

THE USE OF EXCESSIVE FORCE AGAINST PALESTINIANS IN JERUSALEM DURING THE HOLY MONTH OF RAMADAN 2021



مركز العمل المجتمعي
COMMUNITY ACTION CENTER

List of contributors

Research and author

Mounir Marjeieh

Reviewed by

Munir Nuseibah

Field researchers

Ilham Shaheen

Reema Rizeq

Volunteers

Malak Hassouneh

Dana Ghoul

Marwa Hassouneh

Rana Hadi

Yumna Mukahal

Hannah Bruinsma

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For more information, please visit our website: www.cac.alquds.edu

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Cover photo: Israeli armed soldier holding a M-16 rifle at the Al Aqsa Mosque, in the background the Dome of the Rock, soldiers and civilians can be seen - May 2021 ©

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Abbreviations and Glossary

GC IV	Fourth Geneva Convention
ICC	International Criminal Court
ICCPR	UN General Assembly, International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
OHCHR	The Office of the United Nations High Commissioner for Human Rights
OPT	Occupied Palestinian Territories
THR	The Hague Regulations: Convention Concerning the Laws and Customs of War on Land
UN Charter	Charter of the United Nations
UN Human Rights Committee	United Nations Human Rights Committee
UNESCO	United Nations Economic, Social and Cultural Organization
UNSCR	United Nations Security Council Resolution

Methodological Note

The report “The Use of Excessive Force Against Palestinians in Jerusalem During the Holy Month of Ramadan 2021” was developed by the Community Action Center / Al-Quds University (CAC). The report combined both desk and field research and utilized a variety of primary and secondary sources. Primary sources include legal instruments, statistics, and affidavits, while secondary sources encompass a wide range of reports, press releases, and statements by relevant local and international institutions.

The field research employed a variety of tools, primarily collecting affidavits from victims and witnesses. The field researchers and volunteers endeavored to translate the collected affidavits from Arabic to English in the highest level of accuracy. The overwhelming majority of the interviewed people refused to expose their names out of fear of persecution. Three medical institutions were contacted, The Red Crescent Society Hospital in Jerusalem, Al-Amal Society for Medical Services and St. John of Jerusalem Eye Hospital Group. These institutions provided us with the relevant data embedded in the report that helped us to assess the scope of violence deployed.

Introduction

Ramadan 2021 will be remembered as one of the most challenging periods for Palestinians in general, but for Jerusalemites in particular. Violent incidents occurred daily between Palestinians on one side, and Jewish extremists and the Israeli Police on the other. Clashes took place across the city, centered on the focal points of Damascus gate, Sheikh Jarrah and the Al-Aqsa Mosque compound (Al-Haram Al-Sharif).

The sequence of events that unfolded in Jerusalem led to extreme confrontations, especially during the last week of the holy month: May 6 to May 10. Violence peaked on May 10 at the Al-Aqsa compound, coinciding with the start of Israel's eleven-day war in Gaza, in which 256 Palestinians were killed and thousands displaced. According to the UN, 12 people were also killed on the Israeli side.¹

The majority of the violence in Jerusalem during this period was committed by the Israeli Police, who particularly targeted Palestinians who were seeking to enjoy Ramadan in front of the Old City walls or to pray at Al-Aqsa, and against the residents of Sheikh Jarrah, who were facing the imminent threat of forcible transfer. Israel's escalation of violence, along with the extremist rhetoric of some Israeli politicians, led to widespread outrage amongst Palestinians and actions of solidarity (accompanied by an Israeli crackdown) ensued in the West Bank, the Gaza Strip and multiple cities inside Israel.

This report examines the important events that took place between May 6 and May 10, 2021, in and around the Al-Aqsa compound. It seeks to determine and understand the origins of the events by asking two central research questions: firstly, was it necessary for Israeli police to use force and to take violent measures against Palestinians in Jerusalem? Secondly, and irrespective of the answer to the first question, was the violence applied proportional to the perceived threat or lawful objectives sought?

¹ United Nations Office for the Coordination of Humanitarian Affairs, (2021, 1 June). Occupied Palestinian Territory (oPt): Response to the escalation in the oPt Situation Report No. 1: 21-27 May 2021 (PDF). [Retrieved 30 May 2021](#).

Historical Background

Jerusalem is one of the oldest and most revered cities in the world, because it is home to the holiest religious sites for each of the three Abrahamic religions. The city thus has a profound spiritual and religious significance for billions of people around the world, which magnifies the significance of the events that take place within it.

Throughout its long history, Jerusalem has been attacked and captured by tens of nations, and all three Abrahamic religions have ruled the city at one time or another. The Jews governed for almost five centuries, the Christians for four centuries and the Muslims for twelve centuries. In 636 C.E., subsequent to the defeat of the Byzantines at the Battle of Yarmouk, Caliph Umar instructed Muslim troops besieging Jerusalem to press on until the Byzantines, who then controlled Jerusalem, would run short of supplies and submit to a bloodless surrender.² After the surrender, Caliph Umar entered Jerusalem and composed the Umariyya Covenant, which guaranteed civil and religious liberty to all inhabitants of Jerusalem. Because of this covenant, Jews were allowed to live in Jerusalem again after almost 500 years of Roman oppression and exile from the city.³

While Caliph Umar was in Jerusalem, he ordered the erection of Al-Aqsa Mosque in order to resurrect Jerusalem as a place of worship. Muslims believe the Prophet Mohammed was transported on a winged steed from the Great Mosque of Mecca to the location where Caliph Umar ordered the mosque to be built, and from there he ascended into heaven where he spoke with God. This night journey, also known as Isra and Mi'raj, is one of the most important days in the Islamic calendar. The Al-Aqsa Mosque was twice completely destroyed by earthquakes in the years 746 and 1033, and twice rebuilt. The Ayyubids under the leadership of Saladin, and later the Mamluks under Al-Kamil Shaban, also made several repairs and renovations to the Mosque.⁴ Today, Al-Aqsa is considered the third holiest site in Islam.⁵

The Dome of the Rock, which is part of the Al-Aqsa compound, was first completed in 691 C.E., at the order of Umayyad Caliph Abd-Almalik, and it is one the oldest, still existing, Islamic architectures. It contains the Noble Rock, known as the Pierced Rock, because it has a pierced hole, known as the well of souls, where according to the Islamic faith, the souls of the dead can be heard waiting for Judgment Day.

² Gibbon, E. (1862). *The History of the Decline and Fall of the Roman Empire, Volume 6*. J. D. Morris Publishers.

³ Gil, M. (1997). *A History of Palestine, 634-1099*. Cambridge University Press. p. 70. ISBN 9780521599849. Retrieved 1 April 2020.

⁴ Hancock, L. (2004). Saladin and the Kingdom of Jerusalem: the Muslims recapture the Holy Land in AD 1187. The Rosen Publishing Group. ISBN 0-8239-4217-1; Ma'oz, M. and Nusseibeh, S. (2000). *Jerusalem: Points of Friction, and Beyond* BRILL. pp. 136–138. ISBN 90-411-8843-6.

⁵ Second Islamic Summit Conference (1974, 24 February). Resolution No. 2/2-IS. Organization of the Islamic Conference. Archived on 14 October 2006.

Today, the Old City of Jerusalem and its walls are marked as a UNESCO world heritage site⁶, and granted special legal protection, with the Dome of the Rock standing out among the city's 220 historic monuments.

In 1516 the Ottoman Empire took over Jerusalem and created what would be the leading Islamic state in the world until 1917. The city enjoyed a period of peace and renewal under Suleiman the Magnificent, who built the walls that demarcate what is known today as the Old City of Jerusalem. The walls were intended to protect Jerusalem's inhabitants from feared Crusader invasions.⁷ The Palestinians, like other Arabs who lived under the Ottoman Empire, enjoyed equal rights with Turks, and shared sovereignty with them throughout all the provinces of the Ottoman Empire.

Towards the end of the first World War, British troops captured Jerusalem from the Ottomans. In 1922, and in accordance with a League of Nations mandate, the British government was set to administer Palestine, with Jerusalem as its capital. This was in line with the Sykes-Picot agreement⁸, a secret treaty signed by Great Britain and France during the war, that divided the Ottoman-held Syria, Iraq, Lebanon, and Palestine into various French- and British-administered areas.

Article 22 of the Covenant of the League of Nations (1919) stated that, "Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration to the selection of the Mandatory."⁹

In other words, the Mandate system granted legal status for the territories to be administered under the principles of non-annexation, and of administration as a "sacred trust" to develop the territory for the benefit of its native people.

Under international law, the legal effect of the Palestinian Mandate, and of the recognition in Article 22 of the existence of Palestine's inhabitants as "Independent Nations," was to ensure that Britain would eventually facilitate the Palestinian People's exercise of their right to sovereignty and self-determination.¹⁰

⁶ UNESCO World Heritage (2017, 4 August). Retrieved 26 December 2019.

⁷ Wager, E. (1988). *Illustrated guide to Jerusalem*. Jerusalem: The Jerusalem Publishing House. p. 138

⁸ Although referred to as an "agreement", the Sykes-Picot agreement does not conform to a typical treaty format. Rather it consists of a number of letters exchanged between the French, British and Russian foreign ministers during 1916. For the commonly used text of the Sykes-Picot agreement see *Sykes-Picot agreement text*, UNISPAL, <https://unispal.un.org/UNISPAL.NSF/0/232358BACBEB7B55852571100078477C>

⁹ League of Nations (1919, 28 April). *Covenant of the League of Nations*. available at: <https://www.un.org/unispal/document/auto-insert-185531/>

¹⁰ Duncan Hall, H. (1948). *Mandates, Dependencies and Trusteeships* (Washington: Carnegie Endowment for International Peace, 1948), p. 80.

Before Britain's mandate in Palestine ended, the General Assembly (GA) of the United Nations (UN) adopted Resolution 181(1947) which called for the creation of separate Arab and Jewish states in Palestine, and for the internationalization and demilitarization of Jerusalem due to its importance for the three monotheistic religions. Israel accepted Resolution 181 and relied on it to create a Jewish state. The Resolution envisaged the appointment of a governor by a Trusteeship Council to administer Jerusalem on behalf of the UN. The internationalization of Jerusalem was reaffirmed in UNGA Resolution 194 of 1948, and in UNGA Resolution 303 in 1949. More importantly, after 1967 the international status of Jerusalem was invoked by the General Assembly and the Security Council in multiple other resolutions, which condemned the occupation and annexation of Jerusalem, and proclaimed the nullity of all measures taken by Israel that violated the city's international status.¹¹

Between 1949 and June 1967, Jerusalem was divided in two: West Jerusalem, which covered an area of 37 km² under Israeli control; and East Jerusalem, which included the Old City, covered an area of 6km², and was ruled by Jordan. After the 1967 War, Israel occupied and annexed East Jerusalem, in addition to 64 km² of land, most of which belonged to 28 villages from the occupied West Bank. The Palestinians who lived in occupied East Jerusalem, were granted the legal status of "permanent residents".

Following the occupation of East Jerusalem, the Jerusalem municipality took over the city's administration with a clear objective: to secure a Jewish majority in the city¹². All Israeli governments have since affirmed this goal as the main guiding principle of municipal planning policies in Jerusalem, and thus, it has formed the foundation of all urban and demographic plans prepared by government ministries¹³. However, the Palestinian population grew more quickly than had been predicted, whereas Jewish population growth was slower. Israel perceived this as a 'demographic problem' that needed to be addressed. Hence, the Jerusalem Municipality began imposing discriminatory laws and policies on Palestinians, in order to maintain a Jewish majority in the city and to control population growth.

Many of these policies have endured, and today Palestinians in Jerusalem live under numerous repressive practices undertaken by the Israeli state. These include revocation of permanent residency status; underfunding of services and infrastructure in Palestinian areas; high population density due to social engineering (restrictive construction rules,

¹¹UN Security Council (1968). Security Council resolution 252 [Middle East], 21 May 1968, S/RES/252 (1968), available at: <https://www.refworld.org/docid/3b00f1fe4.html> [accessed 24 July 2021].

UN Security Council (1979). Security Council resolution 452 [Territories occupied by Israel], 20 July 1979, S/RES/452 (1979), available at: <https://www.refworld.org/docid/3b00f16946.html> [accessed 24 July 2021]; UN Security Council, (1980). Security Council resolution 465 [Territories occupied by Israel], 1 March 1980, S/RES/465 (1980), available at: <https://www.refworld.org/docid/3b00f16e4c.html> [accessed 24 July 2021]

¹² The Inter-Ministerial Committee to Examine the Rate of Development in Jerusalem (1973, August). Recommendations for a Coordinated and Combined Rate of Development [In Hebrew], p.3.

¹³ Building and Housing Ministry, Rural building Administration (1975). *Preliminary Examination of the Applications of Establishing Settlements in the Jerusalem Region. Plan for the Geographical Distribution of an Israeli Population of Five Million*, Planning branch of the Interior ministry and the Economic Planning Authority of the Finance Ministry, Vol. 2, Jerusalem 1972, p. 30.

house demolitions, Apartheid wall construction, harassment by municipal authorities, discriminatory zoning and planning, etc.); political repression of individuals and the harassment and closure of social, political and cultural institutions. Collective punishment in the form of house demolitions and banning family unifications forces Palestinians out of the city, whilst Israeli authorities simultaneously construct more Jewish settlements in East Jerusalem. The measures, taken together, are intended to cement the occupation and unlawful annexation of Eastern Jerusalem and to ensure a Jewish majority within the city's population at the expense of the Palestinian population.

