

*Submitted to*

**The United Nations Special Committee to Investigate Israeli Practices Affecting  
the Human Rights of the Palestinian People and Other Arabs in the Occupied  
Territories**

**August 2009**

*Regarding*

**Israel's Continuing Violation of the Fundamental Rights of Palestinian Refugees  
and Internally Displaced Persons in the 1967 Occupied Palestinian Territories**



*Submitted by*

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## ISRAEL'S CONTINUING VIOLATION OF THE FUNDAMENTAL RIGHTS OF PALESTINIAN REFUGEES AND INTERNALLY DISPLACED PERSONS IN THE 1967 OCCUPIED PALESTINIAN TERRITORY

Sixty one years since the first massive displacement of Palestinians in 1948, and 42 years into Israel's occupation of the West Bank and Gaza Strip including eastern Jerusalem, military occupation combined with colonialism and Apartheid, continue to prevent durable solutions for Palestinian refugees and Internally Displaced Persons (IDPs) in/from the OPT and cause new forced displacement of the Palestinian population.

### 1. Violation of the Rights to Return, Restitution and Compensation

#### a) Scope and Rights of the Population, Israel's Obligations

At least 43.6% (1,813,847 persons)<sup>1</sup> of the Palestinians residing in the 1967 Occupied Palestinian Territory (OPT) today are 1948 Palestinian refugees, i.e. persons and their descendants who suffered forced displacement from their homes and properties in 1947-1949 (the *Nakba*, i.e. catastrophe) subsequent to the UN- recommended partition, the first Arab-Israeli war and the establishment of the State of Israel in former Palestine.

Approximately 940,000 Palestinians who fled or were expelled during the 1967 war and their descendants are entitled to lawful return and residency in the OPT but remain in forced exile.

1948 Palestinian refugees in the OPT are *protected persons* according to international humanitarian law. Under human rights law and UN resolutions,<sup>2</sup> they are also entitled to specific rights, protection and durable solutions based on their rights to return to their homes in Israel, restitution and compensation.<sup>3</sup> Notwithstanding the occupied non-self-governing status of the OPT, 1967 refugees have the right to return to the homes of origin as guaranteed under international human rights and humanitarian law.<sup>4</sup>

<sup>1</sup> Data for the occupied West Bank and Gaza Strip represent UNRWA-registered refugees at mid 2008 as stated by the UNRWA Headquarters Public Information Office, Gaza, July 2009.

<sup>2</sup> In this respect, UNGA Resolution 194 and especially UNSC Resolution 237 are relevant. Resolution 237 stipulates that Israel should "facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities." UNSC, Resolution 237, S/RES/237, 14 June 1967. *See also* the Universal Declaration of Human Rights (article 9 and article 13), and the International Covenant on Civil and Political Rights (ICCPR, article 12).

<sup>3</sup> "Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Violations of International Human Rights and Humanitarian Law," adopted by the Commission on Human Rights of the United Nations Economic and Social Council on January 18, 2000. UN Doc. E/CN.4/2000/62. *See also: Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles)*, 2005.

<sup>4</sup> The Fourth Geneva Convention Relative to the Protection of Civilians states in article 45 that this provision: "shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities" [Emphasis added]. UN, Fourth Geneva Convention (IV) Relative to the Protection of Civilians, 12 August 1949, article 45. The Additional Protocol (I) affirms: "...the following shall be regarded as grave breaches of this Protocol if committed willfully and in violation of the Conventions or Protocol: b) unjustifiable delay in the repatriation of prisoners of war or civilians" [Emphasis added]. UN, Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Article 85 (4)(a). Similarly, the 1990 Turku Declaration declares in Article 7: "Persons or groups thus displaced shall be allowed to return to their homes as soon as the conditions which made their displacement *imperative* have ceased" [Emphasis Added]. Turku Declaration, Declaration of Minimum Humanitarian Standards, UN Doc. E/CN.4/Sub.2/1991/55, December 2, 1990 in Sassoli, Marco and A. Bouvier, Antoine. *How Does Law Protect in War?*, International Committee of the Red Cross, Geneva, 1999, p. 519.

The international community has recognized Israel's direct responsibility for implementing durable solutions,<sup>5</sup> and particularly the fundamental right of return of the Palestinian people. Any durable solution to the 1948 and 1967 Palestinian refugees should be premised on the voluntary choice to exercise the right to return to their original homes, or, in the discretion of other states, to integrate in the host country or resettle in a third state.

*b) Israel's continued violation of the right of return of Palestinian refugees in/from the OPT*

Israel has failed to respect the right of return in all political peace negotiations, including the negotiations of the Madrid-Oslo peace process which have been at a standstill since 2001. The right of return, i.e. the basis for durable solutions for refugees worldwide, has therefore been denied to the 1967 Palestinian refugees from the OPT for 42 years, and to the 1948 Palestinians for 61 years.

*b-1) Legislation impeding the exercise of the right of return*

Israeli law affords preferential treatment to Jews in accordance with Israel's status as a "Jewish state".<sup>6</sup> All Jewish people, regardless of their national origin or citizenship, have the right to residency and citizenship in Israel and the OPT under Israel's *Law of Return* (1950). Israel thereby discriminates against Palestinians, and violates its obligation to facilitate repatriation and restitution for the 1948 and 1967 Palestinian refugees, as well as those who have since been displaced. Israel's laws are designed to exclude the Palestinian refugees and IDPs from the right of return, citizenship/residency rights, and the right to housing and property restitution.

In the OPT, military law is applied only to the Palestinian population and not the population of the Jewish colonies (settlements) there, and who fall under Israeli civil law.

More than 1.8 million 1948 Palestinian refugees have remained in the OPT as refugees, as they were *de facto* denationalized by the *Citizenship and Entry into Israel Law* (1952). While perhaps beyond the scope of the Special Committee, it is important to note that this law effectively denationalizes all 1948 Palestinian refugees contrary to Israel's obligations under the Law of State Succession and UNGA 181.

On 1 January 2001, the Knesset passed the *Ensuring Rejection of the Right of Return Law*<sup>7</sup> which prevents refugees, defined as "a person who left the borders of the State of Israel at the time of war and is not a national of the State of Israel, including the

<sup>5</sup> See for example, UNGA Resolution 3236 (XXIX), 22 November 1974 which stipulates the right to self-determination, national independence, return to their homes and property of the Palestinian people. See also UNGA Resolution 51/129 which recalls "resolution 394 (V) of 14 December 1950, in which it directed the Conciliation Commission, in consultation with the parties concerned, to prescribe measures for the protection of the rights, property and interests of the Palestine Arab refugees" and "call once more upon Israel to render all facilities and assistance to the Secretary-General in the implementation of the present resolution."

<sup>6</sup> The Jewish character of the state is defined by three inter-related components: (1) that Jews form the majority of the state; (2) that Jews are entitled to certain preferential treatment (for example, the Law of Return); and (3) that a reciprocal relationship exists between the state and Jews outside of Israel. *Ben Shalom vs. Central Election Committee*, 43 P.D. IV 221 (1988), in 25 *Israel Law Review* 219 (1991); *Legal Violations of Arab Minority Rights in Israel*, Shafr Amr: Adalah – The Legal Center for Arab Minority Rights in Israel, 1998, pp. 44–45.

