

**Submission of United Nations Watch to the 100th Session
of the Committee on the Elimination of Racial Discrimination
for its review of Israel**

Submitted By:

United Nations Watch
Case Postale 191
1211 Geneva 20, Switzerland
Tel: +41 22 734 1472
briefing@unwatch.org

28 November 2019

A. Introduction

United Nations Watch, an accredited NGO in Special Consultative Status to the UN Economic and Social Council (ECOSOC) makes this submission to the Committee on Elimination of Racial Discrimination (Committee) for its upcoming review of the State of Israel under Israel's seventeenth to nineteenth periodic reports.

United Nations Watch is primarily concerned with the just application of the UN Charter principles. It is a leader at the UN in the struggle against antisemitism, and campaigns at world bodies against all forms of racism and discrimination.

United Nations Watch was founded by Morris B. Abram, a pioneer of the U.S. civil rights movement, and a key drafter of the International Convention on Elimination of all forms of Racial Discrimination (the "Convention").¹ As such, we bear a profound commitment to the Convention and its noble purpose.

B. Equality for Arabs, Bedouins, Druze, Circassians and Israelis of Ethiopian Descent

United Nations Watch welcomes improvements by the country concerned as documented in its Periodic Report, but we need to see further action, progress and implementation.

In wake of allegations of discrimination against Israelis of Ethiopian descent, we need to see the implementation of increased system-wide measures and policies. This should include integrating rather than segregating, empowering families, closing gaps, encouraging excellence and leadership within the community, and educating the society to eliminate all forms of discrimination against Israelis of Ethiopian descent.

Regarding minorities such as Arabs, Bedouins, Druze and Circassians, we welcome the advances in that the employment rate in the civil service rose from 6% in 2007 to 10% in 2017, however we urge the country concerned to commit to make this number double, and to see Arab-Israeli employees within the civil service enjoy a fair percentage of senior level positions with decision-making authority. We note that there were 347 holding senior positions in 2006, and that the number rose to 562 in 2014. This should continue.

Generally, we urge increased measures to empower the Arab population and to reduce gaps between that population and Israeli society in general, especially for Arab women. We call for more improvements for Arabs, Druze, Bedouins and Circassians in education, improving public transportation, paving new roads in Arab localities, training Arab women as public transportation drivers, commerce and trade and employment, by establishing more child care and recruitment of more Arab police personnel.

¹ David Lowe, *Touched with Fire: Morris B. Abram and the Battle against Racial and Religious Discrimination*, University of Nebraska Press, 2019.

C. The Committee should not allow this review to be politicized by those falsely portraying self-defense against terrorism as racism

UN Watch is concerned that some of the submissions to this review process argue for the misuse of the Convention in order to condemn Israel for racial discrimination as a result of legitimate security measures whose purpose and effect is to protect Israeli citizens from deadly rockets and other forms of terrorism.

Israel's right to self-defense is enshrined in Article 51 of the UN Charter and in customary international law. In addition, Article 5 of the Convention obligates state parties to guarantee their citizens' "right to security of the person...against violence or bodily harm..." Therefore, the Convention obligates Israel to protect the physical security of its population against terrorism.

It also must be emphasized that Palestinians living in the West Bank and Gaza are not Israeli citizens. They vote for a Palestinian president and legislature based in Ramallah. Article 1.2 of the Convention expressly provides that the Convention does not apply to distinctions by a State party "between citizens and non-citizens."

The Arab-Israeli conflict is a political and military conflict which dates back well over a century, to even before the UN voted in 1947 for Jewish and Arab states in former British Mandatory Palestine. Over the course of that long history, numerous wars were fought, including the Six Day War in which Israel gained control of the territories commonly referred to as the West Bank and the Gaza Strip. According to the Oslo Accords, the peace agreements signed between Israel and the Palestine Liberation Organization (PLO) in the mid-1990s, these territories were designated for Palestinian self-rule, with the notion that this would lead to a Palestinian state, the final borders of which would be determined in final status negotiations that have yet to take place.²

Unfortunately, the Oslo peace process of the mid-1990s was quickly followed by a bloody five-year Palestinian terror campaign against Israelis, from 2000 to 2005, in which more than 1,000 Israelis were killed and thousands more injured.³ During that time, Palestinian terror attacks against civilians—on buses, in restaurants, markets and dance clubs—were an almost daily occurrence, including deadly suicide bombings and other explosives and shooting attacks.⁴

By 2005, Israel was able to bring the violence to an end by implementing a variety of military and security measures designed to protect the Israeli civilian population, including its security

² Articles 11 and 31, Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip (Sep. 28, 1995) [*Hereinafter The Interim Agreement*], <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement.aspx>.

