



**REPORTING HUMAN RIGHTS
WITHIN THE UNITED NATIONS ARENA**

**The Strategic Role of Ngos in Monitoring
International Conventions**



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July 2016



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The Jerusalem Institute of Justice (JIJ) does not present this report as a denial of human rights violations charged against Israel, since materials are readily available on that subject. JIJ itself has litigated human rights cases within Israel for more than a decade. This report covers largely unreported, often censored, violations by Palestinian governing authorities against Palestinians, so their voices may be heard and that facts might replace distorted misunderstandings of the regional situation.

ACKNOWLEDGEMENTS

First, I would like to thank Calev Myers, the founder of the Jerusalem Institute of Justice, for the work he is doing and for giving me the opportunity to be part of it.

My sincere thanks go also to Flavia Sevald, CEO of the Jerusalem Institute of Justice (JIJ), who gave me the opportunity to work in this inspiring place with an amazing team committed to promoting justice in Israel and the Middle East. Thank you for helping me to develop my analytical thought processes, for being a patient and thoughtful leader, and for giving me good and useful advice along the way.

I also wish to thank Lydia Morgan, chief administrative officer of JIJ, who helped to make this professional experience in Israel a wonderful addition to my personal journey. It was a lot of fun being around you! Thank you for your kindness and for taking care of everyone in the office.

An additional thank you to all the JIJ interns and the JIJ team!

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ABBREVIATIONS

CRC: Convention on the Rights of the Child

JIJ: Jerusalem Institute of Justice

NGO: Non-Governmental Organization

NHRI: National Human Rights Institution

OHCHR: Office of the High Commissioner for Human Rights

PA: Palestinian Authority

PLO: Palestine Liberation Organization

UN: United Nations

INTRODUCTION

***"The fruit of righteousness will be peace;
its effect will be quietness and confidence forever"***

Isaiah 32: 17

How tough yet honorable it is to work for righteousness and peace in the world. Reality, however, proves the difficulty of attaining this idyll of peace, quietness, and security.

The horrors of World War II motivated political leaders of the time to set up an institution that would aim specifically at maintaining peaceful relationships between all the nations of the world. It was in this context that, in 1945, following the San Francisco Conference, the United Nations was established. After the failure of its forerunner, the League of Nations, established in 1919 under the Treaty of Versailles, the Allies were seeking to establish a stronger organization that was able to maintain international peace and security¹ and would promote respect for human rights and fundamental freedoms.

Monitoring international human rights is, however, not an easy task. Thus, the international community, under the auspices of the United Nations, formed a universal and complex system to ensure respect for human rights worldwide. The UN is today composed of 193 Member States and two non-Member States with permanent observer status: the Holy See and the State of Palestine.² Through the Office of the High Commissioner for Human Rights (OHCHR)—the “principal human rights official of the United Nations”³— the UN has developed systems to monitor Member States’ implementation of international human rights treaties. While I will not discuss the whole OHCHR human rights system since it is not the main focus of this report, I will nonetheless point out that one of the OHCHR’s main missions is to “ensure the enforcement of universally recognized human rights norms, including through promoting both the universal ratification and implementation of the major human rights treaties and respect for the rule of law.”⁴

¹ See Charter of the United Nations, Article 1, “The Purposes of the United Nations.”
<http://www.un.org/en/documents/charter/chapter1.shtml>

² See <http://www.un.org/en/members/nonmembers.shtml>

³ Office of the High Commissioner for Human Rights website:
<http://www.ohchr.org/EN/AboutUs/Pages/WhoWeAre.aspx>

⁴ Ibid.

The OHCHR is comprised of two types of bodies: the UN Charter-based bodies and the treaty-based bodies, which are internal committees established to deal with each human rights treaty implemented by the UN. Today, there are 10 human rights treaty bodies within the OHCHR that monitor the implementation of core international human rights law.⁵ These committees can turn to other international players for help in monitoring state implementation of the rights ensured by a specific treaty. These players, specialists in the field of human rights, are usually non-state actors who can provide an independent eye on the review of a state.

The Jerusalem Institute of Justice (JIJ), where I have worked as an intern for the last three months, is one of these non-state players involved in international human rights law. JIJ is a non-profit organization founded in 2004 in Jerusalem by attorney and human rights activist Calev Myers. It is dedicated to cultivating and defending the rule of law, human rights, freedom of conscience, and democracy for all people in Israel and its adjacent territories.⁶

We combat injustice, defend the powerless, and pursue truth in diplomacy worldwide. We use the rule of law, research, and education to advocate for human rights in the Middle East.⁷

JIJ concentrates on writing reports and submitting alternative information to the UN and other international governmental institutions regarding the implementation of UN international human rights conventions in Israel and the State of Palestine.⁸

During my internship, I worked on various social justice and human rights projects, particularly in the field of children's and women's rights, both in Israel and in the State of Palestine, in the office and in the field. Work in the field gave me the opportunity to meet local people and get a better understanding of their individual challenges. I was also able to work inside an NGO and learn more about the practice of writing reports and other human rights mechanisms.

My main aim as an intern was to work on researching and assessing the implementation of one of the UN human rights conventions that had been ratified by the State of Palestine and to submit a report to the relevant UN treaty body. I chose to work on the implementation of the Convention on the Rights of the Child, and I thus began a long journey of learning and discovery about how the international arena

⁵ See <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

⁶ Jerusalem Institute of Justice website. <http://jij.org/about/>

⁷ See <http://jij.org/justice-projects/>

⁸ For the purpose of this report, and despite the current conflict between the governing entities of the West Bank and Gaza, namely Fatah and Hamas, I will use the United Nations official term "State of Palestine" to designate these areas.

seeks, through its own mechanisms, to pursue and achieve human rights for all people in all nations.

In Part 1 of this report, I will deal with the different actors involved in the UN human rights monitoring system, namely the treaty bodies and civil society actors. In Part 2, I will examine in more detail the role of NGOs as civil society actors reporting to the UN bodies and then highlight a specific human rights issue identified during the course of my internship.

PART 1: Non-Governmental Organizations and United Nations Human Rights Bodies: Strategic Partners in the Monitoring of Human Rights in State Parties

The Office of the High Commissioner for Human Rights (OHCHR) has built up a comprehensive system within the UN arena in order to achieve international cooperation in the field of human rights.⁹ The treaty bodies play an essential role in this system by monitoring the implementation of the core of the international human rights treaties by state parties. They benefit from the contribution of other independent civil society actors (Chapter 1). These include NGOs who prove to be most effective in the assessing of human rights (Chapter 2). Through the use of specific reporting mechanisms and strategic investigation methods, NGOs are key partners for treaty bodies and state parties in the implementation of human rights in national territories.