The Status Quo in Al-Aqsa

Since 1852, a status quo arrangement has determined the administration of the holy places in Jerusalem.¹⁴ Initially, the status quo preserved the division and responsibilities of various Christian shared holy places. The Ottoman Sultan Abdul Majid issued a *firman* that forbade any construction on some Christian holy sites or any alteration to their existing status. In 1878, European powers and the Ottomans signed a treaty, stressing that no alteration would be made to the status quo in the holy places – including all of Jerusalem's holy sites. This arrangement received international recognition. In 1920, subsequent to the defeat of the Ottoman empire, the British authorities upheld the status quo and included the Al-Aqsa Mosque and the Al-Buraq (Western) wall among the sites covered by the status quo arrangement.

Immediately after its occupation of East Jerusalem in 1967, Israel forcibly seized control of the Al-Buraq wall, and confiscated the keys of Al-Magharbeh gate, one of the gates of the Al-Aqsa compound. International efforts have since been made to protect the status quo and integrity of Al-Aqsa Mosque. In 1981, the United Nations Economic, Social and Cultural Organization (UNESCO) categorized the Old City of Jerusalem and its Walls as a world heritage site, and in 1982, the UNESCO World Heritage Committee highlighted the threats to the cultural sites in the Old City and included the Old City and its Walls in the list of endangered world heritage sites. Since then, UNESCO has issued dozens of decisions and called upon Israel, as the occupying power, to halt its continuous violations against the heritage of the Old City, and especially against the Al-Aqsa compound, and to respect the status quo.

The status quo has since 1967 placed the Al-Aqsa compound under the administration of the Islamic Waqf, which is under Jordanian custodianship. Under this agreement, visitors were allowed to the site, but religious Jews and non-Muslim prayer practices were banned, as they had been for centuries. Visitors typically paid a small fee upon entry, which the Waqf used to fund repairs and restorations when needed.¹⁵

Though Israel originally abided by Jordan's terms, in 2000, Ariel Sharon entered the Al-Aqsa compound, accompanied by hundreds of policemen: an action that began what became known as the Second Intifada. During the Intifada, between 2001 and 2003, Israel coordinated with Jordan to prevent the entrance of Jews and other non-Muslims to the compound. In 2003, despite coordination of access with Jordan being a central component of the status quo, Israel unilaterally restored access to the compound for non-Muslims. This absence of coordination led to an increase in incursions by Jewish

¹⁴ The Hashemite Fund (n.d.). The Status Quo arrangement of the Holy Places. Retrieved on 15.7.2021, from <https://haramalaqsa.com/history/>

¹⁵ Crisis Group (2015, June 30). [The Status of the Status Quo at Jerusalem's Holy Esplanade](#), Middle East Report N°159, p. 5.

provocative extremists, who are now permitted under Israeli supervision, to enter even when wearing the Israeli military uniform, an action that was previously banned by the Islamic Waqf.¹⁶

Since then, Israel has engaged in breaches of the status quo arrangement governing the site. Because Israel had assumed sole responsibility for the entrance of Jews, it was obliged to accept sole responsibility on the matter of security. In addition, Israeli police banned the Waqf from bringing anything into the compound without police permission, another *de facto* breach of the agreement. Numerous other steps have been undertaken, either by Israeli security forces (e.g., when they decided to place metal detectors at the entrance of the compound), or by other authorities (such as the Israeli Antiquities Authority whose officials repeatedly entered the compound searching for antiques), which breach the status quo arrangements.

In 2016, UNESCO passed Document 200 EX/25, known as the Occupied Palestine resolution, which is one of its most important resolutions regarding Al-Haram Al-Sharif and Al-Aqsa Mosque. The Resolution “strongly condemn[ed]” Israel, as the occupying power, for its handling of the holy site. It called on Israel to restore the status quo that prevailed until 2000, under which the Jordanian Awqaf Department exercised exclusive authority over Al-Aqsa Mosque, and maintained full control over its administration, including maintenance, restoration and regulation of access. The Resolution also condemned Israel’s escalating aggression and illegal measures against the Awqaf Department and its personnel, including the Jordanian Awqaf guards, religious figures, and Muslim worshipers generally, and the resolution demanded that Israel restore access for Muslims to their holy site, and that it respects the status quo by ceasing its aggressions and abuses that inflame tensions on the ground. The Resolution also censured the destruction of the historical windows of Al-Aqsa, in violation of its protections as a UNESCO world heritage site and condemned the forceful entering into the different mosques and historical buildings by the so-called “Israeli Antiquities” officials.¹⁷

¹⁶ Ibid, p. 9.

¹⁷ UNESCO, executive board (2016). Occupied Palestine, 200 EX/25. Available at: <https://www.un.org/unispal/wp-content/uploads/2019/08/UNESCOEX200.pdf>

Applicable Legal Framework

The West Bank, including East Jerusalem, was placed under Jordanian control in the 1949 Armistice Agreements signed by Israel and its neighboring countries. The 1949 agreements divided the land that Israel did not conquer in 1948 - the West Bank, including East Jerusalem, and the Gaza Strip - among Jordan and Egypt, respectively.

Following its victory in the 1967 war, Israel occupied and annexed East Jerusalem, applied its domestic laws and unilaterally declared the area (approximately 70.5 km², including the Old City where the Al-Aqsa Mosque is located), to be under the jurisdiction of Israel, and under the administration of the existing Jerusalem municipality. In 1980, Israel enacted the Jerusalem Basic Law, which declared that "Jerusalem, complete and united, is the capital of Israel," in direct violation of the ban against military occupation in the fourth Geneva Convention (GC IV).¹⁸ Since then, Israel has disregarded the fact that it is the occupying power, and not the sovereign, of Jerusalem, and it has accordingly continued to flout the international laws that govern occupied territories.

There is a broad consensus among the international community, and most legal scholars agree, that East Jerusalem is an occupied territory. The UN Security Council passed Resolution 242 (1967) calling on Israel to withdraw from the territories it occupied in the 1967 war, and it declared the Jerusalem Basic Law "null and void" in Resolution 478.¹⁹ Tens of other UNSC resolutions have since reiterated that East Jerusalem is an occupied territory. The Permanent Observer Mission of Palestine to the UN in 1999 declared it "indisputable" that Jerusalem is occupied territory. Moreover, Jerusalem meets the legal test for an occupied territory laid out in Article 42 of the Hague Regulations (THR), which provides that a territory is occupied if it is "actually placed under the authority of the hostile army."²⁰

Common article 2(2) to the GC IV extends the applicability of the Geneva Conventions to include military occupation of a territory by one of the high contracting parties. The unilateral annexation of East Jerusalem constitutes a form of land acquisition through applying means of force, which is prohibited under international law and article 2(4) of the UN charter.²¹

The above-mentioned international consensus was further demonstrated by the ruling of the International Court of Justice (ICJ) that qualified the applicability of International

¹⁸ UNTS 287 (Adopted 12 August 1949). Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 2(2).

¹⁹ United Nations Security Council (1967, 22 November); Resolution (UNSCR) 242, UNSCR 478 (20 August 1980).

²⁰ International Peace Conference, Carnegie Endowment for International Peace., International Peace Conference, & International Peace Conference. (1907, 8 October). The Hague conventions of 1899 (II) and 1907 (IV) respecting the laws and customs of war on land.

²¹ United Nations (1945, 24 October). Charter of the United Nations, 1 UNTS XVI.

Humanitarian Law²² over the situation in Occupied East Jerusalem with qualifying both the GC IV²³ and THR.²⁴ The ICJ also emphasized the applicability of international human rights law to the occupied territory, including both the International Covenant on Economic, Social and Cultural Rights (ICESCR)²⁵ and the International Covenant on Civil and Political Rights (ICCPR).²⁶

Furthermore, on February 5, 2021, the International Criminal Court (ICC) decided that its territorial jurisdiction over Palestine extends to the territories Israel occupied in 1967, namely East Jerusalem, the West Bank and the Gaza strip. This ruling effectively gave the ICC jurisdiction to prosecute officials and perpetrators of war crimes, crimes against humanity, genocide and the crime of aggression in those territories.²⁷

Critically, the occupation does not confer upon Israel “state authority” over the population in East Jerusalem or over the land itself.²⁸ To the contrary, under international law, the occupying power does not acquire sovereignty over the occupied territory and is required to respect the existing laws and institutions of the occupied territory as far as possible. It is presumed that occupation will be temporary and that the occupying power shall preserve the status quo ante in the occupied territory. For example, Article 43 of THR of 1907, which establishes the legal obligations of an occupying power in administering a foreign territory, stipulates that “[t]he authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power **to restore, and ensure, as far as possible, public order and safety**, while respecting, unless absolutely prevented, the laws in force in the country.” Accordingly, Israel, has the legal obligation to act in the best interests of the local Palestinian population, while respecting their laws, except when prevented by military necessity.²⁹

In administering East Jerusalem, Israel must adhere to the objective of occupation law, which is to protect the rights of the inhabitants of occupied territories. Article 43 of THR has been described as a “mini constitution for the occupation administration”³⁰ while the GC IV is referred to as “the bill of rights for the occupied population, as internationally approved guidelines for the lawful administration of the occupied territory.”³¹ Both the GC

²² International Court of Justice (ICJ), (2004). Advisory Opinion on the Legal Consequences of the Construction of a Wall <https://www.icj-cij.org/public/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

²³ UNTS 287 (Adopted 12 August 1949). Geneva Convention Relative to the Protection of Civilian Persons in Time of War, art. 2(2).

²⁴ Convention Concerning the Laws and Customs of War on Land (Hague, IV) With Annex of Regulations (Signed 18 October 1907).

²⁵ United Nations, UN General Assembly (1966, 16 December) International Covenant on Economic, Social and Cultural Rights, Treaty Series, vol. 993, p. 3.

²⁶ United Nations, UN General Assembly (1966, 16 December) International Covenant on Civil and Political Rights, Treaty Series, vol. 999, p. 171

²⁷ ICC (2021, 5 February). “ICC Pre-Trial Chamber I issue its decision on the Prosecutor’s request related to territorial jurisdiction over Palestine”.

²⁸ United Nations (1999, 15 July). Paper prepared by the Permanent Observer Mission of Palestine to the United Nations, New York, Israel’s Belligerent Occupation of the Palestinian Territory, including Jerusalem and International Humanitarian Law, <https://unispal.un.org/DPA/DPR/unispal.nsf/0/6B939C57EA9EF32785256F33006B9F8D>

²⁹ Kretzmer, D. (2002). The Occupation of Justice: The Supreme Court of Israel and The Occupied Territories, State University of New York Press, Albany, p.63

³⁰ Benvenisti, E. (1993) The International Law of Occupation, Princeton University Press, Princeton, p. 9

³¹ Ibid, p. 105

IV and THR protect human rights norms and the right to life, and the GC IV commentary stresses that “[i]t must not be forgotten that the conventions have been drawn up first and foremost to protect individuals, and not to serve states interests”.³²

The GC IV and its additional protocols are the main legal source for the protections of civilian populations in times of war. The provisions on the protections of the civilian populations are Customary International Law, because they are widely accepted among states. Article 27 to the GC IV provides extensive protection to civilians under the laws of war, stating that “protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”³³

The following freedoms, rights and obligations are parts of the applicable branches of international law that were qualified above, are they are relevant for this report, since they pertain specifically to the facts that this report examines:

I. The Freedom of Assembly

The freedom of peaceful assembly is part of IHRL. It is enshrined in Article 20 of the Universal Declaration of Human Rights,³⁴ Article 21 and 22 of the ICCPR,³⁵ Article 8 of the ICESCR,³⁶ and in multiple other international human rights laws, that are applicable in Jerusalem as previously discussed. It protects the right of an individual to gather with others in order to express a mutual goal or idea. General Comment No. 37 to Article 21 of the ICCPR states that the “[f]ailure to respect and ensure the right of peaceful assembly is typically a marker of repression.”³⁷

II. The Protection of Religious Sites

The protection of religious sites is enshrined in many international law instruments. Article 56 to THR³⁸ forbids destruction or willful damage to property dedicated to religion, and Article 8(2)(b)(ix) to the Rome Statute of the International Criminal Court³⁹ stipulates that intentionally directed attacks against places of worship, which are not a military objective, constitute a war crime. It is also prohibited under Customary International Law to attack cultural property and religious sites as part of hostilities.⁴⁰ The UN General Assembly

³² Pictet, J. S. (1958) The Geneva Conventions of 12 August 1949: Commentary, (IV) Geneva Convention Relative to the Protection of Civilian Persons in Time of War (hereafter Geneva Convention IV Commentary), ICRC, Geneva, Art. 2, p.21.

³³ Supre. no.18, Art. 27

³⁴ UN General Assembly (1948, 10 December). Universal Declaration of Human Rights, 217 A (III), Art. 20, available at: <https://www.refworld.org/docid/3ae6b3712c.html>

³⁵ Supre no. 26, Art 21, 22.

³⁶ Supre no. 25, Art 8.

³⁷ UN human rights committee (HRC) (2020, 23 July) CCPR General Comment No. 37: Article 21, on the right of peaceful assembly, CCPR/C/GC/37.

