

Report on Israel to the 134rd session of the UN Human Rights Committee

public report

The abusive restrictions on the freedom of movement on palestinians journalists

I. Introduction

A. Reporters without borders

REPORTERS WITHOUT BORDERS (RSF) is an international non-governmental organisation promoting and defending the freedom, pluralism and independence of journalism throughout the world. Based in Paris and created in 1985, the organisation holds a consultative status at the United Nations and UNESCO and has offices in 14 countries and correspondents in 130 countries.

The organisation is dedicated to defend the right to inform as well as the right to be informed pursuant to article 19 of the Universal declaration of human rights. RSF is determined to protect those who are targeted for the legitimate exercise of their freedom of expression and that is why we have the honor to present to you this report on the serious human rights breaches by Israel in that matter.

B. Applicability of the covenant

According to the Israeli Government's reasoning, the provisions of the ICCPR do not apply to the occupied territories but rather only to the Israel territory stricto sensus. Therefore, following a strict interpretation based on the territoriality of the applicability of the Covenant, the government claims it is not responsible for the enjoyment of the Covenant to Palestinians citizens.

However, the applicability of the ICCPR to occupied territories has been affirmed in international law and by multiple international bodies such as the General Assembly¹, the High Commissioner for Human Rights² as well as by human rights bodies³.

Considering international precedents and the current situation of occupation, the Covenant is in fact applicable since Israel still has an effective control over the occupied territories. In that respect, they are to be held accountable for their violations of the covenant in the occupied territories⁴.

As a result, Israel's human rights obligations within the Occupied Palestinian Territory stem from the jurisdiction and effective control exercised by Israel as the occupying power⁵. The Covenant falls within the ambit of State responsibility of Israel under the principle of public international law. Hence, RSF brings to your attention some of the blatant violations of the Covenant that the State of Israel failed to address in its report on the basis of an erroneous interpretation of the Covenant's extraterritorial applicability.

C. Human Rights breaches to be addressed

This submission to the Human Rights Committee (hereafter the Committee) ahead of its examination of Israel's fifth periodic report to the International Covenant on Civil and Political Rights (hereafter the Covenant) at the 134th session (28 February to 25 March 2022) provides information on:

- the abusive and disproportionnate restrictions on the freedom of movement especially of palestinian journalists
- the consequent violations of the freedom of expression and the right to private and family life
- the failure to provide adequate and effective remedy to address those violations

The freedom of movement in the Occupied Palestinian Territory has been addressed by the Secretary General in a report to the United Nations Human Rights Council in 2016⁶. Yet, to this day, the State's actions remain inconsistent with its international obligations and journalists in particular are targeted by abusive restrictions to their freedom of movement

II. Analysis (article 12, 19, 17, 2)

¹ General Assembly Resolution 71/98 (A/RES/71/98)

² A/HRC/8/17, para.7

³ Human Rights Committee (CCPR), General Comment 31 (2005), paragraphe 10

⁴ International Court of Justice, Advisory Opinion on the Wall, 2004

⁵ A/HRC/34/38 paragraphe 6

⁶ Human rights situation in the occupied palestinian territory, including east Jerusalem, report of the secretary-general to the united nations Human rights council, February 2016 – A/HrC/31/44

Paragraphe 18 of the List of Issue Prior to reporting (LOIPR)

A. Freedom of movement : Article 12

The Israeli Government began tightening its grasp on the freedom of movement of Palestians citizens as early as 1991 when the Government passed a policy requiring them to request a permit to enter Israel territories and travel between Palestian territories. To complement and enforce this permit requirement, many checkpoints have been put in place.

In the last 20 years, the government gradually reduced the number of permits issued. Furthermore, these policies are totally under the discretionary power of the Israeli authorities which enforced an arbitrary and non-transparent bureaucratic system. In fact, they put in place a very opaque procedure preventing potential recipients from reasonably assessing the result of their requests and allowing the authorities to issue refusals without any appropriate explanations.

As a consequence, Palestinians can be subjected to severe restrictions such as indefinite travel bans.

Pursuant to the non-transparent system put in place by the authorities, the motives of the ban are often not communicated to the individual targeted by the measure, and the authorities only justify the measures by “security concerns”, based on confidential files, inaccessible to the individual. In several cases, the length of the ban is unknown to the individual targeted by these measures.

Journalists in particular are targeted by such measures. According to RSF tally, at least 21 Palestinian journalist are currently banned from travelling abroad⁷.

Many journalists targeted by such bans were reporting on sensitive issues – such as corruption or human rights violations. RSF has serious reasons to believe that, in those cases, the restrictions are linked to the legitimate exercise of their freedom of expression.