<sup>7</sup> Sefer Hahukim (Laws of Israel), Booklet 1172 (10 January 2001), p.116 in Sultany, Nimer, *Citizens Without Citizenship*, Mada's First Annual Political Monitoring Report: Israel and The Palestinian Minority, 2000-2002, Israel, 2003, p. 19

*persons displaced in 1967 and refugees of 1948 or a member of his family” to return “to the territory of the State of Israel [OPT included/Badil] except with the approval of a majority of members of Knesset.” This law is discriminatory as it specifically targets a national, religious, ethnic and political group.*

*b-2) Legislation impeding exercise of the right to family reunification*

The *Citizenship Law* (1952) does not entitle Palestinian citizens of Israel to family reunification with foreign spouses and children. Family reunification is seen as a humanitarian issue which is largely within the discretion of the Israeli Minister of Interior affairs. In 2003, the Israeli Knesset enacted the *Citizenship and Entry to Israel Act (Temporary Law) (2003)* which provides that permission for family reunification can be granted to Palestinian residents of the OPT only if applicants are aged 25 or above (women) or 35 and above (men). Such persons may be eligible for temporary visit permits to Israel. They are, however, not entitled to apply for permanent residency or citizenship. Palestinian residents of the OPT, refugees and non-refugees alike are affected by the restrictive and discriminatory legislation. Although this law is temporary in nature, its validity was extended a number of times. In May 2006, the Israeli Supreme Court found this law to be constitutional, mainly because of its temporary nature. Nevertheless, the Knesset, in *The Citizenship and Entry to Israel Act (Temporary Law)(Amendment Number 2) (2007)* extended its validity until 31 July 2008 and added new amendments to it to make the restrictions on the family reunifications broader. In March 2007, the Knesset approved an amendment to the law that expanded the scope of ban on family unification to include citizens of “enemy states” Syria, Lebanon, Iraq and Iran, and to “anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out,” according to the Israeli security services. On 1 July 2008, the majority of the Israeli Knesset approved an extension to the Citizenship and Entry into Israel Law (Temporary Order) for an additional year until July 2009. Moreover, in the recent validity extension the Knesset approved the Israeli government’s decision to add the Gaza Strip to the list of "enemy states". Although the law is defined as a “temporary order”, i.e. a temporary law, it has now been extended eight times since its enactment in July 2003.<sup>8</sup>

*c) Israel's Continued violation of the right to restitution and compensation*

*c-1) Legislation impeding housing and property restitution*

More than 1.8 million 1948 Palestinian refugees in the OPT remain barred from access to and enjoyment of their lands and properties in Israel, which were transferred to the *Custodian of Absentees’ Property* and are now managed by the *Israel Lands Authority* (ILA). Palestinians displaced in 1948 are considered “absentees” under Israeli law with regard to property owned or used before 1948, and cannot repossess such property. Since 1948, Israel has legislated and amended a series of land laws,<sup>9</sup> in

<sup>8</sup> See for example: Adalah: 'Extension to Citizenship Law’s Validity is Latest in a Series of Israeli Policies of Racial Separation Based on National Belonging', Adalah The Legal Center for Arab Minority Rights in Israel, 7 July 2008: [http://www.adalah.org/eng/pressreleases/pr.php?file=08\\_07\\_07](http://www.adalah.org/eng/pressreleases/pr.php?file=08_07_07)

<sup>9</sup> Land (Acquisition for Public Purposes) Ordinance (1943); Defense (Emergency) Regulations (1945); Abandoned Areas Ordinance (1948); Emergency Regulations Concerning Absentee Property (1948);

order to facilitate the confiscation and transfer of immovable property owned by Palestinians and preempt restitution. Property now held by the state, the *World Zionist Organization* (WZO) and the *Jewish National Fund* (JNF) is administered by the ILA and has not been transferred by sale or in any other manner. Thirteen percent of this land, most of it belonging to Palestinian refugees, is held and developed by the JNF for the exclusive benefit of the Jewish people under its statute.<sup>10</sup> It is important to note that the JNF holds charitable status in many UN member states, facilitating its fundraising activities and constituting a *de facto* subsidy for the organization.

Following Israel's domestic laws, Israeli military regulations in the OPT also prevent legal claims for property restitution by the Palestinian population occupied or displaced since 1967.

Israel's Jewish citizens do not usually own private land, and Jews may repossess property managed by the Custodian. However, in 3 August 2009, the Knesset passed the Israel Land Administration (ILA) Law. The new land reform law institutes broad land privatization; permits land exchanges between the State and the Jewish National Fund (JNF); empowers the Zionist institutions working solely on behalf of the Jewish people, violates the right to property and Palestinian refugees, including those residing in OPT, from being restituted. On one hand, the new ILA Law will lead to the transfer of title to private owners in real estate properties which were expropriated by the state from the Palestinians including those who have Israeli residency. On the other, it will result in privatization of property of some of the lands of destroyed Palestinian villages, as well as many properties owned by Palestinian refugees, which are currently controlled by the state's Custodian of Absentee Property and the Development Authority. This privatization policy explains the various tenders issued by the (ILA) that offer to sell the ownership rights to absentees' property held by the Development Authority. **In 2007, the ILA issued 96 tenders; in 2008, 106 tenders; and to date in 2009, 80 tenders.**<sup>11</sup>

### *c-2) Recent legislation affecting the right to compensation*

The Israeli *Civil Wrongs (Liability of the State) Law* was amended by legislation passed at the end of July 2005, which stipulates that "residents of a conflict area" and "subjects of enemy states" (including Palestinians), are not allowed to sue or claim compensation from the Israeli government for damages caused by 'combatant activity'. Combatant activity is defined as "...any action of combating terror, hostile actions, or insurrection, and action intended to prevent terror and hostile acts and

Emergency Regulations (Security Zones) (1949); Emergency Regulations (Cultivation of Waste [Uncultivated] Lands) (1949); Absentees' Property Law (1950); Development Authority (Transfer of Property) Law (1950); Absentees' Property (Amendment) Law (1956); State Property Law (1951); Prescription Law (No. 38) (1958); Absentees' Property (Amendment No. 3) (Release and Use of Endowment Property) Law (1965); Absentees' Property (Compensation) (Amendment) Law (1976); and Negev Land Acquisition (Peace Treaty with Egypt) Law (1980).

<sup>10</sup> The Jewish National Fund (JNF) was established by the fifth Zionist Congress (1901) to purchase land in Palestine and Syria for Jewish colonization. The JNF was incorporated as an Israeli company and parastatal institution in 1953. According to its Memorandum of Association, the JNF is forbidden to sell national land to non-Jews. For further discussion, see Lehn, Walter, *The Jewish National Fund*. London: Kegan, Paul, 1988. No land classified as "Israel Lands" under the 1960 Basic Law: Israel Lands (Section 1) may be transferred either by sale or in any other manner.

<sup>11</sup> See: Adalah The Legal Center for Arab Minority Rights in Israel, Adalah to Attorney General and Custodian of Absentee Property: Israel's Sale of Palestinian Refugee Property Violates Israeli and International Law, 22 June 2009, <http://www.adalah.org/eng/pressreleases2009.php>

*insurrection committed in circumstances of danger of life or limb."*

On 12 December 2006, Israel's Supreme Court decided that the State of Israel cannot exempt itself from paying compensation to Palestinians in the OPT who have been harmed by the military. However, the Court left intact the provision of the Law which provides that no compensation is payable for damages caused in military operations since September 2000 to «*a citizen of an Enemy State and an activist or member of a Terrorist Organization*»<sup>12</sup> (emphasis added). Pending interpretation of these terms, this decision means that many Palestinians in the OPT will remain barred from legal redress for the wrongdoings of Israeli soldiers, such as death or injury of civilians, abuse and degrading treatment or physical violence as well as damages and loss of properties. It also means that incidents of physical and psychological violence amounting to torture cannot be prosecuted. Moreover, this law is discriminatory as it is exclusively based on the national identity of the claimant and not on the merits of the claim. Since then, the Israeli Knesset has been trying to reenact the parts of the Law that were invalidated by the Supreme Court by introducing cosmetic changes that would essentially achieve the same results.<sup>13</sup>

This Law clearly violates Israel's legal obligations under human rights law for actions committed by its nationals or agents, including responsibility for damages incurred to Palestinian life and property during the second *intifada*. The Law may also pre-empt restitution and compensation owed to the Palestinian victims of Israel's Wall in the OPT as stipulated by the 9 July, 2004 ICJ *Advisory Opinion* and subsequent UN General Assembly resolutions. Indeed, under all human rights and humanitarian law, treaties, and particularly, the Universal Declaration for Human Rights,<sup>14</sup> the International Covenant for Civil and Political Rights,<sup>15</sup> the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,<sup>16</sup> Geneva Convention Relative to the Protection of Civilians in Time of War,<sup>17</sup> states are responsible for the treatment accorded by its agents to persons under its jurisdiction.

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<sup>12</sup> Adalah News Update, 12 December 2006.