CHAPTER 1: The Un Human Rights Monitoring Mechanisms: A System Involving Various Actors

One of the main goals of the UN is to promote human rights worldwide and to guarantee proper fulfillment of international conventions undertaken by state parties. The treaty bodies, also called human rights committees, are responsible for assessing and monitoring the implementation of the rights ensured by their own authorities. In doing this, they work closely with state parties in the process of reviewing their national human rights implementation (Section I), usually collaborating with other actors, independent and non-state actors such as NGOs, who also contribute to this review process (Section II).

⁹ Charter of the United Nations, Article 1:3: "The purposes of the United Nations are: ... to achieve international co-operation in...promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion." <http://www.un.org/en/documents/charter/chapter1.shtml>

Section I: Treaty bodies as key players in the implementation of international human rights law

Before dealing with the detailed organization of the treaty bodies inside the OHCHR, I will establish the legal background that is responsible for their existence. International treaties and conventions are legal instruments that impose binding legal obligations upon the state that has voluntarily chosen to ratify them. Under international law this state becomes a party to the treaty and is consequently compelled to uphold and implement the treaty's provisions. Any domestic legislation must therefore also comply with the provisions of this treaty and cannot contradict them in any way.

It is, however, possible for a state party to have reservations regarding a treaty and to request exemption from a specific provision of that treaty. Reservations are legally assessed and then accepted or rejected by the OHCHR. When the reservation is deemed admissible, the state is not bound by that particular provision. When the reservation is deemed inadmissible, because it is found to be adverse to the spirit of the treaty, the state is considered bound by that provision.

Information about the different treaties and state ratifications, as well as the treaty bodies monitoring their implementation,¹⁰ are available in the OHCHR's data on their official website.¹¹ There are 10 human rights treaty bodies that monitor implementation of the core international human rights treaties by the state parties. These committees are comprised of independent experts who are mandated to monitor the compliance of state parties with their treaty obligations. The following table presents the 10 international human rights committees and the convention they each monitor.

¹⁰ See <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

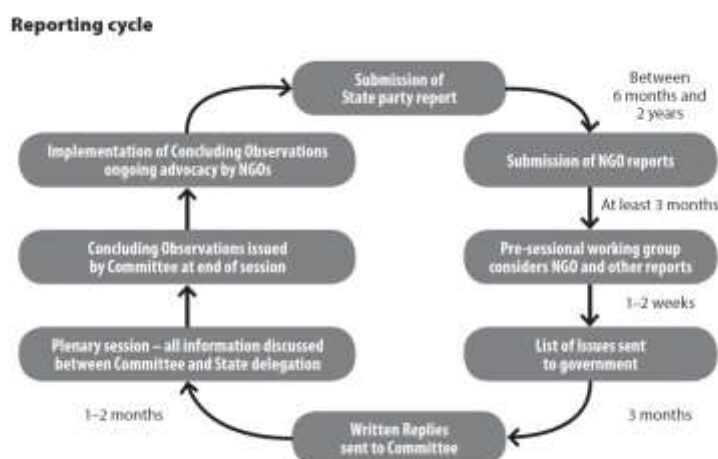
¹¹ See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx

Human Rights Committee (CCPR)	International Covenant on Civil and Political Rights, 1966
Committee on Economic, Social and Cultural Rights (CESCR)	International Covenant on Economic, Social and Cultural Rights, 1966
Committee on the Elimination of Racial Discrimination (CERD)	Convention on the Elimination of All Forms of Racial Discrimination, 1965
Committee on the Elimination of Discrimination Against Women (CEDAW)	Convention on the Elimination of All Forms of Discrimination against Women, 1979
Committee Against Torture (CAT)	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984
Subcommittee on Prevention of Torture (SPT)	Optional Protocol to the Convention Against Torture (OPCAT), 2002
Committee on the Rights of the Child (CRC)	Convention on the Rights of the Child, 1989
Committee on Migrant Workers (CMW)	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990
Committee on the Rights of Persons with Disabilities (CRPD)	Convention on the Rights of Persons with Disabilities, 2006
Committee on Enforced Disappearances (CED)	International Convention for Protection of all Persons from Enforced Disappearance, 2006

By joining the UN and its relevant bodies, the Member States are obliged to carry out a number of international duties and legal obligations. Among these is the submission of regular reports on implementation in their national territory of the international conventions they have ratified within the OHCHR. State parties must submit an initial report two years after acceding to a convention and then periodic reports every five

years.¹² After examining these reports, the treaty bodies express any concerns and recommendations in the form of “concluding observations.”¹³ Following the United Nations General Assembly resolutions 52/118 and 53/138, the secretary-general has compiled in a single volume the guidelines issued by all the committees regarding the form and content of reports to be submitted by state parties.¹⁴ This 136-page document gives state parties all the information and methodology needed to write their reports.

This state report submission is the first in a long cycle of reporting, which is represented by the following diagram.¹⁵



The cycle involves various different actors. State parties are, of course, the main actors and the submission of their report is what launches the cycle. But, other actors—civil society actors— also take part and are the second main source of information for the treaty-monitoring bodies. Indeed, the UN human rights treaty bodies allow these non-state actors, such as NGOs, to be involved and submit alternative information at different stages of the reviewing process as independent entities.

¹² Committee on the Rights of the Child, United Nations Human Rights.
<http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIntro.aspx>

¹³ Ibid.

¹⁴ See *Compilation of guidelines on the form and content of reports to be submitted by State parties to the international human rights treaties*, Report of the Secretary-General, HRI/GEN/2/Rev.6, 3 June 2009.

¹⁵ From “The Reporting Cycle of the Committee on the Rights of the Child: A Guide for NGOs and NHRIs,” Child Rights Connect.

http://www.childrightsconnect.org/wp-content/uploads/2013/10/CRC_Reporting_Guide_WebVersion.pdf

Section II: Advancing justice and human rights in state parties: the contribution of civil society

Civil society's contribution and partnership is greatly valued inside the OHCHR system (A). The human rights mechanisms developed by human rights defenders and particularly NGOs (B) give input and high added value to the work of the independent experts of the treaty bodies.

