

**Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right to education; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls**

Ref.: OL ISR 6/2025  
(Please use this reference in your reply)

2 April 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Special Rapporteur on the right to education; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on minority issues; Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 49/10, 53/7, 52/9, 50/6, 52/5, 1993/2A and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **Deportation of Families of Terrorists Law, 5785-2024**, adopted on 7 November and in force. We are particularly concerned that the application of the provisions of the Law discussed below would infringe the legitimate exercise of rights protected under international human rights law and international humanitarian law, which all apply in the occupied Palestinian territories.<sup>1</sup> Specifically, these include:

- The rights to non-discrimination (article 2), liberty and security of person (article 9), freedom of movement (article 12), privacy, home, family and honour and reputation (article 17) and freedom of expression (article 19) under the International Covenant on Civil and Political Rights (ICCPR) (ratified by Israel on 3 October 1991);
- The rights to work (article 9), an adequate standard of living and housing (article 11), health (article 12) and education (article 13) under the International Covenant on Economic, Social, and Cultural Rights (ICESCR) (ratified by Israel on 3 October 1991);
- The prohibitions on discrimination (article 13), collective punishment (article 33) and forced transfers (article 49) under the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (ratified by Israel on 6 July 1951); and

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<sup>1</sup> International Court of Justice, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory Opinion, 19 July 2024, para. 100; Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004 (I), pp. 180-181, paras. 111-112.

- The rights of women under the Convention on the Elimination of All Forms of Discrimination against Women (ratified by Israel on 3 October 1991) and the rights of children under the Convention on the Rights of the Child (ratified by Israel on 3 October 1991).

We encourage your Excellency's Government to review and repeal the Law to ensure Israeli legislation would not infringe with Israel's international obligations.

We underline that any measures taken to combat terrorism and violent extremism, including incitement of and support for terrorist acts, must comply with all obligations under international human rights and international humanitarian law (see A/74/337). We note that best international practice encourages States to regularly independently review counterterrorism and emergency laws to ensure their continuing necessity and compliance with international law.

### *The Law*

On 7 November 2024, the Knesset passed the Deportation of Families of Terrorists Law, 5785-2024 ("Deportation of Families of Terrorists Law"). The Law grants the Minister of Interior broad authority to deport to the Gaza Strip or "another deportation area to be determined according to the circumstances" the family members of "terrorists" in two circumstances:

- (1) If the person knew or should have known in advance about the terrorist's plan to commit an act of terrorism and did not make all the necessary efforts to prevent it, including reporting to security agencies or the Israel Police; or
- (2) The person expressed support or identification with an act of terrorism or published words of praise, sympathy or encouragement of an act of terrorism or a terrorist organization.

The Law defines "terrorist" by reference to the seven categories outlined in the Freezing of Funds Paid by the Palestinian Authority (PA) in Connection with Terrorism from Revenues Transferred by the Israeli Government Law, 5778-2018, namely:

- "a person convicted of a terrorism offence under a list of specified laws, or a person who is held in custody due to suspicion of having committed such an offence";
- "a person held in detention under the Emergency Powers (Detentions) Law 5739-1979, or who has been convicted by a military court under relevant provisions in Israel or in Judea and Samaria (the West Bank)"; or
- "persons held under military orders or temporary detention orders concerning unlawful combatants and those who committed terrorism and security offences but have not been indicted or were killed in the course of committing or attempting to commit them."

The Law defines “terrorism” and “terrorist organization” by reference to the Combating Terrorism Law, 5776-2016. Family members are defined to include a parent, brother or sister, son or daughter and spouse of “terrorists”.

Procedurally, after receiving information regarding an individual, the Minister will convene a hearing during which the family member will have the opportunity to present his or her arguments and be entitled to legal representation. The Minister will then have 14 days to make a decision and sign a deportation order.

While Israeli citizens face expulsion for 7 to 15 years (without loss of citizenship), temporary or permanent residents face expulsion for 10 to 20 years.

The Law authorizes the Israel Police to execute a deportation order including by entering any place, removing any person from it and using reasonable force.

While the Law is purportedly aimed at deterring terrorism, assertions by proponents of the Law attest to a desire to collectively punish families under the guise of combating terrorism.

#### *Inconsistencies with international law*

We are concerned that the application of the Law would not be consistent with international law. Deportation of individuals based predominantly on the alleged conduct of their family members would infringe article 12(4) of the ICCPR, which requires that “[n]o-one shall be arbitrarily deprived of the right to enter his own country”; this implies the right to remain in one’s own country (general comment No. 27, para. 19). Protection against arbitrariness requires that any interference in the right to remain in one’s country must be reasonable in the particular circumstances and “there are few, if any, circumstances in which deprivation of the right to enter one’s own country could be reasonable” (para. 21).

