

THE WAR REPORT 2017

THE ARMED CONFLICT IN ISRAEL-PALESTINE



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INTRODUCTION

The protracted, century-long conflict engulfing Israelis and Palestinians commemorated several landmark anniversaries in 2017 – anniversaries that some condemned and others celebrated, highlighting the schism dividing both sides that widens every year. The most significant of these was the centenary of the divisive Balfour Declaration, which was issued on 2 November 1917. This year also marked 50 years from the 1967 Arab-Israeli war, which led to the Israeli military occupation of the West Bank, Gaza, East Jerusalem and the Golan Heights. And finally, 2017 marked a decade since Israel's and Egypt's land, sea and air blockade of Gaza.

The 2014 War Report included a helpful history of the conflict since the United Nations Partition Plan of 1947, the resulting Arab-Israeli war and Israel's declaration of independence in 1948. This year's War Report provides an update on the Israeli-Palestinian conflict and highlights 2017's most important developments.

THE WEST BANK AND EAST JERUSALEM

Israeli's military occupation¹ of the West Bank and annexation of East Jerusalem since 1967 has resulted in mass violations of international humanitarian law (IHL) and human rights. Between 2015 and 2017, Israel has continued to impose discriminatory policies on, and severely limit the rights of, Palestinians in the West Bank and East Jerusalem, in regards to land confiscation, economic restrictions, unlawful² expansion of settlements, freedom of movement, and arbitrary detentions. Palestinian attacks against Israeli civilians have also continued; most of these attacks do not seem to have been part of a concerted, organized effort by a militant group.

SUSTAINED VIOLENCE

Sustained clashes between Israelis and Palestinians have persisted, with the most significant surge of violence

1 As the Occupying Power in the West Bank, Israel must administer the occupied territory's population in accordance with the Hague Regulations (1907), the Fourth Geneva Convention (1949) and the Additional Protocol I (1977); the latter two largely reflecting customary international law. (See generally International Court of Justice, 'Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory', Advisory Opinion, I.C.J. Reports 2004, pp. 176-177, <http://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf> (ICJ Wall case). Israel accepts the applicability of the Hague Regulations but denies the applicability of the Fourth Geneva Convention (although it claims to apply the Convention's humanitarian provisions). Ibid. at pp. 174, 176-177.

2 Ibid. at pp. 183-184; see also S/RES/446, 22 March 1979, U.N. Security Council, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/BA123CDEDD3E8A4A5852560E50077C2DC>;

taking place between October 2015 and mid-2016 and then again in July-August 2017.³ In addition to demonstrations, most of the violence from the Palestinian side consisted of stabbings (or attempted stabbings) and vehicular (ramming) attacks against Israeli passersby and security forces, committed primarily by individuals acting without the sponsorship of any armed group, also referred to as 'lone wolf' attacks.⁴ Between January 2015 and December 2017, Palestinians killed 62

Israeli citizens and soldiers in the West Bank and Israel,⁵ and injured 427 Israeli civilians and security officers in the West Bank and Israel.⁶ During that same period, Israeli security forces killed 269 Palestinians and injured 22,688 Palestinian in the West Bank and Israel, including bystanders, protesters, and suspected assailants.⁷ The Israeli military responded harshly against demonstrators with tear gas, rubber bullets and live ammunition.

LAND EXPROPRIATION, ECONOMIC STAGNATION, DEMOLITIONS, SETTLEMENTS

Pursuant to the 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo Agreement),⁸ the West Bank is divided into three areas: (i) Area A, which consists of approximately 18 percent of the area, is exclusively administered by the Palestinian

3 Israel Ministry of Foreign Affairs, 'Wave of terror 2015-2017', 17 December 2017, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Wave-of-terror-October-2015.aspx>.

4 Israel Ministry of Foreign Affairs, 'Wave of terror 2015-2018', <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Wave-of-terror-October-2015.aspx>; Human Rights Watch, 'Israel/Palestine: Events of 2017', World Report 2018, <https://www.hrw.org/world-report/2018/country-chapters/israel/palestine>; Human Rights Watch, 'Israel/Palestine: Events of 2016', World Report 2017, <https://www.hrw.org/world-report/2017/country-chapters/israel/palestine>.

5 Israel Ministry of Foreign Affairs, 'Victims of Palestinian Violence and Terrorism since September 2000', data of fatalities included as of January 2018, <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Victims%20of%20Palestinian%20Violence%20and%20Terrorism%20since.aspx>.

6 For 2017 data, see Human Rights Watch, World Report 2018, supra fn [4]; for 2016 data see Human Rights Watch, World Report 2017, supra fn [4]; for 2015 data see Human Rights Watch, 'Israel/Palestine: Events of 2015', World Report 2016, <https://www.hrw.org/world-report/2016/country-chapters/israel/palestine>. Although the Israeli Ministry of Foreign Affairs indicates that between September 2015 and December 2017 there 881 individuals were injured, this figure includes 'uninvolved Palestinians', which is not defined. Israel Ministry of Foreign Affairs, Wave of terror 2015-2018.

7 For 2017 data, see UN Office for the Coordination of Humanitarian Affairs (OCHA), 'Protection of Civilians Report / 19 December 2017 – 1 January 2018', 4 January 2018, <https://www.ochaopt.org/content/protection-civilians-report-19-december-2017-1-january-2018>; for 2016 data, see, OCHA, 'Protection of Civilians Report / 27 December 2016 – 9 January 2017', 12 January 2017, <https://www.ochaopt.org/content/protection-civilians-report-27-december-2016-9-january-2017>; for 2015 data, see, OCHA, 'Protection of Civilians Report / 19 December 2015 – 11 January 2016', 14 January 2016, <https://www.ochaopt.org/content/protection-civilians-weekly-report-29-december-2015-11-january-2016>. However, Human Rights Watch World Reports 2016, 2017 and 2018 (supra fns [4] and [6]) depart significantly in the number of Palestinians who were injured during this timeframe (although they are almost identical in regards to the number of Palestinian fatalities). According to Human Rights Watch, the total number of Palestinians injured by Israelis in Israel, the West Bank and Gaza between January 2015 and December 2017 are: 3,494 in 2017, 3,203 in 2016 and 11,953 in 2015, for a total number of 18,650. Note that the data provided by Human Rights Watch includes data for the West Bank and Gaza, unlike OCHA's figures, which provides data for the West Bank and Gaza separately.