"Clearly, there is a need on the part of civil society actors to deeply understand and master the modus operandi of national, regional and international human rights institutions"

Navanethem Pillay,
UN high commissioner for human rights
(2008-2014)

A. Involvement of non-governmental players in the reporting process; the OHCHR willingness to ensure a better application of human rights in a given territory

Navanethem Pillay, the UN high commissioner for human rights from 2008 to 2014, described the significance of civil society's contribution in the state parties' reviewing process in her foreword to the *Handbook for Civil Society*:

Human rights defenders, non-governmental organizations and all other civil society stakeholders carry out their human rights work in a variety of ways: they share information; advocate and scrutinize implementation of human rights; report violations, assist victims of abuses; and campaign for the development of new human rights standards. They do so by taking the pulse of their communities and constituencies. They give voice to the powerless in venues

that may, otherwise, be out of the victims' reach, including international human rights forums and mechanisms.¹⁶

The OHCHR and its bodies were thus given the authorization to involve civil society actors in the process of reporting human rights. But who are these other stakeholders? Civil society actors are "individuals who voluntarily engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the United Nations."¹⁷ They are those concerned with the promotion and protection of universal human rights, a definition that includes:

- Human rights defenders
- Human rights organizations (NGOs, associations, victim groups)
- Related issue-based organizations
- Coalitions and networks (women's rights, children's rights, environmental rights)
- Persons with disabilities and their representative organizations
- Community-based groups (indigenous peoples, minorities)
- Faith-based groups (churches, religious groups)
- Unions (trade unions as well as professional associations such as journalist associations, bar associations, magistrate associations, student unions)
- Social movements (peace movements, student movements, pro-democracy movements)
- Professionals contributing directly to the enjoyment of human rights (humanitarian workers, lawyers, doctors, medical workers)
- Relatives of victims
- Public institutions that carry out activities aimed at promoting human rights (schools, universities, research bodies)

This non-comprehensive and relatively extensive list provided by the OHCHR¹⁸ reveals the willingness to leave a large scope of action and initiative to these other human rights stakeholders. This wide definition makes it clear that such actors are essential partners who have a strong inclination to be involved in the UN human rights system.

¹⁶ *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* (New York and Geneva: United Nations Human Rights, Office of the High Commissioner for Human Rights, 2008).

¹⁷ Ibid.

¹⁸ Ibid.

Furthermore, the OHCHR sees this “strong and autonomous civil society, able to operate freely, and knowledgeable and skilled with regard to human rights” as a “key element in securing sustainable human rights protection at the national level.” The OHCHR *Handbook for Civil Society* explains how NGOs can co-operate with the UN system:

Throughout the reporting cycle, committees welcome additional information on all areas covered by their respective treaties in order to effectively monitor implementation in States. The most effective way for civil society actors to submit additional information is through a written report.¹⁹

However, each treaty body sets its own regulations regarding the ways in which civil society actors submit information and reports, and therefore there may be some variation between the different bodies.

While the current report does not allow for an exploration of all the various ways in which civil society actors submit information, I will focus on the workings of the Committee on the Rights of the Child, the treaty body that I worked with during the course of my internship.

B. Reporting to the Committee on the Rights of the Child: methods and approaches

First, as with all treaty bodies, the Committee on the Rights of the Child (CRC) must “submit information and material following the submission of the State party report to a treaty body and before its consideration.”²⁰ The CRC invites written information from national and international NGOs, as well as from other civil society actors, to be submitted two months before their pre-sessional working groups for the preparation of lists of issues. Regarding the legal value of this information, it is stated that:

Written information submitted to human rights treaty bodies is generally regarded as public information. However, committees will keep information confidential if specifically requested to do so... written reports submitted by civil society actors do not become official United Nations documentation, nor are they edited or translated.²¹

This point is important, and NGOs and other actors need to pay attention when submitting their reports that the language used matches one of the working languages of the committee. Reports may be submitted to the CRC in any of the official languages of the UN: Arabic, Chinese, English, French, Russian, or Spanish.²²

¹⁹ Ibid., p.49

²⁰ Ibid.

²¹ Ibid., p.50

²² *Compilation of Guidelines on the Form and Content of Reports to be Submitted by States Parties to the International Human Rights Treaties*, HRI/GEN/2/Rev.6, 3 June 2009.

The CRC has set guidelines for partners such as NGOs or individual experts informing them of the extent and the conditions under which they can participate in the pre-sessional working group of the CRC.²³ These guidelines aim to draw a legal framework for partner participation. NGOs have found their specific place within this framework and play a strategic role in the reviewing process through their reporting mechanisms.



CHAPTER 2: The Role of Ngos in the Ohchr Reviewing Process: An Alternative Tool for Monitoring Human Rights

NGOs can submit reports to relevant human rights committees in which they highlight key issues that may not be raised by the government's own review of the human rights situation in their nation or seek clarification of certain areas (Section I). Such reports involve the use of specific methods of investigation and analysis, which NGOs master and continue to develop (Section II).

Section I: Reporting human rights: an opportunity for NGOs to submit independent and alternative information to relevant UN bodies

Due to their non-governmental status, NGOs end up being key players in the submission of hidden or alternative information that the state may have, possibly willfully, neglected. For example, they are able to highlight any misleading information provided by the government. Thus, NGO reports counterbalance the information submitted by the state and offer an alternative approach.

Two similar mechanisms can be used by NGOs in reporting human rights: shadow reports and alternative reports. While these two terms are usually used to mean the same thing, in practice there is a difference between them. Alternative reports are independent reports submitted by one or more NGOs often before the government's official report has been made available. Shadow reports are published in direct response to the content of the government's report.

²³ See Appendix 1: *Guidelines for the Participation of Partners (NGOs and Individual Experts) in the Pre-Sessional Working Group of the Committee on the Rights of the Child, CRC/C/90, Appendix VIII.*

Shadow Reports

Shadow reporting is an invaluable tool for advocacy. Shadow reports contain alternative information provided by NGOs, which allows the committee reviewing the state to be informed of certain issues that may not be presented in the state's official report or to check on the veracity of government reports. This mechanism allows NGOs to "shadow" the report issued by the State.

Shadow reports are a unique tool through which NGOs can present opinions of civil society on government action and present it to the United Nations' Committees. One of the participants has described the role of civil society as the "monitor of monitors" that illuminates what the government has done with respect to what it claims to have achieved.

(Source: *Using Shadow Reports for Advocacy*, in *New Tactics for Human Rights*, at <https://www.newtactics.org/using-shadow-reports-advocacy/using-shadow-reports-advocacy>)

Shadow reports have been used by many NGOs around the world to lobby UN bodies, such as treaty bodies (for example, the Committee on the Rights of the Child), subject-oriented groups inside the UN like the Office of the Special Rapporteur, other charter-based bodies, and, of course, the high commissioner for human rights.

There is no single format for the form and content of shadow reports to UN treaty bodies. However, various NGOs reporting in different areas of human rights have drafted procedural guidelines for NGO shadow reports to UN treaty bodies. The OHCHR along with the treaty bodies have likewise developed protocols for NGO written submissions and resources for advocates.

In Section II, I will develop some of the methods and tools I used during my internship for reporting and researching the state of human rights in the territory under review.

Section II: Assessing methods and approaches in the field

There are different stages to writing alternative or shadow reports. My task at JIJ was not so much to “shadow” the PA’s official report, since this is not yet available, but rather to highlight specific human rights issues in order to submit them to the relevant UN treaty body. In the process of researching and investigating human rights in the field, I developed skills and best practice mechanisms for international lobbying and report writing.