³ *The Situation on the eve of the Second Intifada (2000)*, MINISTRY OF FOREIGN AFFAIRS (last visited Nov. 26, 2019), <https://mfa.gov.il/MFA/AboutIsrael/Maps/Pages/Situation-on-the-eve-of-the-Second-Intifada.aspx>

⁴ *Victims of Palestinian Violence and Terrorism since September 2000*, MINISTRY OF FOREIGN AFFAIRS (last visited Nov. 26, 2019), <https://mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/victims%20of%20palestinian%20violence%20and%20terrorism%20sinc.aspx>.

barrier.⁵ In addition, in 2005, Israel completely withdrew its armed forces and civilian population from the Gaza Strip.

In 2006, the Hamas terrorist organization—recognized as such by the EU, the U.S., Canada, Australia and other countries—won the Palestinian legislative elections, but its clashes with President Mahmoud Abbas’ Fatah party prevented a unity government. In 2007, Hamas violently seized control of Gaza. In the years since then, Hamas, Islamic Jihad, and other terrorist groups in Gaza have routinely fired thousands of rockets indiscriminately into Israel, terrorizing the civilian population and causing numerous deaths and injuries as well as severe property destruction. In 2018 alone, more than 1,000 rockets were fired at Israel from Gaza.⁶ In the most recent escalation on November 12-16, 2019, Palestinian terrorist groups in Gaza indiscriminately fired 562 rockets at Israeli civilians.⁷

The Convention is about racism. It should not be weaponized in service of a political agenda. Arguing that all of Israel’s security measures are racist because they are directed at the population in the Palestinian territories, notwithstanding the terrorist threats coming from that territory, dilutes the meaning of racism and turns it on its head. Denying Israel the right to adopt basic security measures denies Israel its right to self-defense. This effectively denies the rights of the Jewish people to self-determination in their historic national homeland while legitimizing Palestinian terrorist attacks against Jews due to their ethnic and religious identity. The Committee should not allow the concept of racism to be diluted and politicized through this review.

Below are several examples of submissions made in this review which falsely characterize self-defense or security measures as racism. The Committee must not allow the Convention and the principles of anti-racism to be subverted.

1. “Security barrier deprives Palestinians of the right to self-determination”

Al Haq’s joint submission refers to Israel’s West Bank security barrier as “the Annexation Wall,” in a section on “institutionalized racism,” for allegedly “depriving Palestinian communities of their rights to adequate housing and access to land and resources, in denial of the Palestinian people’s right to self-determination.”⁸

⁵ Jonathan Schachter, *The End of the Second Intifada?* INSTITUTE FOR NATIONAL SECURITY STUDIES (Oct. 2010), [https://www.inss.org.il/he/wp-content/uploads/sites/2/systemfiles/\(FILE\)1289897140.pdf](https://www.inss.org.il/he/wp-content/uploads/sites/2/systemfiles/(FILE)1289897140.pdf).

⁶ Anna Ahronheim, *IDF annual report: 1,000 rockets fired at Israel from Gaza in 2018*, JERUSALEM POST (Dec. 31, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/IDF-1000-rockets-fired-at-southern-Israel-from-Gaza-over-the-past-year-575871>.

⁷ *Summary of the Most Recent Round of Escalation in the Gaza Strip*, THE MEIR AMIT INTELLIGENCE AND TERRORISM INFORMATION CENTER (Nov. 20, 2019), <https://www.terrorism-info.org.il/en/summary-recent-round-escalation-gaza-strip/>.