8 Article 2, Appendix 1, Protocol concerning Civil Affairs, Interim Agreement.

Authority; (ii) Area B, which consists of approximately 22 percent of the area, is administered by both the Palestinian Authority (administratively) and Israel (security); and (iii) Area C, which consists of the remaining 60 percent of the land, is administered exclusively by Israel. Although the Oslo Agreement envisioned that powers and responsibilities in Area C would be transferred gradually to Palestinian jurisdiction by the 1999 conclusion of the five-year interim period, the timetable for this transfer was never implemented, and therefore Israel has continued to assume its administration of Area C, including in planning, building and development.

As administrator of Area C, Israel has limited Palestinian use of 70 percent of Area C's land by designating large tracts of land as firing zones, nature reserves and natural parks, survey land and other similar restrictive uses, effectively expropriating thousands of acres of Palestinian land in many cases for the construction or expansion of settlements.⁹ The remaining 30 percent of land requires a permit for any use of the land, including construction and grazing. Obtaining such permits has proven extremely difficult.¹⁰ As a result of these regulations, Palestinians have been restricted in accessing and using their lands, and many have been forced to leave their homes and relocate. These land use restrictions have also severely constrained private investment and economic activity in the West Bank by Palestinians.¹¹ Unlike Areas A and B, which represent 227 isolated enclaves, Area C is the only contiguous territory in the West Bank. According to the World Bank, this geographical reality renders Area C indispensable to the efficient movement of goods and people within the West Bank, and also to connective infrastructure development.¹²

Israeli authorities also continued their widespread practice of home and structure demolitions across the West Bank.¹³ Israeli authorities demolish homes in one of three instances: when a building permit is not sought prior to construction (administrative demolition); if the authorities deem it necessary as part of a military operation (military demolition, the only valid reason under international law for such demolitions); or as a punitive measure against an

individual (or his or her family, referred to as 'collective punishment') who harmed or attempted to harm a Israeli civilian or security personnel (punitive demolition). According to the UN Human Rights Committee, demolitions have been identified as a key element of a 'coercive environment' in East Jerusalem and the West Bank, particularly in Area C, where Israeli authorities have targeted communities for relocation, especially if close to Israeli settlements.¹⁴ The home demolitions have led to the displacement of thousands of Palestinians.¹⁵ For example, between 1 August 2016 and 30 November 2017, Israeli authorities have confiscated and/or demolished 734 Palestinian-owned structures, including 180 residential inhabited structures, of which 48 were located in East Jerusalem.¹⁶ Forcible transfer of population in an occupied territory is in violation of IHL and international human rights law.¹⁷

At the same time, Israel continued to facilitate the transfer of Israeli citizens into settlements across the West Bank, while providing them with security, administrative services, housing, education, and medical care.¹⁸ The transfer of a State's population to the territory it occupies is in breach of the Fourth Geneva Convention, and considered a war crime that may lead to individual criminal responsibility under the International Criminal Court.¹⁹ Israel also increased its settlement activity, authorizing construction work for new settlement housing units.²⁰ Approximately 600,000 Israeli citizens currently reside in settlements and



9 Human Rights Watch, 'Israel: 50 Years of Occupation Abuses: Ramp Up Pressure for Accountability on all Sides,' 4 June 2017, <https://www.hrw.org/news/2017/06/04/israel-50-years-occupation-abuses>.

10 B'Tselem, 'Restrictions on Movement,' 11 November 2017, https://www.btselem.org/freedom_of_movement; Human Rights Watch, World Report 2018, supra fn [4].

11 The World Bank, 'Economic Monitoring Report to the Ad Hoc Liaison Committee,' 18 September 2017, para. 41, <http://documents.worldbank.org/curated/en/515891504884716866/pdf/119657-WP-PUBLIC-on-Monday-1-PM-sept-11-AHLC-report-September-8.pdf>.

12 Ibid.

13 Human Rights Council, 'Human rights situation in the Occupied Palestinian Territory, including East Jerusalem', Report of the Secretary-General, A/HRC/34/38, 16 March 2017; United Nations Human Rights Office of the High Commissioner (OHCHR), 'Punitive demolitions destroy more than homes in occupied Palestinian territory,' 28 December 2015, <http://www.ohchr.org/EN/NewsEvents/Pages/PunitiveDemolitionsInOPT.aspx>.

14 Human Rights Council, 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan,' Annual report of the United Nations High Commissioner for Human Rights (UNHCR) and reports of the OHCHR, Thirty fourth session, 16 March 2017, A/HR/34/39, p. 47.

15 Human Rights Council, Annual Report of the UN High Commission for Human Rights, 'Human rights situation in Palestine and other occupied Arab territories', A/HRC/34/38, 16 March 2017.

16 The Office of the Prosecutor, International Criminal Court, 'Report on Preliminary Examination Activities', p. 62, 4 December 2017, quoting OCHA data, available at https://www.icc-cpi.int/itemsDocuments/2017-PE-rep/2017-otp-rep-PE_ENG.pdf.

17 Art. 53 GC IV; Art. 11 ICESCR and Art. 17 ICCPR; A/HRC/34/38, para. 20, supra fn [15].

18 Human Rights Watch, World Report 2018, supra fn [4].

19 ICJ Wall case, para. 120; SC resolutions 2334 (2016) and 465 (1980), GA resolution 70/89 and HRC resolution 31/36; Declaration of 17 December 2014 of the High Contracting Parties to GC IV, para. 8; A/HRC/34/38, p. 5, supra fn [15].

20 A/HRC/34/38, supra fn [15].

outposts across the West Bank and East Jerusalem.²¹ In East Jerusalem in particular, efforts to expand settlements in Palestinian-owned land have continued, particularly in the Old City, leading to an increase in evictions of Palestinian families.²² The growth of settlements and their exclusive roads and security infrastructure, have resulted in further displacement of Palestinians and also created significant and, at times, violent tension between settlement populations and Palestinians. Between 2015 and 2017, Israeli settler violence led to the death of 179 Palestinians and damages to Palestinian property in 322 separate incidents in the West Bank.²³

FREEDOM OF MOVEMENT AND THE SEPARATION BARRIER

Israel controls the freedom of movement of Palestinians within the West Bank and between the West Bank and the Gaza Strip, Israel and abroad, primarily imposed through checkpoints spread across the West Bank and the separation wall or barrier (a system of fences and some sections of concrete wall) dividing the West Bank and Israel. In its advisory opinion of 2004, the International Court of Justice found the Separation Barrier to be illegal under international law, amongst other reasons because it departed markedly from the Armistice Line of 1949 (also referred to as the Green Line), a line fixed between Israel and Arab Forces following the 1948 Arab-Israeli War to divide Israel and Palestine.²⁴ Israel has continued to build the Separation Barrier, having completed approximately 65 percent of the planned barrier as of September 2017.²⁵