³⁸ Supre. no. 20, Art. 56

³⁹ Supre. no. 79

⁴⁰ Supre. no. 59, Rule 38

addressed the protection of religious sites in Resolution 55/254, and called upon all States “to exert their utmost efforts to ensure that religious sites are fully respected and protected in conformity with international standards and in accordance with their national legislation and to adopt adequate measures aimed at preventing such acts or threats of violence.”⁴¹

III. The Freedom of Worship

Freedom of worship entails the right of an individual or a group of people to manifest their religion or belief. Article 18(1) of the ICCPR states that “[e]veryone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”⁴² This right can be limited: Article 18(3) to the ICCPR that stipulates that the “freedom to manifest one’s beliefs may be subject to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.”⁴³

IV. The Protection of Women and Children

Women and children are protected as part of the general civilian population under international humanitarian law. According to the UN General Assembly (1974) Declaration on the Protection of Women and Children in Emergency and Armed Conflict, states in armed conflicts must make all efforts to spare women and children from the ravages of war, and to take special care to protect pregnant women in particular. Moreover, the law obliges all parties to an armed conflict to take effective measures to ensure that children receive the special protection, care and assistance to which they are entitled.⁴⁴ The UN Security Council reiterated this legal obligation in a 1999 resolution on the protection of children in armed conflict, calling upon parties to a conflict “to undertake such feasible measures during armed conflicts to minimize the harm suffered by children.”⁴⁵ The Resolution states that parties to a conflict must provide children with the care and aid they require. Article 1 to the declaration on the Protection of Women and Children in Emergency and Armed Conflict “prohibits” and “condemns” “attacks and bombings against a civilian population, inflicting incalculable suffering, especially on women and children, who are the most vulnerable members of the population.”⁴⁶

⁴¹ United Nations General Assembly Resolution 55/254 (11 June 2001)

⁴² Supra No. 26, Art. 18(1)

⁴³ Supra No. 26, Art. 18(3)

⁴⁴ UN General Assembly (1974, 4 December) Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 1, A/RES/3318(XXIX), available at: <https://www.refworld.org/docid/3ae6b38a14.html> [accessed 17 July 2021]

⁴⁵ UN Security Council (1999). Security Council resolution 1261 [on children in armed conflicts], 25 August 1999, S/RES/1261, available at: <https://www.refworld.org/docid/3b00f22d10.html>

⁴⁶ UN General Assembly (1974, 14 December). Declaration on the Protection of Women and Children in Emergency and Armed Conflict, A/RES/3318(XXIX), available at: <https://www.refworld.org/docid/3ae6b38a14.html>

V. The Protection of Journalists

Journalism is protected within the legal framework of freedom of expression. It is stipulated in Article 19 to the ICCPR that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” The UN and other international organizations have generally condemned deliberate attacks on journalists. Media reports from conflict zones serve such a fundamental public interest that attacking journalists results in two casualties: the journalist, and the truth. It is stated in the UN Human Rights Committee’s general comment No. 37 on the right of peaceful assembly (article 21) that the role of journalists and others involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the fundamental right of peaceful assembly. Journalists may not be prohibited from exercising their functions, which include monitoring and reporting on actions of law enforcement. Governments may not confiscate or damage journalists’ equipment, nor harass them. It is a significantly important function to monitor assemblies, even if an assembly is declared unlawful or is dispersed, that does not terminate the right to monitor.⁴⁷

VI. The Protection of Medical Personnel

Medical personnel who are exclusively assigned to medical duties must be respected and protected, unless they take part in physically harming an enemy. This principle is enshrined in the first, second and fourth Geneva Conventions.⁴⁸ Article 18 of the GC IV stresses that “civilian hospitals organized to give care to the wounded and sick [...] may in no circumstances be the object of an attack but shall at all times be respected and protected by the parties to the conflict.”⁴⁹ Under Article 8(2)(b)(xxiv) of the Statute of the International Criminal Court, intentionally directing attacks against medical units, transport, and personnel in international armed conflicts, using the distinctive emblems of the Geneva Conventions in conformity with international law, constitutes a war crime. Article 8(2)(b)(xxiv) applies to medical personnel because they are entitled to use the distinctive emblems of the Geneva Conventions.⁵⁰

⁴⁷ Supre. no. 34, Parag. 34.

⁴⁸ International Committee of the Red Cross (12 August 1949). Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), Art. 24-26, 75 UNTS 31, available at: <https://www.refworld.org/docid/3ae6b3694.html>; Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Geneva Convention), Art. 36, 12 August 1949, 75 UNTS 85, available at: <https://www.refworld.org/docid/3ae6b37927.html>; Supre no. 18, Art. 20.

⁴⁹ Supre no.18, Art. 18

⁵⁰ Supre no.18, Art. 8(2)(b)(xxiv)

The Use of Force in the Context of Occupation

With exception to broad reference and providing a general background, Article 43 to THR does not directly address the issue of policing in the context of occupation; neither the Geneva Conventions nor Additional Protocol I, although the maintenance of order in any society requires the population be policed. Article 43 only provides a broad reference to the issue, but without detailed and explicit rules, it cannot serve as a comprehensive legal framework. The lack of clear rules, however, does not relieve Israel of its obligations under international humanitarian law when it polices the occupied territories. In this section we will try to present the rules governing the use of force in law enforcement operations and policing in the context of occupation.

The concept of law enforcement is not *per se* defined in international law, yet it is discussed exhaustively in scholarly literature, and its definition can be derived from legal instruments issued by international and multilateral organizations, namely soft laws, which by themselves do not qualify as a source of international law. The importance of soft laws, however, should not be underestimated, especially in international law, because they play a big role in consensus-building and thereby act as a precursor for binding norms.

According to the UN Code of Conduct for Law Enforcement Officials⁵¹ and the UN Basic Principles for the Use of Force and Firearms,⁵² the term 'law enforcement' refers to the exercise of police powers by state agents and security forces, and its core duty is defined as "serving the community."⁵³ Traditionally, law enforcement operations take place within the jurisdiction of a state, but their jurisdiction can also extend to extraterritorial areas where the state practices sufficient territorial control, and exercises authority and power, as is the case with Israel in East Jerusalem. Thus, Israel's lack of sovereignty, or occupation, over East Jerusalem does not by itself render Israeli law enforcement illegal in the territory. Moreover, Palestinians in occupied East Jerusalem come within the personal jurisdiction of Israel, and they may be subject to Israel law enforcement authority as part of its objective to "maintain or restore public security, law and order."⁵⁴ In other words, the basic concept of law enforcement comprises all territorial and extraterritorial

⁵¹ UN General Assembly 34/169 (1979, 17 December). UN Code of Conduct for Law Enforcement Officials.

⁵² UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the 8th UN Congress on the Prevention of Crime and the Treatment of Offenders (1990)

⁵³ Supre. no. 51, Art. 1.

⁵⁴ Melzer, N., Gaggioli, G. (2015). Conceptual distinction and overlaps between law enforcement and conduct of hostilities", [In: Terry D. Gill and Dieter Fleck, the handbook of international law of military operations, 2nd edition, Oxford, Oxford University Press, p.4.](#)

measures taken by a State to impose public security, law, and order or to otherwise exercise its authority or power over individuals in any place or manner whatsoever.

In armed conflict, the use of force by law-enforcement officials or armed forces is governed by two different paradigms: the conduct of hostilities paradigm, which is derived from International Humanitarian Law, and the law enforcement paradigm, which is derived mainly from international human rights law.⁵⁵ Each paradigm operates differently and is governed by a different set of principles. Understanding these principles may shed light on more specific rules that Israeli police are obligated to follow in occupied East Jerusalem.

I. International Humanitarian Law

The conduct of hostilities paradigm is built on the assumption that using force is inherent to war, in which the ultimate goal of military operations is to prevail over the enemy's armed forces. Accordingly, the International Humanitarian Law principles were set up to reflect this reality. **The foremost principle is the distinction between civilians and combatants, which is the cornerstone of all humanitarian law instruments that regulate the use of force in armed conflicts and is meant to spare civilians from the hostilities.** Individual civilians, or those who do not fall into any of the several categories of combatants, constitute the civilian population.⁵⁶ The International Criminal Tribunal for the Former Yugoslavia has defined civilians as "persons, who are not, or no longer, members of the armed forces".⁵⁷

The Additional Protocols to the Geneva Conventions,⁵⁸ which are considered the modern instruments of International Humanitarian Law, refer exhaustively to this distinction and its nuances. Though Israel refrained from joining as a contracting party because it opposes the applicability of the Geneva Conventions to wars of national liberation, the principles of the Geneva Conventions and Additional Protocols have become binding International Customary Law.

Moreover, the principle of distinction between civilian and combatants, and between civilian objectives and military objectives was developed from state practice and became a binding norm under International Customary Law. The prohibition against attacking civilians is stated unambiguously in Rule 1 of the International Customary Law database of the ICRC, which obliges parties to a conflict to distinguish at all times between combatants and civilians, and to only direct attacks against combatants.⁵⁹ Indiscriminate

⁵⁵ ICRC, Expert meeting (2013). The Use of Force in Armed Conflicts: Interplay Between the Conduct of Hostilities And Law Enforcement Paradigms, Gaggioli. G., p. 6 retrieved from <https://www.icrc.org/en/doc/assets/files/publications/icrc-002-4171.pdf>.

⁵⁶ International Committee of the Red Cross (ICRC) (1977, 8 June). Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Art. 50(1), 1125 UNTS 3

⁵⁷ International Criminal Tribunal for the former Yugoslavia (ICTY) (2000, 3 March). Prosecutor v. Tihomir Blaskic (Trial Judgement), IT-95-14-T, p. 751.

⁵⁸ International Committee of the Red Cross (ICRC) (1977, 8 June). Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), Art. 50(1), 1125 UNTS 3

⁵⁹ ICRC (2005). Customary IHL Database, retrieved on 20.7.2021 from https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule1

attacks are always prohibited. Additionally, Article 8(2)(b)(i) to the International Criminal Court statute states that “intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities” constitutes a war crime. The international Court of Justice described this principle as a “Cardinal Principle” of International Humanitarian Law, and an “intransgressible principle” of International Customary Law.⁶⁰ The Israeli Military court in Ramallah itself invoked the principle of distinction when it recognized, as a basic rule of international humanitarian law, the immunity of civilians from direct attacks in the *Kassem case*.⁶¹

Rule 7 in the International Customary Law database also sets up the principle of distinction between military objectives and civilian objects – the parties to a conflict must at all times distinguish between military objectives and civilian objects, and attacks may only be directed against military targets.

The second major norm in international armed conflicts is the principle of proportionality in attacks. As defined in Rule 14 of the ICRC database, the principle of proportionality prohibits “launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, *which would be excessive in relation to the concrete and direct military advantage anticipated*.” The principle of proportionality in attack is codified in Article 51(5)(b) of Additional Protocol I, and repeated in Article 57, in Protocol II and in Amended Protocol II to the Convention on Certain Conventional Weapons.

In addition, Article 8(2)(b)(iv) to the International Criminal Court statute stipulates that “intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated” constitutes a war crime in international armed conflicts. Moreover, international customary law includes the principle of precautions in attack as a binding norm. Accordingly, every effort should be made to spare the civilian population, and all necessary precautions should be taken to avoid injury, damage or loss to the civilian population and the civilian objects. When the ICRC appealed to the parties of the conflict in the Middle East in October 1973 to respect the obligation to take all precautions in attacking, the states engaged in the conflict, including Israel, accepted the principle.⁶²

⁶⁰ International Court of Justice (ICJ) (1996, 8 July). Legality of the Threat or Use of nuclear weapons, Advisory Opinion, I.C.J. Reports 1996, p. 226, available at: <https://www.refworld.org/cases/ICJ.4b2913d62.html>

⁶¹ Israel Military Court sitting in Ramallah (1969, April 13). Military Prosecutor v. Omar Mahmud Kassem and Others,

⁶² ICRC (1973, 9 October). The International Committees' Action in the Middle East, p.584, available at: <https://international-review.icrc.org/sites/default/files/S0020860400006677a.pdf>

II. International Human Rights Law

The legal regime that governs law enforcement in international human rights law (IHRL) is mainly derived from the right to life, or protection either from 'arbitrary' or from 'intentional' deprivation of life. The right to life is protected under International customary law and in every general human rights treaty and is less tolerant with the use of force.⁶³

The normative paradigm of law enforcement comprises the rules, principles, and standards of international law, which govern the conduct of law enforcement activities and determine the lawfulness of such activities. The normative paradigm of law enforcement essentially includes the totality of international rules, which balance the collective interest in enforcing public security, law and order against the conflicting interest in protecting individual rights and liberties. Under the law enforcement paradigm, officers can only undertake force as a last resort when there is an **"absolute necessity,"** and in order to pursue a legitimate aim, such as self-defense, effecting an arrest or quelling a riot. There must be a concrete risk to life or limb posed by an individual for the use of force to be considered necessary.⁶⁴ In contrast, the use of force under the conduct of hostilities paradigm is conceived as "military necessity" where force can be used to attack combatants.

The **proportionality principle** under IHRL requires the state agent to balance the risk posed by the individual against the potential harm to the individual himself and to bystanders. When the use of force is unavoidable, the human-rights based proportionality test requires the smallest amount of force necessary. However, the proportionality principle in the conduct of hostilities paradigm provides that where a military operation may be pursued, then there may be collateral damage so long as it is not more excessive than the military advantage anticipated. Moreover, under the law enforcement paradigm, all **precautions** should be taken to avoid the use of force as much as possible. State agents should endeavor as much as possible to minimize injury and to respect and preserve human life. On the other hand, the principle of precautions under the conduct of hostilities paradigm only requires the belligerent power to take constant care to spare the civilian population and the civilian objects.⁶⁵

In light of the differences between the law enforcement paradigm rooted in IHRL and the conduct of hostilities paradigm rooted in IHL, the effective determination in which paradigm the Israeli police operated during the events in Jerusalem may have a crucial impact on the humanitarian consequences, because it has a direct effect on the injury of persons.