⁸ *Joint Submission to the Committee on the Elimination of Racial Discrimination for the List of Themes on Israel’s Seventeenth to Nineteenth Periodic Reports*, AL-HAQ, BADIL, HABITAT INTERNATIONAL COALITION, CAIRO INSTITUTE FOR HUMAN RIGHTS STUDIES, p. 4 (Sep. 5, 2019), [*Hereinafter Joint Al-Haq Submission*].

In fact, the security barrier was built in response to the second intifada, in which more than 1,000 Israelis were killed and thousands more injured.⁹ Its purpose was not “racism” but to prevent terrorist attacks against Israelis, and there is no doubt that it succeeded in preventing such attacks.¹⁰ After Israel introduced security measures such as the barrier, “Israeli deaths by Palestinian terrorism from the West Bank – and discrete terrorist incidents – plunged, and have remained annually in low single digits.”¹¹ Condemning the security barrier for violating the Palestinians’ right to self-determination only legitimizes the terrorism of Hamas and other Palestinian terror groups whose stated purpose is to eliminate Israel, in other words, to negate the self-determination of the Jewish people.

The Supreme Court of Israel conducted a detailed review of the legality of the security barrier under international law, in several cases brought by local Palestinian residents impacted by the barrier’s route. The court has granted petitions of Palestinians to alter the route of the barrier.¹²

Construction of the security barrier was not a right-wing project. Left-wing Israeli politicians such as Isaac Herzog, former leader of the opposition Labor Party, supported the barrier as a security measure, while many Israeli settlers oppose the barrier because they do not want to be “isolated” on the Palestinian side.¹³ Settlers often oppose the creation of any barriers between Israel and the territories, which they see as one.¹⁴

The Committee should also be aware that contrary to what is represented in the Al Haq joint submission, construction of the security barrier has essentially been frozen for the last 10 years and is not complete. This is in part due to petitions filed in the Supreme Court of Israel by Palestinians living along the route. Indeed, as of December 2017, hundreds of kilometers of the projected barrier have not been completed.¹⁵

⁹ *The Situation on the eve of the Second Intifada (2000)*, MINISTRY OF FOREIGN AFFAIRS (last visited Nov. 26, 2019), <https://mfa.gov.il/MFA/AboutIsrael/Maps/Pages/Situation-on-the-eve-of-the-Second-Intifada.aspx>

¹⁰ Zohar Palti, *Israel’s Security Fence: Effective in Reducing Suicide Attacks from the Northern West Bank*, WASHINGTON INSTITUTE (July 7, 2004), <https://www.washingtoninstitute.org/policy-analysis/view/israels-security-fence-effective-in-reducing-suicide-attacks-from-the-north>; Laurence E. Rothenberg and Abraham Bell, *Israel’s Anti-Terror Fence: The World’s Court Case*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (Feb. 2004), <http://www.jcpa.org/jl/vp513.htm>.

¹¹ *The Lessons of the West Bank and Lebanon in Gaza*, JINSA (Dec. 30, 2008), <https://jinsa.org/the-lessons-of-the-west-bank-and-lebanon-in-gaza/>.

¹² Daphna Barak-Erez, *Israel: The Security barrier-between international law, constitutional law, and domestic judicial review*, TEL AVIV UNIVERSITY (2006), <https://www.tau.ac.il/law/barakerez/articals/barrier.pdf>.

¹³ Tovah Lazaroff, *Herzog: Netanyahu must finish security barrier around West Bank settlement of Ariel*, JERUSALEM POST (Feb. 23, 2016), <https://www.jpost.com/Arab-Israeli-Conflict/Herzog-Netanyahu-must-complete-West-Bank-security-barrier-build-in-settlement-blocs-445880>; Tovah Lazaroff, *Knesset Nixes bill forcing completion of West Bank security barrier*, JERUSALEM POST (June 7, 2018), <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Knesset-nixes-bill-forcing-completion-of-West-Bank-security-barrier-559356>.

¹⁴ David Haivri, *I’m A Settler Who Opposes The Security Barrier*, THE FORWARD (Jan. 15, 2019), <https://forward.com/opinion/417603/im-a-settler-who-opposes-the-security-barrier-and-the-new-apartheid-road/>.

¹⁵ Tovah Lazaroff, *Knesset Nixes bill forcing completion of West Bank security barrier*, JERUSALEM POST (June 7, 2018), <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Knesset-nixes-bill-forcing-completion-of-West-Bank-security-barrier-559356>.

