

**Mandates of the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls**

Ref.: AL ISR 17/2024  
(Please use this reference in your reply)

25 September 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 52/26, 51/8, 1993/2A, 52/7, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegations of **crimes of sexual violence and threats of sexual assault against Palestinian children during operations of arrests and transfers to detention centres, as well as during interrogations and detention by Israel Defense Forces (IDF) and Israel Prison Service (IPS).**

We refer to a prior communication by the Special Rapporteur on violence against women and girls, its causes and consequences in which she raised allegations about the detention, extrajudicial execution of Palestinian women and girls and the reported subjugation of Palestinian female detainees to sexual assaults as well as threats of rape (ISR 01/2024) as well as the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in which she raised serious allegations about torture and/or cruel, inhuman or degrading treatment or punishment, as well as the conditions of detention that were alleged to fall below international standards, in Israeli prisons and detention facilities (ISR 10/2024).

According to the information received:

Since 2021, there have been several cases of sexual assault and threats of sexual assault against Palestinian children by Israeli public authorities during arrest, in interviewing/interrogation, transfer and detention. It is alleged that one of the purposes has been to coerce confessions from the children. Sexual assaults, threats and/or other cruel, inhuman or degrading treatment or punishment are a common pattern in Israeli detention facilities.

For the period of January to December 2023, the United Nations verified the detention of 906 Palestinian children (897 boys, 9 girls) for alleged security offences by Israeli armed and security forces in the occupied West Bank (435), East Jerusalem (458) and the Gaza Strip (13). Israeli authorities reported that

49 Palestinian children were held under administrative detention as of 31 December 2023.<sup>1</sup>

With the rising number of arrests of Palestinians, including children, since the attacks of Hamas and other armed groups against Israel on 7 October 2023, there are a growing number of allegations of abuse and violations of their human rights. Palestinian children have been allegedly subjected to torture and/or other cruel, inhuman or degrading treatment or punishment, including in the form of severe physical beatings, intimidation, verbal harassment, forms of duress and humiliation. There have been further serious allegations of sexual harassment such as inappropriate touching, unnecessary and therefore abusive strip searches, verbal, physical and psychological ill-treatment, as well as sexual assault including grabbing, touching or kicking of genitals and threats of rape and/or sodomy with an object, by Israel Defense Forces (IDF) and Israel Prison Service (IPS).

#### Arrest and transfer

According to the reports received, children have been forcibly stopped, stripped naked and subjected to invasive body searches in humiliating circumstances by Israeli officers in public places. It is also alleged that Israeli officers filmed and took pictures of children during these abusive acts and degrading situations. There have further been reports of prolonged forced nudity and of children forced to remain in their underwear during transfer to the detention centre or interrogation facility.

#### Detention

According to the reports received, upon arrival in detention centres (including in Al-Maskobiya detention centre, Naqab prison, Ramleh prison, Sharon prison and an unknown detention site in Gaza), children were subjected to physical abuse, verbal assaults and invasive strip searches. Some of them were blindfolded, forced to stay in a kneeling position and/or with their hands tied behind their back while fully or partially undressed. They were threatened by Israeli officers with sexual abuse, including rape, if they did not comply with orders. They were also allegedly hit by iron rods and other objects and kicked in various parts of the body, including in the genital area, during inspections. Inside Naqab prison, doors were reportedly removed from showers and bathrooms – Israeli officers and other detainees could watch them undress, shower and use the bathroom. Israeli officers also reportedly sometimes came to the detainees with their large dogs to instil further terror.

The Secretary-General's report of June 2024 on children and armed conflict expressed concern over the detention of Palestinian children in the Gaza Strip, including from the testimonies the United Nations received from 84 children who reported ill-treatment by Israeli armed and security forces in Israel while in detention. Further, the United Nations received reports of the detention of Palestinian children in the Gaza Strip, compounded by multiple forms of sexual

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<sup>1</sup> A/78/842, paragraph 108.

violence.<sup>2</sup> Similar allegations were obtained by UNRWA on reported sexual violence and harassment of children in detention facilities.<sup>3</sup>

Furthermore, the information received alleges that Palestinian children have been denied due process of law, fair trial guarantees and access to justice. Procedural rights instrumental to the lawfulness of detention and fair trial “must also be respected in all circumstances. Fair trial rights include access to a timely, independent and impartial court and effective legal defence.