As currently built, the Separation Barrier has effectively annexed Palestinian lands and resources that are west of the Separation Barrier (areas referred to as 'seam zones'). Approximately 85 percent of the Separation Barrier falls within the West Bank.²⁶ Once completed, approximately 9.4 percent of the West Bank, including East Jerusalem, will be isolated from the rest of the West Bank.²⁷ Approximately 11,000 Palestinians are trapped between the Separation

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Barrier and the Green Line, requiring them to cross checkpoints on a daily basis to access their work, family and friends, school, and other daily destinations.²⁸ The Separation Barrier has also limited Palestinians' access to farmland and land to graze their animals to approximately 150 Palestinian communities, blocking thousands of Palestinians from freely accessing and cultivating their land.²⁹ In doing so, many Palestinians have been forced to abandon lucrative lands, allowing much of this land to be confiscated by the Israeli government.

The nearly 100 checkpoints located across the West Bank³⁰ have resulted in severe restrictions of movement for Palestinians, as these checkpoints can forbid access through a road or significantly increase travel time within the West Bank without notice or explanation. In the case of East Jerusalem, which Israel unlawfully annexed in 1967³¹, the Separation Barrier and checkpoints have completely sealed off Palestinians residing in the West Bank from accessing East Jerusalem, unless they are able to obtain a permit to enter the city and access Israel, which involves a non-transparent and arbitrary approval process.³²

ARBITRARY DETENTION

In the West Bank, Israeli authorities carry out administrative detentions pursuant to a military order on Security Provisions. In administrative detention, a person is held without charges or a trial, and the evidence is considered 'secret' that the defendant and his or her lawyer are not given access to. As of December 2017, Israel held 434 Palestinian administrative detainees without charge or trial.³³ The Israeli military detains Palestinians inside Israel, violating international law that requires they be held within the occupied territory.³⁴ About 1000 Palestinian

21 B'Tselem, 'Settlements', 11 November 2017, <https://www.btselem.org/settlements>.

22 Human Rights Council, 'Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan', Report of the Secretary General, 16 March 2017, (A/HRC/34/39).

23 See OCHA 2017, 2016 and 2015 figures on demolitions, supra fns [4 and 6].

24 See ICJ Wall case, p. 166, supra fn [1].

25 OCHA, 'West Bank Barrier', <https://www.ochaopt.org/theme/west-bank-barrier>.

26 A/HRC/34/38, supra fn [15].

27 Ibid.

28 Human Rights Watch, 'Israel/Palestine: Events of 2016', <https://www.hrw.org/world-report/2017/country-chapters/israel/palestine>; S. McNeill, 'Occupied Lives: Palestinians in the West Bank have now spent 50 years under Israeli military control', Australia Broadcasting Corporation, 30 June 2017, <http://www.abc.net.au/news/2017-06-06/occupied-lives-palestinians-israel-military-control/8578368>.

29 A/HRC/34/38, supra fn [15].

30 B'Tselem, 'List of checkpoints and forbidden Roads', 8 February 2017, https://www.btselem.org/freedom_of_movement/checkpoints_and_forbidden_roads#list.

31 See generally SC resolutions 478 (1980), 476 (1980); GA resolution 70/88 and 71/96 (A/RES/71/96).

32 B'Tselem, 'Restrictions on Movement', 11 November 2017, https://www.btselem.org/freedom_of_movement.

33 Addameer, 'Statistics', November 2017, <http://www.addameer.org/statistics>.

34 Amnesty International, 'Israel must end 'unlawful and cruel' policies towards Palestinian prisoners', 13 April 2017, <https://www.amnesty.org/en/latest/news/2017/04/israel-must-end-unlawful-and-cruel-policies-towards-palestinian-prisoners/>; see generally, N. Ishaq, 'Violating international legal obligations: Israel's treatment of Palestinian prisoners,' Directorate-General for External Policies of the European Union, 12 March 2013, <http://>



prisoners protested by organizing a 40-day hunger strike in mid-2017.³⁵

PALESTINIAN AUTHORITY

Since the Hamas-Fatah split in 2007, the Palestinian Authority (PA) in the West Bank is controlled by the political faction Fatah. In governing the West Bank, the PA and its security services have been accused of corruption,³⁶ arbitrary arrests, and torture and mistreatment of detainees.³⁷ In particular, the PA in the West Bank has been accused of arbitrarily arresting journalists,³⁸ activists and students for their alleged affiliation with Hamas or other political opponents or for political criticism of Fatah and the PA.³⁹ The Independent Commission for Human Rights, a statutory commission that monitors human rights violations in Palestine, received a total of 205 complaints of torture and other ill-treatment of detainees committed by PA's security forces in the West Bank between January and October 2017.⁴⁰

Further, in June 2017, President Abbas' administration introduced the Electronic Crimes Law by executive decree, which imposed tight controls on media freedom and severely banned online expression.⁴¹ A number of human

2017 marked 10 years of the blockade of Gaza by Israel and Egypt. The blockade was imposed after Hamas won the 2006 Palestinian elections and failed to agree to renouncing violence against Israel, recognizing the state of Israel and honoring all previous agreements between Israel and the PA.

rights activists were subsequently charged under the law for criticizing the PA.⁴² Although the Justice Ministry proposed several amendments to the law in response to widespread criticism, a number of problematic provisions remain that limit citizens' rights to privacy and freedom of expression, including the authorities' right to conduct surveillance, force service providers to retain consumer data, and block websites.⁴³

Finally, the UN Human Rights Council reported, in referring to the Middle East Quartet's findings, that some members of Fatah publicly supported attacks against Israel, as well as encouraged violent confrontation, with no concerted and consistent action apparently taken by Fatah to prevent such statements.⁴⁴ Despite these statements, the PA in the West Bank and the Israeli government have upheld their security alliance (unpopular with many Palestinians), first established pursuant to the 1993 Oslo accords.

