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**JERUSALEM INSTITUTE OF JUSTICE**  
SUBMISSION ON THE REPORT OF THE  
"STATE OF PALESTINE"





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**Jerusalem Institute of Justice Written Submission to the Human Rights Committee for the Report of the “State of Palestine” (138th Session)**

**Introduction**

The Jerusalem Institute of Justice (JIJ) expresses its gratitude for the privilege of presenting this document to the UN Human Rights Committee (the Committee) with regard to the periodic report of the State of Palestine (the Report) and its adherence to the International Covenant on Civil and Political Rights (the Covenant or ICCPR). JIJ is a non-profit organization based in Israel, dedicated to promoting and protecting human and civil rights both locally and internationally. Our efforts include investigating and reporting human rights violations in the Middle East. In cases where abuses, such as torture, war crimes against children, and extrajudicial executions, are committed against our vulnerable neighbors, we proactively advocate for their rights and seek meaningful solutions for positive change.

JIJ welcomes the State of Palestine's progress in safeguarding the rights enshrined in the Covenant. However, we must draw the Committee's attention to particular concerns regarding violations of fundamental rights committed by the State of Palestine. Moreover, while the State of Palestine has dedicated a significant portion of its report to Israel's role concerning the human rights of Palestinians, we would like to clarify that, in light of the established by article 40 of the ICCPR, this written submission will exclusively address the State of Palestine's acts and omissions regarding the Covenant.

This written submission will elaborate that the Report underscores several laws that the State of Palestine has enacted, yet insufficient emphasis has been placed on their effective implementation and compliance. As will be substantiated, the State of Palestine exhibits a systematic disregard for human rights and international law. This is particularly evident in its consistent engagement in incitement to violence and explicit propagation of hate, primarily directed towards Israel. These actions are executed through various mechanisms, including the education system, leading to the infringement upon children's rights, the prohibition of discrimination, and, potentially, the right to life. Furthermore, there is a prevalent and systematic utilization of torture and inhumane treatment towards individuals who oppose the ruling party and those suspected of collaborating with Israel. The following paragraphs will expound upon these assertions, providing a comprehensive understanding of the actual conduct of the State of Palestine, which stands in stark contrast to the claims put forth in their Report.

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## Article 2: Non-discrimination and legal framework for the Implementation of the Covenant

### Educational curricula

The State of Palestine asserts that it has taken several actions to raise awareness for compliance with international law and human rights. To this end, the Report notes that the educational syllabi have been designed with a specific emphasis on the principles enshrined in international human rights agreements and that the State of Palestine has “undertaken” to introduce human rights principles into its school criteria. However, it is widely acknowledged that the textbooks used in schools overseen by the Palestinian Education Ministry contain substantial content that encourages the opposite.

It should be noted that education in the Palestinian territories is compulsory until the 10<sup>th</sup> grade. It is managed by the Palestinian Education Ministry, which oversees the application of the curricula drafted by them in schools located in Gaza, the West Bank, and East Jerusalem. The United Nations Relief and Works Agency for Palestine Refugees (UNRWA) operates 374 schools in Gaza and the West Bank together. The UNRWA, per the current practices, uses the curricula of the host country.

The textbooks utilized in Palestinian schools propagate the notion of violence as a legitimate mode of resistance, specifically toward Israel. Peace education is entirely disregarded, while a significant emphasis is placed on violence, martyrdom, and jihad throughout all grade levels and subjects. This teaching approach ingrains in pupils the conviction that violent actions carried out against Israelis are not only acceptable but also actively encouraged.<sup>1</sup> Consequently, Palestinian acts of violence are not perceived as acts of terror but rather as justified conduct. For instance, a grammar textbook utilized in Palestinian schools incorporates an exercise featuring the sentence: "The Palestinians sacrifice their blood to liberate Jerusalem."<sup>2</sup> Furthermore, a science exercise teaches the concept of elastic energy by using slingshots against Israel Defense Forces (IDF) soldiers.<sup>3</sup>

In addition, Palestinian individuals who have perpetrated violent acts are idealized as national heroes, thereby elevating terrorists to the position of role models and inspirations for young Palestinians. This trend is exemplified by the inclusion of Dalal Al-Mughrabi, a member of the Palestinian Liberation

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<sup>1</sup> *Report on Palestinian Textbooks*, GEORG ECKERT INSTITUTE FOR INTERNATIONAL TEXTBOOK RESEARCH, (June, 2021) at 80.

<sup>2</sup> *Review of 2022 UNRWA-Produced Study Materials in the Palestinian Territories*, IMPACT-SE, (July, 2022), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.impact-se.org/wp-content/uploads/Review-of-2022-UNRWA-Produced-School-Materials.pdf. at 13.

<sup>3</sup> *The New Palestinian School Curriculum, Selected Examples*, IMPACT-SE (Apr., 2019), https://www.impact-se.org/wp-content/uploads/PA-Reports\_-Combined-Selected-Examples.pdf

Organization, in textbooks as a symbol of resistance and a model for young girls to follow.<sup>4</sup> Al-Mughrabi played a significant role in the 1978 Coastal Road massacre, in which she and other terrorists infiltrated Israel, hijacked a bus, and detonated explosives, murdering 38 innocent Israeli civilians, including 13 children.

The textbooks used in Palestinian schools are notable for their omission of the State of Israel from the cartographic representation of the region.<sup>5</sup> For example, a mathematics exercise in one textbook involves calculating the probability of sunny weather on a given day of the week. The accompanying map depicts "Palestine" as a distinct geographical entity, completely omitting Israel.<sup>6</sup> This deliberate exclusion of Israel from the narrative serves as an indoctrination tool that presents Palestinian students with a distorted view of the geographic reality of the region. As a result, students are prevented from understanding the area accurately, and the textbooks disseminate a falsified and biased portrayal of reality. In this sense, it is worth noticing how the State of Israel is not really mentioned by name, instead, it is referred to as "Zionist occupation" or "the occupation".