⁶³ Supre no. 55, p. 1,4.

⁶⁴ Supre no. 55, p. 8

⁶⁵ ICRC (2011, October). International Humanitarian Law and the Challenges of Contemporary Armed Conflicts, Geneva, Switzerland, pp. 18-19. Retrieved from: <https://www.icrc.org/en/doc/assets/files/red-cross-crescent-movement/31st-international-conference/31-int-conference-ihl-challenges-report-11-5-1-2-en.pdf>

The Israeli Occupation Police declared its intention to conduct law enforcement operations in East Jerusalem, claiming they were necessary to maintain and restore public security, law and order during the holy month of Ramadan.⁶⁶

Notwithstanding, riots in the context of occupation occur organically, and are usually marked by violence and civil unrest, with the primary purpose being to express dissatisfaction with the territorial occupation and the breach of occupation law.

It is important to distinguish this form of civil unrest from participating directly in hostilities, which are designed specifically to support parties to an armed conflict, which typically occurs between two armies. Accordingly, the international humanitarian law principles that govern wars between nations do not fit into the context of an occupying army against rioters. Thus, riots that are not specifically designed to cause the directly required threshold of harm to the adverse party to the conflict fall under the law enforcement paradigm.⁶⁷

In this context, it is important to mention that the right of Palestinians to resist the occupation was expressed multiple times in different UN resolutions which recognized explicitly the “legitimacy of the people’s struggle for liberation from colonial and foreign domination...by all available means”.⁶⁸ Resolution 2787 of the UN General Assembly, from 1971, refers specifically to the legitimacy of the struggle of the Palestinian people to restore their freedom and their right for self-determination. Although those resolutions are not legally binding, they reflect the views of the majority of sovereign states, which form the basis of customary international law, which is binding on all countries regardless of whether it has been codified.

Despite the legality of resistance, Israel and the international community have relentlessly penalized every act of resistance that Palestinians pursue. Yet, resistance is the only mechanism left for Palestinians to defend themselves and realize their self-determination, in light of endless breaches of international law by Israel, and the failure of the international community to compel Israel to abide by its obligations under international law. Israel has tactically endeavored to reengineer and vilify the image of the “resisting Palestinian” in the minds of the international community. Thereby, it refers to and treats actions of Palestinian resistance as either criminal behavior or as terrorism. Both conceptions dehumanize and depoliticize Palestinian resistance, even when resistance is expressed through non-violent means such as peaceful assembly.

⁶⁶ Ynet (2021, 24 April). מפכ"ל המשטרה מתייחס לעימותים בירושלים, Youtube, <https://www.youtube.com/watch?v=CliH8HhJHjA>.

⁶⁷ ICRC (2009, May). Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, N. Melzer, Geneva, Switzerland, p.63 available at: <https://www.icrc.org/en/doc/assets/files/other/icrc-002-0990.pdf>.

⁶⁸ UN Commission on Human Rights (1982, 25 February). The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation. E/CN.4/RES/1982/16, available at: <https://www.refworld.org/docid/3b00f0c428.html>



→ Israeli police holding teargas and rubber bullet guns in front of the Dome of the Rock

Presentation of Facts

From the beginning of the holy month of Ramadan in mid-April 2021, Palestinians in Jerusalem were subject to violence, aggression and provocation by the Israeli Police and Jewish extremists.

On April 12, which marked the first night of Ramadan, the Taraweeh Prayer was supposed to take place in Al-Aqsa Mosque. However, the Israeli Police decided to cut the wires of the mosque's speakers so that the Muslim prayer would not disturb the Israeli Memorial Day ceremony.⁶⁹

Each night, Israeli police set up metal barriers in front of the Old City's Damascus Gate, and prevented Palestinians from gathering after Iftar, or the breaking of the daytime fast. This restriction constituted an undue restriction to their freedom of assembly. The police claimed such measures were necessary to maintain order and to ease the flow of the crowds through Damascus Gate to the Old city.⁷⁰ The Israeli Police also claimed that it had regularly imposed such barriers during Ramadan in recent years. However, this claim was imprecise because Israeli police had only erected barriers on few occasions.⁷¹

It has become a local tradition for Palestinians to gather at Damascus Gate, particularly during Ramadan, when Palestinian drink tea and smoke shisha at the Gate after long days of fasting. Thus, the Israeli police's placement of barriers preventing such gatherings was seen as a provocation and an attempt to erase the Palestinian character of the area.

Since the beginning of the holy month, Israeli settlers had been calling for the invasion of the Al-Aqsa compound. On several occasions, extremist settlers, escorted by armed Israeli police, breached the status quo by engaging in provocative incursions into the site.⁷²

On April 22, hundreds of right-wing members of the extremist Lehava movement marched from West Jerusalem to the Damascus Gate, where the Palestinians had gathered to protest the police-imposed barriers, chanting "death to Arabs" in a "show of national honour." They claimed the march was a response to sporadic videos circulating on the app TikTok of "Palestinians attacking Jews." However, the far-right extremists have

⁶⁹ Al-Juneidi, L. (2021, April 14) Jordan slams Israeli violations at Al-Aqsa complex. aa.com.tr <https://www.aa.com.tr/en/middle-east/jordan-slams-israeli-violations-at-al-aqsa-complex/2208620>

⁷⁰ Ben Sales/JTA. (2021, April 20) Hundreds of Palestinians protest barriers in Jerusalem during Ramadan. TJP. <https://www.jpost.com/israel-news/hundreds-of-palestinians-protest-barriers-in-jerusalem-during-ramadan-665681>

⁷¹ Masuade S., Steinmetz, M. (2021, April 25) After the clashes: Commissioner Kobe Shabtai ordered the removal of the fences from Damascus Gate. kan.org.il. (In Hebrew) <https://www.kan.org.il/item/?itemid=104534>

⁷² Jundi, A. (2021, April 24), In Jerusalem, Ramadan sees heightened tensions at Al-Aqsa Mosque compound. middleeasteye. <https://www.middleeasteye.net/news/jerusalem-al-aqsa-passover-ramadan-tensions-settlers>

frequently targeted the area and have met there annually at the end of their 'Jerusalem Day' march.

Clashes erupted, in which more than 100 Palestinians were injured, 21 were evacuated to receive medical treatment, and one was shot in the head with a sponge-tipped bullet.⁷³ More than 50 people were arrested, the vast majority of whom were Palestinian. International news outlets reported that Israeli police employed much greater force against the Palestinian protestors, while being much more hesitant to disperse the Jewish extremists.⁷⁴ The Israeli Minister of Public Security, Amir Ohana, disregarded reports and complaints of violence and incitement by Jews against Palestinians and focused solely on the sporadic videos in which Palestinians were seen attacking Jews. Ohana instructed police to intensify their use of force, and to deal with such attacks or videos decisively and with the most intensive means available.⁷⁵

According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), between April 12 and 26, 166 Palestinians and 20 Israelis, including police officers and civilians, were injured during violent incidents in Jerusalem.⁷⁶ 208 Palestinians were arrested, including 8 children. 0 Israelis were arrested.

On April 25, Israeli police decided to remove the barricades from Damascus Gate, which dramatically decreased the confrontations between Palestinians and the police.⁷⁷

Simultaneously, the Israeli Supreme Court was due to announce a ruling on the forced transfer of Palestinian families residing in the Sheikh Jarrah neighbourhood in East Jerusalem. This ongoing forcible transfer does not accord with the obligations of Israel under International Law; forcible transfer is absolutely prohibited⁷⁸ and may amount to war crime under the Rome Statute.⁷⁹

The situation in Sheikh Jarrah was simmering weeks before the April-May events commenced at Damascus Gate, with Palestinian demonstrations also taking place in Sheikh Jarrah to support its residents in their struggle against the imminent risk of forcible transfer. During these demonstrations, Knesset member Ofer Cassif from the Joint List

⁷³ BBC (2021, April 23), East Jerusalem clashes leave over 100 injured. Bbc.com. Retrieved on 20.6.2021, from <https://www.bbc.com/news/world-middle-east-56854275>

⁷⁴ Aaron Boxerman, (2021, April 23), In Jerusalem, Palestinians and Jews see a night of rage and hate. Timesofisrael.com. Retrieved 20.6.2021, from <https://www.timesofisrael.com/in-jerusalem-palestinians-and-jews-see-a-night-of-rage-hate/>

⁷⁵ Cohen, G., Goldits, H. (2021, April 23), Ohana ignores violence from Jews in Jerusalem: "strengthenen forces". ynet.co.il. (In Hebrew) <https://www.ynet.co.il/news/article/SyBnlllwQ>

⁷⁶ OCHA (2021). Protection of Civilians Report | 13-26 April 2021. https://www.ochaopt.org/sites/default/files/poc_13-26_apr_2021.pdf

⁷⁷ Hila Nahon, (2021, April 27), After the removal of the checkpoints: Ramadan celebrations at the Nablus Gate, a dramatic drop in violent clashes. Kolhair.co.il. (In Hebrew) <https://www.kolhair.co.il/jerusalem-news/159073/>

⁷⁸Supre no.18, Art. 49

⁷⁹ UN General Assembly (1998, 17 July). Rome Statute of the International Criminal Court (last amended 2010), ISBN No. 92-9227-227-6, art. 7(1)(d), available at: <https://www.refworld.org/docid/3ae6b3a84.html> [accessed 17 July 2021]

joined the protests against the forced displacement. Despite his parliamentary immunity and official status, Israeli police attacked and injured Cassif.⁸⁰

The demonstrations in Sheikh Jarrah were a culmination of decades of threats of forcible displacement of Palestinians from their homes in occupied East Jerusalem by private settler associations, under the auspices of Israeli law, and with the close coordination of several Israeli authorities.

The Israeli Occupation Forces violently repressed the protests in Damascus gate and Sheikh Jarrah, and engaged in home raids; destroying Palestinian property; firing tear gas canisters, rubber-coated metal bullets, and stun grenades; spraying chemically enhanced sewage water and undertaking arbitrary arrests.⁸¹ The case of Sheikh Jarrah attracted local and international attention, and solidarity groups appeared globally in support of the Palestinian residents under the threat of forcible transfer.

On May 6, far-right Parliament Member Itamar Ben-Gvir announced that he would base his Knesset office in Sheikh Jarrah in order to support the settlers living there, who were regularly seen carrying assault rifles and revolvers as they walked around the neighbourhood.⁸² The same day he came to Sheikh Jarrah, together with Benzi Gopstein, the chairman of the Lehava, and established an improvised office under an awning with a sign “in response to the lack of protection for Jewish families in the area.” The awning was pitched directly in front of a number of Palestinian families and their supporters who had been meeting for nightly Iftar. Ben-Gvir called on police to “open fire” on protestors.⁸³ Later that night, published footage showed an Israeli settler pepper spraying Palestinian supporters eating Iftar, an act that led to violent clashes between the two sides.⁸⁴

Netanyahu’s office urged Ben-Gvir to move his office from the neighbourhood as clashes escalated.⁸⁵ Another video showed Ben-Gvir exchanging jokes with the Deputy Mayor of Jerusalem, Aryeh King, and mocking a Palestinian who was shot by Israeli Police during a protest, expressing his disappointment that the bullet that shot him had not hit him in the head.⁸⁶

⁸⁰ Toi Staff, (2021, May 7). Police burst into Temple Mount compound as hundreds riot after Ramadan prayers. timesofisrael.com. <https://web.archive.org/web/20210507183924/https://www.timesofisrael.com/police-burst-into-temple-mount-compound-as-hundreds-riot-after-ramadan-prayers/>

⁸¹ Addameer (2021, May 20). Mass arrests and attention amidst the escalation of Israeli aggression against the Palestinian people. addameer.org. <https://www.addameer.org/media/4393>

⁸² France24 (2021, May 9). ‘Silence is not an option’ in east Jerusalem for Palestinians. france24.com. Retrieved xx, from <https://www.france24.com/en/live-news/20210509-silence-is-not-an-option-in-east-jerusalem-for-palestinians>

⁸³ *Ibid*

⁸⁴ Staff, T. (2021, May 7). 15 arrested in fresh clashes in East Jerusalem’s Sheikh Jarrah neighborhood, timesofisrael.com. <https://www.timesofisrael.com/renewed-clashes-in-east-jerusalems-sheikh-jarrah-neighborhood-as-tensions-flare/>

⁸⁵ Staff, T. (2021, May 8). TV: Netanyahu office warned Ben Gvir of Gaza rockets if he didn’t leave E. J’lem. timesofisrael.com. <https://www.timesofisrael.com/tv-netanyahu-office-warned-ben-gvir-of-gaza-rockets-if-he-didnt-leave-e-jlem/>

⁸⁶ Baroud, R. (2021, May 13). *Muna is Palestine, Yakub is Israel: The Untold Story of Sheikh Jarrah*. counterpunch.org. <https://web.archive.org/web/20210513212116/https://www.counterpunch.org/2021/05/13/muna-is-palestine-yakub-is-israel-the-untold-story-of-sheikh-jarrah-2/>