GAZA STRIP

2017 marked 10 years of the blockade of Gaza by Israel and Egypt. The blockade was imposed after Hamas won the 2006 Palestinian elections, a conflict between Fatah and Hamas led to their split in 2007 and Hamas failed to agree to renouncing violence against Israel, recognizing the state of Israel and honoring all previous agreements between Israel and the PA. According to Israel, it no longer occupies the Gaza Strip as it dismantled all settlements, withdrew its military forces and declared the end of the military government.⁴⁵ However, Palestinian human rights organizations argue that in practice, the occupation continues as Israel controls all border crossings by land apart from the one entry point into Egypt, as well as Gaza's sea and air space.⁴⁶

www.europarl.europa.eu/RegData/etudes/briefing_note/join/2013/491484/EXPO-AFET_SP%282013%29491484_EN.pdf.

35 I. Fisher, 'Palestinian Prisoners End Hunger Strike in Israel After 40 Days,' *The New York Times*, <https://www.nytimes.com/2017/05/27/world/middleeast/palestinian-prisoners-hunger-strike-israel.html>.

36 T. Dana, 'Corruption in Palestine: A Self-Enforcing System,' 18 August 2015, <https://al-shabaka.org/briefs/corruption-in-palestine/>.

37 Amnesty International, 'Palestine (State of) 2016/2017,' <https://www.amnesty.org/en/countries/middle-east-and-north-africa/palestine-state-of/report-palestine-state-of/>.

38 Amnesty International, 'Palestine: Dangerous escalation in attacks on freedom of expression,' 23 August 2017, <https://www.amnesty.org/en/latest/news/2017/08/palestine-dangerous-escalation-in-attacks-on-freedom-of-expression/>.

39 Amnesty International, *Palestine Report 2016/2017*, supra fn [37].

40 Human Rights Watch, *World Report 2018*, supra fn [4]; see also U.S. Department of State, '2016 Human Rights Reports: Israel and The Occupied Territories,' 3 March 2017, <https://www.state.gov/j/drl/rls/hrrpt/2016/nea/265502.htm>.

41 The Arab Center for the Advancement of Social Media, 'The Full English Translation of the Palestinian Cyber Crime Law,' 2 August 2017, <https://7amleh.org/2017/08/02/the-full-english-translation-of-the-palestinian-cyber-crime-law/>.

translation-of-the-palestinian-cyber-crime-law'; Addameer, 'Behind a Firewall: Repercussions of the PA 'Electronic Crimes Law', 20 August 2017, <http://www.addameer.org/publications/behind-firewall-repercussions-pa-electronic-crimes-law/>.

42 Amnesty International, 'Palestinian Human Rights Activist Charged under Repressive New Cybercrimes Law,' 7 September 2017, <https://www.amnesty.org/en/press-releases/2017/09/palestinian-human-rights-activist-charged-under-repressive-new-cybercrimes-law/>.

43 Human Rights Watch, 'Palestine: Reform Restrictive Cybercrime Law: Amended Draft Better, but Still Short of International Standards,' 20 December 2017, <https://www.hrw.org/news/2017/12/20/palestine-reform-restrictive-cybercrime-law>.

44 UN Human Rights Council, A/HRC/35/19.Add.1, 15 June 2017, para. 35.

45 R. Eglash, 'Does Israel actually occupy the Gaza Strip?', 2 July 2015, https://www.washingtonpost.com/news/worldviews/wp/2015/07/02/does-israel-actually-occupy-the-gaza-strip/?utm_term=.a0275e0638b0.

46 Ibid.

THE BLOCKADE

As part of Israel's control of Gaza's border, it has blocked nearly all outgoing goods from Gaza and severely limited entry and exit of persons by allowing only 'exceptional humanitarian cases,' which primarily refers to medical patients, their companions, and prominent business people. Egypt has similarly blocked all regular movement of goods at the crossing it controls in Rafah, and imposed increased restrictions on the movement of people. As of mid-2017, the PA in the West Bank imposed its own punitive measures to force Hamas into a reconciliation deal (discussed below under Developments in 2017, Fatah and Hamas Reconciliation).

The effects of the blockade and the punitive measures imposed by Fatah in 2017, have been catastrophic for Gaza. The infrastructure and public services were in a critical condition as of the end of 2017. As reported in November 2017, over 95 percent of water pumped in Gaza was contaminated and thus, undrinkable.⁴⁷ Unemployment rates in Gaza reached 44 percent.⁴⁸ Electricity was provided only between two and four hours a day, with some extended periods with generators.⁴⁹ Due to the power shortage, hospitals worked at minimal capacity, with only the most critical services being offered to the public. Wastewater plants operated on shortened treatment cycles, resulting in a decreased quality of sewage.⁵⁰ According to the United Nations Conference on Trade and Development, 'the social, health and security-related ramifications of the high population density and overcrowding are among the factors that may render Gaza unlivable by 2020'.⁵¹

The punitive measures taken by Fatah in 2017 against Gaza further exacerbated its humanitarian crisis.⁵² In April

Since Operation Protective Edge in 2014, Palestinian armed groups have continued to launch rocket and mortar attacks (at times indiscriminately) on Israel; Israel has continued to respond with overwhelmingly superior firepower.

2017, the PA imposed a tax on industrial diesel used for Gaza's power plant; unable to pay the new taxes, the plant ran out of fuel leaving a number of schools, hospitals and businesses only partly operational.⁵³ In mid-2017, the PA reduced the salaries of approximately 50,000 Gaza-based civil servants by about 30 percent, and forced more than 6,000 civil servants based in Gaza into early retirement.⁵⁴ Finally, President Abbas further restricted medical border crossings for Gazans.⁵⁵

HAMAS

Since Operation Protective Edge in 2014, Palestinian armed groups⁵⁶ have continued to launch rocket and mortar attacks (at times indiscriminately) on Israel; Israel

has continued to respond with overwhelmingly superior firepower. According to OCHA, between 2015 and 2017, Israeli security forces killed approximately 64 Palestinians and injured approximately 12,150 Palestinian in Gaza, including bystanders, protesters, and suspected assailants.⁵⁷

Israeli authorities have reported no Israeli fatality or injury between January 2015 and 2017 as a result of violence in Gaza or rocket and mortar attacks from Gaza.