<sup>13</sup> Bill :Civil Wrongs (Liability of the State) (Amendment Number 8) (2008), which passed its first reading in June 2008.

<sup>14</sup> Article 8 of the Universal Declaration for Human Rights (UDHR) stipulates: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." UN, UDHR, 10 December 1948.

<sup>15</sup> Article 2(3)(a) of the International Covenant on Civil and Political Rights (ICCPR) states: "Each party to the present Covenant undertakes: (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity." UN, ICCPR, 16 December 1966.

<sup>16</sup> Article 4 of the Convention Against Torture (CAT) mentions: "1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature." UN, CAT, 10 December 1984.

<sup>17</sup> Article 29 of the Fourth Geneva Convention affirms: "The Party to the conflict in whose hands protected persons may be is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred." UN, Geneva Convention Relative to the Protection of Civilians, 12 August 1949.

## 2. Ongoing Internal Forcible Displacement

### a) *Overview*<sup>18</sup>

The majority of the Palestinian refugee population is distributed over historical Palestine and the Middle East, particularly in bordering Arab states. By the end of 2008, at least 7.1 million (67 percent) of the entire, worldwide Palestinian population of 10.6 million were forcibly displaced persons. Among them were at least 6.6 million Palestinian refugees and 427,000 IDPs.

Palestinian IDPs can be divided into two groups. The first group (approximately 335,000 persons) is IDPs in the area that became the state of Israel in 1948. This group include those who were displaced in 1948 (the *Nakba*), as well as those displaced subsequently but the stated figure doesn't include those affected by the Israeli policies and measures in the mentioned area. The second group (approximately 129,000 persons) is composed of Palestinians internally displaced in the OPT since the 1967 war and Israel's occupation of the area; this figure includes the IDPs with a refugee status that comprises about 37,000 at the end of 2008. 128,708 people are estimated as having been internally displaced during the last four decades in the OPT.<sup>19</sup>

Palestinian displacement and dispossession are the result of **forced population transfer ("ethnic cleansing")**, defined by the UN as the "systematic, coercive and deliberate... movement of population into or out of an area ... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another."<sup>20</sup> It is a crime against humanity and a war crime according to the Rome Statute of the International Criminal Court (ICC).<sup>21</sup>

The creation of Palestinian refugees and internally displaced persons (IDPs) and the prevention of their return to their homes and properties, and reparations including restitution and compensation, stems from Israel's desire to expand its territorial base while preserving and increasing its Jewish demographic majority.

Following the 1967 War, Israel has developed a system combining occupation, colonization and apartheid over Palestinians and their property which has

<sup>18</sup> The overview and the following subsections are basically derived from *Survey of Palestinian Refugees and Internally Displaced Persons 2007-2008, June 2009*, BADIL Resource Centre for Palestinian Residency and Refugee Rights,

<sup>19</sup> BADIL Resource Centre for Palestinian Residency and Refugee Rights, *Survey of Palestinian Refugees and Internally Displaced Persons 2007-2008, June 2009*.

<sup>20</sup> Methods of population transfer may include financial subsidies, planning, public information, military action, recruitment of settlers, legislation or other judicial action, and the administration of justice. *The Human Rights Dimensions of Population Transfer, including the Implantation of Settlers*, Preliminary Report prepared by A. S. al-Khawasneh and R. Hatano. Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-fifth Session 2–27 August 1993, Item 8 of the provisional agenda, E/CN.4/Sub.2/1993/17, July 6, 1993, at paras. 15 and 17.

<sup>21</sup> The Rome Statute defines the forcible transfer of population as "forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law." *Rome Statute of the International Criminal Court*, entered into force on 1 July 2002, Article 7.2(d). In situations of armed conflict, forcible transfer involves "the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory." *Rome Statute of the International Criminal Court*, entered into force on July 1, 2002, Article 8.2(b)(viii).

subsequently evolved into different manifestations on both sides of the Green line.<sup>22</sup> The "Oslo peace process"<sup>23</sup> (1993) and Israel's suppression of the Second Palestinian Intifada (2000 to the present) further advanced the modalities of this regime, providing it with its contemporary features.

Since 1967 the State of Israel has extended its apartheid regime to the OPT in the guise of belligerent occupation: Parts of the occupied West Bank, including eastern Jerusalem,<sup>24</sup> were annexed immediately after the 1967 war in violation of international law, and revocation of the permanent resident status of Palestinian inhabitants of the city is ongoing under Israel's civil law.

Since the 1993 Oslo Accords, Israeli domestic (civil and criminal) law has been applied to Jewish civilians ("nationals") and colonies<sup>25</sup> in the remaining OPT, while a repressive military regime<sup>26</sup> governs the IHL protected Palestinian population living

<sup>22</sup> There are several good studies which flesh out the nature of Israel's apartheid, colonialism and occupation. See the Human Sciences Research Council of South Africa (HSRC) study "Occupation, Colonialism, Apartheid? A Re-Assessment of Israel's practices in the Occupied Palestinian Territories under International Law" May 2009 Capetown, South Africa; Uri Davis, *Apartheid Israel, Possibilities for the Struggle Within*, Zed Books, London, 2003; Report of the Special Rapporteur on the situation of Human rights in the Palestinian Territories Occupied since 1967, John Dugard, Human Rights Council. A/HRC/4/17, 29 January 2007, p 2-3; United Against Apartheid Colonialism and Occupation: Dignity and Justice for the Palestinian People: Palestinian Civil Society Strategic Position Paper, Durban Review Conference, Geneva 20-24 April 2009

<sup>23</sup> The Oslo Peace Process generally refers to a series of agreements reached between the state of Israel and the PLO between 1993 and 2000, including the Declaration of Principles (1993 or Oslo I), The Protocol on Economic Relations between the Government of the State of Israel and the Palestine Liberation Organization (Paris Protocol), 1994; the Interim Agreement on the West Bank and the Gaza Strip (1995, sometimes referred to as Oslo II or the Interim Agreement); the Hebron Protocol (1997); and the Wye River Memorandum (1998). The failed negotiations at Camp David in June 2000 are also considered part of the same process.

<sup>24</sup> Following the war in 1967, Israel annexed some 70km<sup>2</sup> adjacent to the municipal boundaries of West Jerusalem. These annexed territories include 28 West Bank villages. In this annexed area, the Israeli government established 15 Jewish colonies. Despite the fact that no state recognizes Israel's annexation of the East side of the city, Israel has focused much of its colonial activities in and around East Jerusalem for demographic purposes, culminating in the Wall. "Access to Jerusalem – New Military Order Limits West Bank Palestinian Access", *Humanitarian Update*, Office for the Co-ordination of Humanitarian Affairs (OCHA), Jerusalem: February 2006, p. 2. See also Security Council Resolutions 252, 21 May 1968, Security Council Res. 298, 25 September 1971, Security Council Resolution 478, 20 August 1980. For an overview, see Shehadeh, Raja, *Occupier's Law: Israel and the West Bank*. Washington, DC: Institute for Palestine Studies, 1985, pp. 63–75. "The illegal annexation of Jerusalem was first brought about by an amendment to the Law and Administrative Ordinance 1948, passed on 27 June 1967, which held, 'the law, jurisdiction and administration of the state shall extend to any area of Eretz [Land] Israel designated by the government by order.'" "East Jerusalem Remains Occupied Territory Under International Law," Press Release, Ramallah: Al-Haq, 30 June 2005. For the response by the United Nations, see Resolution 252 which "[c]onsiders that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem are invalid and cannot change that status." UNSC, Resolution 252, 21 May 1968. Read also Resolution 478 affirming that "the enactment of the 'basic law' by Israel constitutes a violation of international law and does not affect the continued application of the Fourth Geneva Convention of 12 August 1949 Relative to the Protection of Civilian Persons in Time of War in the Palestinian and other Arab territory occupied since June 1967, including Jerusalem" and "[d]etermines that all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent 'basic law' on Jerusalem, are null and void and must be rescinded forthwith." UNSC, Resolution 478, 20 August 1980. See also Security Council Resolutions 267 (1969); 298 (1971); 446 (1979); 465 (1980); 476 (1980); 605 (1987).