Another crucial aspect in the discourse surrounding educational materials is the portrayal of Zionism and Israelis. For instance, an Arab language exercise prompts children to discuss "the role of Palestinian women in their jihad, their sacrifice, and steadfastness in facing the Jewish occupation." In the context of teaching children about their rights, an activity encourages them to seek instances of Zionist violations against children in Palestine through news or social media. Similarly, a listening comprehension passage outlines how the occupation has infringed upon Palestinian rights through oppression, torture, and murder. The objective of such phrasing is to dehumanize and vilify Israelis, as well as anyone associated with Zionism or Judaism. Consequently, while certain textbooks may impart knowledge about the importance of respecting human rights and international conventions, these principles are never invoked when addressing the Palestinian-Israeli conflict. In fact, discussions about human rights violations consistently frame Palestinians as victims and Israelis as perpetrators. Consequently, this narrative completely overlooks the Palestinian side's share of responsibility, evading accountability for the actions encouraged by their leaders. Overall, it fosters an educational environment rife with misinformation, hatred, discrimination, and violence.

Children possess heightened susceptibility to indoctrination, making them particularly vulnerable to involvement in violent activities. Furthermore, children are more inclined to respond to

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<sup>4</sup> IMPACT-SE, *supra* note 2, at 112.

<sup>5</sup> *Id.* and GEORG ECKERT INSTITUTE, *supra* note 1.

<sup>6</sup> GEORG ECKERT INSTITUTE, *supra* note 1, at 76.

non-monetary motivators such as honor, revenge, or protection, which intensifies their appeal as targets for participating in violence. This stems from their greater susceptibility to misinformation and propaganda compared to adults, despite any physical limitations they may have. Consequently, the content found in Palestinian textbooks perpetuates this cycle by glorifying and rewarding violence, potentially leading children to become active participants in violent acts after being exposed to such teachings throughout their formative years.

It is also important to note that the impact of children's trauma extends beyond their individual experiences, deeply affecting the construction and functioning of entire communities and societies. Transgenerational effects are observed, as children who were involved in violent acts are more likely to exhibit violent behavior, and parents who were involved in violence can transmit their trauma to their children, resulting in early-life stress and potential adult depression.<sup>7</sup> The repercussions of children being educated in violence extend beyond the individual level, contributing to a cycle of violence and conflict in certain regions of the world.

Institutions such as the European Union (the EU) and several countries, including the United States, have continuously conveyed their apprehensions regarding the education curriculum offered in Palestinian territories. The EU has emphasized that if the textbooks and educational materials do not conform to the United Nations Educational, Scientific and Cultural Organization (UNESCO) standards of promoting peace, tolerance, coexistence, and non-violence, it would not only impede the prospects for peace but also impact the external funding and aid provided to Palestinian refugees.<sup>8</sup> Palestinian authorities need to ensure that their educational curriculum adheres to international standards and promotes a culture of peace, as it will significantly impact the future of the Palestinian people.

#### **Article 4: Derogations**

##### The definition of terrorism

The Report examines the regulatory measures governing terrorism, encompassing the classification of acts of terrorism and the strategies for combating terrorism financing. Despite the lack of a universal consensus on the definition of terrorism among states, several international treaties and

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<sup>7</sup> Elisabeth Schauer and Thomas Elbert, *The Psychological Impact of Child Soldiering*, in TRAUMA REHABILITATION AFTER WAR AND CONFLICT: COMMUNITY AND INDIVIDUAL PERSPECTIVES, 311-360 (Erin Martz, ed., 2010).

<sup>8</sup> *EU condemns Palestinian textbooks for incitement, calls for funding freeze*, i24, (May 11, 2023) <https://www.i24news.tv/en/news/international/europe/1683801058-eu-condemns-palestinian-textbooks-for-incitement-calls-for-funding-freeze>.

resolutions have been formulated to address this issue. One such crucial agreement is the International Convention for the Suppression of the Financing of Terrorism (the Convention). It is worth noting that the Convention has received the backing of 189 state parties and 132 signatories. However, the State of Palestine has yet to sign and ratify the Convention. Nevertheless, due to its widespread acceptance, we will focus on its definition of terrorism as set out in Article 2(1)(a):

*Any person commits an offence within the meaning of the Convention if that person by any means provides or collects funds with the intention that they should be used in order to carry out an act intended to cause death or serious bodily injury to a civilian, or any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act is to intimidate a population or to compel a government or an international organization to do or abstain from doing any act.*

The Report reveals that the definition of terrorism provided in the Criminal Code of the State of Palestine deviates from the established international norms and standards relating to the abovementioned definition of terrorism. Furthermore, the State of Palestine claims to have mechanisms to combat terrorism financing, which appear to have gone unimplemented. These measures include the formation of a national committee to combat money laundering and terrorism financing and a committee tasked with executing multiple Security Council resolutions concerning terrorism financing. Notably, the State of Palestine acknowledges the relevance of the Security Council resolutions on terrorist financing and foreign terrorist fighters, “in particular Security Council resolutions 1373 (2001) and 1267 (1999) as well as of other associated resolutions and of Security Council resolution 2178 (2014).”<sup>9</sup> Nonetheless, the State of Palestine does not endorse the expansive interpretation of terrorism outlined in the UN Security Council Resolution 1566 (2004), which parallels the definition of terrorism found in the Convention:

*criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a*

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<sup>9</sup> Initial report submitted by the State of Palestine under article 40 of the Covenant, CCPR/C/PSE/1, para. 110.