The same day, Israeli forces killed 16-years-old Said Odeh in a village near Nablus in the West Bank, shooting him twice in the back. The ambulance was prevented from reaching him for 15 minutes, and he was pronounced dead on arrival.⁸⁷

On May 6, the UN Special Coordinator for the Middle East Peace Process published a statement expressing concern over the surge in violence in the West Bank and East Jerusalem, and over the eviction of Palestinians in Jerusalem. He called on Israel to halt the demolitions and evictions, and to fulfill its obligations under international law. With reference to the killing of a Palestinian woman and child in the West Bank, he stressed “the Israeli Security Forces must exercise maximum restraint and use lethal force when strictly unavoidable in order to protect life.”⁸⁸

On May 7, the last Friday of Ramadan, Israeli police in riot gear unleashed violent attacks against worshipers in the Al-Aqsa compound, injuring hundreds of Palestinians. Tens of thousands of Muslim worshipers had gathered in the compound to pray, while demonstrations continued in Sheikh Jarrah. According to reports, Israeli police used stun grenades, gas grenades and sponge-tipped metal bullets against the worshipers.¹⁰⁸ Palestinians were injured and taken to hospital, many of them hit with rubber-coated metal bullets in their eyes and faces. One Palestinian lost an eye, two had their jaws fractured and two suffered from serious head injuries.⁸⁹

The envoys of the Middle East Quartet from the EU, UN, Russia and the United States released a press statement expressing their concern regarding the clashes between Palestinians and Israeli security forces, particularly in Al-Aqsa on May 7.⁹⁰ They expressed their concern regarding provocative statements made by some political groups, and called upon Israel to “exercise restraint and to avoid measures that will further escalate the situation during this period of Muslim holidays” and to respect the status quo of holy sites. The Office of the United Nations High Commissioner for Human Rights (OHCHR) called, on May 7, for Israel to halt all forced evictions in East Jerusalem, including the Sheikh Jarrah neighborhood, as well as to exercise maximum restraint in the use of force while ensuring safety and dignity there.⁹¹

The next day, on May 8, amid heightened tensions and violence between Palestinians and Jewish Israelis in Israel, the Israeli Police stopped buses carrying Palestinian worshipers

⁸⁷ Aljazeera (2021, May 6), Palestinian teen killed during Israeli raid on West Bank village. [aljazeera.com](https://www.aljazeera.com/news/2021/5/6/palestinian-teen-killed-in-clashes-with-israeli-armed-forces).

⁸⁸ Wennesland, T. (2021, May 6). Statement by UN Special Coordinator for the Middle East Peace Process, on the surge in tensions and violence in the occupied West Bank, including East Jerusalem, (2021, May 6), Jerusalem. Available at: https://unsco.unmissions.org/sites/default/files/statement_by_un_special_coordinator_wennesland_-_6_may_2021_0.pdf

⁸⁹ Farrell, S., Ayyub, R. (2021, May 7). Israeli police, Palestinians clash at Jerusalem’s Al-Aqsa, scores injured. [reuters.com](https://www.reuters.com/world/middle-east/thousands-pack-al-aqsa-mosque-protest-palestinian-evictions-jerusalem-2021-05-07/).

⁹⁰ The Middle East Quartet Envoys (2021, May 8). Joint Press Statement of the Middle East Quartet Envoys. <https://reliefweb.int/sites/reliefweb.int/files/resources/Joint%20Press%20Statement%20of%20%20MidEast%20Quartet%20Envoys%20-8%20May%202021.pdf>

⁹¹ Jonasdottir, L. (2021, May 7). Stop evictions in East Jerusalem neighbourhood immediately, UN rights office urges Israel. [News.un.org https://news.un.org/en/story/2021/05/1091492](https://news.un.org/en/story/2021/05/1091492)

from inside Israel on Route 1 outside Jerusalem. The buses had been taking worshippers to Al-Aqsa Mosque. Arab Knesset Members condemned the move designed to prevent Muslim worshippers from reaching Al-Aqsa Mosque and from participating in the holiest night in Islam, Laylat al-Qader (Night of power/destiny), whilst allowing Ben-Gvir to erect his provocative office in Sheikh Jarrah and permitting Jewish Israelis to freely go to Jerusalem.⁹² The police claimed the buses were stopped due to suspicions that some of the passengers were planning to riot in the Haram Al-Sharif.⁹³ The police also falsely claimed that the clashes that erupted the day before were an outcome of postponing the elections by the Palestinian Authority and were led by Hamas operatives.⁹⁴

Israel's repressive measures spread tensions from Jerusalem to other Palestinian communities inside Israel, where several protests similarly arose.⁹⁵ Ex-prime minister Ehud Olmert said that an "Intifada" was brewing, for which Israeli police chief Kobi Shabtai blamed Ben-Gvir, his march on Damascus Gate, provocations in Sheikh Jarrah, and the continued street presence of the Jewish supremacist members of the Lehava movement.^{96 97}

Throughout the rest of May, Palestinian residents of Israel faced unparalleled growth in attacks against them by Israeli police forces and armed Jewish extremists. More than 100 WhatsApp groups managed by Israeli extremists coordinated violent attacks against Arabs, which resulted in violence in numerous areas.⁹⁸ According to 7amleh, a Palestinian rights organisation, there was a 15-fold increase in online hate speech and incitements to violence against Arabs compared with the same period in 2020.⁹⁹

On May 8, violence against Palestinian worshippers again erupted in the Al-Aqsa compound against tens of thousands of Muslim worshippers. The police claimed that Palestinians had thrown stones, lit fires and broken-down police barricades. As a result of police violence,

⁹²Staff, T. (2021, May 8), Arabs across Israel protest Jerusalem clashes, cops block buses to Temple Mount. timesofisrael.com. <https://www.timesofisrael.com/arabs-protest-over-jerusalem-throughout-israel-cops-block-buses-to-temple-mount/>

⁹³ Times of Israel (2021, May 8), Police: Buses were stopped over suspicion some passengers planning to riot on Temple Mount. timesofisrael.com. https://www.timesofisrael.com/liveblog_entry/tv-cops-say-they-stopped-buses-because-of-intel-passengers-planning-riot-on-temple-mount/

⁹⁴ Times of Israel (2021, May 8). Police said to link Temple Mount clashes to postponement of Palestinian elections. timesofisrael.com. https://www.timesofisrael.com/liveblog_entry/police-said-to-link-temple-mount-clashes-to-postponement-of-palestinian-elections/

⁹⁵ Times of Israel (2021, May 8). Protests over Jerusalem tensions spread to Arab communities throughout Israel. timesofisrael.com. https://www.timesofisrael.com/liveblog_entry/protests-over-jerusalem-tensions-spread-to-arab-communities-throughout-israel/

⁹⁶Times of Israel (2021, May 8), Ex-PM Olmert on Jerusalem tensions: 'A kind of intifada is brewing'. Times of Israel. https://www.timesofisrael.com/liveblog_entry/ex-pm-olmert-on-jerusalem-tensions-a-kind-of-intifada-is-brewing/

⁹⁷Staff, T. (2021, May 14), Police chief said to blame far-right lawmaker Ben Gvir for 'internal intifada'. timesofisrael.com. <https://www.timesofisrael.com/police-chief-said-to-blame-far-right-lawmaker-ben-gvir-for-internal-intifada/>

⁹⁸ Frenkel, S. (2021, May 19), Mob Violence Against Palestinians in Israel Is Fueled by Groups on WhatsApp. nytimes.com. <https://www.nytimes.com/2021/05/19/technology/israeli-clashes-pro-violence-groups-whatsapp.html>; Silk Aid, Attila Shumpelby, (2021, May 30), Jews organized on social media: "Going to murder Arabs, period". ynet.co.il. (In Hebrew) <https://www.ynet.co.il/news/article/ryFAxnIc00>

⁹⁹ 7amleh (2021, June 15). How did racism and incitement against Palestinians and Arabs look like between 6-21 May 2021? Youtube. https://www.youtube.com/watch?v=TR0gUU5_SCs&t=11s

at least 80 Palestinians were injured, including a one-year-old toddler.¹⁰⁰ According to the International Red Crescent, 38 Palestinians required hospital treatment, 33 of whom were hit with sponge-tipped bullets.

On May 9, the Spokesperson for the Secretary General of the UN released a statement expressing deep concern over the violence in East Jerusalem, and over the possible eviction of Palestinians from their homes in Sheikh Jarrah and Silwan. He also stressed that Israeli authorities must exercise maximum restraint and respect the right to freedom of peaceful assembly, and that the status quo on holy sites must be upheld and respected.¹⁰¹

Amidst the weeks of mounting tensions and violence against Palestinians, an annual parade held by Jewish extremists was expected to take place on May 10 in Jerusalem's Old City. Palestinians and the international community have long widely perceived the annual march to be provocative, because Jewish nationalists march through the Muslim quarter, guarded by police and waving Israeli flags to symbolically cement Israeli unlawful control over the occupied Old City.

That morning, the police banned the parade from passing through the Old City to avoid escalations, a decision they later reversed after Netanyahu changed its route, redirecting it to enter the Old City through Jaffa Gate instead of Damascus Gate. The Public Security Minister Amir Ohana opposed the decision to change the original route of the march through Damascus Gate¹⁰², while other officials in the Israeli security system called this the most volatile day in the year.¹⁰³

In May 10, a 25-year-old Palestinian with Israeli citizenship (from the Palestinian community inside Israel) was shot and killed by a 34-years old Jewish Israeli man in the city of Lydd. The police arrested the killer in order to investigate the incident. Two days later, the minister of public security, Amir Ohana, who had kept silent through the whole period, said that if he could, he would release the killer. He also said that “the public doesn't know everything, but weapon carriers are force multipliers that can help the police in neutralizing danger”. He expressed his grief for the “dreadful arrest” of the Jewish Israeli killer.¹⁰⁴

¹⁰⁰Farrell, S., Lubell, M. (2021, May 8), Clashes, prayers in Jerusalem on Muslim Laylat al-Qadr. reuters.com.

<https://www.reuters.com/world/middle-east/israel-boosts-security-forces-ahead-tense-night-jerusalem-2021-05-08/>

¹⁰¹ Dujarric, S. (2021, May 09). Spokesman for the Secretary-General, Statement attributable to the Spokesperson for the Secretary-General - on recent developments in Jerusalem, New York. available at:

https://unsco.unmissions.org/sites/default/files/statement_attributable_to_the_spokesperson_for_the_secretary-general_-_on_recent_developments_in_jerusalem.pdf

¹⁰²Staff, T. (2021, May 10), Police change route of Flag March through Old City as Jerusalem simmers. Times of Israel.

<https://www.timesofisrael.com/police-change-route-of-flag-march-through-old-city-as-jerusalem-simmers/>

¹⁰³ Hachmon, A. (2021, May 10), The police approved the continued existence of Jerusalem day events; fire broke out on the temple mount. maariv.co.il <https://www.maariv.co.il/news/israel/Article-839410>

¹⁰⁴ Senior, E. (2021, May 12), Ohana against the arrest of a Lod resident who shot and killed an Arab “weapon carriers are a force multiplier for immediate neutralization”, available at: <https://www.ynet.co.il/news/article/ryY1Wltd> (in Hebrew)

As the day went on, Israeli police conducted numerous violent incursions into Al-Aqsa, and then the compound witnessed a heinous attack against the Muslim worshipers praying within it. The incursions and attacks on Muslim worshipers included the use of innumerable stun grenades, tear-gas, and round after round of sponge-tipped bullets, both in the mosque's compound and inside the praying hall, injuring more than 300 Palestinians, over 200 of whom were hospitalized, 7 in serious condition.¹⁰⁵ Furthermore, the attacks caused great damage to the mosque itself, including breaking its centuries-old windows, in violation of its protections as a world heritage site. Though Israeli police claimed that Palestinians were launching fireworks and hurling rocks at them, the videos circulating on social media showed that Israeli forces did not distinguish between those who were there to worship, and those who were hurling stones and launching fireworks.¹⁰⁶

According to Addameer, a Palestinian prisoners' rights group, Israeli Police arrested at least 61 children in and East Jerusalem and shot four children dead in three weeks.¹⁰⁷

In response to the continuous Israeli incursions into the Al-Aqsa compound, the imminent threat of forcible transfer facing the residents of Sheikh Jarrah, and the police brutality and restrictions against both Palestinian Jerusalemites and Muslim worshipers at Al-Aqsa, Hamas launched rockets towards Israel, sparking the war on Gaza. The war persisted for 11 days, wherein Israel launched aggressive attacks against the Gaza Strip that resulted in at least 265 Palestinians being killed, including 66 children.

¹⁰⁵ Aljazeera (2021, May 10), In Pictures: Israeli forces storm Al-Aqsa compound. aljazeera.com.

<https://www.aljazeera.com/gallery/2021/5/10/in-pictures-7>

¹⁰⁶ Ari Gross, J., Staff, T., Agencies (2021, May 10), Some 300 Palestinians, 21 cops said hurt in latest heavy clashes in Jerusalem. timesofisrael.com.

<https://www.timesofisrael.com/some-280-palestinians-9-cops-hurt-in-latest-heavy-clashes-in-jerusalem/>

¹⁰⁷ Ahmed, K. (2021, June 1). 'One name in a long list': the pointless death of another West Bank teenager. theguardian.com.