Hamas in Gaza has been accused of launching a repressive campaign against dissenters, especially journalists from opposition media outlets, who have been arbitrarily detained, mistreated and tortured.⁵⁸ The Independent Commission for Human Rights received a total of 193 complaints of torture and other ill-treatment of detainees by Hamas security forces between January and October 2017.⁵⁹

Further, the UN Human Rights Council in 2017 highlighted several reports that document the Palestinian authorities' persistent use of statements meant to incite

47 B'Tselem, 'The Gaza Strip,' 11 November 2017, https://www.btselem.org/gaza_strip.

48 The World Bank Report, supra fn [11].

49 Although the flow of electricity was already inadequate between 2015-early 2017, in April 2017, President Abbas decided to stop funding the electricity that Israel supplied to the Gaza Strip, which made up approximately 30 percent of Gaza's total power needs. I. Kershner, 'Challenging Hamas, Palestinian Authority Cuts Electricity Payments for Gaza,' *The New York Times*, 27 April 2017, <https://www.nytimes.com/2017/04/27/world/middleeast/palestinian-authority-hamas-gaza-electricity.html>; International Committee of the Red Cross (ICRC), 'Electricity shortages affect all aspects of life in Gaza,' 15 May 2017, <https://www.icrc.org/en/document/gaza-power-fuel-crisis>; Amnesty International, 'Gaza: Looming humanitarian catastrophe highlight need to lift Israel's 10-year illegal blockade,' 14 June 2017, <https://www.amnesty.org/en/latest/news/2017/06/gaza-looming-humanitarian-catastrophe-highlights-need-to-lift-israels-10-year-illegal-blockade/>.

50 OCHA, 'The Humanitarian Impact of the Gaza Electricity Crisis, May 2017,' 4 May 2017, <https://reliefweb.int/report/occupied-palestinian-territory/humanitarian-impact-gaza-electricity-crisis-may-2017>.

51 United Nations Conference on Trade and Development, 'Report on UNCTAD assistance to the Palestinian people: Developments in the economy of the Occupied Palestinian Territory,' Sixty-second session, 6 July 2015, http://unctad.org/en/PublicationsLibrary/tdb62d3_en.pdf.

52 Fanack Chronicle for the Middle East and North Africa, 'Gaza Strip Faces Humanitarian

Catastrophe as President's Punitive Measures Take Effect,' 22 August 2017, <https://fanack.com/palestine/history-past-to-present/gaza-humanitarian-catastrophe/>.

53 Kershner, supra fn [49].

54 Ibid.; Fanack Chronicle, supra fn [52].

55 Ibid.

56 The main Palestinian armed groups operating from Gaza include Hamas and its military wing, the Izz ad-Din al-Qassam Brigades; the Palestinian Islamic Jihad; the Popular Resistance Committees and its military wing, the Al-Nasser Salah al-Deen Brigades; and Fatah and its military wing, the Al-Aqsa Martyrs Brigade. There are also other smaller armed groups, some affiliated to al-Qaeda, that operate in and from Gaza, including Jaysh al-Islam, Jaysh al-Ummah, Hizb-ut-Tahrir, Mujahideen Shura Council in the Environs of Jerusalem, and Harakat as-Sabirin Nasran li-Filastin. American Foreign Policy, 'World Almanac of Islamism,' 22 September 2017, <http://almanac.afpc.org/palestinian-territories>.

57 See OCHA 2017, 2016 and 2017 figures on casualties and injuries in Gaza, supra fns [4 and 6].

58 Amnesty International, 'Attacks on freedom of expression,' supra fn [38].

59 Human Rights Watch, World Report 2018, supra fn [4].

violence against Israel, noting that Hamas and other radical factions in Gaza ‘use media outlets to glorify terrorism and openly call for violence against Jews, including instructing viewers on how to carry out stabbings.’⁶⁰ For example, Moshir El Masry, a member of the legislative committee of Hamas’ bureau, urged all imprisoned Palestinians in February 2017 to ‘initiate a stabbing intifada behind bars targeting Israeli soldiers.’⁶¹

INTERNATIONAL CRIMINAL COURT

In January 2015, Palestine accepted the jurisdiction of the International Criminal Court (ICC) over alleged crimes committed in the occupied Palestinian territory, including East Jerusalem, since June 2014. It subsequently acceded to the Rome Statute, becoming an ICC state party in April. The ICC Office of the Prosecutor (OTP) opened a preliminary examination into the situation in Palestine that same month to determine whether the criteria have been met to merit pursuing a formal investigation into crimes committed in and from Palestine.⁶² Since then, the OTP has made numerous visits to Israel and the West Bank, held meetings with Israeli and Palestinian officials and received approximately 100 communications.⁶³ According to the December 2017 Report on Preliminary Examination Activities, the focus of its preliminary examination in Palestine is two-fold: (1) settlement-related activities in the West Bank and East Jerusalem, in particular as they relate to the displacement of Palestinian residents; and (2) the 2014 Gaza conflict, which resulted in ‘a high number of civilian casualties, significant damage to or destruction of civilian buildings and infrastructure, and massive displacement.’⁶⁴

Although it is unclear how long the preliminary examination of the Palestinian allegations will take, to move beyond the ‘preliminary examination’ stage, the situation in Palestine must satisfy the Rome Statute’s admissibility requirements of complementarity and gravity – a determination of whether Israel is ‘unwilling or unable’

to investigate or punish the accused; and an assessment of the scale, nature, manner of commission of the alleged crimes and their impact, respectively.

The OTP has also signaled that it will have to decide two thorny jurisdictional issues: the legal regime applicable to the territory of the West Bank and the legal characterization of the Gaza conflict. First, the ICC notes Israel’s position that the West Bank is a disputed, rather than occupied, territory; but recognizes that intergovernmental and international judicial bodies, including the International Court of Justice, the UN Security Council and the UN General Assembly, consider the West Bank to be occupied.⁶⁵ Second, while most agree that there is an existence of an armed conflict in Gaza, the OTP believes that the classification of the conflict as one of an international or non-international character, or both

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existing in parallel, remains subject to debate and diverging views. This is significant because certain war crimes provisions under the Rome Statute appear to be applicable to international armed conflicts only – and thus, would not apply to Gaza

if the conflict were to be considered of a non-international character.⁶⁶

DEVELOPMENTS IN 2017

SETTLEMENTS

The expansion of, and operations in, settlements have continued to draw headlines, with several major developments within the past year. On 23 December 2016, the UN Security Council passed Resolution 2334, which condemned, inter alia, all measures aimed at altering the demographic composition of Palestine since 1967, including ‘the construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians, in violation of international humanitarian law’.⁶⁷ Resolution 2334 also significantly stated that ‘the cessation of all Israeli settlement activities is essential for salvaging the two-State solution’. The Security Council passed the resolution with 14 votes to 0, with an abstention from the US⁶⁸ – departing from the US’s long-standing policy of shielding Israel from

60 UN Human Rights Council, ‘Additional information pertaining to the comprehensive review on the status of recommendations addressed to all parties since 2009 with regard to the Occupied Palestinian Territory, including East Jerusalem,’ A/HRC/35/19.Add.1, 15 June 2017, para. 35 <https://unispal.un.org/DPA/DPR/unispal.nsf/0/66E7FF410A9668F885258140006E-9FAD>.