*government or an international organization to do or to abstain from doing any act.<sup>10</sup>*

### Recent Acts of Terrorism

For the last eight years, there has been a wave of terror attacks carried out in Israel by individuals who were influenced and encouraged by the Palestinian leadership's strategy of "popular resistance" through "heroic actions" that, in reality, constitute acts of terrorism.<sup>11</sup> Starting on the Temple Mount, a group of young Palestinians rioted and placed barricades in the entrance to the Al-Aqsa Mosque, from where they threw rocks and firebombs for three consecutive days, coinciding with the Jewish holidays.<sup>12</sup> After this incident, between 2016 and today, hundreds of bomb, ramming and terror attacks took the lives of civilians and soldiers alike, as well as stabbings, firebombs, shootings, rockets, and stone-throwing.

Between January and March of 2023, a total of 14 fatalities and 24 injuries occurred as a result of terrorist attacks, accompanied by over 600 recorded acts of terrorism throughout the country. A considerable number of these incidents were carried out by Palestinian terrorists, deliberately targeting innocent civilians on significant Jewish and Israeli commemorative dates such as Passover and Yom HaShoa, as well as during popular occasions like Friday nights. These attacks have taken place in prominent locations such as Tel Aviv's promenade and Jerusalem's Shuk, displaying a complete disregard for human life. Such tragic events not only contribute to the escalation of the conflict but also intensify tensions between both parties, resulting in a violation of established human rights provisions.

### The Martyrs Fund

The Report is deficient in acknowledging the substantial policies of the State of Palestine that not only neglect to implement measures against terrorist financing but also actively promote and financially reward terrorism. Law No. 14 (2004) on Aid for Prisoners in Israeli Prisons and Amended Palestinian Prisoners Law No. 19 (2004) authorize compensation to be given to those incarcerated in "occupation's prisons" for their involvement in the "struggle against the occupation." This policy, commonly referred to as "pay for slay," provides predetermined salaries to terrorists or their families

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<sup>10</sup> S.C. Res. 1566 (2004), U.N. Doc. S/RES/1566 (Oct. 8, 2004).

<sup>11</sup> Government of Israel, Wave of Terror 2015-2023, MINISTRY OF FOREIGN AFFAIRS (May 18, 2023), <https://www.gov.il/en/departments/general/wave-of-terror-october-2015>.

<sup>12</sup> Government of Israel, *Rosh Hashanah: September events on the Temple Mount in Jerusalem*, MINISTRY OF FOREIGN AFFAIRS (Sept. 2015), <https://www.gov.il/en/Departments/General/rosh-hashanah-events-on-the-temple-mountain-in-jerusalem-sep-2015>.



based on the duration of imprisonment, time spent in custody, and the civil status of the terrorist.<sup>13</sup> Furthermore, as the duration of a prisoner's sentence is proportionate to the gravity of the offense committed, the level of compensation increases correspondingly with the severity of the assault.<sup>14</sup> Since the remuneration received by prisoners increases in proportion to their time spent in custody, they have more incentives to execute more severe attacks.<sup>15</sup> The PA allocates 7% of its yearly budget to the Martyrs Fund, spending more on the remuneration of terrorists than healthcare.<sup>16</sup> Nonetheless, the issue arises because the activities that qualify as "participation in the struggle against occupation" are, in fact, equivalent to acts of terrorism, and the individuals who engage in such behavior are deemed "martyrs" by the State of Palestine.

Despite the international community's attempts to halt these stipends for terrorism by exerting pressure on the PA, these requests have not only been disregarded but have also been contradicted by recent increases in the amount allotted for this purpose. To illustrate, last year, the PA augmented the already considerable salaries of the four terrorists responsible for the lethal attack at the Hebrew University of Jerusalem in 2002. Their remuneration was raised from 7,000 NIS (\$2,251) per month to 8,000 NIS (\$2,572), in addition to a bonus of 300 NIS (\$96) solely for being Jerusalem residents.<sup>17</sup> This example illustrates that becoming a convicted terrorist is more financially rewarding than becoming a teacher, as their salary significantly exceeds the average income and minimum wage.

This policy is intrinsically prohibited under international law and contravenes the Security Council resolutions cited in the Report since it entails the Palestinian Authority actively encouraging and incentivizing terrorist acts. As per the Committee's General Comment 36, states must take affirmative action against widespread or systematic assaults on the right to life, which encompasses acts of international terrorism, and establish a robust legal framework criminalizing terrorist attacks. Unfortunately, the State of Palestine has failed to fulfill this obligation and instead extends financial assistance and endorsement to such attacks. The practice of "pay for slay" clearly illustrates this support.

## Article 6: Right to Life

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<sup>13</sup> Zina Rakhamilova, *For Palestinians, terrorism against Israel pays – opinion*, THE JERUSALEM POST (Feb. 7, 2023), <https://www.jpost.com/opinion/article-730788>.

<sup>14</sup> U.S. Dep't of State Bureau of Counterterrorism, *Country Reports on Terrorism 2019: Israel, West Bank, and Gaza*, (2019), <https://www.state.gov/reports/country-reports-on-terrorism-2019/israel/>.

<sup>15</sup> Alex Lederman, *Palestinian prisoner and martyr payments explained*, ISRAEL POLICY FORUM (2021), <https://israelpolicyforum.org/2021/04/02/palestinian-prisoner-and-martyr-payments-explained/>.

<sup>16</sup> Zina Rakhamilova, *supra* note 11.

<sup>17</sup> Lahav Harkov, *PA Raises Salary for Terrorists Who Killed 9 at Hebrew U*, THE JERUSALEM POST (Aug. 1, 2022), <https://www.jpost.com/arab-israeli-conflict/article-713612>.



## Use of Human Shields

The right to life is a fundamental and non-derogable human right, imposing an obligation to take preventive measures to protect individuals from predictable threats of murder or killing. According to the Committee's General Comment 36, this obligation to safeguard the right to life requires states to implement specific protective measures aimed at vulnerable groups, such as children, particularly those residing in areas of armed conflict. Furthermore, the same General Comment 36 establishes that using human shields is not only a breach of international humanitarian law but also a violation of Article 6 of the ICCPR.<sup>18</sup>

Given the aforementioned, it is imperative to address the matter of the employment of human shields, which has been a longstanding practice by the State of Palestine. A prominent example of such utilization was witnessed during the 2014 Operation Protective Edge, where Hamas directed the population of Gaza to disregard the Israeli Defense Forces' evacuation advisories.<sup>19</sup> Furthermore, Hamas urged civilians to congregate on the rooftops of the locations targeted by the Israeli Air Forces where military targets are located.