A. Drawing up the framework and legal research

I worked on a report regarding the implementation of the Convention on the Rights of the Child by the Palestinian Authority (PA). I used various tools and methods to investigate, monitor, and gather information from local residents. As an NGO, JIJ provides reliable information with solid evidence, offering the relevant committee verifiable facts and an alternative viewpoint. Following guidelines and suggestions on writing reports from the UN and various NGOs,²⁴ I started to review the convention and choose the relevant articles. This would later help me to draw up a list of key issues on which to focus my research. This method is consistent with the shadow reporting method. The motivation for reporting is the analysis of some key issues and not necessarily the mention of every right enshrined in the relevant convention. Shadow and alternative reports should focus on one particular issue and on the presentation of facts and data that the state may not have sufficiently analyzed or raised at all.

After setting up a general framework of relevant issues, I examined many articles and sources in an attempt to find a balance between the varying viewpoints and treat the information in the most objective way possible. Finding objective information is one of the main challenges, and the research thus entails a vast amount of cross-referencing work, tackling contrasting information in order to get a full picture of the issue in hand. This same challenge is evident when interviewing people in the field. The materials I examined included reports and papers from human rights NGOs, local organizations and institutions, and official PA reports, as it is crucial to base the research on official statistics, government documentation, and national legislation. This preliminary work helped me to later prepare relevant questions ahead of my interviews with the local people.

²⁴ “A note about shadow reports,” *Stop Violence Against Women— A project of The Advocates for Human Rights*, 12 June 2013. http://www.stopvaw.org/a_note_about_shadow_reports

B. Interviewing locals

When investigating human rights, it is imperative that you meet people living in the region under review; in this case, the Palestinians. It is particularly beneficial to meet with people who are working in the relevant field, and therefore meetings with qualified individuals from NGOs, social institutions, and other organizations in the West Bank were of great help to me.

One of the specifications of my internship was to develop relationships with highly skilled people and organizations working with children in the West Bank. Such people have true field knowledge that cannot be acquired without living locally, and my meetings with them gave me a deeper understanding of local issues and difficulties. I conducted personal interviews with representatives of local and international human rights organizations active in the State of Palestine in order to collect data on certain human rights issues. These interviews provided me with many facts and allowed for a better overview of national and territorial challenges. In addition to these interviews, meetings with local civilians also helped familiarize me with the issues, in particular providing me with a greater understanding of the obstacles faced by Palestinians in both the legal and personal field.

Due to the instability of the region and the subsequent need for caution in handling information, special protective and confidential measures are necessary when collecting information from individuals and representatives of organizations. Out of concern for safety and respect for anonymity, it is essential to remove names and other identifying information from NGO reports so that those who have testified may continue their humanitarian work unhindered.

C. Acquiring consistent knowledge of the local environment

In order to be effective in the field, prior research and a minimum local knowledge are prerequisites. I therefore spent the early weeks of my internship studying the local situation and the current challenges of the region. This is a determining point for any NGO or organization reporting in a specific region.

In my case I needed a minimum understanding of the cultural, religious, and social environment of the region, which was very challenging due to the complexity of the particular regional situation. The West Bank and Gaza are territories whose legal status are still discussed and argued within the international arena. However, the United Nations General Assembly granted non-member observer status to the so-called State of Palestine in 2012.²⁵ Since then, according to UN records, the State of Palestine has voluntarily acceded to various legal instruments within the UN human rights system

²⁵ Resolution 67/19 adopted by the UN General Assembly, 4 December 2012

implying legal consequences. I will discuss these legal consequences in the second part of this report.

PART 2: Case Study: Monitoring Palestinian Authority Implementation of the Convention on the Rights of the Child

After studying some of the legal consequences of the State of Palestine's accession to the UN human rights system and treaty bodies (Chapter 1), I will highlight, according to the NGO reporting methods developed above, one particular human rights issue which concerns the implementation of the CRC in the State of Palestine (Chapter 2).



CHAPTER 1: The State of Palestine's Accession to International Human Rights Law: A Non-Member Observer State Under Review

Since the PA has ratified several human rights conventions within the OHCHR, the governing entity of the State of Palestine is obligated to uphold and implement the relevant treaty's provisions in the territory under its control and has consequently become a treaty party under review within the treaty bodies' monitoring system (Section I). Regardless of the recent nature of their accession, JIJ has for several years been promoting social justice and human rights for the Palestinian population and is now involved in assessing the state of human rights in this region (Section II).

Section I: The Palestinian Authority, a non-state actor inside the OHCHR system

The Palestinian Authority, the governing body of the West Bank, had not, until recently, acceded to any UN human rights conventions. They were unable to do so because these treaties are only open to accession by states as defined in the UN Glossary.²⁶ However, following the UN General Assembly's recognition of Palestine as a non-member observer state in 2012, the PA acceded on 2 April 2014 to eight international conventions on human rights as well as humanitarian law and diplomatic relations.²⁷

²⁶ "‘Accession’ is the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force," United Nations Treaty Collection.
https://treaties.un.org/pages/Overview.aspx?path=overview/glossary/page1_en.xml#accession

²⁷ See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=217&Lang=en

These treaty obligations include seven of the nine core human rights treaties and one of the substantive protocols.²⁸

As stated by the spokesperson for the UN High Commissioner for Human Rights, Rupert Colville, in “Press Briefing Notes on Palestine”:²⁹

On 2 April 2014, the State of Palestine deposited with the Secretary-General its instruments of accession to a number of international treaties. ... The High Commissioner for Human Rights commends the commitment of the State of Palestine to be bound by the international human rights standards contained in these treaties and to engage with the associated human rights treaty bodies that monitor their implementation. Her Office stands ready to assist the State of Palestine, at its request, to support implementation of its treaty obligations.³⁰

The Convention on the Rights of the Child came into force on 2 May 2014. As of this date, the State of Palestine was formally bound by this treaty under international law.

The JIJ has collected much information regarding the regional and historical context of such an accession.³¹ In order to understand the context that established the foundations of the CRC and all the other treaty accessions, I will examine two relevant points: the chronology of control in the West Bank and Gaza Strip (A) and an outline of the status of the PA in the international framework (B).

A. Chronology of control in the West Bank and Gaza

The geographical area of the West Bank and the Gaza Strip contains today between 2.9 to 3.8 million people (between 1.4 to 2.3 million in the West Bank and 1.5 million in the Gaza Strip).³² In terms of religion, the Sunni Muslim majority is still strong at 98%.³³

According to the UN Partition Plan of 1947, the West Bank was scheduled for inclusion in a future Arab state. This plan was rejected by regional Arab leadership. During the subsequent 1948 war, Jordan conquered the West Bank and annexed it three years later. In the wake of this war, Palestinians organized various liberation movements, forming, among others, Fatah in 1959 as an independent Palestinian movement. In 1964, the Palestinian Liberation Organization (PLO) was established as an umbrella

²⁸ See Appendix 3 for names of the eight conventions ratified.