In a report⁸ from November 2021 exposing the restrictions on the freedom of movement on Palestinian journalist, EURO-Med Human Rights Monitor goes as far as to expose a strategy of extortion against journalists in exchange for their freedom of movement : Israeli authorities condition the lift of a travel ban with the cooperation of

⁷ <https://rsf.org/en/news/rsf-and-euro-med-condemn-israeli-travel-bans-palestinian-journalists>

⁸ Full report : <https://euromedmonitor.org/en/article/4758/Punishing-journalists:-Israel-extorts-Palestinian-journalists,-bans-them-from-traveling---new-report>

journalists with Israeli intelligence - concerning their sources or sensitive information about Palestinians.

In RSF's view, in the absence of proper legal basis or official explanation for the travel ban, such restriction of the freedom of movement is inconsistent with article 12 paragraph 2 of the International Covenant on Civil and Political Rights (ICCPR)⁹ and with the criteria set forth in paragraph 3 of the same article and in the General Comment n°27 of the Human Rights Committee¹⁰. While limitations to article 12 are authorised in the third paragraph, notably in order to protect national security, the travel bans imposed on journalists are both unnecessary and totally disproportionate. Indeed, the mere mention of national security as justification, without providing elements on the motives, makes it impossible to assess its necessity and legality, and does not meet the requirements of article 12 para 3.

The blatant failure of the Government to legally justify those restrictions to the freedom of movement – in regards to international law – amounts to a disproportionate interference in the journalists' rights. Despite the refusal of the Government to address this alarming issue in its fifth report, we urge the committee to recognise the violation of article 12 and to call on the Israeli authorities to take all necessary measures in order to ensure compliance with international standards on freedom of movement. In the absence of appropriate justification for those measures, all abusive travel bans against journalists must be lifted.

B. Other violations

The freedom of movement is a prerequisite for the enjoyment of many other rights listed in the Covenant. By imposing on journalists non-sufficiently justified and disproportionate restrictions on their freedom of movement, the Government is consequently violating a broad range of rights set forth in the Covenant and notably their freedom of expression and opinion (article 19) as well as their right to an effective remedy (article 2).

- Freedom of Expression

Many of the journalists targeted by such restrictions were well-known for their work on sensitive subjects for Israeli authorities.. The great similarities in the cases of travel bans against journalists give a strong reason to believe that these restrictions are

⁹ <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

¹⁰ <https://www.refworld.org/pdfid/45139c394.pdf>

aimed at hampering and punishing the legitimate exercise of the freedom of expression. In that respect, the violations of article 12 of the ICCPR actually stems from the intent to stymie critical voices and restrict the freedom of expression of Palestinian journalists as well as to sanction them.

Furthermore, EURO-Med human rights monitor, as aforementioned, reports a strategy of extortions towards journalists. The will to extort confidential or sensitive information obtained in the course of their professional activities, as a condition for the lifting of the ban reveals a causal link between those measures and their journalistic activities.

Beyond the disguised motives for the restrictions, we also note the disastrous effect of such bans on their ability to continue their professional activities.

Some journalists work abroad or in a different palestinian territory and are therefore forbidden from going back to their place of work. Such restriction can also hamper their ability to cover events happening in other palestinian regions.

Therefore, these measures have a double objective, punishing the sensitive reporting of journalists and hampering their future work activities.

- Effective remedy

According to article 2 of the ICCPR, the violations of one's right open a right to an effective remedy against the measures in question.

Considering restrictions on the freedom of movement, the Israeli Government has an obligation to offer an effective remedy to all the journalists claiming a disproportionate interference with their rights set forth in the Covenant.

However, in many cases, the authorities, either administrative or judicial, justify or validate the measure, and reject request for the lifting of the measure, with security concerns based on classified information, which prevents the individual targeted by the measure from knowing the motives of the decision and challenging it - therefore denying them their right to a remedy. Whether journalists turn to the administrative authority like the Liaison office or to a judicial body like the Central Courts, their requests are repeatedly rejected on the same basis: security concerns, based on

classified information. Upholding travel bans without any further investigations or without granting the necessary information to the plaintiff is inconsistent with the international standard on effective remedies and is a disproportionate restriction that does not meet the requirement of article 2 of the ICCPR.

III. Illustration cases :

In our effort to shed a light on this institutionalized attack on not only Palestinian journalists' freedom of movement but also their right to freedom of expression and to an effective remedy, we will detail two emblematic cases. The first case describes the typical but blatant violations of the ICCPR by the Israeli authorities via travel bans. The second, reveals the similarities between journalists' cases and the situation of Mr Zeyad – a human rights defender – who already benefited from a formal expression of concern by the UN Special Procedures. By showing the scope of these restrictions, we hope to draw your attention to the need for a global approach to the issue rather than a case by case basis.