Between 2018 and 2019, during the March of Return protests at the Gaza-Israel fence, another instance of such practices emerged. The protests were initially conceived by a journalist and activist from Gaza, Ahmed Abu Artema, who popularized the idea of having this demonstration.<sup>20</sup> This initiative evolved into a movement of Palestinian civil society that formed the Higher National Committee (HNC), in order to organize and coordinate the demonstrations.<sup>21</sup> Among the participants of the HNC there were also members of Hamas, the Popular Front for the Liberation of Palestine, Fatah

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<sup>18</sup> Human Rights Committee, General Comment No. 36 on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life, (Oct. 30, 2018) U.N. Doc. CCPR/C/GC/36, para. 64 [hereinafter General Comment 36].

<sup>19</sup> Israel Defense Forces, *Operation Protective Edge*, (Oct. 30, 2014) <https://www.idf.il/en/mini-sites/wars-and-operations/operation-protective-edge/operation-protective-edge/>.

<sup>20</sup> Ahmad Abu Artema, *A year after the Great March of Return, Palestinians are still fighting for freedom*, Global Opinions WASHINGTON POST, (March 30, 2019), <https://www.washingtonpost.com/opinions/2019/03/30/year-after-great-march-return-palestinians-are-still-fighting-freedom/>

<sup>21</sup> U.N. Human Rights Council, *Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestinian Territory*, U.N. Doc. A/HRC/40/CRP.2 (Feb. 25 - Mar. 22, 2019), para 201 [hereinafter COI Report].

and the Palestinian Islamic Jihad (PIJ),<sup>22</sup> most of them considered terrorist groups in Israel and several other countries, including the US<sup>23</sup> and the EU.<sup>24</sup>

Despite the stated objective of maintaining peaceful demonstrations, Palestinian leaders encouraged protesters to assail and breach the fence, thereby instigating a response from the Israeli Security Forces. A striking feature of the protests was the presence of children among the demonstrators, who were not merely passive onlookers.<sup>25</sup> Women and children were physically coerced towards the fence, assuming a frontline position to impede access to terror targets.<sup>26</sup> One of the practices put in place by Hamas was to send children to participate in the protests and offer them money if they got injured.<sup>27</sup> During the March of Return, a specific incident unfolded whereby children were intentionally called upon to disobey orders, with the explicit motive of provoking the IDF into intervening and dispersing them. Under the instructions of Palestinian officials, these children were directed to approach the fence, aiming to entice the Israeli soldiers to draw closer. As planned by the Palestinian officials, once the IDF soldiers were closer to the fence a sniper shot at them, killing an Israeli soldier.<sup>28</sup>

In recent years, there has been a trend by the State of Palestine to conceal rocket production and training facilities, armories, ammunition, and combatants in or near residential areas. This strategy serves a dual purpose. Firstly, it makes it less likely for terrorist targets to be discovered and targeted when they are located in places such as schools, hospitals, and residential buildings. The veracity of these practices is substantiated by witness testimonies and video footage, illustrating the extent to which

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<sup>22</sup> U.N. Human Rights Council, *Advanced Edited Version of the Report of the Detailed Findings of the Independent International Commission of Inquiry on the Protests in the Occupied Palestinian Territory*, U.N. Doc. A/HRC/40/CRP.2 (Feb. 25 - Mar. 22, 2019), para. 24, and Jihad Abusalim, *What is "The Great Return March?"*, AMERICAN FRIENDS SERVICE COMMITTEE (Apr. 19, 2019), <https://www.afsc.org/blogs/news-and-commentary/what-is-great-return-march>.

<sup>23</sup> U.S. Dep't of State Bureau of Counterterrorism, *Foreign Terrorist organizations*, <https://www.state.gov/foreign-terrorist-organizations/>.

<sup>24</sup> European Union Council Decision (CFSP) 2021/142 of 5 February 2021 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2020/1132.

<sup>25</sup> U.N. Relief and Works Agency for Palestine Refugees in the Near East, *Gaza's "Great March of Return": one year on, impact on Palestine refugees and unrwa services* (2019), [https://www.unrwa.org/sites/default/files/content/resources/gaza\\_gmr\\_one\\_year\\_on\\_report\\_eng\\_final.pdf](https://www.unrwa.org/sites/default/files/content/resources/gaza_gmr_one_year_on_report_eng_final.pdf).

<sup>26</sup> Judah Ari Gross, *IDF: Hamas cynically sent 7-year-old girl to breach Gaza border*, THE TIMES OF ISRAEL (Mar. 30, 2018), <https://www.timesofisrael.com/idf-hamas-cynically-sent-7-year-old-girl-to-breach-gaza-border/>.