While we do not wish to prejudge the accuracy of the above-mentioned allegations, we are gravely concerned by the information available to us that the mistreatment of Palestinian children during arrest, transfer, interrogation and detention would be contrary to the absolute prohibition on torture and/or other cruel, inhuman or degrading treatment or punishment pursuant to various articles under the UN Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 37 of the UN Convention on the Rights of the Child.

The aforementioned allegations suggest an environment of impunity and behaviors that have been at best tolerated or at worst authorized by higher authorities. Those serious allegations are especially harmful as they create a sense of humiliation, shame, stigma, subordination, exclusion and inferiority on Palestinian children, contrary to State obligations to ensure the best interests of the child as per article 3 of the UN Convention on the Rights of the Child.

We would like to remind your Excellency’s Government of its human rights obligations to prevent and eradicate torture and ill-treatment of all children in the OPT, where it exercises territorial jurisdiction as the occupying power. We also express concern over the low minimum age of criminal responsibility in Israel and reiterate the recommendation of the Committee on the Rights of the Child to increase it to at least 14 years of age, taking into account development of maturity and capacity for abstract reasoning in young children below 14 years.<sup>4</sup> Furthermore, we highlight that, according to international law, States must treat children primarily as victims when devising responses, including counter-terrorism responses.<sup>5</sup> All feasible measures to ensure the protection and care of children affected by armed conflict, and all appropriate measures to promote the physical and psychological recovery and social reintegration of child victims of armed conflict, must be taken.<sup>6</sup>

We also draw the attention of your Excellency’s Government to article 76 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, which provides that “[p]rotected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein”. The same provision underlines that special treatment should be afforded to minors. International human rights law spells out that it is a fundamental right of every child deprived of

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<sup>2</sup> A/78/842, paragraph 108. - S/2024/384.

<sup>3</sup> UNRWA, Detention and alleged ill-treatment of detainees from Gaza during Israel-Hamas war (April 2024) [https://www.unrwa.org/sites/default/files/content/resources/summary\\_on\\_detention\\_and\\_alleged\\_ill-treatmentupdated.pdf](https://www.unrwa.org/sites/default/files/content/resources/summary_on_detention_and_alleged_ill-treatmentupdated.pdf).

<sup>4</sup> CRC/C/GC/24, para. 22

<sup>5</sup> United Nations Office on Drugs and Crime (UNODC), Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System (Vienna, 2017), chap. 2.

<sup>6</sup> UNCRC articles 38-39.

liberty to maintain contact with his or her family, and to facilitate family visits, “the child should be placed in a facility as close as possible to his or her family’s place of residence”.

We take this opportunity to remind your Excellency’s Government of your obligation under international law to conduct – or allow the conduct of – an independent, impartial, prompt, and effective investigations in relation to the above allegations. If violations have taken place, child victims and survivors and their families are entitled to full rehabilitation as possible, as well as compensation and reparations including access to justice, including to see perpetrators of the alleged crimes held accountable. The Government of Israel is also under an obligation to take steps to prevent the occurrence of similar violations in the future.

Additionally, we remind your Excellency’s Government of the provisional measures ordered by the International Court of Justice in *South Africa v Israel* on 26 January 2024, concerning alleged violations by Israel of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide in relation to Palestinians in the Gaza Strip, that aim at preventing acts of genocide, including acts causing serious bodily or mental harm to members of the group – of which torture, ill-treatment and sexual violence can be a part.<sup>7</sup>

We wish to recall that the International Criminal Court’s Office of the Prosecutor recognises that crimes against or affecting children are “regarded as particularly grave, given the commitment made to children in the Statute, and the fact that children enjoy special recognition and protection under international law,” (A/78/545) and that the Court is conducting an ongoing investigation into the Situation in the State of Palestine.

Under international criminal law, torture or inhumane treatment; rape and other forms of sexual violence; wilfully causing great suffering, or serious injury to body or health; outrages upon personal dignity; and rape, can constitute war crimes and – when committed as part of a widespread or systematic attack – crimes against humanity according to the Rome Statute.

