



***Key Concerns: Dispossession and Forcible Displacement of
Palestinians in Israel and the Occupied Palestinian Territory***

Shared Values: Democracy, human rights and fundamental freedoms

Regional and International Issues: the Situation in the Middle East

Occupied Palestinian Territory (OPT)

***1. Construction and Expansion of Jewish Settlements and Land Confiscation in the
OPT***

According to Israeli government figures, by the end of 2008 there were 133 settlements in the occupied West Bank, including 12 large settlements in occupied East Jerusalem, and other smaller settlements throughout the city.¹ Additionally there are 105 settlement “outposts” throughout the West Bank - that is, informal structures, which serve as a prelude to a new settlement, and are nominally “unauthorized” but still funded by the Israeli government.² The jurisdictional area of Israeli settlement “local and regional councils” exceeds more than 40 percent of the West Bank.³

Construction and expansion of Jewish settlements in the OPT has continued during

¹ B’Tselem, *2008 Annual Report: Human Rights in the Occupied Territories*, February 2009.

² J. Dugard, *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, A/HRC/7/17, 21 January 2008.

³ B’Tselem, *Access Denied: Israeli Measures to Deny Palestinians Access to Land around Settlements*, September 2008. p.77

2009 in violations of international humanitarian law.⁴ In addition, settlement-related activities such as the confiscation of land, demolition of homes and orchards, the construction of settler bypass roads, and the exploitation of natural resources, including water, and altering the character and status of the OPT, are also prohibited by international humanitarian law.⁵ Some of the major construction projects in progress as of June 2009, include Ma'ale Adumim and Giv'at Zeev Illit (around occupied East Jerusalem), where around 900 and 800 housing units, respectively, were being built.⁶ In Beitar Illit and Modin Illit, hundreds of other housing units are being built.⁷ In more than 22 other settlements in the West bank, construction ranging from 1 – 50 villas is actively being carried out.⁸

Furthermore, Israel has been planning to construct a new settlement between Ma'ale Adumim and East Jerusalem. The proposed settlement (commonly known as the E1 plan) consists of around 3,500 housing units for approximately 15,000 people, and will include other commercial buildings. **This entails the forcible displacement of close to 2,700 Jahalin Bedouins, who carry out traditional semi-nomadic means of living in the area.**⁹

Despite Israel's declared policy that settlements should not be built on privately owned Palestinian land, there is evidence that this is not always the case and that land owned privately by Palestinians in the OPT has been confiscated by Israel for the building of Jewish settlements.¹⁰ The present pattern of land confiscation, combined with plans to build and expand already existing Jewish settlements aims at creating facts on the ground by forging a contiguous link between West Jerusalem, and the Jewish settlements in the West Bank, including East Jerusalem.¹¹ Such efforts isolate

⁴ Article 49 of the *Fourth Geneva Convention*. Also the 1907 *Hague Regulations Respecting the Laws and Customs of War on Land*- which is recognized as customary law - implicitly prohibit the demographic transformation of an occupied territory by designating the Occupying Power as an interim administrator and usufructuary, with no greater power over the territories than to protect and beneficially manage them until their eventual return to the new sovereign government (Articles 43, 46, 52 and 55). Susan Akram and Michael Lynk, "The Arab-Israel Conflict," in *Max Planck Encyclopedia of Public International Law* (Oxford University Press, forthcoming).

⁵ *Report of the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories*, Report of the Secretary General, A/64/516, 6 November 2009.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ UN OCHA, *Fact Sheet: Sheikh Jarrah*, August 2009, p.4.

and fragment occupied East Jerusalem, severing it from the remainder of the West Bank, while further weakening the social and economic link between the northern and southern West Bank.¹²

These Israeli policies and practices render the two-state solution unfeasible and deny the realization of the right of the Palestinian people to self-determination and to “freely determine their political status and freely pursue their economic, social and cultural development” guaranteed in the ICCPR and CESCR of which Israel is a party. In addition, those policies affect a number of other human rights of Palestinians, which are enshrined under international law.

Israel must recognize and respect the right of the Palestinian people to self-determination; freeze all settlement activities and respect the right of Palestinians to property and halt the confiscation of Palestinian land; and ensure property restitution and compensation for any damage in compliance with international law.

2. Home Demolition

The demolition of Palestinian-owned structures, residential and non-residential, and forcible displacement of the Palestinian civilians, refugees and non-refugees, within have been a regular feature of Israel’s occupation of the OPT. These demolitions are most common in occupied East Jerusalem and Area C, where the Palestinian construction is severely limited and building permits are rarely granted on discriminatory grounds.¹³ As a result, Palestinians are frequently compelled to build homes without permits.

The serious impacts of this Israeli policy are ongoing forced displacement of Palestinians in the OPT and reduced space for development of their communities. Between January 2008 and July 2009, a total of 552 Palestinian structures were

¹² *Ibid.*

¹³ In 2007 the Committee on the Elimination of racial Discrimination expressed concern regarding the “disproportionate targeting of Palestinians in house demolitions” and reiterated “its call for a halt to the demolition of Arab properties, particularly in East Jerusalem, and for respect for property rights irrespective of the ethnic and national origin of the owner”, CERD/C/ISR/CO/13, 9 March 2007.

demolished, mainly due to a lack of building permits, in East Jerusalem and in Area C.¹⁴