<sup>27</sup> Adam Rasgon, *IDF: Gaza children being promised NIS 300 (\$83) if injured at border protests*, THE TIMES OF ISRAEL, (Feb. 21, 2019), <https://www.timesofisrael.com/idf-gaza-children-being-promised-nis-300-if-injured-at-border-protests/>

<sup>28</sup> Yoav Zeyton, Elijah Levy and Ilana Kuriel, *The incident at the Gaza border: children broke the order - then a sniper shot at an IDF force* YNET (July 25, 2018).

they are employed.<sup>29</sup> The UNRWA has discovered rockets hidden in their schools on two separate occasions, posing a threat to UN installations' safety, security, and integrity.<sup>30</sup> Moreover, media outlets have been able to provide footage of additional instances of human-shield use, such as rocket launchers positioned in proximity to civilian buildings, military tunnels located beneath schools, and weapons factories situated in densely populated civilian areas.<sup>31</sup>

Secondly, in the event of an early warning from the IDF, civilians are coerced to remain in the area or even go up to the building rooftops, using them as human shields to shield military targets.<sup>32</sup> The utilization of human shields places the opposing party in a quandary. On one hand, they may opt not to assault a lawful military target on account of ethical or legal concerns associated with harming civilians<sup>33</sup> who cannot be the direct target of the attack. On the other hand, if the decision is made to proceed with the attack, it could undermine the "attacker's" position due to the adverse propaganda that arises from the civilian casualties, and it may also result in a breach of international norms. Consequently, the deployment of human shields forces the opposing party into a situation where it must either refrain from targeting the enemy or potentially violate international law.

Several international legal documents explicitly forbid the use of civilians in armed conflict. Article 28 of the IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 stipulates that "The presence of protected persons may not be used to render certain points or areas immune from military operations."<sup>34</sup> Similarly, Article 8(2)(b)(xxiii) of the Rome Statute of the International Criminal Court asserts that employing the presence of a civilian or another protected person to make certain points, areas, or military forces immune from military operations is considered a war crime.<sup>35</sup>

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<sup>29</sup> Government of Israel, *Hamas Exploitation of Civilians*, MINISTRY OF FOREIGN AFFAIRS (Jan. 13, 2009 - Aug. 8, 2021), <https://www.gov.il/en/Departments/General/hamas-exploitation-of-civilians>.

<sup>30</sup> U.N. Relief and Works Agency for Palestine Refugees in the Near East, *UNRWA condemns placement of rockets, for a second time, in one of its schools* (July 22, 2014), <https://www.unrwa.org/newsroom/press-releases/unrwa-condemns-placement-rockets-second-time-one-its-schools>.

<sup>31</sup> Orde Kittrie, *Hold Hamas Accountable for Human-Shields use during the May 2021 Gaza War*, FOUNDATION FOR DEFENSE OF DEMOCRACIES (June 23, 2021), <https://www.fdd.org/analysis/2021/06/23/hold-hamas-accountable-for-human-shields-use-during-the-may-2021-gaza-war/#easy-footnote-bottom-10-119595>.

<sup>32</sup> Patrick Worrall, *Does Hamas use civilians as human shields?*, CHANNEL 4 FACTCHECK (July 24, 2014), <https://www.channel4.com/news/factcheck/factcheck-hamas-civilians-human-shields>.

<sup>33</sup> Amnon Rubinstein & Yaniv Roznai, *Human Shields in Modern Armed Conflicts: The Need for a Proportionate Proportionality*, 22 Stan. L. & POL'y REV. 93, 93 (2011).

<sup>34</sup> Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War art. 28, August 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 287.

<sup>35</sup> Nida'a Yousef, *Under Scrutiny: Allegations of Use of Human Shields by Palestinian Armed Groups and the International Criminal Court Investigation*, LAW FOR PALESTINE, (Hiba Birat ed.) (August 2, 2021),

## **Article 7: Prohibition of torture or other cruel, inhuman, or degrading treatment or punishment**

The Report maintains that the State of Palestine has implemented measures to prevent acts of torture and cruel treatment and has established oversight mechanisms and compensation programs for victims. It is a matter of fact that the mere presence of legal prohibitions does not necessarily ensure their efficacious implementation, as evidenced by empirical observations. It must be recognized that the State of Palestine has a considerable gap between its legal framework and its practical enforcement. The frequent incidents of torture perpetrated against the Palestinian population by the State of Palestine have raised significant apprehension. The Committee Against Torture (CAT) has expressed concerns over several accounts of torture and mistreatment of individuals in custody, a lack of confidentiality in receiving and investigating complaints, and insufficient independence of existing investigation bodies. The CAT also observed low prosecution and conviction rates and pointed out that “only a few complaints of torture and ill-treatment have led to prosecution and almost none to conviction of the perpetrators, which contributes to a climate of impunity.”<sup>36</sup>

Despite the legal prohibitions, the State of Palestine has been engaging in the practice of torture for many years. Testimonies from former detainees who were arrested by PA police forces provide clear evidence of the inhumane treatment they received while in custody. This includes torture, denial of family visits and legal representation, and other forms of human rights violations such as being forced into stress positions for hours, solitary confinement, beatings resulting in unconsciousness or broken bones, burns from boiling water and cigarettes, electrocution, food, water, sleep deprivation, lashing with wires, psychological torture, bludgeoning, and hanging upside down for extended periods of time.<sup>37</sup> Detainees are often coerced into providing false confessions to secure their release from captivity. Even if they survive the interrogation process, they frequently suffer long-term psychological and physical damage that can ultimately lead to death.

A significant number of cases leading to detention and torture in the West Bank arise from the arbitrary arrests of Palestinians who exercise their fundamental rights by participating in peaceful protests or publicly voicing criticism against the current regime and challenging the prevailing living

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<https://law4palestine.org/under-scrutiny-allegations-of-use-of-human-shields-by-palestinian-armed-groups-and-the-international-criminal-court-investigation/>.

<sup>36</sup> Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding Observations on the initial report of the State of Palestine (Aug 23, 2022) U.N. Doc. CAT/C/PSE/CO/1, para. 28. [hereinafter CAT Observations on the State of Palestine].