A. Majdoleen Hassona

Majdoleen Hassona is a Palestinian journalist working for the Arabic-language service of the Turkish state-owned TV broadcaster *TRT* in Istanbul. Her husband of Israeli nationality also works as a journalist at TRT.

Hassona is a well-known journalist and is notorious for her audacious and critical writings, for which she has been repeatedly rewarded¹¹. She received in particular the 2021 RSF Press Freedom Award for independence¹². Through her journalist career she has revealed large-scale corruption scandals - at a domestic and international level - for instance covering medical errors in public and private hospitals in Palestine¹³. As a leading critic journalist, she is no stranger to difficulties with the authorities : she had already been arrested several times in the past, by Israeli authorities in May 2014¹⁴ and by the Palestinian authorities in December 2014¹⁵.

On 28 August 2019, on her way back to Istanbul, a travel ban was issued against her over "security reasons". More than two years after this decision, she is still blocked in the West-Bank and thus unable to go back to her place of work.

As for other journalists, the reasons and legal basis for this travel ban are completely unknown and have not been communicated to her. The Israeli intelligence services have not provided any motives or legal grounds that could justify such a ban.

¹¹ In 2010 Majdoleen Hassona won a special mention in the "Under 25" category in the "Investigative Reporter of the Year" competition organized by the Thomson-Reuters Foundation in partnership with the British Embassy. In 2013, she won first prize in the "Journalists in the face of corruption" project organised by the Palestinian Anti-Corruption Commission and the Media Development Center of Birzeit University.

¹² <https://rsf.org/en/news/chinese-journalist-palestinian-journalist-and-pegasus-project-receive-2021-rsf-press-freedom-awards>

¹³ <http://en.ammonnews.net/article.aspx?articleNO=6638#.XnySFhNKjFY>

¹⁴ See <https://arabi21.com/story/746530/اسرائيل-تعتقل-صحفية-فلسطينية-على-حدود-الأردن>

¹⁵ See <https://www.wattan.net/ar/news/117569.html>

Despite several interviews with the Israeli intelligence services, no formal investigations seem to be engaged against her at the moment. Still, she is being forced to remain in the West Bank over “security concerns”, based on a confidential file.

The circumstances and her status as a well-known journalist give us serious reasons to believe that this restriction was issued in connection with her journalistic activities.

The journalist relentlessly tried to regain her freedom by reaching out to administrative – Israeli military liaison office and COGAT – and judicial bodies – Central court of Jerusalem – requesting a lift of the ban. The few times she managed to get a response, she faced the claim that her file was classified, preventing her or her lawyer from getting access to relevant information allowing her to challenge the ban.

Mrs Hassona’s case perfectly illustrates the opacity of the travel ban system and the targeting of notorious journalists, and the impacts of such a system on their right to freedom of expression and the freedom of the press. This case demonstrates.

B. Laith Abu Zeyad

In April 2020, the UN Special Procedures expressed deep concerns about the possibility that the travel ban imposed on Laith Abu Zeyad - a Palestinian human right defender - was in reprisal for his work and especially his collaboration with the United Nations. In this communication, they not only pointed out the “*lack of clear and prompt information provided to Mr Zeyad as to the reason behind the travel ban*” but they also asserted the negative consequences of the ban on his work - “*which has impeded his legitimate work reporting on human rights abuses and violations*” - ¹⁶. The experts expressed their concern about an administrative restriction turned into a repressive tool against human rights defenders.

Given the scope of the violations of the Covenant stemming from the abusive use of travel bans, the UN Committee must address this issue with the authorities in a more comprehensive way.

Expressions of concerns on a case-by-case basis do not reflect the alarming situation and the vast implications of such an institutionalised attack on journalism through abusive restrictions to the freedom of movement of journalists. In that respect we urge

¹⁶ Full communication :
<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25188>

the committee to call on the Israeli authorities to lift the bans notably those imposed on journalists.

General Recommendations:

In view of the aforementioned developments, RSF respectfully requests the United Nations Human Rights Committee to:

- Publicly characterize the current of travel ban policies and procedures by the Israeli government as abusive and disproportionate and therefore recognise the violation of article 12 of the ICCPR.
- Publicly recognize the consequent violations of article 19, 17 and 2 of the ICCPR.
- Enjoin the Israeli authorities to provide the individuals targeted with sufficient justifications in order to comply with their obligation to provide effective remedy pursuant to article 2. In the absence of such legal justification, enjoin the authorities to lift all the abusive travel bans.
- Remind the Israel Government of their responsibility to ensure the full enjoyment of the rights set forth in the Covenant to all persons under their jurisdiction.
- Publicly condemn the disguised attack on the freedom of expression via the misuse of travel bans.
- Revise the legislation on travel bans to comply with international standards of proportionality and necessity.
- Launch investigations in cases involving an abusive and non-transparent use of travel bans