Occupied East Jerusalem – The main tool for blocking legal Palestinian construction in the Old City has been town planning, invariably driven by the Israeli goal of maintaining a large Jewish majority in East Jerusalem.¹⁵ Most of East Jerusalem land that remains in Palestinian hands (approximately 45 km²) cannot be built on, either because Israeli occupation authorities have not approved town plans (preventing the issuance of permits), or because large parts of these lands have been designated “open” or “green” spaces (where construction is prohibited). **While Palestinians constitute over 50 percent of the population of East Jerusalem, only 13 percent of the land therein is available for Palestinian construction, most of which is already built-upon; the permitted construction density is limited and the application process is complicated and expensive.**¹⁶ Obtaining a building permit is still a remote possibility for Palestinians who own land in an area that does have an approved town plan and zoned for construction because of extraordinary legal, financial and bureaucratic obstacles for Palestinian applicants.¹⁷

The size of the Palestinian population in occupied East Jerusalem has risen from 69,000 in 1967 to approximately 270,000 today. However, the existing town plans and building permits approved by the Israeli occupation authorities do not accommodate the housing needs of this population.¹⁸ **As a result, there is a serious housing shortage caused by Israel’s failure to provide planning for Palestinian neighborhoods.** This shortage has been exacerbated by the influx of Palestinian Jerusalemites into the city due to the Wall and the threat of losing their residency status in the city if they move outside the Israeli-defined municipal borders of Jerusalem.

Because of the difficulties in obtaining building permits from the Israeli Occupying

¹⁴ Based on OCHA data as of 15 July 2009. In the first quarter of 2009, at least 17 structures, including 14 homes, were demolished in East Jerusalem. In total, 55 persons were affected by these demolitions and 49 of them, including 29 children, were displaced.

¹⁵ Ir Amim, *A Layman’s Guide*, March 2009.

¹⁶ Ir Amim, *A Layman’s Guide*, March 2009, and OCHA, *The Planning Crisis in East Jerusalem*, op. cit., p.2.

¹⁷ *Ibid.*

¹⁸ OCHA, *The Planning Crisis in East Jerusalem*, op. cit., p.12. Ir Amim, *A Layman’s Guide*, op. cit.

Power, and due to the lack of feasible alternatives, many Palestinians risk building on their land without a permit in order to meet their housing needs. At least 194 persons were forcibly displaced in occupied East Jerusalem as a result of home demolitions conducted by the Israeli occupation authorities due to a lack of building permits between January and July 2009.¹⁹ At least 28 percent of all Palestinian homes in occupied East Jerusalem have been built in violation of Israeli zoning requirements, putting 60,000 Palestinians at risk of having their homes demolished.²⁰ In August 2009, OCHA cited “conservative estimates” of at least 1,500 pending demolition orders in East Jerusalem.²¹

Of particular concern are areas in occupied East Jerusalem that face the prospects of mass demolitions.²² For instance, the execution of pending demolition orders in Tel al Foul area in Beit Hanina, Qalet el’Ein in At Tur, Al Abbasiya in At Turi, and Wadi Yasul between Jabal al Mukabbir and At Turi, will affect more than 3,600 Palestinians.²³ Moreover, in the Bustan area of Silwan neighborhood, which was designated as an “open” or “green” area by the Jerusalem municipality, almost 90 houses are at risk of demolition displacing an additional 1,000 Palestinian residents.²⁴

Administrative demolition orders in occupied East Jerusalem are issued without the institution of any legal proceedings.²⁵ **Thus, these demolition orders are by definition, political, and issued by individuals who are themselves responsible for the policies that have created a situation in which the Palestinians cannot build legally.**²⁶

The reality in Area C – which includes approximately 60 percent of the West Bank over which Israel retains control of development planning – is similar to the one in

¹⁹ *Report of the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories*, Report of the Secretary General, AJ/64/517, 6 November 2009, para.30.

²⁰ OCHA, *The Planning Crisis in East Jerusalem*, op. cit., and Ir Amim, *A Layman’s Guide*, op. cit.

²¹ Cited in *Report of the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories*, Report of the Secretary General, AJ/64/517, 6 November 2009, para.30.

²² *Ibid*, para.31.

²³ OCHA, *The Planning Crisis in East Jerusalem*, op. cit., Ir Amim, *A Layman’s Guide*, op. cit.

²⁴ OCHA, *The Planning Crisis in East Jerusalem*, op. cit.

²⁵ The orders are issued by a politician - the Mayor in his capacity as *Chairman of the Jerusalem Local Planning Committee* - or a senior official - *Head of the Jerusalem District of the Interior Ministry* in his capacity as *Chairman of the Regional Planning Committee*.

²⁶ Ir Amim, *A Layman’s Guide*, op. cit.

occupied East Jerusalem in terms of the prohibition of Palestinian construction and automatic criminalization by the Israeli occupation authorities.²⁷ Hundreds of Palestinian-owned structures, including schools, clinics and mosques, are demolished each year for lack of building permits.²⁸ In the first quarter of 2009, 25 Palestinian-owned structures, including nine residential structures in Area C were demolished due to lack of building permits. As a result, 46 Palestinians, including 30 children were displaced. All of these structures are in or next to the E1 area in the east of occupied East Jerusalem.²⁹

The impact of this policy is ongoing displacement of Palestinian civilians and reduced space for development of their communities in the OPT. Entire Palestinian communities, such as *Al Aqaba* in the Tubas governorate and *Khirbet Tana* in Nablus governorate, are at imminent risk of displacement due to pending demolition orders.³⁰

Another concern is the policy of demolishing or sealing homes in the OPT as a means to punish the families of Palestinians alleged to be involved in resistance activity against the Israeli occupation, including cases where the alleged militant has already been imprisoned or killed. Although Israel claims to have discontinued punitive home demolitions, partly because it was impossible to conclude that such actions were effective in preventing resistance activities, instances of such demolitions occurred in 2009.³¹ **Punitive home demolitions are in violations of international humanitarian law**, in particular Article 33 of the Fourth Geneva Convention, which states that “no protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or terrorism are prohibited. [...] reprisals against protected persons and their property are prohibited.” The UN Committee against Torture, has recently expressed its concern at the reinstatement of punitive house demolitions in its concluding

²⁷ OCHA, *The Planning Crisis in East Jerusalem; Understanding the Phenomenon of “Illegal” Construction*, *Special Focus*, April 2009, p.11.