²⁹ See Appendix 3

³⁰ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=14556>

³¹ See *Hidden Injustices: A Review of Palestinian Authority and Hamas Human Rights violations in the West Bank and Gaza*, JIJ, March 2015. Report available at <http://jij.org/wp-content/uploads/2013/10/Palestinian-Human-Rights-Violations-in-West-Bank-and-Gaza.pdf>

³² The Palestinian Central Bureau of Statistics and the Begin - Sadat Center for Strategic Studies report differing figures.

³³ International Religious Freedom Report for 2011, US State Department.

http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dynamic_load_id=192889#wrapper

organization for the national Palestinian movements. Shortly thereafter, Fatah joined the PLO.

During the 1967 War, Israel captured the West Bank and East Jerusalem from Jordan, annexing only East Jerusalem and instituting military rule in the West Bank. In 1969, the head of Fatah, Yasser Arafat, became the elected PLO leader, deepening Fatah's strong presence in the PLO. In 1987, the Muslim Brotherhood established Hamas in the Gaza Strip. The following year, the King of Jordan renounced any affiliation between Jordan and the West Bank, foregoing any future Jordanian claims to the territory. Support for Hamas continued to grow, while support for Fatah weakened during the intense period of violent conflict from 1987 to 1993 between Israelis and Palestinians known as the First Intifada.

Coinciding with the end of the First Intifada, the Oslo Accords (1993-1995) conferred Palestinian self-government. In the Declaration of Principles under the Oslo Accords, Israel recognized the PLO as the organization representing the Palestinian people, and the Palestinian Authority led by Yasser Arafat was established as an autonomous entity in the West Bank and Gaza. Fatah became the leading party within the PA government, and many of its members were given positions within the PA security or civil services. The Israeli military government granted authority to the PA to manage broad areas of Palestinian civil life. Israel, however, maintained overall authority.

The Oslo Accords divided the West Bank and Gaza into three categories as the first step in a phased process of transferring control of the West Bank from Israel to the PA.³⁴ Area A (initially 2.7% of the area) came under complete PA control in civil and security matters; Area B (initially 25.1% of the area) came under Palestinian civil control and joint security control by Israel and the PA; and Area C (initially 72.2% of the area), remained under complete Israeli territorial control.³⁵

Although Israel gradually transferred control of the West Bank to the PA after signing the Interim Agreement, Israel froze the transfer process in 1996. Over time, the boundaries between Areas A, B and C blurred, and there were increased restrictions of PA control over Areas A and B. In 2010, the United Nations reported that Areas A and B together made up 38% of the land area in the West Bank, with Area C comprising the remaining 62%.³⁶ The presence of the Israel Defense Forces is still felt in each of the West Bank sub-areas.

³⁴ See Appendix 2

³⁵ Haim Gvirtzman, Maps of Israeli Interests in Judea and Samaria Determining the Extent of the Additional Withdrawals. <http://www.biu.ac.il/Besa/books/maps.htm>

³⁶ *Area C Humanitarian Response Plan Fact Sheet*, August 2010, UN Office for the Coordination of Humanitarian Affairs. <http://unispal.un.org/UNISPAL.NSF/0/59AE27FDECB034BD85257793004D5541>

B. Status of Palestinian Authority in the international framework

The current status of the Palestinian Authority within the UN should be understood within a decades-long context of ever-increasing recognition. Recognition commenced when the UN General Assembly granted the PLO observer status as the representative of all Palestinians in 1974.³⁷ In 1976, this was extended to permit Palestinian participation in UN Security Council deliberations. After the signing of the Oslo Accords, the PA was recognized as a legal, quasi-sovereign entity directly representing the Palestinian people in the West Bank and Gaza Strip. Later, in 1998, the name under which the observer status was registered was changed from “PLO Observer” to “Palestine Observer.”³⁸

The UN has since awarded the Palestine Observer additional permissions, including the right to participate in the general discussion held at the beginning of each session of the General Assembly, the right to respond at the General Assembly, and the right to raise points for discussion on Palestinian and Middle East issues.³⁹

Although approximately 130 countries have independently affirmed Palestinian statehood, the PA failed in its 2011 bid to achieve full statehood (membership) recognition within the United Nations. However, during the next General Assembly on 29 November 2012, PA President Mahmoud Abbas successfully secured formal recognition of non-Member State status for Palestine with consequences pertinent to the observance of international law. The UN vote to recognize Palestine as a non-member observer state passed 138 to 9 with 41 abstentions.⁴⁰ By 2014, as mentioned earlier, the PA had signed accession letters to 15 human rights conventions and is now an enforcement party to them all. The PA is subsequently obligated to present an initial report on the implementation of these conventions, including the CRC. According to the OHCHR treaty body calendar regarding submission of states documentation, the State of Palestine’s deadline for its initial report on implementation of the CRC is 2 May 2016.⁴¹ Because dates are crucial in the process of submitting alternative information, lists of issues, and shadow reports, this must be taken into consideration by any NGO involved in the human rights reviewing process. As previously explained, NGOs must respect appointed deadlines in order for their documentation to be received and examined by the relevant treaty body.

³⁷ UN General Assembly Resolution A-RES-3237 (XXIX), 22 November 1974

³⁸ UN General Assembly Resolution A-RES-43-177, 15 December 1988.

³⁹ UN General Assembly Resolution A/RES/52/252, 7 July 1998

⁴⁰ R. McMahon & J. Masters, *Palestinian Statehood at the UN*, 12 November 2012. Retrieved from <http://www.cfr.org/palestine/palestinian-statehood-un/p25954>

⁴¹ http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/MasterCalendar.aspx

Section II: The Jerusalem Institute of Justice, an NGO dedicated to promoting Palestinian human rights

One of the goals of the Jerusalem Institute of Justice is to promote human rights in Israel and the Palestinian territories. While JIJ was originally founded with the specific goal of promoting justice in Israel, it became obvious a few years ago that they could not ignore the events taking place around them. So, they began investigating the state of human rights in the State of Palestine and thus began, as a non-profit organization, to write and submit reports on human rights in this specific region. JIJ seeks to cover largely unreported and often-censored violations by Palestinian governing authorities against Palestinians, so that their voices may be heard and facts might replace distorted misunderstandings of the regional situation.⁴² As specified in each of their reports, JIJ does not present these reports as a denial of charges of human rights violations against Israel; materials are readily available on that subject⁴³ and JIJ has itself litigated human rights cases within Israel for over a decade.

