

Commission of Inquiry Finds that the Israeli Occupation Is Unlawful Under International Law

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There are reasonable grounds to conclude that the Israeli occupation of Palestinian territory is now unlawful under international law due to its permanence and the Israeli Government's de-facto annexation policies, according to the first [report](#) to the General Assembly issued today by the United Nations Independent International [Commission of Inquiry](#) on the Occupied Palestinian Territory, including East Jerusalem, and Israel.

Underlining that under international humanitarian law the occupation of territory in wartime is a temporary situation and does not deprive the occupied Power of its statehood nor its sovereignty, the three-person Commission called on the General Assembly to request an urgent Advisory Opinion from the International Court of Justice on the legal consequences of Israel's continued refusal to end its occupation of the Occupied Palestinian Territory.

"Recent statements by the Secretary-General and numerous member States have clearly indicated that any attempt at unilateral annexation of a State's territory by another State is a violation of international law and is null and void; 143 member States including Israel last week voted in favour of a General Assembly resolution reaffirming this", stated Navi Pillay, Chair of the Commission. "Unless universally applied, including to the situation in the Occupied Palestinian Territory, this core principle of the United Nations Charter will become meaningless", she added.

In reaching its findings, the Commission reviewed the policies and actions employed by the Governments of Israel to maintain the occupation, and annex parts of the Occupied Palestinian Territory. The Commission's review was based on interviews with experts and stakeholders, and submissions received following a call for submissions issued on 22 September 2021.

The 28-page report focuses on the sustenance and advancement of the settlement enterprise, including statements made by Israeli officials indicating the intent to maintain

permanent control over the land in violation of international law. The Commission concludes that by continuing to occupy the territory by force, Israel incurs international responsibilities and remains accountable for violations of the rights of the Palestinians individually and as a people.

“By ignoring international law in establishing or facilitating the establishment of settlements, and directly or indirectly transferring Israeli civilians into these settlements, successive Israel governments have set facts on the ground to ensure permanent Israeli control in the West Bank”, Ms. Pillay stated.

In producing its report, the Commission reviewed Israel’s expropriation and exploitation of land and natural resources, and Israel’s restrictive urban planning and zoning policies in the West Bank, noting that land is often confiscated for military purposes but is then used for settlement construction. The Commission reviewed statements by Israeli officials indicating that Palestinian construction is seen as an impediment to Israeli settlements, requiring action such as confiscation, demolitions and displacement. The Commission also observed similar processes in East Jerusalem where the restrictive planning and zoning regimes, which have obstructed adequate housing, infrastructure and livelihoods, have contributed to shrinking space for Palestinians.

The report also points to Israeli Government policies which have had a serious and multi-faceted impact on all areas of Palestinian life, including access to clean and affordable water, which has impacted the entire Palestinian agricultural sector, limiting opportunities for livelihoods particularly affecting women.

“There is so much ‘silent harm’ and psychological trauma, that may not be immediately apparent, resulting from the erosion of economic, social and cultural rights. These debilitating processes have severe short and long-term consequences and must be urgently addressed”, said Commissioner Miloon Kothari.

The Commission dedicated a significant part of its report to reviewing the impact of Israel’s occupation and de-facto annexation policies on Palestinian human rights, noting the coercive environment intended to force Palestinians to leave their homes and alter the demographic composition of certain areas. To this effect, the Commission reviewed the demolition of homes and destruction of property, the excessive use of force by security forces, mass incarceration, settler violence, restrictions of movement, and limitations on access to livelihoods, basic necessities, services and humanitarian assistance.

The Commission emphasised that this ongoing coercive environment has fragmented Palestinian society and ensured that Palestinians are unable to fulfil their right to self-determination among other rights. The Commission also noted the extremely harmful impact of the air, land and sea blockade of Gaza on Palestinian human rights.

The report outlines a specifically damaging impact on children, who experience constant military presence, arrest and detention, frequent attacks and acts of violence, restrictions on movement, home demolition and destruction of infrastructure and property. The Commission emphasised that the cumulative effects of occupation practices, including restrictions on movement, have had a pervasive discriminatory effect on Palestinian women, noting that they experience gender-based violence during their everyday activities.

The report concludes by saying that some of the policies and actions of the Israeli

Government leading to permanent occupation and de-facto annexation may constitute elements of crimes under international criminal law, including the war crime of transferring, directly or indirectly, part of one's own civilian population into occupied territory, and the crime against humanity of deportation or forcible transfer.

"The actions of Israeli Governments reviewed in our report constitute an illegal occupation and annexation regime that must be addressed", stated Commissioner Chris Sidoti. "The international system and individual States must act and uphold their obligations under international law. That must begin at this session of the General Assembly with a referral to the International Court of Justice", he added.

Background

The [UN Human Rights Council](#) mandated the Commission on 27 May 2021 to "investigate, in the Occupied Palestinian Territory, including East Jerusalem, and in Israel, all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up and since 13 April 2021". In July 2021, the President of the Human Rights Council announced the appointment of Navanethem Pillay (South Africa), Miloon Kothari (India) and Christopher Sidoti (Australia) to serve as the three members of the Commission and indicated that Ms. Pillay would serve as Chair. [Resolution A/HRC/RES/S-30/1](#) further requested the commission of inquiry to "investigate all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national, ethnic, racial or religious identity." The Commission of Inquiry was mandated to report to the Human Rights Council and the General Assembly annually from June 2022 and September 2022, respectively.

The Commissioners will present their report to the General Assembly on 27 October.

The full report in six languages and more information on the work of the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel, can be found at: <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index>

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