<https://www.theguardian.com/global-development/2021/may/28/one-name-in-a-long-list-the-pointless-death-of-another-west-bank-teenager>

Throughout the holy month of Ramadan, the Al-Aqsa Mosque compound and the Damascus Gate area witnessed daily attacks against Palestinians and Muslim worshippers. In total, 1,281 Palestinians were injured, of whom 557 needed to be transferred to hospitals for further medical treatment. The Palestinian Red Crescent, who gave medical treatment to those injured, documented the numbers of the injured by cause of injury and type of treatment from May 3 until May 22 (see table below).

Moreover, St. John Eye Hospital, who was the only care provider to intervene for eye injuries, told us that they provided medical treatment, clinically and surgically, for 17 cases in Jerusalem. Of the 17, 4 were children under 18 years of age. 7 of those injured lost vision in one eye, and one lost vision in both.



→ Medical personnel taking care of civilians who are hit by a rubber bullet in their eyes



→ Medical personnel take care of a wounded Al-Aqsa Mosque guard

Date	Field treatment	transferred to hospital
16.4.2021	0	6
18.4.2021	4	0
22.4.2021	83	22
23.4.2021	16	4
24.4.2021	13	1

Date	Live ammunition		Beating		Sponge Bullets		Total
	transferred	Field	transferred	Field	transferred	Field	
3.5.2021	0	0	0	4	3	3	10
4.5.2021	0	0	1	0	0	0	1
5.5.2021	0	0	0	2	0	6	8
7.5.2021	0	0	5	36	95	34	170
8.5.2021	0	0	5	52	33	13	103
10.5.2021	0	0	27	61	296	82	466
11.5.2021	0	0	0	0	5	8	13
12.5.2021	0	0	0	8	5	5	18
13.5.2021	0	0	2	3	0	0	5
14.5.2021	0	1	0	0	0	10	11
15.5.2021	0	0	0	0	0	2	2
16.5.2021	0	0	0	1	3	3	7
18.5.2021	1	0	0	1	16	21	39
21.5.2021	0	0	0	0	2	19	21
22.5.2021	0	0	0	1	0	1	2
Total	1	1	40	169	456	207	876

Date	Stun Grenades		Tear Gas Grenades		Other		Total
	transferred	Field	transferred	Field	transferred	Field	
3.5.2021	0	0	0	0	0	0	0
4.5.2021	0	0	0	0	0	0	0
5.5.2021	0	9	0	3	2	0	14
7.5.2021	8	27	0	0	0	0	35
8.5.2021	0	15	0	0	0	0	15
10.5.2021	63	27	23	31	2	0	146
11.5.2021	0	7	0	7	0	0	14
12.5.2021	0	6	0	0	0	0	6
13.5.2021	0	0	0	0	0	0	0
14.5.2021	2	0	0	5	0	1	8
15.5.2021	0	1	1	0	0	0	2
16.5.2021	4	1	0	1	0	0	6
18.5.2021	1	3	0	2	0	0	6
21.5.2021	2	0	0	0	0	0	2
22.5.2021	1	1	0	0	0	0	2
Total	81	97	24	49	4	1	256

Attacks on Civilians

Between the 6th and the 10th of May 2021, the violence imposed on Palestinian civilians by the Israeli police reached its peak. The violence included both physical and verbal assaults towards civilians, in particular at Al Aqsa Mosque. According to article 27 to the GC IV provides extensive protection to civilians under the laws of war, stating that “protected persons are entitled, in all circumstances, to respect for their persons, their honor, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”¹⁰⁸ The violence that Palestinian civilians in Jerusalem faced during this period was a violation of their right to be protected against acts of violence and insults, their right to their honor, their right to religious practices and their right to humane treatment. Under the rights-based law enforcement paradigm, civilian populations and civilian objects are protected from the hazards of police law-enforcement operations by the balance that law enforcement agencies are expected to achieve between the risk posed by the civilian versus the potential harm to the civilian and other bystanders.

The box below contains excerpts from affidavits taken from victims and witnesses to the Israeli police violence. They demonstrate the scope and nature of violence deployed by the Israeli Police and the indiscriminate use of excessive force against Palestinians.

This constant attack by the Israeli occupation police using rubber bullets and sound bombs lasted about an hour ... they continued throwing sound bombs and shooting rubber bullets and using batons to hit anyone standing in front of them from guards, journalists, or any worshippers at al-Aqsa compound ...” – Anonymous civilian S.B., name known by author

“... The sound of the bullets and the bombs went on inside the compound of al-Aqsa, my house is very close to Bab- al Nather it is about 20 meters away from it. [...]. I also witnessed one of my neighbors get wounded in which he had gotten sprayed with pepper spray on his face, and was lying on the ground screaming because he was in so much pain, until he lost consciousness and the paramedics were able to reach him ...” - Anonymous civilian L.S., name known by author

¹⁰⁸ Supre. no.18, Art. 27

"... I held my phone up to take pictures of the Israeli police, one of them who was wearing the black uniform came towards me and started screaming at me in Hebrew, and threw my phone at the ground which caused the screen to shatter, and when I asked one of the guys who were near me about what the officer had told me, he translated to me that the officer had said to not take pictures of them ..." - Anonymous civilian Z.N., name known by author

Lastly, the rights of civilians to practice religion stated in article 27 to the GC IV was also violated by using force against civilian worshippers inside the mosque.

"... The occupation police officers hit the worshippers with stun grenades inside Al-Qibli Mosque, causing them to suffocate as they were in a closed place ... the policemen surrounded the Dome of the Rock Mosque and closed its doors, and hit the worshippers with stun grenades inside it, in addition, to tear gas in the two mosques, in Al-Qibli and the Dome of the Rock. The occupation police evacuated the worshippers and closed the doors leading to Al-Aqsa Mosque except for the Lion's Gate and the Chain Gate, with a heavy police presence on them. Meanwhile, I was at the Lion's Gate, and I saw the worshippers going out of this door to leave the mosque and many of them were injured. Whoever looked injured or had an injury or dirt on his clothes, was suspected and arrested by the police." - Anonymous guard at Al-Aqsa Mosque M.Q., name known by author

The authoritative commentary to the ICRC states that article 27 is considered "the basis of the Convention, proclaiming as it does the principle on which the whole of 'Geneva Law' is founded," and that "it requires States to take all the precautions and measures in their power to prevent such acts and to assist the victims in case of need."¹⁰⁹

¹⁰⁹ Pictet, J.S. (1958) International Committee of the Red Cross, Commentary on the Geneva Conventions of 12 August 1949: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War, p. 204

The Freedom of Assembly

Under IHRL, the right to freedom of assembly is protected by Article 20 of the Universal Declaration of Human Rights,¹¹⁰ Article 21 and 22 of the ICCPR.¹¹¹ It ensures that individuals have the right to gather with others in order to express a mutual goal or idea.

The right of peaceful assembly may be limited in certain cases, with the onus on authorities to justify any restrictions.¹¹² For example, Israel must justify its restriction of Palestinians gathering in Damascus Gate at the beginning of Ramadan in order to comply with the law. Initially, the Israeli police explained restrictions as a public health concern due to Covid-19, yet it did not impose such restrictions during the Jewish holidays at the end of March 2021. The Israeli Police soon changed its justification, stating instead that it imposed the metal barricades to facilitate a better flow of pedestrians to the Old City. This despite the fact that no similar restrictions had been in place in previous years, even though the number of Palestinians entering from the West Bank was much lower in 2021 due to heightened Israeli restrictions on Palestinian entry from the West Bank. The lack of an accurate justification for the limiting of gathering at Damascus Gate can be seen as a violation of the right to assembly under IHRL.

The law enforcement paradigm also regulates the use of force against peaceful assembly in the context of armed conflict.¹¹³ Thus, any use of force in such a case is subject to the aforementioned rules and principles governed by international human rights law of distinction, absolute necessity, precautions, proportionality and humanity.

During the couple of evenings before the Lehava march, there were no signs of protest or unrest, and Palestinians visited the area peacefully. Israeli Police claimed that some Palestinians threw stones at officers, and that some police vehicles were damaged during the confrontations. However, according to the eyewitness accounts of multiple human rights field-researchers, the police forces assaulted Palestinians around the Damascus Gate area with no provocation. The assault included the police suddenly storming the crowds at Damascus Gate and pushing and forcing them to leave. The paramilitary Border Police joined in, aggressively pushing Palestinians and throwing stun grenades.¹¹⁴

It is not clear why the police authorized the Lehava march towards Damascus Gate instead of avoiding the confrontation, especially because the day before the march, it was clear that the Lehava were mobilizing to violence. In WhatsApp groups, Lehava members

¹¹⁰ Supre. no. 52, art. 20.

¹¹¹ Supre. no. 26, Art 21, 22.

¹¹² Gryb v. Belarus (CCPR/C/103/D/1316/2004), para. 13.4

¹¹³ Supre n. 55, Parag 36

¹¹⁴ Ir Amim (2021, April 22). Closure Of Damascus Gate Plaza & Aggressive Police Measures. <https://www.ir-amim.org.il/en/node/2630>

asked where they could obtain tear gas and grenades for the march. Their messages stated: "We will break their faces, we will bury them alive."¹¹⁵ There have been calls inside Israel to designate the Lehava movement a terror organisation. This includes calls from multiple lawmakers across the whole political spectrum, as well as a former Mossad deputy chief who urged the defense minister to outlaw the organisation and designate it as a terror group.¹¹⁶

By storming into crowds of people who peacefully assembled no distinction is made. In addition, according to the eyewitness accounts of multiple human rights field-researchers there was no confrontation, and the violence was therefore not an absolute necessity. Lastly, the excessive violence was not proportional as there was no provocation. Therefore, there was a gross breach of right to freedom of assembly.

In the box below is an excerpt from an affidavit taken from a female civilian who was wounded during the attacks at the *Bab Al Amoud (Damascus Gate)*.

"On 9.5.2021 I was in Bab Al Amoud area with my friends to set and relax. There was in the area of Bab Al amoud a lot of people as part of the Ramadan traditions. Approximately at nine o'clock at night, and while I was standing on the steps that leads to the old city of Jerusalem, the Israeli police throw sound bombs and fired rubber bullets at the people who were there. One of the sound bombs hit me on my hand and exploded when it hit me. This injury has caused me severe pain and feeling of burn, and I had to go to get medical help."
- Anonymous civilian woman H.M., name known by author

¹¹⁵ Hason, N. (2021, April 21). 'Break Their Faces': As anti-Arab Attacks Spike, Jewish Supremacist Group Plans Jerusalem Show of Force, [haaretz.com https://www.haaretz.com/israel-news/premium-as-anti-arab-attacks-spike-jewish-supremacist-group-plans-jerusalem-show-of-force-1.9733546](https://www.haaretz.com/israel-news/premium-as-anti-arab-attacks-spike-jewish-supremacist-group-plans-jerusalem-show-of-force-1.9733546)

¹¹⁶ Staff, T. (2021, June 22), Knesset defense panel head calls for designating far-right Lehava a terror group, Times of Israel. <https://www.timesofisrael.com/knesset-defense-panel-head-calls-for-designating-far-right-lehava-a-terror-group/>

Attacks on Religious Sites

The attacks at Al-Aqsa Mosque by the Israeli police on the 8th of May left severe damages to the building. The damages made to the buildings constitute a violation of international law. Religious sites are defined as cultural property in Article 1 of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.¹¹⁷ Israel, as one of the high contracting parties to the Hague Convention, is obliged to refrain from any act of hostility directed against such property. Article 4(2) makes an exception to the rule by stating that the protection of religious sites may be waived only when military necessity imperatively requires such a waiver.¹¹⁸ The events at Al-Aqsa Mosque did not constitute the circumstances in which such an exemption is warranted under article 4(2). There was no military threat facing the Israeli police, therefore no reason to attack the Al-Aqsa compound.

Jerusalem is granted extra protection according to UNESCO. Article 6(3) of the covenant, concerning the protection of the world natural and cultural heritage, states "[e]ach state party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention."¹¹⁹ Al-Aqsa Mosque falls under the suggested definitions of cultural heritage in Article 1, most remarkably: "archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view."

On May 8, Israeli Police threw stun grenades into Al-Aqsa Mosque, then stormed it and attacked the Muslim worshipers inside, desecrating the interior space of the praying hall by stepping on the carpets with their shoes on, and intimidating the worshipers who were present. According to the police, the attack was justified because Palestinians were throwing stones, an assertion which is difficult to reconcile with the fact that the mosque's doors were closed, preventing stones from being thrown.

¹¹⁷ UN Educational, Scientific and Cultural Organization (UNESCO) (1954, 14 May). Convention for the Protection of Cultural Property in the Event of Armed Conflict, Art.4(1), available at: <https://www.refworld.org/docid/40422c914.html> [accessed 17 July 2021]

¹¹⁸ Ibid, Art. 4(2)

¹¹⁹ UN Educational, Scientific and Cultural Organization (UNESCO) (1972, 6 November). Convention Concerning the Protection of the World Cultural and Natural Heritage, art. 6(3).

"... After that I heard the sound of shots being fired but I did not know what kind they were screaming coming from the worshippers inside the mosque and after that bab al-Silsila was closed for about 15 minutes and after that the occupation forces kept vigorously pounding on the doors of the gate to open it once they did a huge number of forces aggressively walked in wearing the black and gray uniforms. While I was there more forces kept coming in and out of Bab al-Silsila which is one of the Aqsa's gates and the sound of shots being fired and people screaming continued ..." - Anonymous civilian C.V., name known by author

Attacks against the Al-Aqsa compound, including storming the praying hall and causing substantial damage, intensified and reached extreme levels on May 10, under the excuse of "law enforcement objectives." Police published pictures of stones and bottles collected inside the mosque as an indication of the intention of Palestinians to attack the police, and later the police claimed that Palestinians had begun throwing rocks and bottles at them. However, attacking cultural property can be conducted only in case the attack would be required by "imperative military necessity". Therefore, the attacks against the Al-Aqsa compound by the Israeli police were not only atrocious for the building but also a gross violation of international law.



