

Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on minority issues and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Ref.: AL ISR 14/2024
(Please use this reference in your reply)

21 June 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur in the field of cultural rights; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on minority issues and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 49/5, 55/5, 53/4, 50/17, 52/5 and 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged violations of freedom of religion or belief and related rights in Gaza since 7 October 2023, and alleged violations of freedom of religion or belief and related rights elsewhere in the Occupied Palestinian Territory and in Israel before and after 7 October 2023.**

A previous communication from the Special Procedures mandate holders raised related concerns about the excessive use of force and allegations of mass arbitrary arrests as well as undue or discriminatory restrictions on access to places of worship during religious celebrations (UA ISR 8/2022). We regret that no reply has been received to date.

According to the information received:

Freedom of religion or belief and related rights in Gaza since 7 October 2023

Israeli sustained military operations in the Gaza strip since October 2023 have had a devastating effect on Christian and Muslim places of worship. In addition to their religious, cultural, and historical significance, many of these places of worship were also operating as spaces of refuge, shelter, and humanitarian assistance to the fleeing population.

On 19 October 2023, the Greek Orthodox Church of Saint Porphyrius in Gaza, which at the time was providing shelter to approximately 500 displaced persons and is believed to be among the oldest sites of Christian worship in the world, was severely damaged in an air strike by Israel, resulting in the deaths of at least 17 Palestinians. The airstrike caused the collapse of a multi-purpose building at the church complex which had been an important source of shelter for hundreds of people fleeing the violence.

On 16 December 2023, the Convent of Sisters of Mother Theresa in Gaza was reported by the Latin Patriarchate of Jerusalem to have been rendered

uninhabitable by Israeli rocket fire. The Convent had been home to over 50 persons with disabilities. Furthermore, two Christian women were shot dead by Israeli forces as they walked between buildings at the Holy Family Parish compound at which the Convent was based.

According to the United Nations Office for the Coordination of Humanitarian Affairs, as of 15 May 2024, 247 Mosques have been destroyed in Gaza. The Abbas Mosque in Gaza City and the Great Omari Mosque of Gaza, two of the oldest Mosques in the region, were severely damaged by Israeli air strikes on 9 October and 8 December 2023 respectively.

The numerous civilians who lost their lives as a result of Israeli strikes in the vicinity of mosques include three deaths resulting from an attack on 22 April near the Abu Salim Mosque in Deir al Balah; 11 deaths, including four children, in an attack at the Al Ibki Mosque in the east of Gaza city on 8 May; four deaths, including three children, when the vicinity of the Tawbah Mosque in Jabaliya Refugee Camp was hit on 10 May; and ten deaths arising from a strike on the fourth floor of the Fatima Az Zahra Mosque in Gaza city on 23 May 2024.

In addition to reports of civilian loss of life and destruction of sites of such significance, this reportedly puts at risk the very continuity of certain religious or belief minorities in Gaza. One such example of a community that has been severely affected is the Christian population of Gaza, which numbered approximately 1,000 before October 2023.

Freedom of religion or belief and related rights elsewhere in the Occupied Palestinian Territory and in Israel

Situation in East Jerusalem and the West Bank

It has been reported that in March 2024 the Israeli Minister of National Security, encouraged Israelis to storm the Al-Aqsa Mosque during the final days of Ramadan. This follows a reported pattern of continuing attacks and raids on both Christian and Muslim places of worship, including the Al-Aqsa Mosque, as well as assaults on religious leaders. Over the final Friday of Ramadan, Israeli authorities reportedly subjected Palestinians to age and gender-based restriction to attend prayers at the Al-Aqsa Mosque.

During the Easter period, Palestinian Christians reportedly experienced restrictions on their ability to access Christian holy sites, such as those in East Jerusalem, for Easter celebrations. Since October 2023, permits for the necessary travel are reportedly unavailable to Palestinian Christians under the age of 30, and those which are issued have a maximum duration of seven days. Restrictions relating to age and gender remained in place over the Easter weekend, restricting access to East Jerusalem for Palestinian Christians, including those holding West Bank IDs, to women and men above the age of 45. This, along with factors including an expansion of checkpoints and increased travel restrictions, effectively prevented many Christians from manifesting their religious beliefs in participating in such gatherings during Easter.

Orthodox Christians have also reportedly been prevented from the celebration of Easter at the Church of the Holy Sepulcher in East Jerusalem, through the denial of permits to Palestinians holding West Bank identification. On 4 May 2024, access to worshippers was hindered by the erection of metal barriers and checkpoints.

