.

MADA perceives the Palestinian Cybercrime Law as a restrictive measures towards the full enjoyment of the right to freedom of expression over internet and recommends interested parties to exert possible

² Palestine: Crackdown on Journalists, Activists: Chilling Effect on Free Expression, Human Rights Watch, 2016.

Two Authorities, One Way, Zero Dissent: Arbitrary Arrest and Torture Under the Palestinian Authority and Hamas, Human Rights Watch, 2017.

³ Whitson, Sarah, “Palestine: Reform Restrictive Cybercrime Law”, Human Rights Watch, 2017.

efforts for amendment or repeal. This law inverted standards human right to freedom of expression on internet up-side-down by granting it to only public officials and depriving other than this narrow category of practicing it. According to MADA's 2018 Index on freedom of press, media professionals are subject to defamation or incitement or slander through the internet on the background of publishing sensitive reports as perceived by the official authorities; meaning that public officials have the right to defamation, slander or incitement against media professionals if a published article or statement over internet is not in favor of them, while the latter is deprived of the right to practicing it, resulting in imposing prison sentences, heavy fines, blocking webpages, or closure of media outlets for peaceful criticisms of public officials published over the internet, particularly social media.

In June 2017, a number of websites were blocked according to an order issued by Attorney General Ahmad Barak and subsequently 29 news sites were blocked in the West Bank, as MADA reported. The Cybercrimes Law or Electronic Crimes Law, according to MADA, is in contradiction with domestic legislative norms because it violates the right to freedom of expression stipulated in Article 19 and 27 of the Basic Law. MADA therefore expressed concern about this violation and called for a amendment or repeal.

MADA encourages diverse and free opinions on internet and therefore calls for diverse Internet Service Providers (ISPs) to break the existing monopoly and let internet access be available for all with low cost.

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)

Measures have not been taken to promote tolerance of diverse opinions in the West Bank. Tolerance of diverse opinions require more than two diverse parties in the society possessing more than two opinions. For the Palestinian case in the West Bank, diverse opinions are either against or in favor of the authorities. The opinion "against" is liable to legal accountability while the latter is officially favorable. Latest Cybercrime Law is evident and does restrict tolerance of diverse opinions in the West Bank. In its annual index of 2018 on freedom of press in Palestine, MADA notes that legal and societal restrictions on freedom of press are imposed on journalists, activists, bloggers, and individuals for publishing sensitive reports or expressing opinions on matters other than the authorities desire, particularly those concerned with political views and criticisms of public officials.

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)

The Palestinian Broadcast Corporation (PBC) is still not independent and subservient to the president of the executive committee of the Palestinian Liberation Organization (PLO) Mahmoud Abbas.

Since the enactment of Presidential Decree No. 2 in March 2010, no decree was introduced to govern and regulate the PBC. Decree No. 2 called for general committee responsible for the management of national television and radio, having an independent administrative and financial status. However, this independence does not exist as the administrative body is subservient to president Mahmoud Abbas, as stipulated in Article 2.

The PBC does not cover the public spectrum of internationally recognized broadcasting standards and no safeguards for ensuring plurality of opinion or of diversity exist, particularly religious and political ones. Moreover, the decree does not have adequate mechanisms through which Articles 3 and 4 can be enforced. The PBC is officially controlled and falls within the scope of ruling authorities and the Decree was criticized for failing to make it independent and to meet international standards

accordingly. The PBC fails to reflect a plurality of opinion and diversity within Palestine by shunning issues of relevance to the Palestinian public, such as political debates involving speakers with different viewpoints. As a result, PBC acquired a reputation for being partisan and an official authority mouthpiece.

The PBC is directly subordinated to the ruling official authorities in Ramallah and the Decree fails to disengage it from being so through the appointment of its Chairperson directly by president Mahmoud Abbas and not be elected by the Board of Directors. The Board of Directors are appointed by the Chairperson and not elected by trustees board and don't need to be in possession of media experience.

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)

No newspapers remain banned in the West Bank.

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)

No measures have been taken to ensure that peaceful demonstration can take place in the West Bank without undue restrictions. Under unjustifiable pretexts and flimsy excuses, peaceful demonstrations are banned in the West Bank. In June 2018, for example, peaceful demonstrations in protest of imposing sanctions on Gaza Strip were banned and forcibly quelled by police under the pretext that such demonstrations result in public disorders and hinder peoples' mobility. The decision of banning was issued by president Abbas's advisor.

On 12 March 2017, Palestinian security forces used excessive force to suppress a peaceful protest outside the Ramallah District Court in the West Bank. At least 13 men and eight women were injured; among them were four journalists covering the protest. Seventeen people were hospitalized. Those injured suffered bruises from heavy beatings with wooden batons or after being struck by tear gas canisters. According to MADA, there were at least 17 attacks on journalists and other media crews. Some of these attacks included beatings, use of tear gas and pepper spray, and the confiscation of equipment, all in order to prevent them from covering the demonstrations.