→ The Dome of the Rock made from rubber bullets and teargas canisters in front of the Al-Aqsa Mosque



→ A broken window at the Al-Aqsa Mosque after the Israeli police threw teargas canisters into the Mosque according to witnesses

The Freedom of Worship

From the beginning of the holy month of Ramadan, Israeli police assaulted Muslim worshipers who were praying or on their way to prayer. Their movement and access to Al-Aqsa was restricted. The restrictions and attacks on worshippers could be seen as a violation of Article 18 (1) of the ICCPR states that “[e]veryone shall have the right to freedom of thought, conscience, and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”¹²⁰ The right to manifest once religion may be subject to limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others according to Article 18(3) to the ICCPR¹²¹. Muslim worshipers suffered from large number of assaults against them, both in the mosque’s compound and inside the praying hall, by Israeli police using riot dispersal means in an indiscriminate manner and physically attacking Palestinians whilst praying. Israeli Police also threw tear gas and stun grenades on Muslim worshipers while praying.

In the box seen below is an excerpt from an affidavit taken from a civilian who was praying at the time the Israeli Police launched an attack against worshippers at the Al-Aqsa Mosque. It demonstrates the indiscriminate use of excessive force by the Israeli Police against worshippers and protected religious sites.

“.. I kneeled to pray, and while praying I felt that something hit me strongly in my left eye, I didn't understand at the beginning what happened, then I put my hand on my eye and I could feel the blood, I look at my hand and it was all red... then I understand that I was shot.... I was taken to hospital for medical treatment and there the doctors told me that I lost sight in my left eye.” - Anonymous civilian M.Q., name known by author

As appears below in the box below, worshippers were also attacked inside the Al Aqsa Mosque. When they left the Mosque, those who were injured were suspected and arrested by the Israeli Police.

¹²⁰ Supre No. 26, Art. 18(1)

¹²¹ Supre No. 26, Art. 18(3)

"... The occupation police officers hit the worshippers with stun grenades inside Al-Qibli Mosque, causing them to suffocate as they were in a closed place ... the policemen surrounded the Dome of the Rock Mosque and closed its doors, and hit the worshippers with stun grenades inside it, in addition, to tear gas in the two mosques, in Al-Qibli and the Dome of the Rock. The occupation police evacuated the worshippers and closed the doors leading to Al-Aqsa Mosque except for the Lion's Gate and the Chain Gate, with a heavy police presence on them. Meanwhile, I was at the Lion's Gate, and I saw the worshippers going out of this door to leave the mosque and many of them were injured. Whoever looked injured or had an injury or dirt on his clothes, was suspected and arrested by the police." - Anonymous guard at Al-Aqsa Mosque M.Q., name known by author

According to the excerpt below, taken from an affidavit, the attacks did not only affect the worshippers but also the guards who look after the Al Aqsa Mosque.

*The occupation police forces forced the injured out of the clinic and left the medical staff and the guards in and started kicking us aggressively, I was hit by the police officers with a baton that hit my lower body from the left side of my back, and I was hit on my legs between 2 to 3 times. After that I left the clinic with **** and walked towards al-Qibli prayer hall and on the way there I saw the occupation police's continuous assaults on the worshippers ... On my way back home, I felt pain in my lower back, and I started throwing up. [...] The severe pain lasted a few days ...* - Anonymous guard at Al-Aqsa Mosque C.M., name known by author

Below in the box is an excerpt from an affidavit that clearly shows the randomness of the attacks on worshippers at Al Aqsa Mosque.

"I collected the carpets and the bags that people left behind as a result of the fear. [...] I could not continue collecting carpets, as the occupation police forces attacked us and started to attack us by hitting us with their feet and hands and with batons on different parts of the body. Then we were expelled from the door of the chain ... I don't know why, but I was surprised by the huge numbers of the occupation police wearing gray uniforms, and their numbers were in the dozens, randomly throwing sound bombs at the worshippers without taking into account anything.[...] On my way to the clinic, I was sniped by the occupation police with a bullet wrapped in reinforced sponge from the roof of the court, which is next Bab al-Silsilah, I realized that the sniping was from there because the yards in front of me were empty of any occupation police at that time ..." - Anonymous civilian Y.R., name known by author

Protection of Women and Children

Under international law, women and children are especially protected in emergency and armed conflict by the declaration on the Protection of Women and Children in Emergency and Armed Conflict and by the UN Security Council 1999 resolution on the protection of children in armed conflict. However, during the attacks by the Israeli police officers at Al-Aqsa Mosque and at Bab Al Amoud, both women and children were victims of verbal and physical violence. This violates the 1999 UN Security Council resolution demanding from parties in conflict “to undertake such feasible measures during armed conflicts to minimize the harm suffered by children.”¹²² On May 9, UNICEF published a joint statement urging Israeli authorities to refrain from using violence against children and to release the children detained. UNICEF stated that over the previous two days in East Jerusalem, 29 Palestinian children had been injured, some of them taken for treatment to hospitals with injuries in the head and spine, including a one-year-old toddler and eight Palestinian children had been detained.¹²³

In the box below appears an excerpt from an affidavit taken from a medical staff member, which describes the violence against women he witnessed.

“I could not enter much, and I stayed near Al-Asbat Gate to provide as much assistance as I could to the medical staff. While I was standing, I saw the police beating women. One of the women was beaten and a paramedic came to her to provide treatment. The police also beat the paramedic with batons (police sticks)” - Anonymous Medical staff Z.W., name known by author

Below, an excerpt of an affidavit of a Palestinian woman, describing the attacks she and her friends had gone through, and the violence she witnessed.

“On 9.5.2021 I was in bab Al Amoud area with my friends to set and relax. [...] Approximately at nine o’clock at night, and while I was standing on the steps that leads to the old city of Jerusalem, the Israeli police throw sound bombs and fired rubber bullets at the people who were there. One of the sound bombs hit me on my hand and exploded when it hit me. This injury has caused me severe pain and feeling of burn, and I had to go to get medical help. Then I went to the medical staff who were in the area, and they got me to the ambulance and first aided me. And because there were a lot of injuries that night, the medical staff

¹²²UN Security Council (1999). Security Council resolution 1261 [on children in armed conflicts], 25 August 1999, S/RES/1261, available at: <https://www.refworld.org/docid/3b00f22d10.html>

¹²³ Chaiban, T. (2021, May 9), Statement from Ted Chaiban, UNICEF Regional Director for the Middle East and North Africa and Lucia Elmi, UNICEF Special Representative in the State of Palestine. <https://www.unicef.org/press-releases/37-palestinian-children-injured-and-arrested-east-jerusalem>

helped several injuries while I was there. Then, I left the place in order to give space for other injured to be treated. After that, I went looking for my friends, and I found one of my friends in the Bab Al Amod area, and she was also injured in her leg by a sound bomb which also exploded when it hit here. We looked for medical staff to help her, but we did not find any. Therefore, we went to one of the shops there and asked for ice to put on her leg, to reduce the severity of the injury. Then Paramedics who passed noticed us and gave her first aid, basically putting ointment on her leg. When I was in the ambulance, as I had found that my friend was injured, the paramedics brought an injured man in the face, caused by a rubber bullet, and his injury was severe because of the huge amount of blood he had lost.” - Anonymous civilian woman H.M., name known by author



→ A woman gets pushed by police in front of the Dome of the Rock



→ A woman gets pushed by Israeli police in front of the Dome of the Rock

In the box below, an excerpt from an affidavit taken from a Palestinian child, who was shot by a rubber bullet in his face.

“... from the distance of about 5 meters I could see a paramedic carrying a child that look about the age of 10 years old, the boy was shot in his eye by a rubber bullet his entire face was filled with blood, and I heard him screaming “ouch my eye ouch my eye!” ...” - Anonymous civilian witness M.N., name known by author

The following is an excerpt from an affidavit taken from a child (16) describing the violence deployed by the Israeli police against civilians, and the wounded youth he has witnessed.

"... I took refuge inside Al-Qibli Mosque and noticed that there were a number of injuries among the youth. When I took refuge inside Al-Qibli mosque, the Israeli occupation forces started throwing tear gas canisters at us, i.e., those present inside Al-Qibli Mosque, through its upper windows, which the Israeli occupation forces broke and removed. I saw tear gas canisters in all the different corners of the mosque.... I felt suffocated, especially since I suffer from asthma, and I felt dizzy and fell to the ground.... [...] When I walked in, I expected the doctors and paramedics to help me, but because the medical staff was preoccupied with the serious injuries, they left the gas injuries and only opened the clinic doors for them to go to the outdoor yards.... [...] The Israeli occupation forces kept firing metal bullets at us, and as I noticed, there were many casualties among the youth. The policemen were besieging the young men in the corner of the square between Bab al-Rahma and the Marwani prayer hall, one of the mosques of Al-Aqsa Mosque." - Anonymous child (16) A.S., name known by author

Lastly, the excerpt below describes the violence used by the Israeli police particularly against young men and the harm these attacks caused.

"The police continued to approach us at a distance of 30-40 meters and continued firing stun grenades and metal bullets coated with sponges. Hundreds of young men were fleeing towards Bab Al-Rahma, which is on the eastern side of the courtyards of Al-Aqsa Mosque. We were surprised that more policemen were heading towards us, and we became surrounded, so that the distance between us and the policemen was no more than 20 meters from the yards and the walls of Al-Aqsa Mosque behind us. The policemen were still shooting sponge coated metal bullets at us, as they crowded the young men, including me, in a small corner. We were 200 people at the time, and we had no escape. The policemen continued to throw bombs at us, as well as the paramedics, two of whom were surrounded with us. I saw that the paramedics put two stretches in front of them and used them as barricades to protect us from the bullets fired by the policemen. I saw a young man, right beside me who was hit by a metal bullet coated with a sponge in his head and fell to the ground and no one was able to help him, not even paramedics because everyone was in danger and unable to provide any help. Also, I saw two young men jumping, out of fear, from a very high distance from Bab Al-Rahma I saw the police at the Lions' Gate attacking and arresting the young men who were trying to exit the gate ... [...]The sons of the man, apparently from the man's family, came and carried me into his house. Then I saw a number of young men, about 7 injured young men, in the man's house. [...]" - Anonymous civilian, name known by author

The affidavits that CAC's field researchers collected shows that women and children were not spared. The Israeli Police violence was directed at them willfully, therefore the Israeli police violated International human rights law obligations. Attacking women and children is considered a very cruel and arbitrary measure, and it sheds light on the motives and perceptions of the Israeli Police to the Palestinian community in Jerusalem.

Protection of Journalists

During the intervention by the Israeli police at the Al-Aqsa Mosque, the Israeli police breached customary international law by violating the rights of Palestinian journalists. Journalists are entitled to the protection of civilians according to customary international law under the principle of distinction, as long as they do not take direct part in hostilities. In addition, UN Human Rights Committee has stated in general comment No. 37 on the right of peaceful assembly (article 21) that the role of journalists and others involved in monitoring or reporting on assemblies is of particular importance for the full enjoyment of the fundamental right of peaceful assembly.

The violence against Palestinian journalists included being shot by Israeli police with a sponge-tipped metal bullet at close range, being harassed while performing their job of monitoring the hostiles. In addition, one video shows a policeman standing close to a journalist and pointing a rifle at him. Though the journalist yelled “I am a journalist, I am a journalist!” and held up his camera, recording the incident, the officer nonetheless shot the journalist as soon as he turned his camera away from the officer.

There were other documented incidents in which Israeli police brutally beat Palestinian protestors, while other officers attempted to block journalists from witnessing and documenting the violence.

According to the excerpt below taken from an affidavit provided by a journalist, the journalist was hit by a policeman while reporting inside the medical clinic. The witness account does not only provide an insight into the violence used by the Israeli police against journalists but also against medical personnel and injured civilians.

“On Monday, May 10, I was in the courtyards of the Al-Aqsa Mosque to cover and report the events there. I went to the medical clinic inside Al-Aqsa Mosque to document the injuries. While being inside, the Israeli Police stormed in. One of the policemen asked the medical staff to hand over the injured from inside the clinic to them. The medical staff told the police about hard injuries that require immediate medical care. Then the Police started beating everyone inside, including me. The Israeli policemen beat me with batons and kicks on my body. The beating with batons was on several areas of my body - my feet, my hands, my back. My shoulders and chest, which kept marks of beating on me for several days.” - Anonymous journalist A.R., name known by author

The following excerpt from an affidavit is another incident of excessive use of violence against a journalist after the journalist makes it clear that he is conducting his work.

"About 15-20 meters away, a group of police forces stood up and started looking at us and pointing their rifles at us. I started shouting towards them: "We are photographers, we are photographers." I pointed the camera in another direction to express my intention not to provoke and to comply with the demands of the police forces: The group heard me, but one of the policemen from the group aimed at me with his rifle and then fired a rubber bullet at us, the first bullet did not hit me, but it passed near me and above me, on the tree, where some leaves fell from the tree. Immediately after that another rubber bullet was fired. The second bullet hit me in my hand, and I fell ..." - Anonymous journalist R.M., name known by author

Lastly, the excerpt below is an affidavit from a journalist who was attacked by Israeli police officers even after an Israeli Police officer in charge of the team told the police officers to leave the journalist alone.