<sup>25</sup> The Israeli Parliament has issued legislation which extends Israeli law to the OPT as a matter of extraterritorial jurisdiction, for example: *Emergency Regulations (Offense Committed in Israeli-Held Areas) Ordinance*, the *Knesset Election Law of 1969*, the *Income Tax Ordinance of 1978*, the *Value Added Tax of 1978*, a.o. Palestinian courts still rendered judgments against Jewish settlers under civil and criminal law prior to the 1993 Oslo Accords. Under the Oslo Accords and subsequent interim agreements between Israel and the PLO, however, jurisdiction over Jewish persons and settlements in the OPT was granted to the State of Israel and its courts in violation of international law. Since then the scope of extension of Israeli law into the OPT has increased massively.

<sup>26</sup> A regime based on Israeli military orders and remnants of Ottoman, British, Jordanian and Egyptian law and regulations.



under occupation. This two-tier legal system has institutionalized racial discrimination against the Palestinian population in the OPT and served as the engine of Jewish colonization of the remaining territory (22 percent) of historic Palestine, denial of return of the 1967 refugees, and further transfer of the indigenous Palestinian population in the guise of protracted military occupation.<sup>27</sup> As observed by independent UN experts and human rights mechanisms, Israel's occupation regime shows many of the extreme forms of oppression that are the features of apartheid, including, among others, segregation, murder (extra-judicial killings, "targeted assassinations"), torture or cruel inhuman treatment (incl. house demolition), arbitrary arrest and illegal imprisonment, and deliberate imposition of living conditions calculated/likely to cause physical destruction in whole or in part.

## *b) Causes and Consequences of Ongoing forced Displacement and Dispossession*

### *b-1) Land Confiscation and Distribution in OPT*

Israel occupies the entire surface of the West Bank (some 5,860 km<sup>2</sup>) and has confiscated or *de facto* annexed more than 3,350 km<sup>2</sup> for the exclusive benefit of its Jewish population.<sup>28</sup>

Israel has continued to expropriate Palestinian land as "abandoned" land, "state property" and for military use and "public purpose."<sup>29</sup> Expropriated property held by Israel in the OPT under military orders for Jewish colonization (also termed "settlement") suggests *de facto* permanent confiscation and possibly annexation. More than 130 colonies have construction on privately-owned Palestinian land. Around 60 thousand dunams of land used by colonies is actually private Palestinian land accounting for 40% of their land mass.<sup>30</sup> Property confiscated by the Jewish National Fund (JNF) in the 1967-OPT is also considered the inalienable property of the Jewish people. Israel has retained overall control of immovable property under the Oslo process.

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<sup>27</sup> Historical records confirm that the 1967 occupation, including establishment of the military government there, was premeditated with the aim to "complete the unfinished business of 1948". See, Tom Segev, 2007, p. 458.

<sup>28</sup> It is estimated that as of the beginning of 2001, Israel had acquired control of 79% of the land in the 1967-OPT. *Passia Diary 2001*, Jerusalem: Palestinian Academic Society for the Study of International Affairs (PASSIA), 2001, p. 257. "Estimates place the proportion of Palestinian land confiscated by Israel at more than 70% of the West Bank and 33% of Palestinian land in East Jerusalem has been confiscated, and all but 7–8% of the area has been closed to Palestinian construction." Economic, Social and Cultural Rights, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, Miloon Kothari, Addendum, Report of visit to the OPT, 5–10 January 2002, UN Doc. E/CN.4/2003/5/Add.1, 10 June 2002, at paras. 10–15. This number also includes the 349km<sup>2</sup> confiscated as a result of the construction of the Wall. Data compiled from the 2003, 2004 and 2004 *Survey on the Impact of the Expansion and Annexation Wall on the Socio-Economic Conditions of Palestinian Localities which the Wall Passes Through*. Ramallah: Palestinian Central Bureau of Statistics. Also see *Land Grab: Israel's Settlement Policy in the West Bank*. Jerusalem: B'tselem, The Israeli Information Center for Human Rights in the Occupied Territory, 2002.

<sup>29</sup> These laws and military orders include: the 1943 Land (Acquisition for Public Purposes) Law; 1967 Military Order No. 59 (Government Properties); 1969 Military Order No. 364 (Government Properties) Amendment No. 4; 1953 Jordanian Land Law (Acquisition for Public Needs) as amended by 1969 Military Order No. 321 (Concerning the Lands Law – Acquisition for Public Needs); 1981 Military Order No. 949 (Concerning the Lands Law – Acquisition for Public Needs); 1967 Military Order No. 25 (Transactions in Real Property); 1974 Military Order 569 (Registration of Special Transactions in Land); and 1983 Military Order 1060 (Law on Registration of Unregistered Immovable Property) Amendment No. 2.

<sup>30</sup> "Breaking the Law in the West Bank - The Private Land Report - Nov. 2006", The Private Land Report, Peace Now, November 2006. Also see "Secret Israeli Database Reveals Full Extent of Illegal Settlement" Uri Blau, Haaretz 1/2/2009.

Land confiscation in and around East Jerusalem has accelerated in recent years. Approximately a third of the land Israel illegally annexed in 1967 Jerusalem was expropriated to build 12 settlements, home to some 193,700 Israeli settlers.<sup>31</sup> The majority of the remaining land was re-zoned so as to prevent Palestinian use, in effect becoming a land reserve for further settlement construction and expansion. While Palestinians constitute over 50% of the population of East Jerusalem, only 7.3% of the land therein is available for Palestinian construction, most of which is already built-upon.

*b-2) Settler Implantation and Colony Construction in the OPT*

**Settlement expansion: Un-natural growth**

Last year, the population of Israel increased at a rate of 1.8%. Among the Jewish population the growth rate is 1.6%. In that same year, the settlements increased by 5.6%. Of that figure, a full 40% is directly attributable to immigration, from Israel and abroad.

Since Israel accepted the Road Map, which mandated a freeze of all settlement activity, the settler population in the West Bank has swelled from 211,400 to over 289,600 - an increase of 37% in six years.

Source: [Israeli Information Center for Human Rights in the Occupied Territories](#)

Date: 11 Jul 2009

Since the onset of the 1967 occupation, Israel has planned and established Jewish colonies throughout the OPT. While Israel ended and withdrew its 22 colonies inside the periphery of the Gaza strip in 2005, the West Bank and East Jerusalem remain major and accelerated centers of Israeli colonization activity.

According to Israeli government figures, by the end of 2008 there were 121 settlements in the occupied West Bank and 12 large settlements in East Jerusalem, in addition to other smaller settlement points throughout the city.<sup>32</sup> 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 are still funded by Israeli government ministries.<sup>33</sup> The Israeli Central Bureau of Statistics estimates the 2008 population of the West Bank settlements at 285,000, and those in East Jerusalem at 193,700. The annual rate of growth of the settler population for 2008, (excluding East Jerusalem) is 4.7 percent, far higher than the 1.6 percent growth

<sup>31</sup> "40 Years after the Unlawful Annexation of East Jerusalem: Consolidation of the Illegal Situation Continues Through the Construction of the Jerusalem Light Rail", Al-Haq Press Release Ref.: 21.2007e 28 June 2007.

<sup>32</sup> "Human Rights in the Occupied Territories 2008 Annual Report", B'tselem – The Israeli Information Center for Human Rights in the Occupied Territories 2008. B'tselem bases itself on Israeli ministry of Interior numbers. Additionally, and according to the Israel Ministry of Construction and Housing, there are currently approximately 75 families and 600 Yeshiva students in settler enclaves in the Old City. There are also plans to build a large new Jewish settlement within the Muslim Quarter consisting of 35 housing units, while a new synagogue was inaugurated in October 2008 in the vicinity of the Al Aqsa Mosque compound (Harem al Sharif). Settlement points throughout the city also include settlements in Ras Al Amoud, Silwan, Sheikh Jarrah, and the Mount of Olives.