²⁸ OCHA, *The Planning Crisis in East Jerusalem*, op. cit.

²⁹ OCHA, *The Planning Crisis in East Jerusalem*, op. cit.

³⁰ OCHA, *The Planning Crisis in East Jerusalem*, op. cit.

³¹ *Report of the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Palestinian People and other Arabs of the Occupied Territories*, Report of the Secretary General, A/64/517, 6 November 2009, para.34.

observation with regard to Israel.³²

Military demolitions constitute almost 65 percent of all demolitions in the OPT.³³ Military demolitions also include demolitions of Palestinian-owned homes and structures for the purpose of clearing the area for an unspecified military role. The recent Israeli military assault on Gaza, “Operation Cast Lead”, represented the epitome of this trend. Between 27 December 2008 and 24 January 2009, over 4,240 residences were destroyed and approximately 44,300 were damaged, most rendered uninhabitable without considerable rehabilitation.³⁴ The Israeli military did not provide evidence to substantiate its allegations that the houses were used as combat positions or for any other military purpose. 80-90,000 people were forcibly evicted, many of whom were rendered homeless and forced to live in open spaces.³⁵

3. Forced Evictions in the OPT

Forced eviction is another measure used by the Israeli occupation authorities to displace Palestinian refugees and non-refugees in the OPT.³⁶ In some cases, Israel confiscates property inhabited by Palestinians through a complex system of legal, administrative and institutional mechanisms, subsequently evicting the Palestinian residents and leasing or transferring these properties to Jewish settlers.³⁷ In other cases, settlers make use of Israeli courts to lay claim to Palestinian-owned property, claiming ownership by Jewish individuals or associations prior to 1948. The Israeli Supreme Court has ruled in favor of such claims while failing to recognize the rights of Palestinian refugees to reclaim lost land and property.³⁸

³² CAT/C/ISR/CO/4, 23 June 2009.

³³ ICAHD, *Statistics on House Demolitions (1967 – 2009)* as of 19 January 2009.

³⁴ Rapid Shelter/NFI Assessment undertaken between January 22 and February 2, 2009, February 11, 2009, cited in Combined report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health et. al, *Human rights situation in Palestine and other occupied Arab territories*, A/HRC/10/22, 20 March 2009.

³⁵ OCHA, *Protection of Civilians Weekly Report: 9 -15 January 2009*, 16 January 2009.

³⁶ During the 1948 Arab-Israeli War, Palestinians fled or were expelled from parts of Mandate Palestine, many finding refuge in the Occupied Palestinian Territory (OPT), including East Jerusalem (“Palestinian Refugees”). At the beginning of 2009, there were over 1,813,000 Palestinian refugees in the OPT representing 45 percent of its population of approximately 4 million Palestinians. More than 754,000 reside in the occupied West Bank, and over 1,059,000 in the occupied Gaza Strip. Badil Resource Center, *Survey of Palestinian Refugees and Internally Displaced Persons 2008 – 2009* (forthcoming).

³⁷ OCHA, *Sheikh Jarrah*, op. cit.

³⁸ *Ibid.*

In recent years, settler groups have intensified their efforts aiming at forcibly evicting Palestinian families and communities from their homes to make way for new settlement.³⁹ For instance, some Palestinian refugees who moved to Sheikh Jarrah in East Jerusalem in 1956 following an agreement between UNRWA and the Government of Jordan were forcibly evicted from their homes by Israeli occupation authorities on 2 August 2009 following a court ruling.⁴⁰ **As a result, 53 Palestinian refugees, including 20 children, have once again been displaced. With no alternative residence, the families are forced to camp out on the street in front of their homes.** Their appeal to overturn the eviction was rejected on 9 August 2009. Their properties were handed over to a settler organization that intends to build a new settlement in the area, placing 300 Palestinian refugees living in the area at imminent risk of forced eviction, dispossession and displacement.⁴¹

Settlers have also laid claim to several other plots in Sheikh Jarrah, including 33 buildings that are home to almost 175 people, most of whom are Palestinian refugees. Although the case is still pending in Israeli courts, a group of settlers, accompanied by Israeli police, entered the area on 26 July 2009 and occupied one of the buildings.⁴² **Almost 500 Palestinian residents of the Sheikh Jarrah neighborhood are at risk of eviction as their homes are located on land whose ownership is contested by Jewish settlers.**⁴³

Israel's pattern of forced evictions and home demolition of Palestinian-owned property is in violation of international humanitarian law, which explicitly prohibits the destruction of civilian property, population transfer in to and outside of occupied territories, and strictly limits the circumstances under which a civilian population may be temporarily transferred.⁴⁴ These policies and practices are in violation of human rights obligations of non-discrimination and respect for, *inter alia*, the right of Palestinians to reside in a place of one's choice,⁴⁵ the right to adequate housing,⁴⁶ and

³⁹ *Ibid.*

⁴⁰ Civil Court case 4744/02, TPS 12705.

⁴¹ OCHA, *Sheikh Jarrah*, op. cit.