In its monthly report of 11 October 2018, MADA condemns summoning at least three journalists along with other citizens by the Palestinian Preventive Security Service in the West Bank against the backdrop of their posts on social media and other media activities related to the social security decree, with the fact of a recent announcement for a forthcoming peaceful and popular assembly to protest against the law. According to MADA, the measures taken by the Punitive Security Service against the three journalists were illegal.

The journalist of FM 24, Ihab Al-Jariri, has stated to MADA that he received a phone call from the Preventive Services asking him to immediately present to the Headquarter. Indeed, he went there and was detained for an hour and a half. The interrogation was about the organizers of the popular mass movement against the social security law – and how this event incites against the law and threatens civil peace.

The same interrogation was conducted with the journalist, Al-Aroui. According to him, the discussion

was about the popular mass movement against the social security law and the need to obtain an authorization for the movement from the governorate. The security service moved on to address the need to adhere to the law and that is in any case irrelevant to the security preventive's work of scope and does not fall within its assigned authority. The security asked to sign a pledge not to incite, but he refused.

Unlike, journalist Jehan Awad did not respond to the call she received, and stated to MADA that she received a phone call from the Preventive Security in Ramallah asking for ten-minute discussion about posts on her Facebook page concerning the social security law, but she refused to go because the call was informal and this request should be initially addressed to the Journalists Syndicate.

The above-mentioned cases are samples showing restrictions imposed on peaceful demonstration in the West Bank.

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)

In general, culture of tolerance to divergent views in Gaza are welcome when it goes in favor of the authority and not so when goes against. A good example comes from the latest case of a Palestinian journalist Hajar Harb who was tried in absentia for her investigative report on medical corruption within Gaza's hospitals. This report criticizes medical officials for their favoritism and selectivity on granting medical reports for individuals allowing for traveling abroad. She was sentenced to six-month prison and charged with US\$ 275 fine.

In the West Bank and Gaza, numerous cases of arbitrary arrests and detentions were carried out by both authorities against people of peaceful speech expressed through peaceful criticisms of public officials or through disagreeing opinions, particularly those concerned with political ones. MADA reiterates its call for the adoption of regulations compatible with international standards through which tolerance to divergent views, particularly those of critical voices, can be respected in both Palestinian Authority of the West Bank and de facto Hamas Authority of the Gaza Strip.

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 remain banned in Gaza.

In 2014, the de facto authorities in Gaza Strip have relaxed a ban on newspapers published and issued in the West Bank, which was imposed since the bloody fight of 2007 between Hamas and Fatah parties. At all events, both authorities in the West Bank and Gaza Strip have banned newspapers published within each another's controlled territories.

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)

No measures have been implemented to ensure that all journalists working in Gaza can carry out their work without undue interference or harassment.

MADA's 2018 Annual Index on Freedom of Press shows that the indicator of the number of journalists or media owners who have been tried or imprisoned because of what they write or transmit received 75 points in Palestine, 75 points in Gaza Strip and 83 points in the West Bank. It also shows that 104 assaults on journalists were committed, 27 in Gaza Strip and 77 in the West Bank.

The scale of the legal restrictions on freedom of the press in Palestine received 463 points, 471 points in the West Bank, compared to 446 points in Gaza Strip (MAX 1000 – MIN 0). The scale of this area depended on 9 indicators. The proportional weight of each indicator of this area amounted to (0.1111) with a value of 111 points.

The following indicators demonstrate the range of freedom of press as per the 2018 annual index of MADA:

- The indicator of the number of cases in which photojournalists or their possessions were assaulted by the local security services received 0 points. The number of such cases in the West Bank amounted to (16), but since 10% was deducted from the points for each case, up to a maximum of 10 cases, the number of cases in the West Bank amounted to (0) points, compared to (20) in Gaza Strip. Therefore, the number of weighted points for this indicator amounted to (0).
- The indicator of the number of cases in which fines were imposed on journalists under judicial decisions for committing publishing offences received 111 points, and these points are the total points received, in both the West Bank and Gaza Strip, as the number of such cases was (0).
- The indicator of excessive and arbitrary prosecution and criminalization of journalists on the grounds of publication received 47 points. The points were tightening between the West Bank (47) and Gaza Strip (46). Option "sometimes yes" received (34) points, while option "no" received (13) points.
- The indicator of physically assaulted by security services or official authorities on duty received (87) points. The points were tightening between the West Bank (89) points and Gaza Strip (83) points. Option "sometimes yes" received (17) points, while option "no" received (69) points.
- The indicator of my press equipment were seized or damaged on the background of my journalistic work received (84) points. The points were tightening between the West Bank (87) points and Gaza Strip (80) points. Option "yes, but limitedly" received (18) points, whereas option "no" received (62) points.
- The indicator of filing complaint at the official authorities on the background of physical assaults or damaging press equipment received (14) points, (11) points in the West Bank, compared to (19) points in Gaza Strip.