<sup>33</sup> "Human Rights Situation In Palestine And Other Occupied Arab Territories Report Of The Special Rapporteur On The Situation Of Human Rights In The Palestinian Territories Occupied Since 1967", John Dugard A/Hrc/7/17 21 January 2008

rate inside the Green Line.<sup>34</sup> The jurisdictional area of Israeli settlement "local and regional councils" exceeds more than 40% of the West Bank.<sup>35</sup>

Israeli colonization – its planning and construction - continued before, during and after the Oslo peace process. The settler population at the beginning of 2008 was 63% higher than it was in 1993 when the "peace process" began.<sup>36</sup> Additionally 40% of land occupied by settlements in the West Bank is privately owned by Palestinians.<sup>37</sup>

Since the Annapolis conference in November 2007, in which a two-state solution was articulated as the mutually agreed upon solution between the Israeli and Palestinian representatives, the West Bank has witnessed particularly rapid settlement growth. Construction has taken place in over 100 settlements and 58 outposts, and 16 new outposts were established.<sup>38</sup> Between August 2007 and June 2008, Israel issued tenders and plans for a total of 23,653 new housing units in Israeli settlements in the West Bank, with 64 per cent of the total taking place in settlements in Jerusalem and Bethlehem. Israel is not merely focusing on settlement construction in the areas it clearly intends to annex (or which it already has), west of its apartheid wall. The first half of 2008 also witnessed 55% of new settlement construction taking place east of the Wall.<sup>39</sup> For many years, the Israeli consecutive governments have used the idea of "natural growth" as a justification to legitimize the settlement expansion.

This rapid expansion on both sides of the wall fuels Palestinian fears regarding Israeli intentions behind its colonization of the OPT: to use its colonies and their accompanying military positions as strategic nodes capable of monitoring, controlling and perhaps expelling the Palestinian population, incrementally or in an en-masse fashion if circumstances permit.

### *b-3) Home Demolition and Arbitrary Displacement Inside the OPT*

Between 1967 and the beginning of 2009, Israel demolished over 24,102 homes and other structures in the OPT, including the West Bank, East Jerusalem, and the Gaza Strip.<sup>40</sup> More than 3,000 Palestinian-owned structures in the West Bank have pending demolition orders, which can be immediately executed without prior warning.<sup>41</sup> At least ten small communities throughout the West Bank are at risk of being *entirely* displaced due to the large number of pending demolitions orders.

Israeli house demolitions in the OPT fall into three basic categories:

**Administrative demolitions** carried out because the Palestinian structures lack the required building permits as designated by the occupation authorities. These

<sup>34</sup> *Ibid* Btselem annual report 2008

<sup>35</sup> "Access Denied: Israeli Measures to Deny Palestinians Access to Land around Settlements" Btselem, September 2008. p.77

<sup>36</sup> A/Hrc/7/17 21 January 2008

<sup>37</sup> *Ibid*

<sup>38</sup> "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories" United Nations GENERAL A/63/273, 13 August 2008, Sixty-third session.

<sup>39</sup> Peace Now, *Israel is Eliminating the Green Line and Continuing to Build in the Isolated Settlements*, August 2008, p.1.

<sup>40</sup> As of February 11, 2009. See: Israeli Committee Against House Demolitions (ICAH), *Statistics on House Demolitions (1967 – 2009)* as of 19 January 2009, and the Inter-Agency Rapid Shelter/NFI Assessment undertaken between 22 January -2 February 2009, 11 February 2009.

<sup>41</sup> "Lack of Permit" Demolitions and Resultant Displacement in Area C", OCHA Special Focus, May 2008.

demolitions are most common in East Jerusalem and Area C of the West Bank, constituting 27% of overall statistics; **Punitive demolitions**, which involve demolishing the homes 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 (8.5% of overall statistics); and **Land Clearing / Military demolitions**, which include actions of the Israeli military to demolish Palestinian homes and structures with the purpose of clearing the area for an unspecified military role (65.5% of all demolitions).

House demolition is a practice that preceded the Oslo process of the mid-1990s and continued during and thereafter. Before September 1993, Israel carried out no less than 12,500 house demolitions.<sup>42</sup> This does not include the estimated 10,000 refugee shelters destroyed in the 1970s and 1980s in several refugee camps in the Gaza Strip, affecting more than 62,000 refugees.<sup>43</sup> Israel has subsequently almost equaled its demolition figures for the first 25 years of occupying the OPT (1993) in the subsequent 15 years, with 11,514 more demolitions.<sup>44</sup> While it is true that Israel greatly accelerated its demolition of Palestinian property since the beginning of the second Intifada in September 2000, it still destroyed no less than 969 homes between 1994 and 2000 - the height of the negotiation years.<sup>45</sup>

In 2007 the occupation municipality of Jerusalem demolished 65 homes, followed by an additional 89 residential units in 2008.<sup>46</sup> There are currently plans underway to demolish 90 structures in the Bustan neighborhood of Silwan, with 1500 residents in order to construct an archeological garden for the increasing settler population. If realized, it will be the largest mass demolition in the city since the Israeli army demolished the Mughrabi quarter in the Old City, in 1967.

Over 94 per cent of applications for building permits in Area C submitted to the Israeli authorities by Palestinians between January 2000 and September 2007 were denied.<sup>47</sup> During that period, 5,000 demolition orders were issued, and over 1,600 Palestinian buildings were demolished. Official Israeli statistics indicate that for each permit allowing Palestinian construction in Area C, 18 other buildings are destroyed and 55 demolition orders are issued for structures.<sup>48</sup>

No less severe is the incredible destruction to Palestinian homes during Israeli military incursions, particularly in the Gaza Strip. The latter has witnessed an escalating campaign of house demolition whereby with each military operation, increasing numbers of Palestinian homes are destroyed. From 2000 to 2007 alone, 7,342 houses were partial or total destroyed, impacting 69,350 residents.<sup>49</sup> The Israeli

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<sup>42</sup> "Statistics On House Demolitions (1967-2009)" Israeli Committee Against House Demolition" Accessed 9 April 2009. <http://www.icahd.org/eng/>

<sup>43</sup> UNRWA Accommodation Office.

<sup>44</sup> Op Cite "Statistics On House Demolitions" ICAHD

<sup>45</sup> See ICAHD statistics for years 1994 to 1999 inclusive.

<sup>46</sup> "Human Rights in the Occupied Territories, 2008 Annual Report", B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories East Jerusalem, p.25

<sup>47</sup> "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories" United Nations General A/63/273, 13 August 2008, Sixty-third session.

<sup>48</sup> Data provided to Israeli MK Chaim Oron in response to a parliamentary query he placed, and later published by Peace Now in: *Area C: Palestinian Construction and Demolition Stats* – February 2008. Available at: <http://www.peacenow.org.il>.

<sup>49</sup> Al-Mezan Human Rights Organization

military assault on Gaza "Operation Cast Lead" represented the culmination of this trend. Between 27 December and 24 January 2009, over 4,240 residences were destroyed and 44,306 were damaged, most rendered uninhabitable without considerable rehabilitation.<sup>50</sup> 80-90,000 people were forcibly evicted, many of whom were rendered homeless and forced to live in open spaces.

#### *b-4) Deportation and Revocation of Residency Rights*

Israel has deported more than 6,500 Palestinians from the OPT since 1967. Some 4,000 Palestinians were deported to Egypt in 1967.<sup>51</sup> Deportees included Palestinians who fought against the Israeli occupation and served time in Israeli prisons, political activists, school principals and supervisors who protested against censorship of textbooks, teachers and students who initiated school boycotts, and attorneys who organized lawyers' strikes. Since 2002, Israel has also forcibly transferred a limited number of Palestinians from the occupied West Bank to the Gaza Strip.<sup>52</sup>

Between 1967 and 1999, Israel revoked the residency status of more than 100,000 Palestinians in the OPT.<sup>53</sup> Only those Palestinians (and their offspring) registered in Israel's September 1967 census are considered legal residents of the OPT.<sup>54</sup> These names are recorded in a population registry which Israel maintains full control over. Between 1967 and 1995, the status of resident alien did not provide a guarantee of residence. Under the Oslo agreements in the mid-1990s, Palestinian inhabitants of the OPT were granted protected residence status, but inhabitants of occupied eastern Jerusalem were excluded from these agreements. Israel hence retains the authority to make the final determination on requests for permanent residency, including those related to issues of family reunification of Palestinians not registered in the 1967 Israeli census. Since 2000 Israel has suspended all applications for family unification, impacting approximately 120,000 Palestinian residents of the OPT married to foreign

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<sup>50</sup> Rapid Shelter/NFI Assessment undertaken between January 22 and February 2, 2009, February 11, 2009, cited in "Human Rights Situation In Palestine And Other Occupied Arab Territories - Advance Unedited Version," A/Hrc/10/22, 20 March 2009.