⁴² *Ibid.*

⁴³ OCHA, *The Planning Crisis in East Jerusalem*, op. cit., p.7.

⁴⁴ Arts. 45, 49 and 147 of the *Fourth Geneva Convention*.

⁴⁵ This right includes protection against all forms of forced internal displacement HRC, *General Comment No.27: Freedom of Movement*, CCPR/C/21/Rev.1/Add.9, 2 November.27, para.7.

⁴⁶ The Committee on Economic, Social and Cultural Rights has noted in its General Comment no.4 on the right of adequate housing that "instances of forced evictions are prima facie incompatible with the requirements of the

the right not to be subjected to arbitrary or unlawful interference with one's family, life and home, all of which are enshrined in international human rights instruments such as *Universal Declaration of Human Rights (UDHR)*, *International Covenant on Civil Political Rights (ICCPR)*, *International Covenant on Economic, Social and Cultural Rights (ICESCR)* and the *Convention on the Elimination of All Forms of Racial Discrimination (CERD)*.

In order to implement its commitments under the ENP Plan of Action and its obligation under international human rights and humanitarian law, it must immediately halt the forcible displacement and dispossession of Palestinian civilians, including refugees, in the OPT. Moreover, it must facilitate the return of those who have been displaced as a result of home demolitions and forced evictions; protect Palestinian property rights and ensure property restitution and compensation for any damage in compliance with international law, and ensure that Palestinians at risk of displacement have access to adequate planning and legal advice and assistance.

4. Privatization of Confiscated Palestinian Land

While the Israeli executive branch plans what it calls the “Judaization” of the OPT, including occupied East Jerusalem, the Israeli legislature solidifies the dispossession of Palestinians. On 3 August 2009, the Knesset adopted the *Israel Land Administration Law (Amendment No.7)*, which “reforms” the management of lands held by the State of Israel, the Jewish National Fund (JNF) and the Development Authority. As part of this reform, Israel and the other actors will begin a process of privatizing built-up areas and areas planned for development, not only within Israel but also within the OPT.⁴⁷ In other words, Israel will be selling confiscated Palestinian land, including refugee property, to private Jewish owners (for more elaboration on refugee property see below). **The privatization process will encompass the settlements and areas planned for settlement construction in occupied East Jerusalem in violation of Israel's legal obligations under**

Covenant and can only be justified in the most exceptional circumstance, and with relevant principles of international law” (E/1992/23, annex III).

⁴⁷ Suhad Bishara, “Israel is Selling Lands in the Occupied Territories: Adalah Position Paper on Privatization of the Lands of the Settlements on the Golan Heights and East Jerusalem”, *Adalah's Newsletter*, Vol.63, August 2009.

international human rights and humanitarian law.⁴⁸

5. The Continued Construction of the Wall

Despite the ICJ Advisory Opinion on the legal consequences arising from the construction of the Wall in the OPT, the Israeli Ministry of Defense continues to confiscate land from Palestinian landowners through military orders for the construction of the 709-kilometer long Wall,⁴⁹ while the majority of its route runs illegally *inside* the occupied West Bank, including East Jerusalem.⁵⁰ Although the land severed on the “Israeli” side of the Wall remains the legal property of Palestinian owners, those living in, or using this land require permits to access or remain on it, and these permits do not necessarily guarantee regular access to the land due to movement restrictions imposed by the State of Israel. As a result, approximately 9.5 percent of the West Bank territory is isolated from the OPT. In addition, 80 Jewish-only settlements will be located between the Wall and the 1949 Armistice Line.⁵¹ **It is self-evident that the Wall route is a *de facto* annexation of occupied Palestinian territory that has implications for the future borders of a Palestinian state, and undermines the right of the Palestinian people to self-determination.**

6. The Closure Regime

The closure regime applied in the OPT *seriously* and *systematically* obstructs the freedom of movement of Palestinian civilians on discriminatory bases and with disastrous consequences for other human rights, such as family life, work, education and health. **There is clear evidence of internal displacement because of lack of access to essential services because of the closure regime and the construction of the Wall and its associated permit regime, which is making the situation of the occupied Palestinians, especially those in enclaves, untenable.**⁵²

⁴⁸ *Ibid.*

⁴⁹ The Wall’s total length is more than twice the length of the 320-kilometer-long 1949 Armistice Line between the West Bank and Israel.

⁵⁰ 58 percent of the Wall is complete; 10 percent is under construction and 31.5 percent is planned. When completed, almost 85 percent of the Wall will run inside the OPT. UN OCHA, *Five Years After the International Court of Justice Advisory Opinion*, July 2009, pp.4 and 8. The map of the current route was published on the website of the Ministry of Defense in April 2006.

⁵¹ OCHA, *Five Years After the International Court of Justice Advisory Opinion*, July 2009, p.8.