We further note that the UN Secretary-General recorded violations against children committed in Israel and Palestine in his annual report concerning children and armed conflict. In respect of those allegations leveled at Israel, the report noted grave violations affecting children in situations of armed conflict, where “[t]he conflict in Israel and the Occupied Palestinian Territory presents an unprecedented scale and intensity of grave violations against children, with hostilities leading to an increase in grave violations of 155 per cent”,<sup>8</sup> which included ill-treatment in detention and multiple forms of sexual violence, by Israeli armed and security forces. The report documented 5,698 verified grave violations attributed to the Israeli armed and security forces.<sup>9</sup>

In view of the seriousness of the allegations raised in the present communication, and the ongoing proceedings and investigations at the International

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<sup>7</sup> ICTR, *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgement, 2 September 1998, para. 732.

<sup>8</sup> A/78/842-S/2024/384

<sup>9</sup> *Ibid.*, para. 96.

Court of Justice and International Criminal Court, we are requesting that your Excellency's Government fully and effectively cooperates with all international investigations, including by preserving all evidence and allowing access to the occupied Palestinian territory to investigators, with particular attention to the violations of the rights of children.

In connection with the above alleged information 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 and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide any information on what measures are in place to ensure that the rights of all children, including Palestinian children, are protected, in particular their protection from any and all forms of sexual assault or violence.
3. Please clarify what measures are taken to prevent and investigate alleged incidents of torture or other cruel, inhuman or degrading treatment or punishment, including forms of sexual torture.
4. Please provide information on the number of investigations that have been opened and concluded in respect of alleged crimes against Palestinian children, especially since 2021. Please provide the same information about any proceedings opened and/or concluded in respect of potential cases of misconduct by Israeli armed, security, prison and police officers, and where available the results of any investigations conducted. If none, please clarify why such investigations or proceedings have not been conducted.
5. Please provide disaggregated data by age, gender/sex and location on the number of Palestinian children impacted by acts of various types of torture and/or other cruel, inhuman or degrading treatment or punishment, including sexual forms of torture and threats of sexual assault during operations of arrests, transfers, interrogations and detention.
6. Please provide information on the measures envisaged or undertaken to address and train judiciary, law enforcement officials and medical personnel on responding to allegations of sexual and gender-based violence of children, including child-friendly reporting mechanisms and judicial proceedings.

7. Please provide information on complaints, remedies and appropriate redress mechanisms available to Palestinian child complainants/victims and survivors of sexual and gender-based violence to raise grievances about mistreatment and what follow-up is available, including rehabilitation, counselling, accountability and reparation measures to prevent and ensure these acts do not occur again.
8. Please provide disaggregated data, by age, gender/sex and location, informing of all Palestinian children detained without charge or trial.
9. Please indicate measures ensuring access to parental and legal visits to Palestinian children in detention.

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 publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

A copy of the present allegation letter will be sent to the Government of the State of Palestine for their information.

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

Mama Fatima Singhateh  
Special Rapporteur on the sale, sexual exploitation and sexual abuse of children

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

Alice Jill Edwards  
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Reem Alsalem  
Special Rapporteur on violence against women and girls, its causes and consequences

Laura Nyirinkindi  
Chair-Rapporteur of the Working Group on discrimination against women and girls

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of Your Excellency's Government to the relevant international norms and standards that are applicable to the issues raised by the situation described above.

The above-mentioned allegations, if confirmed, would contravene various international human rights obligations of Your Excellency's Government, including the International Covenant on Civil and Political Rights (ICCPR), ratified on 3 October 1991; the Convention on the Rights of the Child (CRC), ratified on 3 October 1991, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC-OP-SC), ratified on 23 July 2008, among others.

We would like to recall that in July 2024, the International Court of Justice, in its Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including east Jerusalem, found that the ongoing occupation of the Palestinian territories is unlawful and in violation of the non-derogable norms concerning the right to self-determination of the Palestinian people. Common Article 1 of the ICCPR and ICESCR enshrines the right to self-determination as the bedrock of international human rights law, recognizing it as the prerequisite to the enjoyment of human rights,<sup>10</sup> and as such it has an interpretive function for the construction of all human rights protections.<sup>11</sup> Where a people are denied their right to self-determination, this must inform the way in which human rights protections are constructed vis-à-vis the state being asked to protect them.