It is recalled that concerns were raised previously about the excessive use of force and allegations of mass arbitrary arrests against Palestinian Muslims and other worshippers in the Old City of Jerusalem, as well as undue or discriminatory restrictions on access to places of worship during religious celebrations.

It has also been reported that the call to prayer at the Ibrahimi Mosque in Hebron was prevented 704 times in 2023.

The Armenian Christian community in East Jerusalem has reportedly been subject to harassment from Jewish settlers. In November 2023, settlers armed with rifles attacked Armenian Christians protesting a planned building development in the Cow's Garden area, on land belonging to the Armenian Patriarchate of Jerusalem. On 3 April 2024, police entered the area accompanied by settlers, claiming they were carrying out an eviction, and reportedly assaulted clergy members and other Armenian Christians present, causing damage to property. Upon demand, no eviction order was produced.

In early 2023, Christian graves were desecrated in the Protestant Mount Zion Cemetery, and in March, a priest was attacked with an iron bar during a service at the Church of Gethsemane. The Christian population of East Jerusalem is reportedly at risk of disappearing from the area due to home demolitions, restrictions on identity cards, work and residence permits, and family unification.

Situation in Haifa

In July 2023, groups of Jewish settlers allegedly attacked the Mar Elias Monastery and Church in Haifa on multiple occasions, seeking to take control of it on the alleged basis that Jewish graves and a tomb are located within the Church. The Church and its worshippers had been increasingly subject to attacks including attempted arson, vandalism, and assault in the period leading up to the attempted seizure.

Without prejudging the accuracy of these allegations, we are deeply concerned about the damage to and destruction of religious, historic and cultural sites in Gaza caused by Israeli forces, especially those operating as places of shelter to Palestinian civilians, in violation of international human rights law and international humanitarian law. We are deeply concerned that these destructions prevent the population of Gaza, in the present and in the future, from exercising their human rights to manifest their religion or belief, to enjoy and access cultural heritage, and exercise their rights to freedom of peaceful assembly and of association. These attacks, combined with the large-scale destruction of homes and infrastructure in Gaza, along with the settler violence against Palestinian Christians and Muslims, severely threaten the religious and cultural diversity of the population of the occupied Palestinian territory, risking long-lasting effects that undermine peaceful coexistence and recovery.

In connection with the above alleged facts and concerns, please refer to the Annex on Reference to international human rights law attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information or comments in relation to the above-mentioned allegations, including their compatibility with international human rights law and, where appropriate, with international humanitarian law.
2. Please provide information on the circumstances surrounding civilian deaths resulting from the damage to, or destruction of, places of worship, including the Church of Saint Porphyrius in Gaza.
3. Please explain what measures have been taken to avoid and minimize damage to or destruction of historical, religious, or cultural heritage sites in Gaza.
4. Please indicate what steps will be taken to investigate allegations of the destruction or damage to places of worship, especially those incidents which resulted in loss of life, and to hold perpetrators accountable in accordance with international law.
5. Please indicate what measures have been taken to address alleged encouragement of religious hatred, discrimination or violence, especially in relation to the Al-Aqsa Mosque in East Jerusalem, in line with article 20(2) of the ICCPR.
6. Please indicate what measures are being taken to prevent, protect against, and punish acts of violence from non-State actors against religious or belief minorities and their places of worship.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting website. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

We may continue to publicly express our concerns in the near future on this case which in our view merits prompt and undivided attention. We also believe that this is a matter of public concern, and that the public should be informed about its human rights implications. Any public expression of concern from our part would

indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question

Please be informed that a copy of this letter will also be sent to the State of Palestine.

Please accept, Excellency, the assurances of our highest consideration.

Nazila Ghanea
Special Rapporteur on freedom of religion or belief

Alexandra Xanthaki
Special Rapporteur in the field of cultural rights

Morris Tidball-Binz
Special Rapporteur on extrajudicial, summary or arbitrary executions

Gina Romero
Special Rapporteur on the rights to freedom of peaceful assembly and of association

Nicolas Levrat
Special Rapporteur on minority issues

Francesca Albanese
Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to refer your Excellency's Government and the de facto authorities in Gaza to the following provisions of international human rights law, international humanitarian law, and international criminal law.