<sup>51</sup> Table 5, "Palestinian Estimate of Displaced Persons and Refugees During the 1967 War," Amro, Tayseer, "Displaced Persons: Categories and Numbers Used by the Palestinian Delegation [to the Quadripartite Committee], 14 *Article 74* (December 1995). Jerusalem: BADIL/Alternative Information Center for Palestinian Residency and Refugee Rights. The figure roughly coincides with Israeli figures if Palestinians deported to Egypt during the 1967 war are not included. *Deportation of Palestinians from the Occupied Territory and the Mass Deportation of December 1992*. Jerusalem: B'tselem, The Israeli Information Center for Human Rights in the Occupied Territory, 1993.

<sup>52</sup> According to the Palestinian Centre for Human Rights, since the beginning of the second Intifada until 2004, Israel has deported approximately 50 Palestinians from the occupied West Bank to the Gaza Strip to "assign residence". *The Annual Report for 2004, Gaza Strip*: Palestinian Center for Human Rights, May 2005, p. 40. "Under a secret agreement brokered with international assistance, 39 of the Palestinians were deported or transferred on 10 May 2002, 26 of them to the Gaza Strip and 13 others abroad, mainly to Europe." Coakley, Kate and Marko Divac Oberg, "Israel's Deportations and Forcible Transfers of Palestinians out of the West Bank During the Second *Intifada*" Occasional Paper 15, Ramallah: Al Haq, April 2006, p. 3.

<sup>53</sup> Quigley, John, "Family Reunion and the Right to Return to Occupied Territory," *Georgetown Immigration Law Journal*, 6 (1992). Between 1967 and 1999, Israel revoked the residency rights of 6,185 Palestinians living in Jerusalem, affecting some 25,000 people. Table III, "Confiscation of Jerusalem ID Cards, 1967-1998," *Eviction from Jerusalem, Restitution and the Protection of Palestinian Rights*. Bethlehem: BADIL Resource Center, 1999, p. 19. The table is updated to the end of 1999 with available statistics from the Israeli Interior Ministry.

<sup>54</sup> *Families Torn Apart, Separation of Palestinian Families in the Occupied Territory*. Jerusalem: B'tselem, Israeli Information Center for Human Rights in the Occupied Territory, 1999, p. 17. For eastern Jerusalem, see Krystall, Nathan, *Urgent Issues of Palestinian Residency in Jerusalem*, second revised edition, Jerusalem: Alternative Information Center, 1994; and *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians*. Jerusalem: B'tselem, The Israeli Information Center for Human Rights in the Occupied Territory; and Hamoked, Center for the Defence of the Individual, 1997.

born spouses.<sup>55</sup> Other affected groups include an increasing number of Palestinians who lack any form of identification because they have not been recorded in the population registry which Israel controls and foreign born Palestinians who are increasingly denied entry into the OPT.

Israel has used its control over questions of family reunification, in addition to other prohibitive means (house demolition, revocation of residency status, colonization etc.) to manipulate the demographic configuration of Jerusalem in particular. According to a former Deputy Mayor, the occupation municipality of Jerusalem had an undisclosed policy that Palestinians should number no more than 28 percent of the city's population.<sup>56</sup> It attempted to maintain this ratio in part through the revocation of Jerusalem (blue) ID cards, particularly targeting Palestinians who lived outside the city for a number of years. Between 1967 and 2007, the Interior Ministry revoked the residency status of 8,269 indigenous Palestinians in East Jerusalem.

Since 2000, Israel has taken various measures designed to separate the West Bank and Gaza Strip and divide the Palestinian population into two separate entities, despite legally being considered one territorial unit under international law.<sup>57</sup> In 2007, Israel instituted a policy requiring Palestinians whose registered address is in the Gaza Strip, to hold a permit in order to be present in the West Bank. Without such a permit, they are to be removed from the West Bank and are defined as "illegal aliens."<sup>58</sup> Israel refuses to update the registered address of Palestinians from Gaza, even if they have been living in the West Bank for years, and even in some cases if they were born there.<sup>59</sup>

#### *b-5) Closure and Segregation*

Israel has instituted a complex regime of control over Palestinian movement that prevents Palestinians from enjoying elementary rights and freedoms. The different regimes of control divide Palestinians in the OPT from one another while serving to dispossess them from their lands. Closure and segregation policies, which began in the early 1990s and which have accelerated since 2000, have the cumulative effect of concentrating more Palestinians on less land, transforming the Palestinian communities (primarily Area's A and B) into reservation-like islands, or worse yet, open-air prisons, because Palestinians are prevented moving freely from them.

Palestinian movement in the West Bank is restricted on three main levels: **1) Israel's wall and it associated regime** surrounds Palestinians to the north, south and west physically preventing access to land, resources and linkages beyond it - primarily the areas of pre-1948 Palestine. **2) Israel's closure of the Jordan Valley** prevents

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<sup>55</sup> "OPT Consolidated Appeal Projects 2008" UN

<sup>56</sup> Meron Benvenisti, *City of Stone: The Hidden History of Jerusalem*, University of California Press (1996) p. 50.

<sup>57</sup> "Separated Entities - Israel Divides Palestinian Population of West Bank and Gaza Strip" Hamoked Center for the Defence of the Individual and B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, September 2009.

<sup>58</sup> The permit must be obtained from the military and is valid for three months only. Receiving permits are conditioned upon the applicant proving that s/he has been present in the West Bank for the past eight years continuously; is married with children; has security and police clearance; and must have "humanitarian" grounds for needing the permit. Even if an applicant meets all the above mentioned conditions, the military may still refuse the application. Information from *Ibid*.

<sup>59</sup> "Gaza After the Pullout/ State's Refusal to register address Changes sentences many to exile" Amira Hass, Haaretz 9/10/2005.

Palestinian movement eastward, effectively closing the fourth side of the West Bank. This has the effect of not only closing West Bank Palestinians off from the Jordan Valley's resources, but also strictly controlling the only Palestinian access to the outside world, through its border with Jordan. **3) Israel's checkpoint and permit system** inside the West Bank works to complement and enforce the previous restrictions on movement, while adding the dimension of controlling Palestinian movement and connectivity within the West Bank.

Like the West Bank, **the Gaza Strip is strictly contained and besieged** with all movement beyond it highly monitored and controlled. An electronic fence with watchtowers and sniper positions surrounds the strip of land to the north and east. To the west are Israeli patrolled waters of the Mediterranean sea, which Palestinians are not permitted to use beyond a 10 nautical mile range. To the south is the Egyptian border has been closed since 2007. Israel has effectively transformed its comprehensive control over Gaza into a weapon against its people, their livelihoods and their rights.

A major consequence of this matrix of control has been the cutting off of East Jerusalem from the West Bank, *de facto* annexing it to Israel, to compliment its *de jure* (illegal) annexation of the territory after 1967.<sup>60</sup>

#### *b-6) Israel's Wall and its Associated Regime in the Occupied West Bank*

In 2002 Israel began construction of a massive wall which snakes its way around the West Bank gravely infringing upon fundamental rights of the Palestinian people and violating international law. In some regions, the wall is a concrete barrier approximately 8–9 meters high (more than twice the height of the Berlin wall) with watchtowers and sniper positions every 300 meters. In other regions it is an electric fence approximately 3–5 meters high with a buffer zone, trenches, barbed wires, sensors and cameras.<sup>61</sup> The wall brings with it an associated regime which controls and regulates Palestinian movement on either side. Together, the wall and its regime work to dispossess Palestinians from their land, separate Palestinians from one another, while cutting Palestinians off from accessing their ancestral homeland in pre-1948 Palestine from which many originate, not to mention have actual ties to in regards to family, work, services and holy sites. In essence, the wall is an attempt to consolidate the "gains" the Zionist movement and Israel achieved through ethnic cleansing, war, and colonization over the past 61 years.