Having written general reports on human rights for Palestinians in the West Bank and Gaza, JIJ is now looking to present alternative reports to the UN Human Rights Council on the implementation of the UN human rights conventions to which the PA acceded. As previously stated, the PA signed and ratified 15 international conventions and treaties in May 2014⁴⁴ and is therefore obligated to present an initial state report on their implementation of each of these treaties to the qualified treaty body in the OHCHR.

As the goal of my internship was to prepare a report on implementation of the Convention on the Rights of the Child in the State of Palestine, I would like to highlight one particular issue regarding children's rights.

⁴² See Hidden Injustices, JIJ.

⁴³ Ibid.

⁴⁴ *Press Briefing Notes on South Sudan, Ethiopia, United States, Palestine and Thailand / South East Asia*, UN High Commissioner for Human Rights, Geneva, 2 May 2014. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=14556#sthash.kk6Yb4C6.dpuf>



CHAPTER 2: Field Study: “Honor Killings” in the West Bank and Gaza

I worked with another JIJ intern on the issue of “honor killings” which represent a specific case of abuse against Palestinian children and a major violation of their rights. Our findings and their legal repercussions highlight some major concerns about the Palestinian Authority’s legislation regarding punishment of such crimes.

Section I: “Honor Killings”—a flagrant violation of Articles 6 and 37 of the CRC: facts on the ground

Article 6 of the CRC states that: “State Parties recognize that every child has the inherent right to life.” Furthermore, Article 37 states that:

States Parties shall ensure that:

No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age.

The right to life and to physical integrity and dignity are fundamental rights that pertain to every human being and are enshrined in international human rights law. Children, as a vulnerable group of people, should benefit from optimal protection regarding these rights. Unfortunately, the facts show that the Palestinian authorities have not succeeded to ensure through their own legislation the right to life for many children. So-called “honor killings” still occur in the West Bank and Gaza, and punishment for these crimes is alarmingly insufficient. The authorities have failed to change the legislation that allows perpetrators of these crimes to benefit from a mitigation of the sentence.⁴⁵

As explained in the report of the International NGO Council on Violence against Children,⁴⁶ “honor killings” and assaults are perpetrated against girls who are perceived as having transgressed cultural norms and thus bringing shame on their families, primarily in Muslim communities. These transgressions are usually based on girls’ personal choices concerning dress, career, marriage, or personal relationships. The killings are often perpetrated by members of the victim’s family and are seen as a way

⁴⁵ “Abbas aide: No plans to outlaw 'honor killing,’” *MA’AN News Agency*, 24 December 2012 (updated 29 January, 2013). <http://www.maannews.com/Content.aspx?id=550792>

⁴⁶ *Violating Children’s Rights: Harmful Practices Based on Tradition, Culture, Religion or Superstition*, The International NGO Council on Violence against Children, 15 October 2012. Accessed April 2015. https://srsg.violenceagainstchildren.org/document/_844

of restoring social position and honor to the family. Those countries applying the version of Islamic law that allows these crimes are violating human rights.

A report by Save the Children Sweden entitled *Gender-Based Sexual Violence Against Teenage Girls in the Middle East* reported on numerous child honor killings in the West Bank and Gaza.⁴⁷ Their data from the West Bank from 2005 to 2006 indicated poisoning, stabbing, and strangling as some of the methods by which these killings are carried out. The Middle East media have reported various incidents of such crimes over the last few years and months with children and teenage girls as victims.

On 3 March 2014, a news article reported a gathering of more than 100 people outside the general attorney's office in Gaza demanding an end to gender-based violence. This gathering took place one month after two Palestinian teenage girls were killed in Gaza City in separate incidents of "honor killings."⁴⁸

There were approximately 27 honor killings in the West Bank and Gaza in 2013.⁴⁹ Reliable data about the number of child victims is unavailable. This is probably because in the West Bank 15-year-old girls are seen as eligible for marriage and in Gaza 17-year-olds.⁵⁰ The International NGO Council on Violence against Children found that: "while younger children are protected from such punishments, those reaching puberty are deemed under Sharia Law to be responsible adults, subject to the full force of the law."⁵¹ This does not, however, fit with the international legal definition of a child which states that teenage girls under the age of 18 must benefit from the protection and guarantees laid down in the international children's rights law.⁵²

Numerous individuals with experience living in the West Bank or Gaza were interviewed by JIJ representatives and corroborated reports of honor killings that were reported by news media. For example, P., a young man raised in Gaza and now living in the West Bank, stated that certain areas suffer from particularly high rates of honor killings and that access to quality education helps curbs the number of such incidents.

In Hebron last year, [honor killings] happened like ten times. In Gaza you also hear about this. In Ramallah not so much...First of all the security is better there and the

⁴⁷ Pernilla Ouis and Tove Myhrman, *Gender-Based Sexual Violence Against Teenage Girls in the Middle East*, A comparative situation analysis of honour violence, early marriages and sexual abuse in Lebanon, the Occupied Palestinian Territories and Yemen, (Save the Children Sweden, 2007).

⁴⁸ "Upsurge in Palestinian 'honour killings,'" *Al Jazeera*, 25 March 2014.
<http://www.aljazeera.com/indepth/features/2014/03/upsurge-palestinian-honour-killings-gaza-201432372831899701.html>

⁴⁹ Anne-Marie O'Connor, "Honor Killings Rise in Palestinian Territories, Sparking Backlash," *The Washington Post*, 3 March, 2014. Accessed 16 June, 2015. http://www.washingtonpost.com/world/middle_east/honor-killings-rise-in-palestinian-territories-sparking-backlash/2014/03/02/1392d144-940c-11e3-9e13-770265cf4962_story.html

⁵⁰ *The Status of the Rights of Palestinian Children, 2013*, Palestinian Central Bureau of Statistics, pp.19-20

⁵¹ *Violating Children's Rights: Harmful Practices Based on Tradition, Culture, Religion or Superstition*.

⁵² *The Status of the Rights of Palestinian Children, 2013*. .p.19

people have a better education, and they [have spent time] in Europe and America...But around the villages I hear things. Last week [May 2015], I heard of a father who raped his daughter in Betzariq village.⁵³

G., a Palestinian man living in the West Bank, reported that Palestinian authority figures often perpetuate the pattern of honor killings rather than fighting the problem. He claimed that a Palestinian police officer may threaten a girl by telling her that if she does not have intercourse with him, he will tell her family members that she is sexually active which may incite them to kill her in order to protect the family honor. G. knows of a case in which a Palestinian couple denied being engaged in a sexual relationship for fear that police officers would thus threaten the girl.

P. added that the authorities often do not make real efforts to find the perpetrator of an honor crime and if they do catch the perpetrator, he receives a penalty of only a few months or years in prison.