⁵² Many Palestinians within the occupied West Bank, including East Jerusalem, have been forced or obliged to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of

At the end of October 2009, there were a total of 578 closure obstacles inside the West Bank (excluding Green Line crossings), including 69 permanently staffed checkpoints, 21 “partial checkpoints”, and 488 unstaffed obstacles (roadblocks, earth-mounds, earth walls, road barriers, road gates and trenches).⁵³ Recalling that the majority of closure obstacles are *within* the OPT, and many of them are distant from the border of Israel, while imposing severe effects on the Palestinians’ daily-lives, **Israel’s restrictive measures are disproportionate and inappropriate to serve any security interest.**

Although the Israeli occupation authorities continued to implement measures that increased the freedom of movement of Palestinians between most Palestinian urban centers in the West Bank between September 2008 and October 2009, there has been no significant improvement when it comes to access to land and use of space by Palestinians.⁵⁴ In particular, Area C has remained, to a large extent, off-limits to Palestinian use and development. Furthermore, access of Palestinians to and from areas behind the Wall, including occupied East Jerusalem, and the Jordan Valley, as well as within the Israeli controlled area of Hebron City (H2), continued to be severely restricted.⁵⁵

Moreover, the gradual relaxation in Palestinian movement between cities, has taken place alongside a process of entrenchment of various mechanisms used to control and restrict Palestinian movement and access, and to facilitate the movement of Jewish settlers.⁵⁶ The key elements of this entrenchment are: the expansion of the alternative road network and key staffed checkpoints, and the replacement of rudimentary obstacles with more permanent ones.⁵⁷ **“While some of these measures have contributed to the easing of movement, they exact a price from Palestinians in terms of land loss, disruption of traditional routes, and**

violations of their human rights, including the right to freedom of movement.

⁵³ This figure does not include 84 of the 93 closure obstacles within the Israeli controlled section of Hebron city as well as 63 “Barrier gates”, which control Palestinian movement into agricultural areas isolated by the Barrier.

⁵⁴ OCHA, *Movement and Access Update*, May 2009 and OCHA, *Movement and Access Update*, November 2009.

⁵⁵ OCHA, *Movement and Access Update*, November 2009.

⁵⁶ *Ibid.*

⁵⁷ *Ibid* and OCHA, *Movement and Access Update*, May 2009.

deepening fragmentation of West Bank territory.”⁵⁸ For instance, alternative roads ease Palestinian traffic and reconnect Palestinian communities, “at the expense of **reinforcing the exclusion of Palestinians** from the primary road network and of **undermining the territorial contiguity** between different areas.”⁵⁹ Furthermore, the paving of alternative roads entails the confiscation of private and publicly owned land, thus the space available for Palestinian development increasingly shrinks.⁶⁰

Access of farmers and herders to areas in the Jordan Valley and to the eastern slopes of Bethlehem and Hebron governorates, which in the past were declared closed military zones or nature reserves, **was further constrained as a result of an increase in enforcement restrictions by Israeli occupation authorities.** In January 2009, the Israeli occupation authorities declared new areas behind the Wall in the central and southern West Bank “closed military zones.” Subsequently, the occupation authorities began requesting farmers “visitor permits” to access these areas.⁶¹ For the olive harvest season that started in October 2009, the Israeli occupation authorities issued additional permits and opened dozens of “seasonal gates” to access the areas behind the Wall, however, the productivity of groves located behind the Wall was hindered due to the lack of access throughout the year.⁶² Almost 28 percent of the West Bank is designated either as closed military zones or as nature reserves.⁶³

The Wall continues to be the single largest obstacle to Palestinian movement. During the period between May – October 2009, no improvement was observed regarding access of Palestinians holding West Bank IDs to areas isolated between the Wall and the Green Line, including occupied East Jerusalem, which continued to be subject to a restrictive permit regime.⁶⁴ With few exceptions, construction of new sections of the Wall continued to be frozen. In September, the Israeli High Court ordered the state to relocate the Wall on three sections between the cities of Tulkarm and Qalqiliya, after ruling that the current route causes disproportionate harm to Palestinians. Once implemented, the new route approved by the Court will improve access of farmers to

⁵⁸ OCHA, *Movement and Access Update*, May 2009.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ OCHA, *Movement and Access Update*, November 2009.

⁶² *Ibid.*

⁶³ OCHA, *Movement and Access Update*, May 2009, see also OCHA, *Movement and Access Update*, November 2009.

⁶⁴ OCHA, *Movement and Access Update*, November 2009.

some areas. Nevertheless, **“it runs entirely *within* the West Bank keeping thousands of dunams of agricultural land behind the [Wall].”**⁶⁵ The relocation of another section of the Wall, around the Alfe Menashe settlement enclave, following a previous High Court ruling, was carried out during this period and is almost complete. **While the approved route will reconnect three communities behind the Wall with the rest of the West Bank, it will cut them off from large tracts of their agricultural land.**⁶⁶

In occupied East Jerusalem, the Wall and its associated permit regime continued to severely limit the access of Palestinians to specialized medical care, university education, work, social and family activities and events and places of worship.⁶⁷

The above makes it self-evident that Israel has failed to meet its responsibilities under international humanitarian and human right law and to ensure that the humanitarian needs of people under its occupation are met, and that their human rights, including the right to freedom of movement, work, housing, health, education, and non-discrimination are respected.

Easing the flow of Palestinian movement in some areas “falls short of a genuine improvement in access” as reflected in the lack of change in the total number of closure obstacles, as well as the implementation of other restrictive policies and measures including the expansion of the Wall and Jewish settlements.⁶⁸ **The above confirms that Israel has failed to meet its commitments under ENP’s Plan of Action to minimize the impact of security measures on the civilian population, and to facilitate the secure and safe movement of civilians and goods.**

As to the Gaza Strip, the ever-tightening blockade and the closure of border crossings for people, goods and services, including electricity and fuel generation, has a severe impact on the Palestinian economy, employment opportunities and family livelihood. The three-year blockade not only deprives the Palestinian population in the Gaza Strip (66 percent of whom are refugees) from sustenance, employment, health care, housing

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ OCHA, *Movement and Access Update*, May 2009.

and water, but it also denies them freedom of movement and the right to leave and enter their own country. It also limits access to a court of law and effective remedy.⁶⁹ The UN Fact-Finding Mission on the Gaza Conflict has noted recently that the above “could amount to persecution, a crime against humanity.”⁷⁰

Israel must immediately end the illegal blockade on the Gaza Strip and allow freedom of movement for Palestinians within the OPT, not only within the West Bank including East Jerusalem, but also between the West Bank and the Gaza Strip, and between the OPT and the outside world in accordance with its human rights obligations.