61 Ibid.

62 OTP, ICC, Preliminary Examination, p. 4, supra fn [16].

63 Ibid., p. 52.

64 Ibid., p. 64.

65 Ibid., p. 69.

66 Ibid., p. 70.

67 S/Res/2334 (2016), <http://www.un.org/webcast/pdfs/SRES2334-2016.pdf>.

68 United Nations, ‘Israel’s Settlements Have No Legal Validity, Constitute Flagrant Violation of International Law, Security Council Reaffirms,’ 23 December 2016, <https://www.un.org/press/en/2016/sc12657.doc.htm>.

such UN initiatives.

The US decision to abstain came at the very end of President Obama's eight-year administration – a step many regarded as a punishment to Netanyahu's government for failing to progress in peace negotiations at a pace the Obama administration considered acceptable.⁶⁹ The Obama Administration had made multiple efforts to broker a peace in the Middle East, first with George Mitchell, a diplomatic veteran who was instrumental in the Northern Ireland peace process, but who resigned from his Middle East post only two years later with limited progress. Then, in 2013, John Kerry, President Obama's second Secretary of State, attempted to restart the peace process, but these talks also failed in March 2014. In explaining the US decision to abstain on the UNSC vote, Kerry blamed Netanyahu's coalition for jeopardizing the two-state solution as a result of their steadfast commitment to settlements, which he described as the 'most right wing in Israeli history, with an agenda driven by the most extreme elements'.⁷⁰ As former US Ambassador to the UN Samantha Powers further noted, '[t]he settlement problem has gotten so much worse that it is now putting at risk the very viability of that two-state solution'.⁷¹

Equally significant is the early positioning of President Trump (who was at the time of Resolution 2334's vote President-elect) and his administration on Israel-Palestine generally, and in particular the settlement issue. As was later reported, former National Security Advisor Michael Flynn was involved in significant back-channel attempts at the time to prevent the resolution from being tabled and later from being approved (despite the fact that transition administrations are discouraged from taking any active role prior to inauguration).⁷² Current US Ambassador to the UN, Nikki Haley, has made clear that Resolution 2334 was a mistake and is working closely with Israel to overturn it (a challenging task, given that it would require a new motion, a majority on the Council, and no veto from any of the permanent members).⁷³

The most significant domestic development in relation to settlements took place on 6 February 2017, when Israel's

Knesset passed the 'Regularisation Law' by 60 votes to 52, which would retroactively legalize Israeli outposts⁷⁴ on privately-owned Palestinian land provided settler good faith or government support, and compensation above market rate.⁷⁵ Under the law, Palestinian landowners will be offered compensation for the long-term use of their property but will not be able to reclaim it. The law will allow for the retroactive legalization of land in more than 50 outposts so far, amounting to approximately 4,000 settler homes.⁷⁶ The law is extremely controversial in and out of Israel, with Israel's attorney general Avichai Mandelblit describing it as unconstitutional and in contravention of the Fourth Geneva Convention,⁷⁷ and UN's coordinator for the Middle East peace process Nicky Mladenov claiming the legislation 'opens the floodgates to the potential annexation of the West Bank'.⁷⁸ The Israeli High Court has not yet ruled on its constitutionality but in August issued an injunction to freeze its implementation pending its decision.⁷⁹

In addition to legal steps, Israel's security cabinet in March 2017 approved the construction of Amichai, a new settlement aimed to house the residents of an illegal outpost that had been evacuated following a ruling by the Israeli High Court of Justice.⁸⁰ Although existing settlements have grown in size (and illegal outposts have been made legal as discussed above), this is the first new settlement since 1999, and accordingly a significant and defiant step by the Israeli government.⁸¹

In March 2016, the UN Human Rights Council voted, 32 countries in favor and 15 abstaining, to produce a database of all business enterprises operating in Israeli settlements in the West Bank, East Jerusalem and the Golan Heights.⁸² The basis for this initiative is a 2013 UN Human Rights

⁷⁴ Under Israeli law, outposts are considered illegal Israeli settlements, constructed without the authorization of the Israeli government. Under international law, both outposts and settlements are considered illegal.

⁷⁵ R. Wootliff, 'In historic first, Israel legalizes West Bank outposts with sweeping new legislation,' *The Times of Israel*, 6 February 2017, <https://www.timesofisrael.com/in-historic-first-israel-legalizes-west-bank-outposts-with-sweeping-new-legislation/>.

⁷⁶ J. Reed, 'Israeli settlement law 'crosses thick red line, warns UN envoy', *Financial Times*, <https://www.ft.com/content/13786bba-ed46-11e6-930f-061b01e23655>; see also, BBC News, 'Israel passes controversial law on West Bank settlements', 7 February 2017, <http://www.bbc.com/news/world-middle-east-38888649>.

⁷⁷ I. Fisher, 'Israel Passes Provocative Law to Retroactively Legalize Settlements,' *The New York Times*, 6 February 2017, <https://www.nytimes.com/2017/02/06/world/middleeast/israel-settlement-law-palestinians-west-bank.html>; E. Chachko, 'Israel's Settlement Regularization Law: The Attorney General's Extraordinary Brief and What It Means for Israel's Legal Stance on Illegal Settlements,' 8 December 2017, <https://www.lawfareblog.com/israels-settlement-regularization-law-attorney-generals-extraordinary-brief-and-what-it-means>.

⁷⁸ Reed, Israeli settlement law, supra fn [76].

⁷⁹ J. Magid and S. Winer, 'High Court freezes controversial outpost legalization law,' *The Times of Israel*, 17 August 2017, <https://www.timesofisrael.com/high-court-freezes-controversial-outpost-legalization-law/>.

⁸⁰ Y. Berger, 'Israeli Cabinet Approves Resumption of Work on New West Bank Settlement,' *Haaretz*, 3 September 2017, <https://www.haaretz.com/israel-news/1.810403>.