The Human Rights Council notes in resolution 9/9 that both international human rights law and international humanitarian law apply to situations of armed conflict and provide complementary and mutually reinforcing protection. All human rights require protection equally and the protection provided by human rights law continues in armed conflicts. Effective measures to guarantee and monitor the realization of human rights should be taken with respect to civilian populations in situations of armed conflict and effective protection against violations of their human rights should be provided, in accordance with international human rights law and applicable international humanitarian law. International human rights are subject only to derogations taken in accordance with international human rights law.

Hate speech, attacks on places of worship, and restrictions on manifestation of religion or belief, and freedom of peaceful assembly and of association

Article 20.2 of the ICCPR states that “[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”

Article 18(3) of the ICCPR states that the “[f]reedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public order, safety, health, or morals and the fundamental rights of others”.

Article 21 and 22 of the ICCPR protect the right of everyone to exercise their rights to freedom of peaceful assembly and of association without discrimination on the basis of religion or belief. This includes the right to organize and participate in peaceful assemblies for the purpose of manifesting or expressing one's religion or beliefs and the right to form and conduct activities through religious associations.

Article 27 of the ICCPR states that, “[i]n those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, [...] to profess and practice their own religion.”

The compatibility of any restrictions must align with the fundamental principles of legality, precaution, necessity, non-discrimination, proportionality, and accountability. In general comment 22 (CCPR/C/21/Rev.1/Add.4), the Human Rights Committee noted that paragraph 3 of article 18 is to be strictly interpreted: limitations are not allowed on grounds not specified there, even if they would be allowed as restrictions to other rights protected in the ICCPR, such as national security. The Human Rights Committee further noted that “[t]he fact that a religion is recognized as a State religion or that it is established as official traditional or that its followers

comprise the majority of the population, shall not result in any impairment of the enjoyment of any of the rights under the Covenant, including article 18 and 27, nor in any discrimination against adherents to other religions or non-believers.”

Customary international humanitarian law prohibits the destruction or wilful damage of historic monuments or places of worship, or the use of such objects in support of the military effort, as also reflected in article 53 of Additional Protocol I to the Four Geneva Conventions.

The respect of pluralism and diversity of religious practices encompasses the positive obligation of enabling worshippers to access religious sites and peacefully engage in religious ceremonies without discrimination.

Protection of the cultural rights to identity, to access to and enjoyment of heritage and to take part in cultural life

Article 15 of ICESCR states that;

1. The States Parties to the present Covenant recognize the right of everyone:
 - (a) To take part in cultural life;
 - (b) To enjoy the benefits of scientific progress and its applications;
 - (c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

General comment 21 of the Committee on Economic, Social and Cultural Rights noted that States have the obligation to respect and protect cultural heritage in all its forms, in times of war and peace. Cultural heritage must be preserved, developed, enriched and transmitted to future generations as a record of human experience and aspirations, in order to encourage creativity in all its diversity and to inspire a genuine dialogue between cultures. Such obligations include the care, preservation and restoration of historical sites, monuments, works of art and literary works, among others (E/C.12/GC/21, para. 50).

With regard to the protection of the right to life, safety, and security, article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the

International Covenant on Civil and Political Rights (ICCPR), ratified by the State of Israel on 3 October 1991, protect the inherent right to life of all human beings.

General comment No. 36 of the Human Rights Committee states that the right to life is the supreme right from which no derogation is permitted, even in situations of armed conflict and other public emergencies that threaten the life of the nation (CCPR/C/GC/36). The Committee holds that the right to life has crucial importance both for individuals and for society as a whole; it is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights. The Human Rights Committee notes that “States parties must respect the right to life. This entails the duty to refrain from engaging in conduct resulting in arbitrary deprivation of life. States parties must also ensure the right to life and exercise due diligence to protect the lives of individuals against deprivations caused by persons or entities whose conduct is not attributable to the State. The obligation to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life” (CCPR/C/GC/36, para. 7). The Human Rights Committee notes that “an important element of the protection afforded to the right to life by the Covenant is the obligation on the States parties, where they know or should have known of potentially unlawful deprivations of life, to investigate and, where appropriate, prosecute the perpetrators of such incidents, including incidents involving allegations of excessive use of force with lethal consequences”; and that “investigations should explore, inter alia, the legal responsibility of superior officials with regard to violations of the right to life committed by their subordinates. (CCPR/C/GC/36, para. 27).

We further recall that customary international humanitarian law prohibits indiscriminate attacks (which includes attacks which may be expected to cause incidental loss of civilian life due to the indiscriminate nature of the methods and means employed); and acts or threats of violence, especially where this spreads terror among the civilian population, as reflected in articles 51, 52 and 54 of Additional Protocol I to the Four Geneva Conventions.