Even if banishment were permissible in principle, deportation based on the conduct of family members is unreasonable and arbitrary, since it is not based on any individual assessment of whether the person themselves is a threat to security and whether deportation is strictly necessary and proportionate (including as the least restrictive means) to address such threat. The failure to prevent or report terrorist activity by a family member is not sufficiently harmful personal conduct so as to justify the severe consequence of deportation, including the consequent grave interferences in the ICCPR rights to privacy of the home and family, and freedom of movement, and the ICESCR rights to work, an adequate standard of living, housing, health and education. Deportation would be particularly unreasonable and arbitrary where it is subjectively premised on constructive knowledge that the person “should have known” of the terrorist activity of their family member.

The unreasonableness and arbitrariness is further aggravated because: (1) the authority to deport is reposed in the Minister of Interior, not a court, and the Law does not specify any sufficiently protective standard of proof or adequate due process protections (such as disclosure of essential evidence allowing the person to effectively challenge the allegations); (2) the predicate terrorism offences under the Combating

Terrorism Law are vague and overbroad and do not satisfy the principle of legality under article 15 of the ICCPR; and (3) deportation can be based on the conduct of a family member that need not involve an actual terrorism conviction, but mere suspicion of an offence or other grounds involving a lower standard of proof and lesser due process than a criminal conviction, namely administrative detention and military detention under the Unlawful Combatant Law (itself not compliant with international law: see [ISR 12/2024](#)) or suspects not indicted or killed while committing or attempting terrorism.

We emphasize that the right in article 12(4) of the ICCPR applies not only to Israeli citizens (including Arab/Palestinian Israelis), but also to Palestinians subject to deportation from their “own country”, such as permanent residents of occupied East Jerusalem (an area illegally annexed and claimed as sovereign by Israel, to which the Law presumptively applies), for instance if transferred to “another deportation area” outside Palestine. Article 12(4) does not distinguish between nationals and aliens and is not limited to formal nationality, but covers individuals with “special ties to or claims in relation to a given country” (general comment No. 27, para. 20). According to the Human Rights Committee these can include people stripped of nationality in violation of international law, individuals whose country of nationality has been incorporated in or transferred to another national entity, and certain long-term stateless persons denied the right to acquire nationality (*ibid*).

Further, article 49(1) of the Fourth Geneva Convention prohibits “individual or mass forcible transfers, as well as deportations of protected persons from occupied territory... regardless of motive”, subject to evacuation solely within occupied territory only if the security of the civilians involved or imperative military reasons so demand (article 49(2)). The prohibition on forced transfer is also reflected in customary international humanitarian law (ICRC, Customary International Humanitarian Law, Rule 129). Article 8(b)(viii) of the Rome Statute of the International Criminal Court, applicable in the State of Palestine, also prohibits the “deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.” Deportations of Palestinian residents of occupied East Jerusalem to occupied Gaza, i.e., transfers within Palestine, would violate international law, since the targeting of family members is not rationally related to any permissible security imperative under international humanitarian law. We echo the Human Rights Committee’s concern and recommendation to Israel to “refrain from using this provision to control the demographic composition in the State party or to silence human rights defenders advocating for the rights of Palestinians” (CCPR/C/ISR/CO/5, para. 19).

In addition, deportations of both Israeli citizens and Palestinian residents would violate the right to liberty of movement and freedom to choose one’s residence under article 12(1) of the ICCPR, which includes “protection against all forms of forced internal displacement” and “precludes preventing the entry or stay of persons in a defined part of the territory” (general comment No. 27, para. 12). We relatedly refer to the 1998 Guiding Principles on Internal Displacement, which establish the need to respect and ensure respect for international human rights law to prevent and avoid conditions that might lead to the displacement of persons (principle 5). Principle 6 provides that every person has the right to be protected against being arbitrarily displaced from his or her home, including in situations of armed conflict and based on policies that have the effect of altering the ethnic or religious composition of a

population (principle 6). The Law's targeting of family members predominantly in relation to the conduct of others is not a necessary or proportionate restriction on these rights in pursuit of any legitimate security aim.

For the same reason, the Law would constitute an arbitrary or unlawful interference in the home and family under article 17 of the ICCPR, and by stigmatizing innocent family members by association with an alleged "terrorist" could further violate the right to honour and reputation under article 17.

In the case of Palestinian residents of East Jerusalem, deportation for the conduct of a family member would additionally violate the prohibition on collective punishment in armed conflict (Fourth Geneva Convention, article 33; International Committee of the Red Cross, Customary International Humanitarian Law, rule 103). The prohibition on collective punishment is not limited to criminal sanctions but applies to other types of penalties (ICRC Commentary 1958 to GCIV article 33), which would include retributive deportation which has clearly punitive effects.

The Law alternatively provides for the deportation of family members of terrorists where they expressed support or identification with an act of terrorism or published words of praise, sympathy or encouragement of an act of terrorism or a terrorist organization. While these criteria address the individual's own conduct, on combination with the link to their "terrorist" family member, they are clearly not sufficient to justify deportation under international human rights law or (in the case of Palestinian residents of East Jerusalem) humanitarian law as outlined above.