7. Jewish Settler Violence and Harassment

Palestinian civilians in the OPT continue to be subject to widespread and systematic Jewish settler violence and harassment, including physical assault, criminal trespassing, property destruction, threats of violence, abuse and intimidation, killing of animals, desecration of cemeteries and mosques, dumping of waste, sexual harassment, as well as killings. In many cases, systematic attacks carried out by Jewish settlers “have directly contributed to the massive displacement, either temporarily or permanently, of entire Palestinian communities.”⁷¹

Since the beginning of 2009, a weekly average of seven settler-related incidents of violence affecting Palestinians takes place in the OPT.⁷² Thus, for instance between 26 August – 1 September 2009, 6 incidents of property damage, intimidation and trespassing took place. In the northern West Bank, settlers from Avnei Hefetz settlement (Tulkarem) hurled stones toward farmers working their land in the vicinity of the settlement, forcing them to leave the area.⁷³ Similarly, herders from Yanun village (Nablus) were forced out of a grazing area near Itamar settlement, when

⁶⁹ *Report of the United Nations Fact Finding Mission on the Gaza Conflict*, A/HRC/12/48, 15 September 2009.

⁷⁰ *Report of the United Nations Fact Finding Mission on the Gaza Conflict*, A/HRC/12/48, 15 September 2009, para.75.

⁷¹ Examples of such communities include the Israeli controlled area of Hebron city (H2); the Massafer Yatta in southeast Hebron government; and the Yanoun village in the Nablus area, OCHA, *Israeli Settler Violence and the Evacuation o Outposts*, November 2009, p.3

⁷² OCHA, *Protection of Civilians 26 August – 1 September 2009*, 2 September 2009.

⁷³ *Ibid.*

settlers chased them away while shooting in the air.⁷⁴ In the South, settlers from Neve Daniel settlement uprooted a number of olive trees belonging to Palestinian farmers from the town of Al Khader (Bethlehem).⁷⁵

The Israeli occupation authorities have failed to provide adequate protection to Palestinian civilians and failed to enforce the rule of law in the OPT. Thus, for instance, 90 percent of Israeli authorities' investigations into settler offenses against Palestinians are closed without indictment. Investigation files are closed on the grounds of "lack of evidence" and/or "perpetrator unknown," and in other cases, complaints filed are lost and never investigated.⁷⁶

The systematic settler violence and aggressive action against the Palestinians and their property, coupled with the absence of an effective response by the Israeli military and law enforcement officials results in additional displacement of Palestinian residents mainly in the areas adjacent to Jewish settlements in the occupied West Bank. **All of the above inflicts on the Palestinians great physical and mental suffering amounting to torture and/or cruel, inhuman and degrading treatment or punishment by private persons who are within Israel's control in violation of UNDH, ICCPR and CAT.**⁷⁷

ISRAEL

8. Protracted Refugee Situation

Palestinian refugees are the largest and longest-standing displaced population in the world today. Out of 10.6 million Palestinians worldwide, 6.6 million are refugees (60 percent) displaced in 1948 and 1967.⁷⁸ **Israel is blocking both 1948 and 1967 Palestinian refugees from returning to their homes of origin based on the discriminatory basis of nationality in violation of its obligation under**

⁷⁴ *Ibid.*

⁷⁵ *Ibid.*

⁷⁶ "A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank" quoted in "Law Enforcement upon Israeli Civilians in the OPT" Yesh Din's Monitoring, July 2008.

⁷⁷ See also *Dzemailj v. Yugoslavia*, Communication No.161/2000, U.N. Doc. CAT/C/29/D/161/2000(2002). See also Committee against Torture, *Concluding Observations, Israel*, CAT/C/ISR/CO/4, 14 May 2009, para.32.

⁷⁸ Badil Resource Center, *Survey 2008 - 2009*, op. cit.

international law.⁷⁹

In an attempt to prevent Palestinian refugees from returning to their homes and repossessing their property, Israel has confiscated their property in an illegal, discriminatory and arbitrary manner before and/or during exile, subsequently allocating most of the refugees' property to Jewish use and Jewish settlements.⁸⁰ The property of Palestinian refugees and IDPs was classified as "absentees' property" under the *Absentees' Property Law (1950)*.⁸¹ Under this law, all absentee property was taken and possessed by the *Custodian for Absentees' Property* ostensibly, for guardianship of the properties until a political solution for the absentees was reached. However, the new law that was adopted on 3 August 2009, namely the *Israel Land Administration Law (Amendment No.7)*, also legalizes retroactively the sale of absentee property.⁸² The new law has repercussions on property restitution and thus violates the IDPs and refugees' right to remedy in violation of international law.⁸³

Israel must revise its re-entry policies and respect the right of the 1948 and 1967 Palestinian refugees to return to their homes of origin under conditions of safety,

⁷⁹ Immediately after the occupation of the remaining Palestinian Territory in 1967, the State of Israel carried out a census in the West Bank and Gaza. Only those who are registered in Israel's census are considered legal residents of the OPT. Anyone who was outside the OPT at that time was automatically denied the right to return to or enter the OPT. The State of Israel also retains the authority to make the final determination on permanent residency, including those related to issues of family reunification of Palestinians not registered in the 1967 census, and controlling the return/entry of Palestinians to the OPT. *Ibid.*

⁸⁰ See also L. El-Malak, "Reparation for Palestinian Refugees", *Forced Migration Review* 26, August 2006, p.46.