We would like to recall article 14 of the ICCPR, which guarantees the right to a fair trial, as well as article 40, paragraph 2 of the CRC, which specifically guarantees this right to children accused of having infringed the penal law. Article 40 of the CRC provides that such children are to “be treated in a manner consistent with the promotion of the child's sense of dignity and worth” and should be guaranteed of fair trial standards, including the rights “to be presumed innocent until proven guilty according to law” and “not to be compelled to give testimony or to confess guilt”. The Committee on the Rights of the Child also underlined that a child should be supported by a parent, legal guardian or other appropriate adult during questioning.<sup>12</sup>

We also recall article 9 of the ICCPR, which guarantees the right to liberty and security of person, and article 37 of the CRC specifically stresses that “[t]he arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time”. We wish to bring the attention of your Excellency's Government to article 9(4) of the Covenant whereby anyone deprived of liberty by arrest or detention shall be entitled to

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<sup>10</sup> A/RES/637(VII); CCPR General Comment No. 12 (1984) para. 1.

<sup>11</sup> CCPR/C/70/D/547/1993,

<sup>12</sup> CRC/C/GC/24, para. 60.

take proceedings before a court, in order that that court may decide without delay on the lawfulness of the detention.<sup>13</sup>

Article 10 of the ICCPR furthermore guarantees all persons deprived of their liberty “be treated with humanity and with respect for the inherent dignity of the human person”. In accordance with article 37 (c) of the CRC, this right applies to children and must be respected “in a manner which takes into account the needs of persons of his or her age”. In this regard, prolonged solitary confinement of the detained or imprisoned person is *prima facie* incompatible with this right and may amount to torture, or cruel, inhuman or degrading treatment or punishment, in violation of an absolute and non-derogable prohibition of torture or to cruel, inhuman or degrading treatment or punishment, as stipulated in article 5 of the UDHR, articles 2 and 16 of the CAT and article 7 of the ICCPR. UN human rights treaty bodies have consistently expressed concerns over the use of solitary confinement by Israeli authorities, particularly against children. In its Concluding Observations on Israel, the Committee Against Torture expressed grave concerns about the application of solitary confinement and separation to minors and recommended Israel to “put an immediate end and prohibit the use of solitary confinement and equivalent measures for juveniles and persons with intellectual or psychosocial disabilities”.<sup>14</sup> Similarly, the Human Rights Committee recommended Israel to “...consider abolishing the use of solitary confinement against children and developing alternative measures where necessary”.<sup>15</sup> Furthermore, as mentioned above, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty strictly prohibits “...closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned”

#### *Right to life and freedom from torture*

Article 3 of the Universal Declaration of Human Rights (UDHR) and Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) recognize that every human being has the right not to be arbitrarily deprived of his or her life. Article 6 of the Convention on the Rights of the Child recognises the inherent right of every child to life (art. 6(1)) and establishes the obligations upon States to ensure to the maximum extent possible the survival of the child (art. 6(2)).

In addition, article 7 of the International Covenant on Civil and Political Rights prohibits torture and cruel, inhuman or degrading treatment or punishment, protecting the dignity and physical and mental integrity of the person, as stated by the Human Rights Committee in its general comment No. 20 (paragraph 2). No derogation from this provision is permitted, even in situations of public emergency. This provision is also complemented by article 10, paragraph 1, of the International Covenant on Civil and Political Rights, which stipulates that persons deprived of their liberty shall be treated humanely and with respect for their inherent dignity. We also recall that in the cases of child detention, the Convention on the Rights of the Child prohibits deprivation

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<sup>13</sup> See also the United Nations Basic Principles and Guidelines on Remedies and Procedures on the Right of Anyone Deprived of Their Liberty to Bring Proceedings Before a Court (A/HRC/30/37), in particular principle 18 and guideline 18.

<sup>14</sup> CAT/C/ISR/CO/5, 3 June 2016, para. 24.

<sup>15</sup> CCPR/C/ISR/CO/5, 30 March 2022, para. 31.

of liberty – unless as a last resort, for the shortest period necessary, and with stringent safeguards – conditions which reportedly have not been met.