"At approximately 9:45. I was near the clinic of Al-Aqsa Mosque, relatively far from the events for the purpose of rest. Suddenly a force made up of several policemen came and stormed the clinic. I and another journalist who was near the clinic filmed and documented. The police prevented the other journalist from entering and documenting. They kicked and pushed him, and then they went to one of the policemen and he pushed me hard and then kicked me with his leg and said to me: Get out now. From the Temple Mount, then a policeman, apparently an officer or official in charge of the team that broke into the clinic, came and told the police officers, "Leave him, he works here." Then the officer went, and when he went and the police were left alone, the group attacked me and kicked me several times. Apparently, the officer saw them again and came and said to them again: "Leave him, he works here."" - Anonymous journalist R.H., name known by author



→ A journalist is pushed by Israeli police at Al Aqsa Mosque



→ A journalist is pushed by multiple Israeli police at Al Aqsa Mosque

Protection of Medical Personnel

According to international law, medical personnel who are exclusively assigned to medical duties must be respected and protected, unless they take part in physically harming an enemy. The Israeli Police has violated international law by directing attacks at medical staff and at medical units which is a breach of Article 18 of the GC IV¹²⁴ and Article 8(2)(b)(xxiv) of the Statute of the International Criminal Court¹²⁵.

The police forces physically and verbally attacked medical staff and targeted medical facilities, including the medical clinic inside the Al-Aqsa compound. There, Israeli police broke down the door, threw stun grenades into the clinic, assaulted the medical personnel, and knocked over clinic beds and medicine bottles, intimidating the medical staff and causing substantial damage to the clinic and its medical resources.

The police violence resulted in injury to medical personnel from the Palestinian Red Crescent, as well as to medical personnel from other organizations, who had come to treat Palestinian patients at Al-Aqsa. Medical staff reported to the CAC field researcher that the Israeli police physically assaulted ten staff members with physical beatings, stun grenades and sponged tip bullets.

Israeli police also apprehended and attacked ambulances and medical vehicles. For the first time, police apprehended a Red Crescent medical vehicle, which was used to reach places that a larger ambulance could not access. The police also used chemically enhanced skunk water and sponge-tipped bullets against Red Crescent ambulances, disabling the vehicles, either due to the unbearable smell, to damage caused by the velocity of chemically enhanced water or to water damage ruining the electric system, body or vehicle windows.

Many Red Crescent staff members reported that they were subject to verbal violence and regular intimidation, particularly during the last week of Ramadan. Israeli Police regularly disrupted their work by stopping and searching their vehicles, even when they carried civilians that suffered severe injuries that needed immediate medical care. These improvised “police checkpoints” were not official or administered. As a result, some of the

¹²⁴ Supra no.18, Art. 18

¹²⁵ Supra no.18, Art. 8(2)(b)(xxiv)

medical vehicles were stopped and checked several times while carrying the same injured person in the same trip, further delaying critical care for no valid reason.

According to the witness affidavit below, taken by a medical staff member, the evacuation of the medical staff from Al-Aqsa Mosque happened in a violent manner, the Israeli Police knowingly attacked and physically harmed medical personnel by shooting rubber bullets at them.

"... at approximately 11:15, the Israeli police began evacuating all medical staff from Al-Aqsa Mosque. The evacuation of the medical staff included beatings with batons (police sticks). When the evacuation took place, I was among the medical teams that were evacuated, and suddenly I felt a strong blow in the area between the chest and the shoulder, as a result of rubber bullets being fired at me. I didn't see the officer who shot me, but I did see a group of policemen shooting rubber bullets in our direction to continue the evacuation ... "" - Anonymous Medical staff Z.Q., name known by author

In addition, according to the affidavit of a medical staff member, a medical clinic was stormed by police officers while medical staff members were still inside providing medical services to injured civilians.

"I was standing outside in my medical uniform when I noticed a police officer standing approximately 15 meters away at the intersection of Nablus Street and Sultan Suleiman Street. I looked at him as he looked at me. He smiled and pointed a gun at me and fired. I found after my injury that he had shot a rubber-copper bullet that had wounded my right leg above the knee. After that, I went to the clinic to get myself treated, and discovered that another female colleague of mine had been injured by a sound bomb that had been thrown at her, hurting her feet and lower limbs. At approximately 23:00, while I was inside the clinic providing medical services to the injured, I was surprised by Israeli police forces storming the clinic using sound bombs. They entered and conducted a search and tried to close the clinic" - Anonymous Medical staff M.T., name known by author

In conclusion, the excessive violence used against medical personnel and the attack of medical facilities is a gross violation of Article 18 of the GC and Article 8(2)(b)(xxiv) of the Statute of the International Criminal Court.



→ Medical personnel carrying a wounded civilian at Al Aqsa Mosque



→ Medical personnel calling for help with police approaching at Al Aqsa Mosque

Conclusion

From the beginning of the holy month of Ramadan (April 12 - May 12), Israeli Police carried out a ruthless violent and discriminatory campaign against the Palestinian residents of Jerusalem under the guise of government administration and law enforcement. On April 13, Israel began its provocations by cutting the cables of the speakers of Al-Aqsa Mosque, breaching the protections given Al-Aqsa under its UNESCO world heritage site classification, and under the long agreed upon status quo. Throughout the rest of the month, Israel restricted Palestinian movement within, access to, and peaceful assembly in front of the Damascus Gate with no justification; and it reprehensively attacked and used force against both civilian worshippers and the holy grounds inside the Al-Aqsa compound. These actions sparked a month of demonstrations, which Israel squashed with violence. It is very likely that Israel could have prevented the violent events if it respected the right to peaceful assembly, the freedom of worship and the status quo of the Haram Al-Sharif, as required under international law.

Under Article 43 of THR, Israel's role as an occupier, first and foremost, is to restore, and to ensure, as far as possible, public order and safety. Israeli authorities, in contradiction to the government's obligations, contributed considerably to the flaring of tensions between Palestinian residents of Jerusalem and the Israeli state and society, including Israeli Police and citizens. Despite numerous calls from multiple international bodies and organisations for Israel to halt the unlawful displacement of families from Sheikh Jarrah and Silwan, and to refrain from using excessive force against Palestinians, Israel continued the use of excessive force when dealing with Palestinians.

The use of excessive force under the guise of law enforcement aims to strengthen Israeli control over East Jerusalem, to stifle the Palestinian identity, and to render the occupation invisible. For example, even when the Israeli Police removed the metal barricades from the Damascus Gate area, officers attacked Palestinians there just for raising the Palestinian flag.¹²⁶ Moreover, until May 6, Israeli police attacked peaceful assemblies in the Damascus Gate area, using stun and tear gas grenades, chemically enhanced skunk water and rubber-coated bullets, against not only civilians but also journalists, medical personnel, the elderly, women and children. Even when the police learned about the Lehava march and the specific plan to attack Palestinians, they failed to act to protect the Palestinians from the Jewish supremacists. Instead, police violently and indiscriminately targeted, detained and intimidated the Palestinians during the march.

The escalations reached their peak between May 6 and May 10, with the epicenter of violence at the Al-Aqsa Mosque. Israeli police forces engaged in the horrific destruction

¹²⁶ RT Arabic (2021, April 26), Thousands of Palestinians celebrating the removal of the barricades at the Damascus Gate in Jerusalem (آلاف الفلسطينيين يحتفلون بإزالة الحواجز عند باب العامود في القدس), Youtube. <https://www.youtube.com/watch?v=TxJJYg3LALe>

and systematic plunder of the Haram Al-Sharif, a UNESCO world heritage site. UN representatives responded by repeatedly calling on Israel to respect the status quo of the holy sites and to refrain from using excessive force, but Israeli Police nonetheless continued the attacks against the Al-Aqsa Mosque, its workers and the Muslim worshipers inside. On May 11, after a day of extreme violence, UN experts deplored the brutal Israeli police response to protests and called for an end to the forced transfer of families from Palestinian neighborhoods.¹²⁷ The experts stressed that Israel only inflamed tensions in the city, endangering civilians, when Israeli forces attacked large crowds of Palestinian residents and worshipers. They pointed to provocations by settlers, often supported by Israeli law enforcement practices, and who typically endeavored to evict Palestinians from their homes, as the “immediate source” of the tensions.

The resistance mustered by Palestinians during Ramadan mostly involved the throwing of stones and bottles. Fireworks were occasionally launched, and a number of Jewish Israelis were attacked directly by Palestinians. On May 10, When Israeli Police attacked worshipers and caused great damage to Al-Aqsa Mosque, the Israeli Police published a picture of heaped stones allegedly prepared for use against them. On the same day, a Jewish Israeli was attacked while driving his car near Jerusalem’s Old City, an attack that was stopped by Israeli Police¹²⁸.

The legal paradigm that guides law enforcement officials in enforcing the law provides that law enforcement must meet the “absolute necessity” standard before resorting to force. Peaceful assembly does not correspond with the bar of necessity for the police to resort to force, and therefore, Israel’s use of force was unlawful.

There were some sporadic events in which Palestinians threw stones and bottles towards Israeli Police, which evolved into clashes. In these cases, the police are obliged to use as minimum force as possible, and to focus their operation on the specific perpetrator, under the international law principles of proportionality and precautions. Instead, Israeli Police indiscriminately threw stun and tear gas grenades, and used sponge-tipped bullets and chemically enhanced skunk water, against both stone throwers and others who stood there peacefully. In one video, the police splattered skunk water on Damascus Gate, and on nearby cars and stores, even when the area was entirely empty of people.¹²⁹ The weapons Israel used were not proportionate, nor necessary, to defend against stone throwing. Moreover, Israel did not target specific perpetrators, but attacked innocent bystanders as part of its overall response strategy. In conclusion, a wealth of information from the events – news reports, affidavits, etc. – clearly demonstrates that the extent of

¹²⁷ Prof Lynk, M., Prof. Rajagopal, B. (2021, May 11). East Jerusalem: UN experts deplore brutal police response to protests, urge eviction threats to be lifted. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27083&LangID=E>

¹²⁸ Haiem, G. (2021, May 10). תיעוד דרמטי מירושלים: יהודים ניצלו מלינץ' בשער האריות. Kikar.co.il, <https://www.kikar.co.il/391579.html>

¹²⁹ AP Archive (2021, June 22), Skunk water used against Palestinian protesters, Youtube, <https://www.youtube.com/watch?v=XNiK61G6C0I>

force Israel applied exceeds the objectives of law enforcement operations and violates the rules and principles of international law.

In addition, Israel's brutal and ruthless attacks against medical staff, who worked from a humanitarian commitment to help the wounded, is not justified under any circumstances. In numerous cases that our field researchers documented, Israeli police deliberately directed these attacks against medical personnel and their equipment. Israeli police also systematically intimidated and prevented medical staff from giving medical treatment to the wounded, by shouting, cursing and even shooting at medical personnel with sponge-tipped bullets.

During Ramadan's violent events in April and May, violence spread to other areas outside Jerusalem. Armed Jewish settlers were spotted in at least 50 locations.¹³⁰ They roamed the streets of binational cities in Israel, heavily armed, burning cars and houses, and intimidated the Palestinian community. As a result, 1,700 Palestinian and 183 Jewish Israelis were arrested. At the end, the Israeli public prosecutor submitted 30 indictments against Jewish Israelis, while submitting 263 indictments against Palestinians. Although not directly about Jerusalem, these statistics demonstrate the imbalance of the use of force and arrest between Palestinians and Israelis.

Our research suggests that very few precautionary measures were taken by Israeli police whilst undertaking their duties. For example, it was very simple for the police to avoid the use of force by letting Palestinians gather, as they do annually, around the Damascus Gate area. The numbers of those injured people, and the videos circulating on social media, clearly shows that the Israeli Police conceived the Palestinians as one criminal unit, and the reaction of the police was to penalize crowds as a whole.

The international Community must continue to unequivocally condemn the prolonged Israeli occupation of Jerusalem and deplore the constant breaches of the status quo in the Al-Aqsa Mosque. Israel is essentially attempting to create "facts on the grounds" as a means of entrenching and continuing its occupation of the city. Israel must stop the forced displacement of Palestinians from their homes and respect their rights under international law. Israel must adhere its police response to the standards and principles of the law enforcement paradigm under which the harm that individuals are exposed to do not exceed the risk imposed by them.

Palestinians are seeing their homes in Jerusalem taken from them, home by home, and feel abandoned because of the discrepancy between international law obligations and the Israeli violence. They see their shrines destroyed, their human rights systematically trampled upon, and feelings of frustration, anger, uncertainty and hopelessness grow

¹³⁰ Mossawa (2021, May 27). New special Units were spotted in the streets of Israel, heavily armed, with no identification tags, In multiple videos Israeli Police was seen guarding the settlers while attacking; see also: Mossawa Center (The Police Prosecution Office Presents 263 Indictments, Only 30 Of Which Are Against Jews (In Arabic), Available at: <https://www.mossawa.org/?mod=articles&ID=954>

deeper. As the UN experts said: "Re-establishing calm in Jerusalem is important but creating the conditions for justice and equality in the City are even more important. Neither short-term calm nor long-term peace will be accomplished as long as the national and individual rights of the City's Palestinian population are routinely abrogated".¹³¹

¹³¹ Supre. no. 119