<sup>37</sup> Human Rights Watch, *Two Authorities, One Way, Zero Dissent* (October 23, 2018), <https://www.hrw.org/report/2018/10/23/two-authorities-one-way-zero-dissent/arbitrary-arrest-and-torture-under>.

conditions, such as electricity shortages, the absence of elections, and high unemployment rates. However, the primary accusation against these detainees is often that of "collaboration with Israel" and the opposition or criticism of the ruling party. Between 1991 and 2004, Palestinians suspected of collaborating with Israel faced the grim reality of torture, inhumane abuse, and even murder at the hands of the Palestinian Authority (PA). Recent proceedings at the Jerusalem District Court involved 52 victims who provided testimonies and affidavits detailing their captors' horrifying and brutal torture methods. The district court accepted the plaintiffs' position and found the Palestinian Authority liable for false imprisonment and torture. The Palestinian Authority's appeal to the Supreme Court was also rejected, and the court decision was upheld.<sup>38</sup>

Despite the diverse backgrounds and ages of the victims and their confinement in different jails, their accounts often exhibit striking similarities, indicating the use of a specific and uniform torture methodology across all detention centers.<sup>39</sup> Furthermore, it is essential to note that these abuses and acts of torture have occurred across various periods, underscoring the fact that they are not isolated incidents. The systematic nature of the abuse implies that it resulted from directives issued by higher authorities rather than individual decisions made by independent officials.

The case of 23-year-old F.J., who was questioned about his involvement in the Islamic bloc student society and a Facebook page created to identify security officers that carried out arrests during a book exhibition on January 8th 2017, testifies to this suppression. During interrogation, officers threatened F.J. that he would be transferred to the facility in Jericho where "people confess of things they know and don't know" and from which he would emerge a "different person". At the detention center, F.J. was "made to stand with [his] hands raised for two hours while officers hit [him] on [his] sides with a plastic hose [...] underwent shabeh where [he] was handcuffed and hung by the hands while officers tightened the pressure [...] blindfolded and subjected to [his] knees while weights were added to [his] back, putting pressure on [his] legs and blocking blood flow for about an hour [...] whipped with a hose on [his] feet [and] placed on [his] back for two hours while officers kicked and hit [him] with a baton. F.J. says he lost consciousness about 7 times and suffers from psychological trauma and nightmares where "the cell is strangling [him] and [he] cannot breathe."<sup>40</sup>

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<sup>38</sup> Eliran Aharon, *The evidence of torture in the Palestinian Authority will be presented in the Hague*, ARUTZ 7 (June 23, 2019), <https://www.inn.co.il/news/405358>.

<sup>39</sup> *Supra* note 35.

<sup>40</sup> Testimony collected by Jerusalem Institute of Justice.

Numerous findings have been brought to the international community's attention by lawyers, family members, NGO representatives, and doctors who have gathered evidence such as photographs, videos, court documents, and medical reports to demonstrate the detention conditions in the State of Palestine. For instance, from 2016 to 2021, the Palestinian Independent Commission for Human Rights received 4,279 claims of torture and other forms of cruel, inhuman, and degrading treatment, with 12% of them filed by children.<sup>41</sup> Despite this evidence, the authorities have failed to investigate these cases or take effective measures to prevent them, hold security forces accountable, or provide victims of torture with access to justice and reparation.

### **Article 20: Prohibition on Propaganda for War and Advocacy for Hatred**

The Report states that the State of Palestine has established several legal measures to prevent incitement to violence, hatred, and discrimination. However, as previously noted by this Committee, Article 20 of the ICCPR not only requires the enactment of legislation but also mandates its effective enforcement.<sup>42</sup> Notwithstanding the existence of legal measures, there is a significant disparity between the legal framework and its enforcement in practice. This claim is corroborated by multiple sources, including the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD), which has identified occurrences of incitement and hate speech in Palestine, despite the presence of legal restrictions (United Nations Committee on the Elimination of Racial Discrimination, 2012).

According to the CERD, hate speech can manifest in various forms, one of which is through traditional media channels like television. In this context, there have been numerous instances where Palestinian television has been utilized as a platform to disseminate hate messages. A recent and notable example occurred during the month of Ramadan in 2023, when Hamas, taking advantage of the extensive reach during this period, produced a series titled "The Path of Sacrifice," which was broadcasted on "al Aqsa TV." The program focused on showcasing the stories of various terrorists and the acts of terror they carried out. Additionally, the episodes featured interviews with individuals, including Hamas clerics who justified terrorism based on Islamic ideology, as well as "experts" from Hamas' military-terrorist wing who praised the actions of their operatives. Several episodes specifically

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<sup>41</sup> The Independent Commission for Human Rights, *Shadow Report of the Independent Commission for Human Rights (ICHR) on the initial report submitted by the State of Palestine on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984*, (June 2022).

<sup>42</sup> Human Rights Committee, General Comment No. 20 on Article 7 of the International Covenant on Civil and Political Rights, on the Prohibition of Torture, or other Cruel, Inhuman or Degrading Treatment or Punishment, (1992).



highlighted terrorist attacks executed by minors, recounting the details of incidents such as a stabbing perpetrated by a 15-year-old Palestinian. These segments described how the individual obtained the weapon and their unwavering determination to carry out the attack.<sup>43</sup> Furthermore, there is a notable manifestation of promoting hatred in another incident where PA TV awarded financial prizes to a young boy solely based on his namesake association with a terrorist who orchestrated the killing of seven Israeli individuals.<sup>44</sup>

Social media has also been used in the State of Palestine to convey a message of hate and as an incitement to violence. These social media networks, such as TikTok, Telegram, Facebook or Twitter, are mostly used by young individuals, which are often influenced by what they see in these platforms.<sup>45</sup> TikTok is used by approximately 1.5 million people between the ages of 15 to 29, and it is extensively used by the Lion's Den network. Lion's Den is a Palestinian militant group operating in the West Bank. Some of the content that is found in this platform consists of videos of very young children shooting toy guns at Israeli soldiers.<sup>46</sup> Telegram is used to send instant messages, and the sender can determine the length of the visibility of the messages and can instruct the application to destroy the messages. An example of the content found in Telegram that clearly advocates for war and hate is a video in which it is shown how to carry out "successful" terror attacks.<sup>47</sup>

In addition to the influence exerted by the media, it is observed that Palestinian leaders and authorities frequently engage in public discourse that actively encourages individuals to undertake lone-wolf attacks, procure weapons such as firearms, cleavers, axes, and knives, and even issue threats of worldwide Synagogue desecration.<sup>48</sup> These proclamations target all segments of society and reveal a

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<sup>43</sup> *Incitement and encouragement for terrorist attacks in Hamas TV shows during Ramadan*, THE MEIR AMIT INTELLIGENCE AND TERRORISM INFORMATION CENTER, (MAY 1, 2023) [https://www.terrorism-info.org.il/app/uploads/2023/05/E\\_081\\_23.pdf](https://www.terrorism-info.org.il/app/uploads/2023/05/E_081_23.pdf).