2. *Gaza blockade*

The Al Haq joint submission denounces Israel's military blockade of Gaza, which it claims "amounts to unlawful collective punishment," and violates "social, political, cultural, economic, and civil rights" protected under Article 5 of the Convention.¹⁶ Similarly, the Geneva Centre for Justice (GICJ) attacks the Gaza blockade for hindering "the right to health of Palestinians."¹⁷

These submissions seek to falsely characterize self-defense against thousands of rockets and other forms of terrorism as racism or discrimination. Yet Israel has an international legal obligation to protect its citizens from all physical attacks.

Article 5 of the Convention provides that state parties are obligated to eliminate racial discrimination and guarantee certain basic rights "without distinction as to race, color, or national or ethnic origin." One of the rights protected in Article 5(b) is "the right to security of the person."

Putting aside the question of whether this provision even applies to the Palestinians of Gaza, who are not Israeli citizens and thus can be treated differently on that ground under Article 1.2 of the Convention, the blockade of Gaza is not a racist measure against the Palestinians due to their national or ethnic origin, but rather a self-defense measure in response to Palestinian terrorism from Gaza.

Indeed, the United Nations itself confirmed this reality. The UN's 2011 Palmer report on the Mavi Marmara incident expressly found that Israel's Gaza blockade is not collective punishment and is legal under international law. "Israel faces a real threat to its security from militant groups in Gaza. The naval blockade was imposed as a legitimate security measure in order to prevent weapons from entering Gaza by sea and its implementation complied with the requirements of international law."¹⁸ That report was the product of the UN's independent panel of inquiry headed by Geoffrey Palmer, a former Prime Minister of New Zealand.

The Panel's specific findings concerning the Gaza Blockade include:

- The conflict between Israel and Hamas in Gaza is an international armed conflict for the purposes of the law of blockade.¹⁹
- Israel had intercepted ships smuggling weapons into Gaza, and it faced a real security threat from thousands of Gaza rocket and mortar attacks targeting civilians, the purpose of which was (and remains) "to do damage to the population of Israel."²⁰

¹⁶ *Joint Al-Haq Submission, supra note 8*, p. 16.

¹⁷ Alternative Report on the State of Israel submitted by Geneva International Centre for Justice (GICJ), ¶ 46 (Oct. 2019) [*Hereinafter GICJ Report*].

¹⁸ *Report of the Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident*, ¶ 82 (Sep. 2011) [*Hereinafter Palmer Report*], https://unwatch.org/wp-content/uploads/2012/01/Gaza_Flotilla_Panel_Report.pdf.

¹⁹ *Id.* at ¶ 73.

²⁰ *Id.* at ¶ 72.

- The blockade was declared and notified, and it is implemented in an impartial manner.²¹
- The blockade was imposed pursuant to a valid military objective. It is not collective punishment against the people of Gaza for having elected Hamas, as Israel’s earliest maritime interceptions to prevent weapons smuggling to Gaza predated the Hamas take-over, and the blockade itself was instituted more than one year after the take-over.²²
- The blockade is not disproportionate, as Gaza’s port is too small to handle large shipments of goods, which are instead transferred to Gaza through land crossings. Thus, the impact of the blockade on the delivery of supplies to Gaza is “slight in the overall humanitarian situation.”²³

As the UN panel found, the conflict between Israel and Hamas in Gaza is an international armed conflict; Israel faces a real security threat from thousands of Gaza rocket and mortar attacks targeting civilians, the purpose of which is to do damage to the population of Israel; the blockade is imposed to stop the smuggling of arms, which is a valid military objective, and it is not disproportionate. In a word, the blockade has nothing whatsoever to do with racism.