Under article 10 of the International Covenant on Civil and Political Rights, all persons deprived of their liberty must be treated humanely and with respect for the inherent dignity of the human person. Paragraph 1 of the basic principles relating to the Treatment of Prisoners, adopted by the General Assembly in its resolution 45/111, and rule 1 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) provide that all prisoners shall be treated with due respect for their inherent dignity and worth as human beings. We also wish to stress that acts of unlawful discrimination against women and girls based on their sex include the intentional deprivation of women and girls in detention of sanitary products, contrary to article 5 of the United Nations Rules for the Treatment of women prisoners (Bangkok Rules).

In its general comment No. 31, the Human Rights Committee also observed that there is a positive obligation on States parties to ensure the protection of the rights of individuals guaranteed by the Covenant against violations committed by its agents and by private persons or entities. Failure to investigate violations of the Covenant and to bring perpetrators to justice could in itself result in a separate violation of the International Covenant on Civil and Political Rights (CCPR/C/21/Rev.1/Add.13, para. 15). These obligations arise, inter alia, from criminal acts under international law, such as torture and other cruel, inhuman or degrading treatment or punishment.

#### *Protection of children from sexual violence and sexual abuse*

We would like to refer to the Convention on the Rights of the Child, which requires States Parties to respect and fulfil the rights to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

In addition, article 34 urges States Parties to protect the child from all forms of sexual exploitation and sexual abuse. While article 35 provides that States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form. We also refer to the general comment No. 13(2011) of the Committee on the Rights of the Child on the right of the child to freedom from all forms of violence, and reference non-exhaustively further articles 19, 20 and 24.

Article 37(a) and (b) of the Convention protects children against any act of torture or other cruel, inhuman, or degrading treatment or punishment, as well as against unlawful and arbitrary deprivation of liberty. We wish to highlight that rape and sexual violence suffered at the hands of agents of the State, such as police or military officers, are considered to constitute an act of torture as per article 1 of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In the report on gender perspectives on torture and other cruel, inhuman and degrading treatment or punishment, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment confirms that rape constitutes torture when carried out by, at

the instigation of, or with the consent or acquiescence of public officials (A/HRC/31/57).

International criminal law recognizes that rape and other forms of sexual violence, including sexual assaults, and acts that qualify as “outrages on personal dignity” are also prohibited under international humanitarian law, including article 3 of the Fourth Geneva Conventions; article 27 of the Fourth Geneva Convention; articles 75(2)(a)(1)(iv), 75(2)(b) and (e), and 76 of the Additional Protocol I to the Four Geneva Conventions; and rule 93 customary international humanitarian law. Article 4(2)e of the Additional Protocol II prohibits - amongst others - outrages upon personal dignity, in particular humiliating and degrading treatment, rape and any form of indecent assault for civilians and persons *hors de combat*.

In international humanitarian law, the actual use of force or situations where the perpetrator threatens to use force, or where the perpetrator creates the fear of violence, or where the perpetrator holds the victim to a coercive environment constitute conditions under which the sexual autonomy of the victim has been compromised, reflect the Elements of Crimes definition of rape and sexual violence. Under international humanitarian law, article 77 of the Additional Protocol I to the Four Geneva Conventions establishes that in addition to the general protection as members of the civilian population, children shall be the object of special respect against the effects of warfare.

Finally, article 39 of the Convention on the Rights of the Child also stipulates that all appropriate measures shall be taken to promote the physical and psychological recovery and social reintegration of a child who is a victim of any form of neglect, exploitation or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment, or of armed conflict. Such rehabilitation and reintegration should take place in an environment that promotes the health, self-respect and dignity of the child.

#### *Discrimination and violence against girls, including sexual violence*

Article 1 of the United Nations Declaration on the Elimination of Violence against Women adopted by the General Assembly resolution 48/104 of 20 December 1993 provides that the term “violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. Article 4 of the United Nations Declaration further stipulates that States should implement policies that eliminate violence against women by all appropriate means and without delay.