⁸¹ Article 1 of the *Absentee Property Law* defines "absentee" as a person who, at any time after 29 November 1947 (the date of the UNGA resolution 181 to partition Palestine), had been: (a) A national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or (b) in any of these countries or in any part of Palestine outside the area of Israel, or (c) a Palestinian citizen who left his ordinary place of residence in Palestine or who abandoned his or her normal place of residence, either for a place outside Palestine before 1 September 1948; or for a place in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment. Technically, this included all Palestinians who vacated their homes during the war, regardless of whether the returned who are known the "present absentees" are legal citizens of Israel. Jeremy Forman and Alexander (Sandy) Kedar, "From Arab to 'Israel Lands': the Legal dispossession of the Palestinians displaced by the Israel in the wake of 1948", *Environment and Planning D: Society and Space*, Vol.22 (2004), pp.809-830, 815.

⁸² *Adalah to Attorney General and Custodian of Absentee Property: Israel's Sale of Palestinian Refugee Property Violated Israeli and International Law*, Press Release, 22 June 2009. See also Section 1 of this report.

⁸³ The *1907 Hague Regulations* stipulate the need of combatants to respect the right to private property and explicitly prohibit permanent confiscation of private property following the termination of warfare. The U.S. Military Tribunal at Nuremberg was the first to address the confiscation of property following the end of fighting in the Second World War. In *U.S. v. Alfred Krupp et al.*, the tribunal ruled that such confiscation of property and its subsequent acquisition by the Krupp firm constituted a violation of Article 46 of the *1907 Hague Regulations*. *U.S. v. Alfred Krupp et al.* cited in *How Does Law Protect in War? Cases, document and teaching materials on contemporary practice in international humanitarian law, 2nd ed., Vol.2* (ICRC, 2006), p.1030, and Adalah's letter addressed to the Attorney General on Tenders for selling absentees' property administered by Amidar, 19 May 2009.

and to promote the right of Palestinian refugees to property restitution and compensation for the loss and damage caused by the conflict. In addition, it must revoke the new Israel Land Administration Law, and immediately end the transfer of ownership rights over Palestinian refugee property to private-owners.

9. Protracted Situation of Internal Displacement

Dispossession and displacement are aimed at creating Jewish majorities in every area within Israel.⁸⁴ About half of Israel's Jewish population is concentrated in central Israel, while less than 10 percent of Israeli Jews live in the north. On the other hand, some 60 percent of the Palestinian population lives in the north, and 11 percent in the South.⁸⁵ The existence of areas within Israel with high Palestinian concentrations has made them a target of policies to restrict their growth and development geographically, while dividing these areas internally from one another. Both the Galilee and the Naqab have been targets of Judaization policies since 1948 that have escalated in recent years, particularly with the onset of the second *Intifada*.⁸⁶

Palestinian citizens of Israel have been subject to policies aimed at dispossession and displacement since the establishment of the Israeli state in 1948. The first waves of forced internal displacement that were carried out by Israel in the 1948 war and its immediate aftermath, resulted in approximately 335,000 internally displaced Palestinian citizens of Israel and their descendants.⁸⁷ **To date, Israel continues to block these Palestinians from returning and repossessing their property,** irrespective of the fact that the Israeli High Court of Justice has recognized the right of several internally displaced Palestinian communities (e.g. Iqrit, Kafar Bir'im and Al-Gha'bsiyeh in the Galilee) to return to their villages of origin.⁸⁸ Israel has

⁸⁴ J. Cook, *On the Margins* (2006), p. 7.

⁸⁵ The Jerusalem Post, "CBS: Israel's population numbers 7,465,500", 17 September 2009.

⁸⁶ The "Judaization" plans included the ideas that Nazareth Ilit and Carmiel were to expand their populations from 40,000 to 100,000, and to develop existing locations, as well as build new towns in the Negev, the Gilboa region (on the southern end of Galilee) and near Haifa. Among the places to be expanded, include Harish, south of Um al-Fahem which is to become an ultra-orthodox center with 20,000 dwelling units. There are also plans to build a new city in the "Tefen area" (in Upper Galilee, north of Majd al-Krum). See Assaf Adiv, "Israel's Response to the October Uprising: 'Judaizing' Galilee", *Challenge* n.67, March-April 2001.

⁸⁷ This number does not include the recent waves of the forcible internal displacement in the Galilee, Naqab and the mixed-population cities. Badil Resource Center, *Survey 2008 - 2009*, op. cit.

⁸⁸ See, for example, H.C. 220/51, *Aslaan et. al. v. The Military Governor in the Galilee* (30 November 1951); H.C. 195/51, *Ibrahim et. al. v. The Minister of Defense et. al* (18/01/1952); H.C. 64/51, *Mbada v. The Minister of Defense*, (31 July 1951).

confiscated the land of these displaced communities and transferred it to nearby Jewish settlements for use as grazing fields or other purposes. In 2003, the High Court of Justice reversed its previous decision pertaining to the village of Iqrit and ruled that the internally displaced Palestinian community cannot return and repossess their properties since this would set a legal precedent for millions of Palestinian refugees whose claims are to be resolved in future political negotiations.⁸⁹

Israel must respect the right of internally displaced Palestinians within its national territory to return to their homes of origin, and ensure property restitution and compensation in compliance with international law.