Physically, the wall will span 723 km around the West Bank and East Jerusalem, more than twice the length of the 1949 armistice line, "the Green Line." At the end of 2008, 409 km had been constructed, with an additional 66km (9 percent) remaining under construction.<sup>62</sup> The wall *de facto* annexes 12 percent of West Bank land (including East Jerusalem), which remains either west of the barrier or in enclaves created by the barrier's winding route. 69 settlements (including 12 in East Jerusalem) are annexed to the western side of the wall, which also include 83 percent of the

<sup>60</sup> "The Matrix of Control", Jeff Halper, ICAHD website: <http://www.icahd.org>

<sup>61</sup> A military order issued in September 2004 widened the buffer zone to 150–200 meters on the occupied West Bank side of the Wall and prohibited construction there. Humanitarian and Emergency Policy Group (HEPG), "The Impact of Israel's Separation Barrier on Affected West Bank Communities," compiled by the UN Office for the Co-ordination of Humanitarian Affairs (OCHA) and the UN Relief and Work Agency (UNRWA), Update No. 5, 2005, p. 5, para. 17.

<sup>62</sup> "Human Rights in the Occupied Territories 2008 Annual Report" B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories.

settler population.<sup>63</sup> 498,000 Palestinians living in 92 communities live in the areas severed from the rest of the West Bank.<sup>64</sup>

In total 86 percent of the wall is built inside the West Bank.<sup>65</sup> Instead the wall's route runs deep into the West Bank to encircle the settlements of Ma'ale Adumim, while cutting off areas far to the west that house 25% of the 253,000 Palestinians living in East Jerusalem<sup>66</sup> – a boldface attempt to "transfer many Palestinians with Jerusalem identity documents to the West Bank," in the words of UN Special Rapporteur John Dugard.<sup>67</sup>

The consequences for rural life in areas between the wall and the Green Line is particularly worrisome. These areas have been declared a closed military area, and all Palestinians residents aged 16 and above are required to hold a "long term" or "permanent resident" permit to continue to live in their own homes.<sup>68</sup> Approximately 35,000 people live in these "Closed Areas", also known as the "Seam Zones") who are particularly vulnerable to forced displacement.<sup>69</sup>

In mid-2007, the UN conducted a study of 67 communities in the northern West Bank who were in the immediate vicinity of the wall (52 to the east of the wall, 15 in the closed area between the wall and the Green Line.)<sup>70</sup> It found that only 18% of those who used to work their land located in the closed area before completion of the wall receive 'visitor' permits; 29 communities reported that households have left because of the wall, and another 36 report that heads of households have also left to seek employment elsewhere in the West Bank.

In October 2003, the UN General Assembly demanded that "Israel stop and reverse the construction of the wall in the occupied Palestinian territory, including in and around eastern Jerusalem, which is in departure of the Armistice Line of 1949 and is

<sup>63</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, John Dugard A/HRC/7/17 21 January 2008.

<sup>64</sup> B'Tselem Annual Report 2008.

<sup>65</sup> "The Olive Harvest in the West Bank and Gaza", United Nations Report, October 2008

<sup>66</sup> Op cite UN Document A/HRC/7/17 January 21, 2008. Also see "Creating a Semi-enclave: Focus on Anata, Jerusalem Governorate," Special Report, Ramallah: Negotiations Affairs Department, Palestinian Monitoring Group, June 15, 2006, p. 3.

<sup>67</sup> "Question of the Violation of Human Rights in the Occupied Arab Territory, Including Palestine," Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the Situation of Human Rights in the Palestinian Territory Occupied since 1967, Commission on Human Rights, Sixty-second session, E/CN.4/2006/29, 17 January 2006, p. 12, para. 32.

<sup>68</sup> The permits for the closed zone are green (and are referred to as "green permits"), and residents usually have to renew them every six months. Green permits are also necessary for another 12 categories of visitor, including students, health workers, teachers, merchants and international workers. More specifically, each gate generally requires a specific permit, and some gates are open to Palestinians, while others are not. Travel is also subject to respective gate hours; gates usually open three times a day for approximately one hour at a time, and at the will of soldiers, who can refuse passage to permit-holders. Some gates open only at arbitrary times and in some cases not at all.

<sup>69</sup> Former UN Special Rapporteur John Dugard warned in 2006 that the Wall's construction would likely result in "the emergence of a new wave of internally displaced persons," – a figure which by 2005 had already reached 15,000. "Question of the Violation of Human Rights in the Occupied Arab Territory, Including Palestine," Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the Situation of Human Rights in the Palestinian Territory Occupied since 1967, Commission on Human Rights, Sixty-second session, E/CN.4/2006/29, January 17, 2006, p. 5, para. 2. The figure of 15,000 comes from compiling data from the Survey on the "Impact of the Annexation and Expansion Wall on the Socio-economic Conditions of Palestinian Localities which the Wall Passes Through", Ramallah: Palestinian Central Bureau of Statistics, 2003–2005.

<sup>70</sup> "The Barrier Gate and Permit Regime Four Years on: Humanitarian Impact in the Northern West Bank", OCHA Report, November 2007.



in contradiction to relevant provisions of international law.”<sup>71</sup> When Israel continued to build it, the UN General Assembly passed resolution ES-10/14 requesting the International Court of Justice (ICJ) to issue an Advisory Opinion concerning the legal consequences arising from its construction.<sup>72</sup> On 9 July 2004 the ICJ ruled that the wall was illegal and violated many fundamental rights of the Palestinian people, in particular their right to self-determination.<sup>73</sup> Five years after its ruling, the wall continues to be build the wall with impunity on Palestinian, while the international community has failed to take effective measures to stop its construction.

#### *Closure of the Jordan Valley:*

56,000 Palestinians (39 percent of whom are refugees) live in 44 communities throughout the valley, including the Jordan Rift, the area along the Dead Sea shoreline and the Eastern slopes of the West Bank mountains. There are now 9400 Israeli settlers living in 38 Israeli colonies in the valley, in addition to 7 settler "outposts." In 2005 Israel announced plans to double the number of settlers in the valley,<sup>74</sup> and imposed a total closure on the area<sup>75</sup> for those not living there. This complemented its previous designation of 400km<sup>2</sup> a "closed military zone,"<sup>76</sup> also resulting in forced displacement.<sup>77</sup>

#### *Checkpoint and Permit System:*

Israel has established an elaborate checkpoint system along the network of roadways throughout the West Bank functioning as controlling valves, opening or closing regions at the occupation's discretion, with no recourse for Palestinians. Though the number of impediments to Palestinian movement fluctuates over time, 630 obstacles blocked Palestinian movement inside the West Bank as of September 2008.<sup>78</sup> These included 93 permanent checkpoints staffed by Israeli military and private security contractors, and 537 unstaffed obstacles including earthen mounds, roadblocks, barriers, ditches etc. Israel has also erected 69 obstacles to movement in the Israeli-controlled section of Hebron City (H-2), including 18 checkpoints. There are 8 other checkpoints located on the Green Line. An Israeli media study showed that one

<sup>71</sup> *Illegal Israeli Actions in the Occupied East Jerusalem and the rest of the Occupied Palestinian Territory*, UNGA Res. ES-10/13, October 21, 2003.

<sup>72</sup> *Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory*, UNGA Res. A/RES/ES-10/14, December 12, 2003.

<sup>73</sup> See International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, July 9, 2004.

<sup>74</sup> "Israel Plans to Double Number of Settlers in the Jordan Valley," Agence France Press, 24 June 2005.

<sup>75</sup> Only Palestinians registered as residents of the northern Jordan Valley, those with a work permit for the colonies, and Jericho ID holders with a "West Bank checkpoint permit" are allowed unrestricted access to the Valley. All other Palestinians require a special access permit, including landowners residing outside the Jordan Valley. Permits are issued for daytime stay only, while travel on parts of Road 90 (the main road in the Jordan Valley) is also prohibited to Palestinians. "Humanitarian Update on the Jordan Valley," Special Focus: The Jordan Valley, Jerusalem: OCHA, October 2005, p. 1.