Specifically, the Law does not require a criminal conviction or other judicial decision in relation to such acts, but leaves the determination to the Minister and without specifying any adequate standard of proof or affording sufficient due process. The substantive grounds themselves are not sufficiently serious to warrant the severe consequence of protracted banishment. Such grounds are vague and overbroad and susceptible to abuse and impermissibly infringe on the right to freedom of expression under article 19 of the ICCPR. They do not require such speech to have any causal connection to the likelihood of commission of a violent terrorist act, and go well beyond the accepted criminal law category of incitement to violent crime. The vagueness and overbreadth of the speech-related terms in the Law are compounded by the aforementioned excessive definition of terrorism in Israeli law to which the terms are connected. This creates a severe chilling effect on freedom of expression.

Since deportations would not be justified under international law, the exercise of powers by the Israel Police to execute a deportation order would violate other relevant human rights, including freedom from arbitrary detention and the right to security of person under 9 of the ICCPR; the right to privacy, including of the home, under article 17 of the ICCPR; and the right to an adequate standard of living, including housing, in article 11 of the ICESCR. In respect of the latter, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats (general comment No. 4 CESCR); and there must be due process and effective remedies in respect of forced evictions.

We are concerned that, in practice, the Law would likely be used to target Palestinian citizens of Israel and Palestinian residents of East Jerusalem, rather than also

families of Jewish “terrorists”, which would constitute indirect discrimination prohibited by the Convention on the Elimination of All Forms of Racial Discrimination. We echo the concerns expressed by the Committee on the Elimination of Racial Discrimination that your Excellency’s Government has taken the position that “the Convention [on the Elimination of All Forms of Racial Discrimination] does not apply to all the territories under the State party’s effective control”, a position that “is not in accordance with the letter and spirit of the Convention and international law, as also affirmed by the International Court of Justice” (CERD/C/ISR/CO/17-19, para. 9).

In this regard, we note the recent determination of the International Court of Justice that “a broad array of legislation adopted and measures taken by Israel in its capacity as an occupying Power treat Palestinians differently on grounds specified by international law”.<sup>2</sup> In its opinion, the Court found that such differentiation of treatment “cannot be justified with reference to reasonable and objective criteria nor to a legitimate public aim” and that “the régime of comprehensive restrictions imposed by Israel on Palestinians in the Occupied Palestinian Territory constitutes systemic discrimination based on, inter alia, race, religion or ethnic origin, in violation of articles 2, paragraph 1, and 26 of the ICCPR, article 2, paragraph 2, of the ICESCR, and article 2 of CERD.” It concluded that “Israel’s legislation and measures constitute a breach of article 3 of CERD”.<sup>3</sup> We emphasize that discrimination is also prohibited under international humanitarian law (Fourth Geneva Convention, article 13; ICRC, Customary International Humanitarian Law, rule 88).

The Law could also have disproportionate negative effects on women and children family members of predominately male “terrorists”, thus implicating the rights of women and children under CEDAW and the Convention on the Rights of the Child. In this regard, the Working Group on Discrimination against Women and Girls expressed in its thematic report (A/HRC/41/33) that measures to combat terrorism and corresponding national security measures sometimes profile and target women, in particular those from certain groups and sometimes even women human rights defenders. It has further recommended States to ensure that measures addressing conflict, crisis, terrorism, and national security incorporate a women’s rights focus and do not instrumentalize women’s deprivation of liberty for the purposes of pursuing government aims.

We respectfully underline the continued importance of upholding the fundamental guarantees of international human rights law and international humanitarian law in adopting and implementing laws. We note the context of the International Court of Justice’s Advisory Opinion of July 2024, which concluded that Israel’s presence in the occupied Palestinian territories is unlawful and must cease as rapidly as possible.<sup>4</sup> We stress that respect for international law is a complementary and mutually reinforcing objective in any effective counter-terrorism efforts. Consequently, we urge your Excellency’s Government to review and repeal the Law to ensure Israeli law is consistent with Israel’s international obligations.

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<sup>2</sup> ICJ, Advisory Opinion, Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, 19 July 2024, para. 223.

<sup>3</sup> Ibid.

<sup>4</sup> ICJ, Legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem, Advisory opinion of 19 July 2024.

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 observations.
2. Please detail how the application of the Law would be consistent with international human rights law and international humanitarian law.
3. Please provide information on what measures your Excellency's Government intends to take to ensure that the Law is reviewed and repealed to ensure Israeli law is consistent with international law.

We stand ready to provide your Excellency's Government with any technical advice it may require in ensuring that its legislation is fully compliant with international human rights standards and international humanitarian law.

While awaiting a reply, we respectfully urge that all necessary interim measures be taken to ensure that the new Law is not enforced pending its review and repeal.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please be informed that a copy of this letter is being sent to the Government of the State of Palestine.

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

Ben Saul

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