Rape and other forms of sexual violence, including sexual assaults, and acts that qualify as “outrages on personal dignity” are also prohibited under international humanitarian law, including article 3 of the Fourth Geneva Conventions; article 27 of the Fourth Geneva Convention; articles 75(2)(a)(1)(iv), 75 (2)(b) and (e), and 76 of the Additional Protocol I to the Four Geneva Conventions; and rule 93 customary international humanitarian law. Article 14 of the Third Geneva Convention also stipulates that “women [prisoners of war] shall be treated with all considerations due to their sex” and that prisoners of war are “in all circumstances entitled to respect for

persons and honor”. Article 4(2)e of the Additional Protocol II prohibits - amongst others - outrages upon personal dignity, in particular humiliating and degrading treatment, rape and any form of indecent assault for civilians and persons *hors de combat*. In international humanitarian law, the actual use of force or situations where the perpetrator threatens to use force, or where the perpetrator creates the fear of violence, or where the perpetrator holds the victim to a coercive environment constitute conditions under which the sexual autonomy of the victim has been compromised, reflect the Elements of Crimes definition of rape and sexual violence.

We also stress that according to a well-established international case law, sexual abuse and violence, including rape, can be forms of torture prosecutable under domestic and international law when they satisfy the definition in article 1 of the CAT. They are also war crimes when “used for such purposes of intimidation, degradation, humiliation, discrimination, punishment, control, or destruction of a person; and “[when they are] inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”.<sup>3</sup> When committed as part of a widespread or systematic attack against a civilian population, with knowledge of the attack, singular or collective rapes or other forms of sexual abuse can be prosecuted as crimes against humanity, pursuant to article 7(1)(g) of the Rome Statute.

We would also like to refer to the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the State of Israel ratified on 3 October 1991, which calls on States to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation. Article 2 of the Convention also calls on States parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

General recommendation No. 19 of the CEDAW Committee (1992) on violence against women defines gender-based violence as “violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.” We would also like to recall the CEDAW Committee’s general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, which calls on States parties to protect women’s human rights at all times, advance substantive gender equality before, during and after conflict as well as to provide access to justice for victims of sexual violence (CEDAW/C/GC/30). Furthermore, in general recommendation No. 35 (2017) on gender-based violence against women, updating the general recommendation No. 19 (1992), the CEDAW Committee clarifies that the due diligence obligation underpins the Convention as a whole and that States parties will be held responsible should they fail to take all appropriate measures to prevent, as well as to investigate, prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in gender-based violence against women (CEDAW/C/GC/35).

We also wish to recall that the Working Group on Discrimination against Women and Girls, in its report on sexual and reproductive health rights in crisis (A/HRC/47/38), acknowledged that many crises experienced individually by women and girls, such as unplanned pregnancy and sexual violence, infringe on their dignity, restrict their freedoms and are tied to their sexual and reproductive status. The Working

Group emphasized that such violations are linked to structural discrimination and fostered by the patriarchal oppression, pervasive gender stereotypes, stigma and taboos that drive gender inequality. In that regard, the Working Group stressed that international human rights standards concerning sexual and reproductive health continue to apply during situations of crisis and States have the duty to continue to meet their core obligations. It also underscored that women and girls continue to face a variety of barriers to access to justice in situations of crisis, from the lack of recognition of the harm caused to them as being a violation of human rights to the absence of procedures and formal mechanisms.

*International humanitarian law*

We also draw the attention of your Excellency's Government to article 76 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War, which provides that "[p]rotected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein". The same provision underlines that special treatment should be afforded to minors. International human rights law spells out that it is a fundamental right of every child deprived of liberty to maintain contact with his or her family, and to facilitate family visits, "the child should be placed in a facility as close as possible to his or her family's place of residence". We express deep concerns that

We wish to underline that customary international humanitarian law prohibits arbitrary deprivation of liberty and in the case of occupied territory, a protected person may be interned or placed in assigned residence only if "imperative reasons of security" exist.<sup>16</sup> Furthermore, article 76 of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War specifically prohibits detention of protected persons outside the occupied territory. It provides that "[p]rotected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein."

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<sup>16</sup> International Committee of the Red Cross, Customary International Humanitarian Law, "Rule 99. Deprivation of Liberty", [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_ge99](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_ge99)