<sup>44</sup> Nan Jacques Zilberdik, *PA TV gives prize to boy because he is named after terrorist murderer of 7*, PALESTINIAN MEDIA WATCH (May 2, 2023), <https://palwatch.org/page/33053>.

<sup>45</sup> *Children in the Service of Palestinian Terrorism: Security tensions, incitement in social networks and favorable public reactions may influence more children to carry out terrorist attacks*, THE MEIR AMIT INTELLIGENCE AND TERRORISM INFORMATION CENTER (Feb. 21, 2023), <https://www.terrorism-info.org.il/en/children-in-the-service-of-palestinian-terrorism-security-tensions-incitement-in-the-social-networks-and-favorable-public-reactions-may-influence-more-children-to-carry-out-terrorist-attacks/>.

<sup>46</sup> *The Use of Social Networks by the Palestinian Public – Facts and Assessments*, THE MEIR AMIT INTELLIGENCE AND TERRORISM INFORMATION CENTER, (Mar. 5, 2023), <https://www.terrorism-info.org.il/en/the-use-of-social-networks-by-the-palestinian-public-facts-and-assessments/>.

<sup>47</sup> *Id.*

<sup>48</sup> *Hamas Gaza Leader Yahya Sinwar: We Will Desecrate Synagogues Throughout The World If Al-Aqsa Is Desecrated; Israel Wants A Religious War – We Accept The Challenge; This Will Scorch The Earth, Change The Planet; Palestinians Should Carry Out Lone Wolf Attacks; Israeli-Arabs Should Prepare Their Guns, Cleavers,*



clear inclination toward fostering animosity and warfare rather than promoting a culture of peace. Numerous speeches delivered by political leaders openly exalt terrorists and acts of terror, urging Palestinians to actively engage in such activities. To illustrate this, at a ceremony held in a university situated in Nablus, Fatah leaders unabashedly praised the deeds of terrorists, revering them as martyrs and even offering gratitude to Allah for "having them killed."<sup>49</sup>

In addition to the methods discussed earlier in this document, other avenues employed to propagate hatred encompass the utilization of school textbooks, as highlighted in preceding paragraphs. Furthermore, cultural events serve as a recurring medium to disseminate the message of hate. A specific instance occurred in March 2023, when a musical production was broadcasted on Palestine TV, operated by the Palestinian Authority. In this performance, dancers adorned in military attire and brandishing weapons sang fervently about engaging in combat against the perceived "enemy," employing machine guns, rifles, and explosives as symbolic elements.<sup>50</sup>

#### **Article 24: Rights of the Child**

In accordance with international law, children are granted special protection in various circumstances. First, the International Covenant of the Red Cross ("ICRC") and the Additional Protocols to the Geneva Conventions establish that children are particularly vulnerable and require privileged treatment compared to the rest of the civilian population.<sup>51</sup> At the same time, the 24th article of the ICCPR recognizes the right of every child, without discrimination, to be protected by their family, community, and government as a minor. The Committee's General Comment 17 emphasizes the importance of States including information in their reports regarding measures taken to prevent children from participating directly in armed conflicts.

The international community has committed to protecting children from being recruited and used in armed conflicts, which has resulted in the adoption of several multilateral agreements. One such

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*Axes, Knives*, MEMRI TV (Apr. 30, 2022), <https://www.memri.org/tv/hamas-leader-gaza-yahya-sinwar-defend-aqsa-opening-salvo-lone-wolf-attacks-prepare-guns-knives>.

<sup>49</sup> *Fatah Leaders Glorify 'Martyrdom,' Emphasize Unity with Other Palestinian Factions: Our Blood Is the Same Blood, We Salute the Brave Fighters of the Palestinian Islamic Jihad*, MEMRI TV (May 12, 2023) <https://www.memri.org/tv/at-fatah-event-leaders-emphasize-unity-with-other-palestinian-factions-hamas-pij>.

<sup>50</sup> *Palestinian Authority TV Airs Gaza Musical Encouraging Palestinians to Fight the "Enemy" in All of Israel with Machine Guns, RPGs, Daggers, and Bombs*, MEMRI TV (Mar. 27, 2023) <https://www.memri.org/tv/palestinian-authority-network-musical-gaza-fight-israel-machine-guns-rpgs-daggers-bombs>

<sup>51</sup> ICRC Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949 (1987), page 1377 at marginal note 4544; see also page 1379 at marginal note 4555.