Furthermore, humanitarian goods and services are regularly transferred to Gaza through the Kerem Shalom and Erez crossings. According to Israel’s Coordination of Government Activities in the Territories (COGAT), in October 2019, 7,213 truckloads of goods and nearly 3 million liters of diesel and benzine entered Gaza in October.²⁴ In addition, Gazans regularly cross into Israel for humanitarian reasons. On November 19, 2019, eight ambulances crossed through the Erez crossing and 119 Gazans entered Israel for humanitarian reasons.²⁵

3. *Suppression of Gaza riots*

The Al Haq joint submission accuses Israel of violating the right to life of the Palestinians in Gaza in connection with Israel’s use of force against rioters along the Gaza border. The submission goes so far as to say that Israel’s use of force amounts to a denial of the “right to life and liberty of person” to Gaza Palestinians as “members of a racial group through acts of murder,” and thus within the definition of the “crime of apartheid under Article II(a)(i) of the Apartheid Convention.”²⁶

This is baseless. On the contrary, the violent riots themselves are motivated by antisemitism and racism against Israelis based on their national and ethnic identity. Since March 2018, rioters along the Gaza border, inundated with murderous antisemitic and terrorist incitement, have attacked the border fence and attempted to infiltrate Israel with the intention of harming Israeli civilians.

²¹ *Id.* at ¶¶ 75-76.

²² *Id.* at ¶ 77.

²³ *Id.* at ¶ 78.

²⁴ *Our Activity Towards the Gaza Strip Monthly Report – October 2019*, COGAT (last visited Nov. 26, 2019), <http://www.cogat.mod.gov.il/en/Gaza/Pages/default.aspx>.

²⁵ @cogatonline, Twitter (Nov. 19, 2019, 11:02 AM), <https://twitter.com/cogatonline/status/1196715378732412929>.

²⁶ *Al-Haq Joint Submission, supra note 8*, at p. 19.

Furthermore, although many of the Gazans at the border were peaceful, the riots have been characterized by large-scale violence, including throwing Molotov cocktails, detonating explosives at the fence, shooting at Israelis soldiers, throwing rocks and other projectiles at Israeli soldiers, burning tires, and indiscriminately launching incendiary balloons and kites into Israel which have caused millions of dollars in economic and environmental damages.

Israeli civilian communities in close proximity to the fence, some less than four kilometers away, have been terrorized by these events. Ironically, by characterizing the riots as peaceful and failing to acknowledge the violence and terrorism among the rioters, Al Haq denies the right to life of Israelis which Israel is mandated to protect under Article 5(b) of the Convention. Israel's forceful response to the riots is grounded in its right to self-defense under international law and is not motivated by any desire to murder the Palestinians of Gaza due to their race or ethnicity. Indeed, most of the Palestinians killed along the border have been identified as operatives of one of Hamas, Palestinian Islamic Jihad, or another Islamist terror group in Gaza. Questions concerning the degree of force permissible to Israel in this context and whether Israel's response to the threat from these riots complies with relevant international law are questions for military law experts and are not appropriate for this Committee. UN Watch has set forth its position on these issues in a number of documents available on our website.²⁷

4. Disrespect of the right of return for Palestinians

Several submissions, including that of Al-Haq in its joint submission, GICJ and the Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ) denounce Israel for allegedly denying the "right of return" to the Palestinians, claiming it is a discrimination issue. Al-Haq and GICJ go so far as to use this to charge Israel with institutionalized apartheid against the Palestinians, citing to the controversial March 2017 report of the UN Economic and Social Council of Western Asia (ESCWA)²⁸ which was expressly rejected and deleted from the UN website by instruction of Secretary-General Guterres. UN spokesman Stephane Dujarric said that the report was published without consultation with the UN and "does not reflect the views of the Secretary-General."²⁹ Indeed, the return of refugees is a purely political issue which the Oslo Accords left for final status negotiations.

²⁷ *Submission to United Nations Commission of Inquiry on the 2018 Protests in the Occupied Palestinian Territory Established Pursuant to UNHRC Resolution S-28/1*, UN WATCH (Dec. 9, 2018), <https://unwatch.org/wp-content/uploads/2012/01/Submission-to-Gaza-COI-United-Nations-Watch.pdf>; *Breaking: UN Watch rejects findings of report by UN Commission of Inquiry on Gaza violence*, UN WATCH (March 4, 2019), <https://unwatch.org/breaking-un-watch-rejects-findings-todays-report-un-commission-inquiry-gaza-violence/>; *Response to UN's Gaza inquiry press conference*, UN WATCH (March 6, 2019), <https://unwatch.org/un-watches-response-press-conference-un-commission-inquiry-gaza/>.