⁸¹ M. Lubell, 'Israeli cabinet approves first West Bank settlement in 20 years,' *Reuters*, 30 March 2017, <https://www.reuters.com/article/us-israel-palestinians-settlement/israeli-cabinet-approves-first-west-bank-settlement-in-20-years-idUSKBN1711K6>.

⁸² OHCHR, 'Human Rights Council adopts six resolutions and closes its thirty-first regular session,' 24 March 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=18535&LangID=E/>

⁶⁹ N. Sachs, 'What's new and what's not in the U.N. resolution on Israeli settlements,' *Brookings*, 26 December, 2016, <https://www.brookings.edu/blog/markaz/2016/12/26/whats-new-and-whats-not-in-the-u-n-resolution-on-israeli-settlements/>.

⁷⁰ J. Kerry, 'Remarks on Middle East Peace', Washington, D.C., 28 December 2016, <https://2009-2017.state.gov/secretary/remarks/2016/12/266119.htm>.

⁷¹ S. Power, 'Full Text of US Envoy Power's Speech Following Abstention at the UN,' *The Jerusalem Post*, 24 December 2016, <http://www.jpost.com/American-Politics/Read-Full-text-of-US-envoy-Powers-speech-following-abstention-at-the-UN-476370>.

⁷² C. Lynch, 'Flynn Pressured U.N. On Israel Vote Before Taking Office,' 13 February 2017, <http://foreignpolicy.com/2017/02/17/logan-trump-israel-flynn-pressured-u-n-on-israel-vote-before-taking-office/>.

⁷³ T. Srafi, 'Israel and US to work to annul UN anti-settlement resolution,' *The Times of Israel*, 7 June 2017, <https://www.timesofisrael.com/israel-and-us-to-work-to-annul-un-anti-settlement-resolution/>.

Council report on the fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people.⁸³ Article 117 of the report required that private companies assess the human rights impact of their activities in Israeli settlements to ensure that they do not have an adverse impact on the human rights of the Palestinian people. Although the database was due to be published in March 2017, its release has already been delayed twice, first to December 2017, and most recently to the first quarter of 2018.⁸⁴ Throughout 2017, the US has criticized the Human Rights Council for this initiative and exerted pressure to prevent its publication.⁸⁵

FATAH AND HAMAS RECONCILIATION

On 11 October 2017, the two main Palestinian factions Fatah and Hamas, signed a reconciliation agreement to create a national consensus government uniting both parties in the West Bank and Gaza.⁸⁶ Egypt brokered the reconciliation talks in Cairo. As part of the deal, Hamas has agreed to transfer administrative control of Gaza to the PA (including the Rafah border with Egypt) and, in return, the PA will lift its sanctions, easing Gaza's economic blockade. In addition, legislative, presidential and national council elections are to be held within one year.⁸⁷

This is not the first attempt at reunification; the previous agreements, most notably the 2007 Mecca agreement, 2011 Cairo agreement and 2014 Shati Agreement (Beach Refugee Camp Agreement), all failed. However, what makes the latest attempt the most promising one yet is that Hamas has never been as cornered as it is today. The Israeli and Egyptian blockades of Gaza, coupled with the harsh measures taken against Gaza by the PA, have led to the continued – and

unsustainable – deterioration of living conditions in Gaza. In addition, Qatar, which until recently was Hamas' main donor, has taken a step back as a result of its diplomatic dispute with regional allies like Saudi Arabia⁸⁸ (despite Hamas' reports denying that its relationship with Qatar has remained unchanged).⁸⁹ These, and internal Hamas conflicts, have pushed Hamas to the negotiating table.

As promising as this reconciliation deal may seem, several issues remain unresolved; a number of which have led to the failure of past reconciliation attempts. First, Hamas has insisted that it will not lay down its arms in its strong belief that resistance to Israel must continue. Notably, Hamas unveiled a political program in May 2017 stating that it accepted an interim Palestinian state within pre-1967 boundaries, effectively recognizing the existence of Israel. Although a number of Hamas leaders had already made public statements to this effect, this was the first

On 11 October 2017, the two main Palestinian factions Fatah and Hamas, signed a reconciliation agreement to create a national consensus government uniting both parties in the West Bank and Gaza.

time Hamas did so as part of its political program).⁹⁰ What would happen with the 25,000 members of Hamas' military wing and other Palestinian factions⁹¹ is also an open question. Another significant obstacle to reconciliation are

the elections that have been promised – many are skeptical that Fatah will expose itself in a popular election especially in Gaza, given the 2006 results. The prospect of success will also depend on those supporting the reconciliation process from afar – reportedly, the agreement is backed by Egypt (with whom Hamas' relations have improved in the past few months), the US, Saudi Arabia, UAE and even Israel.⁹² The continued support – and when necessary, the willingness to exert the right type of pressure – will also be determinant in the success of the reconciliation agreement.

JERUSALEM

The latest development in 2017 was President Trump's decision in December 6 to recognize Jerusalem as the capital of Israel. The long-term impact of this decision, and any legal and diplomatic consequences, are not yet clear. Yet, its

⁸³ Human Rights Council, 'Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem', 7 February 2013, A/HRC/22/63, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf.

⁸⁴ According to the Israeli government, approximately 100 local companies have received warning letters that they will be on the list, which include Israeli banks, supermarkets, restaurant chains, bus lines and security firms, as well as multi-national corporations that provide equipment or services used to build or maintain settlements. AP, 'Israel races to head off UN settlement 'blacklist'', 26 November 2017, <https://www.cnn.com/2017/11/26/israel-races-to-head-off-un-settlement-blacklist.html>.

⁸⁵ Ibid.

⁸⁶ D. Walsh and D. Halbfinger, 'Unity Deal Offers Hope for Palestinians and a Respite for Gaza,' *The New York Times*, 12 October 2017, <https://www.nytimes.com/2017/10/12/world/middleeast/palestinians-fatah-hamas-gaza.html>.

⁸⁷ N. al-Mughrabi and O. Fahmy, 'Palestinian rivals Fatah, Hamas sign reconciliation accord,' *Reuters*, 12 October 2017, <https://www.reuters.com/article/us-palestinians-talks/palestinian-rivals-fatah-hamas-sign-reconciliation-accord-idUSKBN1CH0F5>.

⁸⁸ Ibid.

⁸⁹ Al Jazeera, 'Hamas: No rift with Qatar over Fatah reconciliation,' 22 October 2017, <http://www.aljazeera.com/news/2017/10/hamas-rift-qatar-fatah-reconciliation-171022152847114.html>.