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agreement is the Optional Protocol on the Involvement of Children in Armed Conflict, passed by the UN General Assembly in 2000 and ratified by 172 countries. Moreover, using children in armed conflicts in any capacity constitutes a war crime, as established in the Rome Statute of the International Criminal Court. Despite numerous efforts to prevent the use of children in hostilities, reports show that children are still being recruited and exploited for such purposes. According to the UN, in 2021, approximately 6,310 children were recruited and utilized by armed forces and armed groups for these purposes.<sup>52</sup> Unfortunately, Palestinian children are not an exception and have been frequently involved in violent acts. Over 30 underage individuals participated in violent clashes against Israeli civilians and soldiers in 2022, which included a wide range of violent acts, from shooting Israeli civilians to throwing Molotov cocktails. For example, on January 28, 2023, a 13-year-old Palestinian shot a father and son,<sup>53</sup> and on February 13, 2023, two separate stabbing attacks were carried out by 13 and 14-year-old children.<sup>54</sup>

Hamas organizes annual summer camps involving children's enrollment in military and weapons training programs.<sup>55</sup> Participants partake in a range of activities, including computer simulations designed to simulate scenarios where they engage in simulated combat against Israeli soldiers and police officers.<sup>56</sup> These camps, frequently named in honor of Shaheeds (martyrs) or significant events for Palestine, such as "Pioneers of Liberation" and "Swords of al-Quds Battle," garner significant attention, drawing the attendance of thousands of children. Notably, in 2021, the number of registered participants reached a figure of 50,000.<sup>57</sup> These camps pose a significant risk to children as

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<sup>52</sup> Alvihild Strømme, Gunvor Knag Fylkesnes, James Denselow, Roisin Mangan, Pia Podieh and Kristin Kamøy, *Stop the War on Children: The Forgotten Ones*, SAVE THE CHILDREN (Dec. 1, 2022) at 17, and U.N. Secretary-General, Children and Armed Conflict, U.N. Doc. A/76/871-S/2022/493 (June 23, 2022).

<sup>53</sup> *Jerusalem synagogue shooting: Israel arrests 42 after deadly attack*, BBC NEWS (Jan. 28, 2023), <https://www.bbc.com/news/world-middle-east-64430491>.

<sup>54</sup> Emanuel Fabian, *Israeli teen hurt in stabbing attack in Jerusalem's Old City; Suspect, 14, arrested*, THE TIMES OF ISRAEL, (Feb. 13, 2023), <https://www.timesofisrael.com/israeli-teen-hurt-in-stabbing-attack-in-jeruselems-old-city-suspect-14-arrested/> and Emanuel Fabian, *Policeman dies after being stabbed by Palestinian, hit by friendly fire*, THE TIMES OF ISRAEL, (Feb. 13, 2023), <https://www.timesofisrael.com/policeman-critically-hurt-after-being-stabbed-by-palestinian-hit-by-friendly-fire/>.

<sup>55</sup> *Hamis summer camps offer children firearms training*, ISRAEL HAYOM, (Aug. 3, 2022), <https://www.israelhayom.com/2022/08/03/hamis-summer-camps-offer-children-firearms-training/>.

<sup>56</sup> Toi Staff, *At annual summer camps, Hamas trains kids to fire guns, kidnap soldiers*, THE TIMES OF ISRAEL, (July 3, 2021), <https://www.timesofisrael.com/at-annual-summer-camps-hamas-trains-kids-to-fire-guns-kidnap-soldiers/>.

<sup>57</sup> Seth J. Frantzman, *Hamis continues recruiting child soldiers: Where is the condemnation?*, THE JERUSALEM POST (June 27, 2021), <https://www.jpost.com/arab-israeli-conflict/hamis-continues-recruiting-child-soldiers-so-where-is-the-condemnation-672163>.

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they compromise their safety and encroach upon their rights. Furthermore, these camps amplify their exposure to education that promotes aggression and hostility.

Most of these children are involved in such practices due to abduction, coercion, and/or indoctrination by armed actors. However, poverty can also be a driving force, pushing them to join terrorist groups that promise survival and protection. As a result, children who live in conflict zones, especially those used in hostilities, face profound and long-lasting physical, mental, and psychological consequences.<sup>58</sup> The brain and mind are particularly vulnerable during childhood, and stress can significantly impair cognitive and emotional development. The traumatic events these children experience while being used in hostilities can lead to severe psychological disorders and lasting emotional trauma. Furthermore, their involvement often means they miss out on years of education, which can significantly compromise their future opportunities and ability to reintegrate into civilian life. These children may also suffer physical injuries during conflicts, leaving them with long-term disabilities or impairments.

The implications of using children in conflicts are not limited to the individual children involved but extend to their entire society. When successive generations are indoctrinated and exploited for violent acts, it will likely result in broader societal patterns perpetuating and escalating violence. This can create a culture of violence that exacerbates conflicts.

## Recommendations

Based on the aforementioned information, it is recommended that the Human Rights Committee issue the following calls to the State of Palestine to:

- Expunge from the textbooks currently employed in Palestinian schools any material that advocates violence, hatred, war, antisemitism, and terrorism. Instead, the school curricula should accurately reflect the truth, encompassing the acknowledgment of the existence of the State of Israel while also incorporating content that promotes tolerance and peace.
- To adopt a definition of terrorism that aligns with the internationally accepted definition. This alignment will ensure coherence and consistency with the understanding shared by the global community.

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<sup>58</sup> E. Schauer and T. Elbert, *supra* note 7.

- Cease the provision of financial support to terrorism and the granting of economic compensation to individuals involved in violent acts, as well as their families. This recommendation emphasizes the importance of disrupting the cycle of violence and ensuring that resources are directed toward promoting peace, stability, and the well-being of all individuals within the region.
- Refrain from employing human shields and refrain from concealing military targets within civilian areas.
- Desist from applying torture and ensure that Palestinian citizens, including those under its custody, are safeguarded against any form of inhumane or degrading treatment. In connection with this, it is essential for the State of Palestine to guarantee thorough investigations and subsequent prosecution of all allegations of torture.
- Discontinue the utilization of media, social media platforms, cultural outlets, speeches, and any other mediums that promote hatred and incite violence or war. Furthermore, it is crucial for the State of Palestine to exercise oversight over the utilization of social media platforms in order to prevent the promotion of violence.
- Take measures to ensure that no child, including those who may voluntarily enlist, is recruited or actively involved in hostilities. It is imperative for the State of Palestine to safeguard the rights of Palestinian children and prevent their exploitation or involvement in acts of violence. Children's rights must be upheld, should be provided with an environment that nurtures their development and protects them from the harmful impacts of armed conflicts or any form of violence.