²⁸ Al-Haq Joint Submission, *supra* note 8, at pp. 9-10; GICJ Report, *supra* note 17, at ¶¶ 36-38; *Parallel Report to the Committee on the Elimination of Racial Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports*, CIVIC COALITION FOR PALESTINIAN RIGHTS IN JERUSALEM, pp. 3-4 (Nov. 1, 2019), [*Hereinafter CCPRJ Report*].

²⁹ *UN chief rejects Richard Falk's ESCWA report accusing Israel of 'apartheid'*, UN WATCH (March 16, 2017), <https://unwatch.org/un-chief-rejects-richard-falks-escwa-report-accusing-israel-apartheid/>; *Senior U.N. official quits after 'apartheid' Israel report pulled*, REUTERS (March 17, 2017), <https://www.reuters.com/article/us-un-israel-report-resignation/senior-u-n-official-quits-after-apartheid-israel-report-pulled-idUSKBN16O24X>.

As a legal matter, there is no automatic “right of return” under international refugee law.³⁰ As Professor Ruth Lapidoth has noted, “in the context of general international law one also has to observe that humanitarian law conventions...do not recognize a right of return.”³¹ The so-called “right of return” is founded in UNGA Resolution 194, which is not legally binding under international law. Significantly, Resolution 194 considers “return” only for those wishing to “live at peace with their neighbors,” and otherwise offers a compensation option. Moreover, under international refugee law, refugee status is terminated on the acquisition of a new nationality.³² Indeed durable solutions for refugees include resettlement in another country and integration within a host community.³³

Thus, so-called refugees living in the West Bank and Gaza Strip who are fully integrated in their own Palestinian territory are not refugees. In the words of former UNRWA General Counsel James Lindsay, “technically, many of these individuals are not refugees at all under the terms of the 1951 Convention...Other than being on the UNRWA rolls, refugees in the West Bank and Gaza have largely the same political and economic status as non-refugees.”³⁴

The submissions referenced above ignore the fact that championing the “right of return” for millions of Palestinians to family homes inside Israeli territory would mean the end of Israel as the Jewish state and a denial of the right of the Jewish people to self-determination.

As UNRWA expert Dr. Einat Wilf said in her speech to the Human Rights Council at its September 2019 session:

Having failed to [prevent the Jewish people from having a state] by wars, terrorism and economic boycotts, Palestinians have hijacked UNRWA, which was to be a temporary agency for resettlement, to create and sustain a fiction that they are still all somehow refugees, generation after generation, and all possess a right, which does not exist in international law, to settle in a sovereign country in which they never lived and of which they were never citizens, so as to ensure that Israel no longer exists as a state for the Jewish people.³⁵

Thus, rejecting the so-called Palestinian “right of return” is not racist against Palestinians, but to the extent that advocating for this right necessarily implies the elimination of a sovereign Jewish state, it may amount to racism against Jews. The attempt by the Palestinians to turn their political claim to “return” into an issue of racial discrimination should be soundly rejected.

³⁰ Howard Adelman and Elazar Barkan, *No Return, No Refuge: Rites and Rights in Minority Repatriation*, COLUMBIA UNIVERSITY PRESS, at 13 (2011).

³¹ Ruth Lapidoth, *Legal Aspects of the Palestinian Refugee Question*, JERUSALEM CENTER FOR PUBLIC AFFAIRS (Sep. 1, 2002) (noting that humanitarian law conventions do not recognize a right of return).

³² Article 1(C), 1951 Refugee Convention.

³³ Solutions, UNHCR (last visited Nov. 26, 2019), <https://www.unhcr.org/solutions.html>.

³⁴ James G. Lindsay, *UNRWA Funding Cutoff: What next?* WASHINGTON INSTITUTE (Sep. 6, 2018), <https://www.washingtoninstitute.org/policy-analysis/view/unrwa-funding-cutoff-what-next>.

³⁵ *Rare U.N. Speech: “Palestinians hijacked UNRWA to ensure Israel no longer exists as state for the Jewish people,”* UN WATCH (Sep. 27, 2019), <https://unwatch.org/dr-einat-wilf-at-unhrc-if-the-conflict-is-ever-to-end-with-peace-unrwa-should-no-longer-exist/>.