The international community, Gazan and West Bank government officials, and residents of Gaza have all publicly acknowledged the occurrence of honor killings in the West Bank and Gaza. Following an honor killing in May 2014, UN Women in Palestine issued a statement that: the “worrying increase in the rate of femicide from 13 in 2012 to 28 in 2013 demonstrates a widespread sense of impunity in killing women.”⁵⁴ Nabila Rizq, director of coordination in the Ministry of Women's Affairs for the Palestinian Authority, also publicly addressed the rise in honor killings between 2012 and 2013.⁵⁵

R., one of the West Bank NGO representatives, suggested that although honor killings continue, there are slight positive changes in community attitudes toward these incidents: “It used to be that no one would talk about honor killings and say the woman deserved it, and now people are acknowledging that this is going on and speaking out against it.”⁵⁶

Section II: Legal Repercussions

Legal repercussions for honor killings have tended to be significantly less harsh than for other categories of murder. In May 2011, President Mahmoud Abbas of the Palestinian Authority suspended but didn't repeal Article 340 of the Jordanian Penal Code of 1960, which remains applicable in the West Bank. This article provides a mitigating excuse if a man, finding his wife in bed with another man, murders either or both of them. Prior to 2012, this law had remained on the books but was typically not applied in courts.

⁵³ Interview with P, 19 May 2015, Bethlehem

⁵⁴ Chris Carlson, “14 Palestinian Women Killed Since Beginning of 2014,” *International Middle East Media Centre*, 16 May 2014. <http://www.imemc.org/article/67819>.

⁵⁵ “100% Rise in ‘family honor’ killings,” *Palestinian Media Watch*, 25 February 2014. http://www.palwatch.org/main.aspx?fi=157&doc_id=10767

⁵⁶ Interview with R, 28 April, 2015, Ramallah

Article 18 of the Egyptian Penal Code of 1936, similar in content to Article 340, was likewise suspended. Article 98 of the Jordanian Penal Code of 1960 likewise stipulated that: “Mitigating circumstances shall apply in cases in which the crime was carried out in a state of extreme anger, as a result of a serious and unjust act.”⁵⁷ Mitigating circumstances typically result in a significantly reduced sentence—often three years or less—and according to Dr. Sabir al-Aloul, director of Al-Quds University's Institute of Forensic Medicine, the prospect of a reduced sentence can lead murderers of female victims to claim that they were motivated by a desire to defend family honor even when the murder was, in fact, unrelated to issues of honor.⁵⁸ Only in May 2014 did Abbas amend Article 98 to state that: “Mitigating circumstances shall not be granted to the perpetrator if the crime was committed against a woman for motives of honor.”⁵⁹

P. claimed that while Palestinians know about the change in law pertaining to mitigating circumstances, he has not seen much change in the rate or brutality of honor crimes because: “the problem is not just in the law. It’s in the culture... even if there is no exception in the law, they will say [a woman] deserved [to die] because this is what the Quran teaches.”⁶⁰

In short, neither the West Bank nor the Gazan authorities have an encouraging track record regarding the fair punishment of murderers of women who claim an “honor defense,” though recent legislative reforms, if applied appropriately, may contribute to the imposition of more just punishments. Nevertheless, deeply rooted cultural acceptance of the legitimacy of an “honor defense” and its perpetuation by law enforcement officials continue to constitute an immense hurdle for the rights of children and women in the State of Palestine.

⁵⁷ “Crimes of Honor in Jordan and the Arab World,” *Violence is Not Our Culture*, June 2009.
<http://www.violenceisnotourculture.org/content/crimes-honor-jordan-and-arab-world>

⁵⁸ “Report: Killers use Honor as Excuse for Leniency in Femicide Cases,” *Ma’an News Agency*, 6 September, 2014.
<http://www.maannews.com/Content.aspx?id=725696>

⁵⁹ “Abbas amends law on Honor Killings,” *Palestinian Media Watch*, 20 May, 2014.
http://palwatch.org/main.aspx?fi=587&doc_id=11688

⁶⁰ Interview with P, 19 May, 2015, Bethlehem

CONCLUSION

NGOs are key players in the international human rights scene. Along with the treaty bodies, they contribute to the treaty monitoring process useful field experience and an alternative source of information. However, this investigative work must include state parties as the main decision-makers, and so the goal of all of these actors, namely promoting human rights standards worldwide, is ultimately left to the implementation of the respective state.

My internship in the Jerusalem Institute of Justice familiarized me with the human rights monitoring mechanisms and showed me how a non-governmental actor can operate to advance the implementation of human rights in UN state parties. This experience has been rich in many areas: in experiencing the Middle East and its challenges, in professional and academic learning, in relationship-building, and in many other personal and professional ways. The Israeli-Palestinian situation is so complex and challenging, but I believe that it is essential to keep building relationships and conducting dialogues with both Israeli and Palestinian populations, governments, and institutions and to spread truth and hope to the people living there.

APPENDIX 1

COMMITTEE ON THE RIGHTS OF THE CHILD, Report on the Twenty-Second Session, CRC/C/90, Geneva, 7 December 1999, **Annex VIII**.