10. The Bedouin Communities

Bedouin in Israel are part of the indigenous Palestinian people. Almost 140,000 Bedouin live in the Naqab,⁹⁰ approximately 60,000 of whom live in 40 so-called “unrecognized villages”, which are deprived of most basic services, including water, electricity, telephone lines, health clinics and state funded education, and face difficulties in obtaining building permits. Despite the fact that the Bedouin live on their ancestral lands (prior to the establishment of the State of Israel in 1948), the government perceives them as “trespassers on state land”,⁹¹ and therefore **Bedouin communities face imminent threats of forcible displacement.**⁹² Israel has aimed to collect these Bedouin communities into seven densely populated and improvised “concentration areas” – seven government-planned townships – and confiscate what remains of their traditional ancestral land.⁹³

In November 2005, Israel unveiled its strategic plan for “the development of the Negev” and declared its preparedness to directly and indirectly invest in the

⁸⁹ H.C. 840/97, *Alawi Sbit et. al. v. Ministry of Defence*, High Court of Justice, June 2003.

⁹⁰ M. Mustafa and M. Subhi, *Unlicensed: The Policy of Demolishing Arab Homes in Israel*, Center for Contemporary Studies, 2005 (Arabic).

⁹¹ Attorney General’s response to Adalah’s petition H.C. 2887/04, *Salem Abu Medeghem et. al. v. Israel Lands Administration* (April 2007) cited in Adalah, *Suggested Questions for the UN HRC Considering Israel’s Compliance with the ICCPR*, 10 August 2009.

⁹² For more see Hazem Jamjoum, “Al-Naqab: the Ongoing Displacement of Palestine’s Southern Bedouin”, *Al Majdal*, No.34/40, Autumn 2008/ Winter 2009.

⁹³ Badil Resource Center, *Survey 2008 – 2009*, op. cit.; Human Rights Watch (HRW), *Land and Housing Rights Violations in Israel’s Unrecognized Bedouin Villages*, March 2008; I. Humphries “Bringing Life to the Desert”: Israel’s Master Plan for Dispossession in the Negev, *Washington Report on Middle East Affairs*, 15 March 2008.

implementation of the plan. It aims, among other things, to almost double the Naqab's Jewish population from approximately 535,000 people to 900,000 by 2015. This is to be achieved through the construction of 100 "individual settlements," and 65,000 regular housing units, which are almost exclusively designated for Jewish towns and communities,⁹⁴ despite the fact that many of the 100 existing Jewish communities in the Naqab are half-empty.⁹⁵ The plan also suggests evacuating and demolishing unrecognized villages and moving their inhabitants to the government-planned townships. The plan's only section on development in Arab towns (described as constructing "special properties" housing units) fails to allocate any money for that purpose, thus perpetuating the ongoing trend of concentrating this community on less and less land, while encouraging and subsidizing Jewish citizens to relocate there.⁹⁶

In violation of its human rights obligations, Israel demolishes Bedouin homes on the pretext of violations of land and planning laws, thus becoming a discriminatory tool used to depopulate the unrecognized villages.⁹⁷ Moreover, Israel is deliberately using the denial of basic services as a measure of forcing the residents of the unrecognized Bedouin villages to flee their lands and relocate to the government-planned Bedouin townships.

11. The Mixed-Population Cities

Roughly, 20 percent of the Palestinian community in Israel resides in mixed Palestinian-Jewish cities. These Palestinian communities are under ongoing threat of dispossession and displacement. Four measures are underway to achieve this goal:

- (1) Making life more difficult for Palestinian citizens by instituting discriminatory service provision practices that marginalize Palestinian areas;
- (2) Erasing the Arab identity of these towns through the destruction of historic buildings and inscriptions, and renaming Arabic streets and historic sites;
- (3) Rehabilitating and gentrifying neighborhoods by transforming them into artist quarters, galleries, and tourist projects without the inclusion of Palestinian

⁹⁴ Adalah's Report to CERD, 2007.

⁹⁵ HRW, *Off the Map*, 2008

⁹⁶ See Adalah's Report to CERD, 2007, p.17

⁹⁷ HRW, *Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages*, March 2008.

citizens, which over time makes it more difficult economically for them to reside there;

- (4) Acquiring Palestinian buildings and property through government-owned companies in accordance with laws targeted at the "Judaization" of these cities, while also preventing families from inheriting property. This relates in particular to Amidar, the national Israeli company jointly owned by the Israeli government, the Jewish Agency and the JNF, which manages all public housing, and assists people deemed entitled to rent properties from the government. While it claims "to build a model for public and sheltered housing and social management that is stemming the tide of homelessness and providing citizens of Israel with the basic human need of shelter", Amidar has a record of dispossessing, displacing and demolishing the homes of Palestinian citizens of Israel. Thus for instance, on 19 March 2007, Amidar published a document entitled "A Review of the Stock of Squatted Properties in Jaffa – Interior Committee, Israel Knesset", which reviews properties managed by the company in the Jaffa–Tel Aviv municipality. The document outlined 497 eviction orders of Palestinian families living in the Ajami and Jabliya neighborhoods in Jaffa on pretexts that Palestinians were "squatting" in the property, or made building additions "without the approval from Amidar and without obtaining permit from the planning and building authorities." These evictions, which take place in a discriminatory manner on the pretext of legal violations by the government-owned company, Amidar, seek the homogenization and Judaization of the mixed-population cities.

Israel must immediately halt its discriminatory policies and practices that directly or indirectly result in the dispossession and forcible displacement of its Palestinian citizens. As to Bedouin communities, Israel must respect their right to live, develop and control their traditional ancestral lands, recognize the "unrecognized villages", and consult with the inhabitants of these villages and obtain free and informed consent regarding any relocation.