5. *Family reunification*

Several of the submissions, including Al-Haq and Adalah, attack Israel's Citizenship and Entry into Israel Law (2003), as racially discriminatory.³⁶ In fact, the law was enacted for security reasons to prevent terrorist attacks. As MK Avi Dichter, Chairman of the Knesset Foreign Affairs Committee explained in June 2018 when the law came up for renewal, the law continued to be necessary because of the "involvement in terror attacks of Palestinians who are originally residents of Judea, Samaria or Gaza, and hold an Israeli identification card due to family reunification. These identification cards allow free movement between the Judea and Samaria region and Israel, and within Israel itself."³⁷

MK Dichter further noted that "13 of the 29 terror attacks which took place between 2001 and 2014 were committed by Palestinians who are originally residents of Judea, Samaria or Gaza, and hold an Israeli identification card due to family reunification. Twice as many terror attacks, 26, were committed by Palestinians with a similar status over the past three years."³⁸

Furthermore, the law was upheld by the Supreme Court of Israel, which held that "the right to family life does not necessarily have to be realized within the borders of Israel."³⁹ Indeed, Israel has no legal obligation to grant Palestinians from the West Bank or Gaza automatic Israeli citizenship or permanent residency as a result of marriage to an Israeli. Most countries do not grant automatic citizenship to non-nationals as a result of marriage to a citizen.

6. *Application of Israeli military law to West Bank Palestinians*

The GICJ accuses Israel of discrimination based on the misleading claim that Palestinians in the West Bank are subjected to Israeli military law, while Israelis in the West Bank are subjected to Israeli civilian law.⁴⁰ In reality, most crimes committed by Palestinians in the West Bank are under Palestinian (not Israeli) jurisdiction while Israelis in the West Bank are under Israeli jurisdiction. However, pursuant to the Oslo Accords which designates the respective areas of jurisdiction of each of the parties, certain security-related offenses committed by Palestinians in the West Bank are under the jurisdiction of the Israeli military.⁴¹

Indeed, according to the UN which demands application of the Geneva Convention, application of military law to Palestinians in the West Bank is mandatory because Article 64 of the Fourth Geneva Convention would prohibit Israel from extending its domestic legal system over

³⁶ *Al-Haq Joint Submission*, *supra* note 8, at p. 13; *NGO Report to the UN Committee on the Elimination of Racial Discrimination in Advance of its List of Themes for the State of Israel*, ADALAH (Sep. 12, 2019) [*Hereinafter Adalah Report*]; *CCPRJ Report*, *supra* note 28, at p. 10.

³⁷ *Knesset approves extension of Citizenship and Entry into Israel Law*, KNESSET (June 5, 2018), https://m.knesset.gov.il/EN/News/PressReleases/pages/Pr13905_pg.aspx.

³⁸ *Id.*

³⁹ *High Court rejects petition against citizenship law*, JERUSALEM POST (Jan. 11, 2012), <https://www.jpost.com/Diplomacy-and-Politics/High-Court-rejects-petition-against-citizenship-law>.

⁴⁰ *GICJ Report*, *supra* note 17, at ¶ 42.

⁴¹ Article 27 of the Interim Agreement; Annex 4 of the Interim Agreement.

Palestinian citizens of the West Bank.⁴² In addition, Article 43 of the Hague regulations obligates Israel to establish military courts as part of its obligation to “take all measures in [its] power to restore, and ensure, as far as possible, public order and safety.”⁴³ Thus, if Israel were to apply Israeli civilian law to West Bank Palestinians in security cases, GICJ would accuse Israel of attempting to annex the territories in violation of international law.

D. Conclusion

The Committee should address genuine issues of discrimination and racism within Israeli society. It should reject attempts to exploit this review for political purposes and to delegitimize basic self-defense measures under the false charge of racism.

⁴² Article 64, Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (Aug. 12, 1949), <https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

⁴³ Article 43, Annex to the Convention: Regulations Respecting the Laws and Customs of War on Land (Oct. 18, 1907), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=3741EAB8E36E9274C12563CD00516894>.