Throughout the first half of 2017, MADA reported that both authorities in the West Bank and Gaza Strip are responsible for violations of freedom of press and have committed 101 attack on journalists and media outlets, part of which 20 attacks were in Gaza Strip.

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 that the right to freedom of peaceful assembly can be exercised in Gaza without undue interference and restrictions.

In 18 June 2018, a demonstration organized by the Commission of Detainees and Ex-Detainees as well as by the families of Palestinian prisoners in Israeli jails was quelled by the de facto authorities in Gaza

City. The demonstration conduct was peaceful and has called for halting the sanctions on Gaza Strip and for unity between the Fatah-run government in the West Bank and the de facto Hamas government in the Gaza Strip. As a result, physical assaults against both demonstrators and journalists were carried out by plain-clothed men affiliated with the Hamas de facto authorities. According to MADA, eight journalists and cameramen were attacked and beaten and had their cameras destroyed while covering the demonstration. At all events, no demonstrator was sustained serious injury.

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 practice of short-term detentions, including of journalists, has been halted.

According to the latest report of MADA, wave of arrests and detentions have been carried out by the Palestinian security services in the West Bank and the Gaza Strip since the beginning of 2019. These practices included nine journalists in addition to a number of other journalists who have been exposed to the same violations in late last month in Gaza. The journalists from the West Bank are as follows: Yousef al-Faqih, Mahmoud Harish who was detained for 22 days and released two days ago, Zaid Abu 'Ara, the media student at Birzeit University Hamzah Mahmoud Khader, Hazem Nasser, Metasim Sakf Al-Hait, Amir Estate and Faisal Rifai, whose freedoms were held for hours. As for Gaza, Louay al-Ghoul was summoned and detained by the Internal Security for three consecutive times, on 6, 7 and 8 January, for long hours during which he was tortured and beaten. He was subjected to ongoing investigation, interrogation, and detention for long hours each time during which was beaten and tortured. His head was placed in a plastic bag after being transferred to an interrogation room, and he was assaulted and beaten with hands and whips on his shoulders and thighs area after removing the winter jacket.

MADA strongly condemns these arbitrary practices and reiterates its call for the competent authorities to stop these violations, release all journalists detained by the security forces, and investigate the incidents of abuse especially what the journalist al-Ghoul was subjected to during his detention.

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)

The de facto authority in Gaza Strip is tightening security and questioning foreign visitors such as journalists and aid workers. However, since March 2018, considerable increase of foreign journalists have been entering Gaza to cover the ongoing return-demonstrations held on Fridays.

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?

In general, no laws, regulations, policies, administrative decisions or other measures that positively

affect the right to freedom of opinion and expression have been implemented following the Special Rapporteur's visit.

Legislatively, The Palestinian Cybercrimes Law of June 2017 was controversial as it was introduced by virtue of Presidential Decree, not by the Legislative Council. This law has an adverse effect on the course of human rights in general and the right to privacy and freedom of opinion and expression in particular. MADA calls for amendment or repeal of this law and affirms that Palestine has acceded to several international conventions guaranteeing and protecting freedom of opinion and expression, foremost of which is the International Covenant on Civil and Political Rights. Therefore, it is incumbent on Member States to take all legislative or other measures in line with international standards.

Limit: 1,000 words

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

MADA is pleased to address its recommendations on the improvement and promotion of the freedom of press in Palestine, as came out in its latest Annual Index of February 2019:

1. The need to establish independent Higher Media Council, to ensure respect for freedom of the press, and the regulation of the media.
2. The need for the official authorities in the West Bank and Gaza Strip to abandon the policy of involving journalists in internal differences and division, which restricts their freedoms, and the implementation of reciprocal restraining actions against press freedom.
3. To approve Access to Information Law, and to make available the necessary mechanisms to enforce such Law.
4. To seriously investigate the complaints filed by the media professionals related to the attacks and assaults against them and to bring the perpetrators before justice.
5. To refrain from arresting and imprisoning media professionals on the basis of their journalistic work, and to merely be satisfied with filing civil complaints in case of defamation.
6. To reconsider the governmental fees and taxes policies imposed on media outlets to prevent them from being a burden on the media or threaten to shut down.
7. Female/male journalists must abandon self-censorship.
8. To run regular, transparent and free elections at the Journalists Syndicate.
9. To harmonize all domestic laws with international standards in general and with international treaties signed and ratified by the State of Palestine, in particular, including those concerned with freedom of press and expression.

Limit: 500 words