⁹⁰ Hamas, 'Document of general principles and policies', 1 May 2017, <http://hamas.ps/en/post/678/a-document-of-general-principles-and-policies>; P. Wintour, 'Hamas presents new charter accepting a Palestine based on 1967 borders,' 1 May 2017, <https://www.theguardian.com/world/2017/may/01/hamas-new-charter-palestine-israel-1967-borders>; BBC News, 'New Hamas policy document 'aims to soften image'', 1 May 2017, <http://www.bbc.com/news/world-middle-east-39744551>.

⁹¹ See above for discussion on Palestinian armed groups, supra fn [56].

⁹² Walsh and Halbfinger, *Unity Deal*, supra fn [86].



most immediate impact is well known.

Palestinian President Abbas responded to President Trump's announcement by stating that Palestine no longer recognized the US as a mediator in the peace negotiations.⁹³ Hamas quickly responded with rocket attacks against Israeli towns close to the Gaza border, following a declaration of a 'day of rage' by Palestinian factions in protest of President Trump's announcement. Israeli military responded by launching airstrikes into Gaza and killing at least two Palestinians. Although protests and demonstrations were organized in the West Bank and Gaza, and clashes between protesters and Israeli military in the West Bank led to some casualties and injuries, there is no indication yet that these acts will develop into a more extensive surge of violence.

Further, the decision resulted in an immediate international outcry. On 21 December 2017, the UN General Assembly passed a resolution by an overwhelming majority declaring 'null and void' any actions intended to alter Jerusalem's 'character, status or demographic composition,' and stating that the Holy City 'is a final status issue to be resolved through negotiations in line with relevant UN resolutions.'⁹⁴ The vote lineup was significant, as only 8 countries supported the US in the vote (Guatemala, Honduras, Israel, Marshall Islands, Federated States of Micronesia, Nauru, Palau, Togo), with 35 abstentions.⁹⁵ Turkish President Recep Tayyip Erdogan also took steps to organize Arab and Muslim countries in an extraordinary summit of the Organization of Islamic Cooperation (OIC), which met on 14 December 2017 and declared East Jerusalem as the capital of Palestine.⁹⁶ Reportedly, Saudi

93 P. Beaumont, 'Palestinians no longer accept US as mediator, Abbas tells summit,' *The Guardian*, 13 December 2017, <https://www.theguardian.com/world/2017/dec/13/recep-tayyip-erdogan-unite-muslim-world-trump-east-jerusalem>.

94 UN News Centre, 'General Assembly demands all States comply with UN resolutions regarding status of Jerusalem,' 21 December 2017, <http://www.un.org/apps/news/story.asp?NewsID=58330&WID61LbMxBw>; United Nations General Assembly, draft resolution, A/ES-10/L.22, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/ES-10/L.22.

95 Ibid.

96 Al Jazeera, 'OIC declares East Jerusalem as Palestinian capital,' 14 December 2017, <http://www.aljazeera.com/news/2017/12/oic-leaders-reject-trump-decision-jerusalem-171213095417995.html>.

Arabia⁹⁷ and Egypt⁹⁸ were both previously informed of President Trump's decision.

PARTIES TO THE CONFLICT

The parties to the conflict continue to be Israel and Palestine, with Fatah in the West Bank and Hamas as the two key political factions in Palestine. There are multiple armed groups operating in Gaza and the West Bank, which can generally be categorized as being part of one of the following groups: (1) Hamas affiliated, (2) Fatah affiliated, (3) Palestinian Islamic Jihad or (4) Salafist Groups.

One of these groups that is poised to keep growing, if not in numbers and support, certainly in publicity, is Islamic State of Iraq and the Levant – Sinai Province (ISIL-SP). According to various reports, ISIL-SP has been gaining popularity at least with a certain part of the Palestinian society, especially in the Gaza Strip.⁹⁹ ISIL-SP has been a strong critic of Hamas (and Fatah) for several years, accusing it as being a false representative of Islamic ideology, one that does not adhere to a Salafi jihadist doctrine and methodology.¹⁰⁰ In January 2018, it formally declared war against Hamas by publicly broadcasting the execution of a Hamas affiliated militia member.¹⁰¹

MILITARY OCCUPATION OF PALESTINE BY ISRAEL IN THE RULE OF LAW IN ARMED CONFLICTS ONLINE PORTAL

The [Rule of Law in Armed Conflicts \(RULAC\)](#) online portal provides a legal analysis of the [military occupation of Palestine by Israel](#), notably the different forms of control exercised by Israel over the West Bank, including East Jerusalem, and the Gaza Strip; identifies the parties; and applicable international law.

97 The New Arab, 'Trump's Jerusalem move 'coordinated with Arab leaders', 7 December 2017, <https://www.alaraby.co.uk/english/News/2017/12/7/Trumps-Jerusalem-move-coordinated-with-Arab-leaders>.

98 D. Kirkpatrick, 'Tapes Reveal Egyptian Leaders' Tacit Acceptance of Jerusalem Move,' *The New York Times*, 6 January 2018, <https://www.nytimes.com/2018/01/06/world/middleeast/egypt-jerusalem-talk-shows.html>.

99 S. Moubayed, 'Hamas powerless as ISIS gains ground in Palestine', 11 January 2017, <http://www.atimes.com/article/hamas-powerless-isis-gains-ground-palestine/>; S. Batrawi, 'Understanding ISIS's Palestine Propaganda,' 31 March 2016, <https://al-shabaka.org/commentaries/understanding-isis-palestine-propaganda/>.

100 S. Batrawi, 'What ISIS Talks About When It Talks About Palestine,' *Foreign Affairs*, 28 October 2015, <https://www.foreignaffairs.com/articles/israel/2015-10-28/what-isis-talks-about-when-it-talks-about-palestine>.

101 In the video, published online, members of ISIL-SP executed an individual whom they identify as a Hamas collaborator and call on ISIS's followers to attack Hamas. J. Khoury, 'ISIS in Sinai Executes Hamas Militant, Accuses Gaza Group of Abandoning Palestinians,' 4 January 2018, <https://www.haaretz.com/middle-east-news/palestinians/1.833052>; J. Moore, 'Gaza's Next War: ISIS Vows to Overthrow Radical Rival Hamas for Failing to Stop Trump,' *Newsweek*, 4 January 2018, <http://www.newsweek.com/gazas-next-war-looms-isis-vows-defeat-hamas-failing-stop-trump-770694>.

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