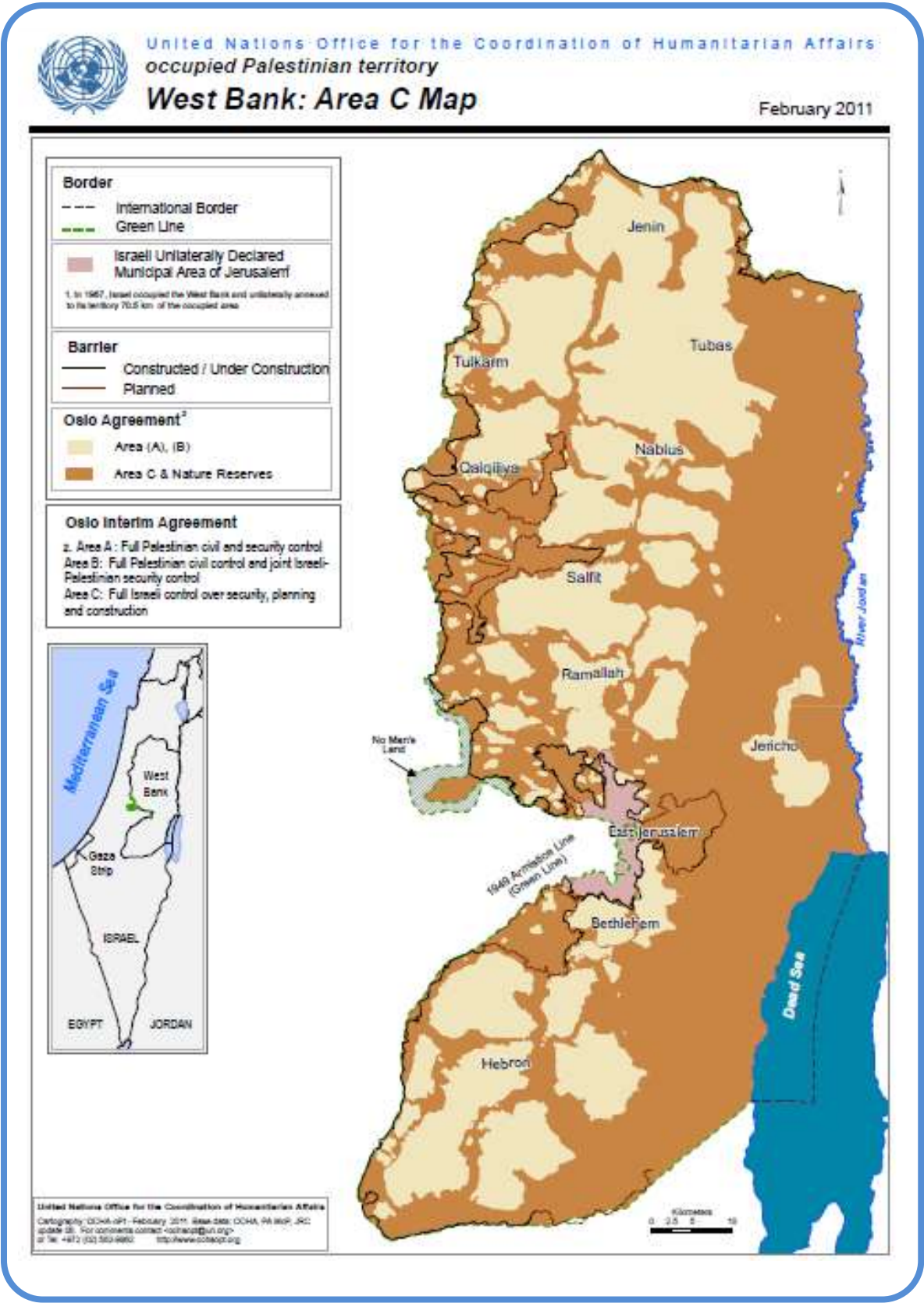
GUIDELINES FOR THE PARTICIPATION OF PARTNERS (NGOS AND INDIVIDUAL EXPERTS) IN THE PRE-SESSIONAL WORKING GROUP OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

1. Under article 45(a) of the Convention, the Committee on the Rights of the Child may invite specialized agencies, UNICEF and "other competent bodies" to provide expert advice on the implementation of the Convention. The term "other competent bodies" includes non-governmental organizations (NGOs). This Convention is the only international human rights treaty that expressly gives NGOs a role in monitoring its implementation. The Committee has systematically and strongly encouraged NGOs to submit reports, documentation or other information in order to provide it with a comprehensive picture and expertise as to how the Convention is being implemented in a particular country. The Committee warmly welcomes written information from international, regional, national and local organizations. Information may be submitted by individual NGOs or national coalitions or committees of NGOs.
2. In order to rationalize its work, written information provided by national, regional and international NGOs as well as individual experts should be submitted to the secretariat of the Committee on the Rights of the Child at least two months prior to the beginning of the pre-sessional working group concerned. Twenty copies of each document should be provided to the secretariat. NGOs are invited to indicate clearly whether they wish the Committee to keep their information or its source confidential.
3. Requests of national, regional and international NGOs to participate in the pre-sessional working group should be submitted to the Committee through its secretariat at least two months prior to the beginning of the pre-sessional working group concerned.
4. Based on the written information submitted, the Committee will issue a written invitation to selected NGOs to participate in the pre-sessional working group. The Committee will only invite NGOs whose information is particularly relevant to its consideration of the State party's report. Priority will be given to partners who have submitted information within the requested time-frame, who are working in the State party and who can provide first-hand information that is complementary to

information already available to the Committee. In exceptional cases, the Committee reserves the right to limit the number of partners invited.

5. The pre-sessional working group of the Committee provides a unique opportunity for dialogue with partners, including NGOs, regarding implementation of the Convention on the Rights of the Child by State parties. Therefore, the Committee strongly recommends that its partners limit their introductory remarks to a maximum of 15 minutes for NGOs coming from in-country and 5 minutes for others so that the members of the Committee can then engage in a constructive dialogue with all participants. Introductory remarks should be limited to highlights of written submission.
6. The pre-sessional working group is a meeting closed to the public, so no observers will be allowed.

APPENDIX 2



APPENDIX 3

UNITED NATIONS HUMAN RIGHTS —OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Press Briefing Notes on South Sudan, Ethiopia, United States, Palestine and Thailand / South East Asia

Spokesperson for the UN High Commissioner for Human Rights: Rupert Colville

Location: Geneva

Date: 2 May 2014

Subject: 1) South Sudan
2) Ethiopia
3) United States
4) Palestine
5) Thailand / South East Asia

See more at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=14556#sthash.XTJsinn5.dpuf>

4) Palestine

A month ago, on 2 April 2014, the State of Palestine deposited with the Secretary-General its instruments of accession to a number of international treaties. These include seven of the nine core human rights treaties plus one of the substantive protocols, as follows:

- The International Covenant on Civil and Political Rights (ICCPR)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The Convention on the Rights of Persons with Disabilities (CRPD)
- The International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The Convention on the Rights of the Child (CRC)
- The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict (CRC-OPAC)

Five of these treaties are set to enter into force today (namely CAT, CERD, CEDAW, CRPD and CRC); the Optional Protocol to the Convention on the Rights of the Child (CRC-OPAC) will enter into force on 7 May; and the two Covenants (ICESCR and ICCPR) will come into force on 2 July. As of these dates, the State of Palestine will be formally bound by these treaties under international law.

This accession to seven core human rights treaties and a key protocol is a significant step towards enhancing the promotion and protection of human rights in Palestine. It is notable in a region with a high number of reservations to human rights treaties that Palestine is acceding to eight human rights treaties without making a single reservation.

The High Commissioner for Human Rights commends the commitment of the State of Palestine to be bound by the international human rights standards contained in these treaties and to engage with the associated human rights treaty bodies that monitor their implementation. Her Office stands ready to assist the State of Palestine, at its request, to support implementation of its treaty obligations.

The Office of the High Commissioner for Human Rights works for the promotion and protection of universally recognized human rights norms, including through promoting both the universal ratification and implementation of the international human rights treaties. The Office, in partnership with the Government of the State of Palestine and a broad range of stakeholders, has steadily worked towards ensuring integration of human rights into the Palestinian institutions and the planning and funding framework. In early 2014 a significant milestone was reached when the *Guidance Document on Integrating Human Rights into Palestinian National Development Plans* was endorsed in a signing ceremony in Ramallah.

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