<sup>76</sup> "Under The Pretext Of Security: Colonization And Displacement In The Occupied Jordan Valley," Negotiations Affairs Department/ Palestinian Monitoring Group, July 30, 2006.

<sup>77</sup> The number of Palestinians in the Jordan valley who have officially changed their places of residence has increased dramatically in recent years, from 945 persons in 2004, to 1,935 in 2005 and over 3,000 in the first months of 2006. Ministry Of Civil Affairs, Jericho (District Coordinating Liaison – DCL), which obtained the figures from the Palestinian Ministry of Interior, Jericho; Cited In "Under The Pretext Of Security: Colonization And Displacement In The Occupied Jordan Valley," p. 10.

<sup>78</sup> "Closure Update: Main Findings and Analysis (30 April - 11 September 2008)" United Nations Office For The Coordination Of Humanitarian Affairs Occupied Palestinian Territory, September 2008. Subsequent information on checkpoints, flying checkpoints and accessibility of main road ways comes from this report.

quarter of all Israeli soldiers who served at roadblocks in the West Bank reported witnessing or taking part in an act of abuse against Palestinian civilians.<sup>79</sup>

Aside from the permanent manned and unmanned checkpoints, Israel routinely sets up "flying checkpoints." These entail Israeli military jeeps stopping Palestinian traffic and screening and arresting passengers. These averaged 85 per week for the last quarter of 2008.

The Israeli army limits the movement of West Bank Palestinians on 430 kilometers of roads, on which Israelis are allowed free movement.<sup>80</sup> On 137 kilometers of these roads, the army completely prohibits Palestinian travel; on the other 293 kilometers, only Palestinians who have permits are allowed to travel.

"Checkpoints serve to humiliate Palestinians and to create feelings of deep hostility towards Israel. In this respect they resemble the "pass laws" of apartheid South Africa, which required black South Africans to demonstrate permission to travel or reside anywhere in South Africa. These laws generated widespread humiliation and anger, and were the cause of regular protest action. Israel would do well to consider the South African experience. Restrictions on freedom of movement of the kind applied by Israel do more to create insecurity than to achieve security." *UN Special Rapporteur John Dugard*

#### *The Gaza Siege:*

Israel's strict control over movement in and out of the Gaza Strip began in the early 1990s with the reinforcement of its perimeter fence and the issuing of military orders requiring permits for all residents wishing to travel in and out of the territory. Though Israel also regulated movement within the Strip between 1967 and 2005 - the period when Israel constructed 22 colonies and accompanying military positions there, hermetically dividing Gaza into four main regions - the unilateral redeployment of Israeli occupying soldiers and settlers ended in September 2005.

Israel has since focused on imposing a debilitating siege upon the Gaza Strip in its entirety, leveraging the enormous powers it built throughout the course of its colonization there to cut the territory off from the outside world, destroy its civil and national bodies and infrastructure, and crush any attempt at resistance. After the Hamas movement took power in the Gaza strip in June 2007, the siege was intensified further,<sup>81</sup> leading "Gaza to the brink of a humanitarian crisis," in the words of one UN special committee charged with investigating human rights there.<sup>82</sup> All this *before* Israel launched a 22 day military campaign against Gaza on December 27, 2008 (*see box*), as the latest in a series of ever intensifying military assaults on Gaza since the beginning of the second Intifada. As a result, Gaza's population routinely suffers from shortages of food, medical and relief items, spare parts for critical health and water sanitation installations, materials for humanitarian projects and raw materials for commerce and industry.

<sup>79</sup> Op cite UN Documents A/HRC/7/17 January 21, 2008.

<sup>80</sup> "Human Rights In The Occupied Territories 2008 *Annual Report*" B'tselem – The Israeli Information Center For Human Rights In The Occupied Territories. See "Restrictions On Movement", p.13

<sup>81</sup> On September 19, 2007, Israel declared Gaza a "hostile territory."

<sup>82</sup> "Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories" United Nations GENERAL A/63/273, 13 August 2008 Sixty-third session.

80 percent of the Gaza population lives below the poverty line and relies on food aid from international organizations.<sup>83</sup> 37 percent of Gaza's breadwinners are unemployed, compared to 27 percent in the West Bank. Farmers are forced to stop irrigating their crops owing to the difficulty of pumping water from agricultural wells, 70% of which run on diesel fuel. 90% of 3,900 industrial companies in Gaza have shut their doors representing a loss of employment to 75,000 individuals.

Between mid-June 2007 and early August 2007, the Rafah crossing remained completely closed stranding 6,000 Palestinians on the Egyptian side of the border, without adequate accommodation facilities. Over 30 people died while waiting.<sup>84</sup> The closure has continued into 2008: for 345 days, Rafah crossing was completely closed, and for 21 days, it was partially closed.<sup>85</sup> At least 4,000 Palestinians have not been able to travel abroad since June 2007, including hundreds of students, and at least 500 patients in need of advanced medical treatment not available in the Gaza Strip.<sup>86</sup> At least 29 have died.<sup>87</sup>

### *Israeli Military Assaults on the Gaza Strip and "Operation Cast Lead"*

Since the beginning of the second Intifada, Israel has launched a wide series of military operations against the Gaza Strip in the context of its attempt to suppress the uprising throughout the OPT. Israel's attacks have escalated in intensity resulting in increasing numbers of dead, injured, home and property damage and wave after wave of internal displacement. This toll has been endured by a population two-thirds of whom are refugees from the 1948 War, and many of whom are also likely to have been displaced by the major upheavals witnessed in Gaza in 1956, 1967, 1970-72 and the first Intifada (1987-93).

Before the devastation of "Operation Cast Lead", more than 3000 Palestinians had been killed in the Gaza Strip since the beginning of the second Intifada<sup>88</sup> in dozens of

<sup>83</sup> The official poverty line is 2.3 USD per person per day. "Palestinian Economic Prospects: Aid, Access and Reform", World Bank September 22, 2008, p.20.

<sup>84</sup> Op cite UN Documents A/HRC/7/17 January 21, 2008.

<sup>85</sup> *2008 Annual Report* Palestinian Center for Human Rights p.46

<sup>86</sup> *Ibid* p.47

<sup>87</sup> *Ibid* p.49

<sup>88</sup> See B'tselem statistics for Gaza, between 29 September 2000 to 26 December 2009 which document 3004 deaths as a result of being killed by the Israeli army (3000) and settlers (4). B'tselem website accessed May 4, 2009.

military operations.<sup>89</sup> Though Israel consistently argues that its military campaigns are defensive, the scope, timing and extent of damage suggests otherwise.<sup>90</sup>

Israel's unprecedented military attack against the Gaza Strip "Operation Cast Lead" took place between December 27, 2008 and January 18, 2009. The operation entailed the targeting of civilian and governmental infrastructure throughout Gaza's cities, villages, and refugee camps, encompassing residential neighborhoods, hospitals, schools, universities, government ministries, water/sewer lines, electricity generating stations, greenhouses, commercial establishments, infrastructure and roads.<sup>91</sup> Three weeks of almost uninterrupted Israeli aerial bombardments, artillery shelling from land and sea, and ground operations resulted in the killing of 1,417 people and over 5000 injured.<sup>92</sup> More Palestinians were killed in Gaza during the three weeks of Israel's military operation than during the entire first Intifada (December 1987 - September 1993).<sup>93</sup> The first 24 hours of the operation resulted in the highest casualty toll in one day in the occupied Palestinian territory since 1967 - 230 fatalities and 520 injuries.

Surveys conducted immediately after the ceasefire indicate that around 38% of Gazans - over half million people - fled their homes at some point during the conflict.<sup>94</sup> The destruction was so encompassing that "the option to become an internally displaced person was, as a practical matter, unavailable to the civilian population," in the words of UN special Rapporteur Richard Falk.<sup>95</sup> The UN High

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<sup>89</sup> A brief overview of some Israeli military operations in Gaza from 2004 on gives an indication of the destructive toll that has befallen the Gaza Strip in recent years: "Operation Rainbow", May 12-14, 2004: 66 killed, 261 homes destroyed in Rafah; "Operation Days of Penitence", September 28 – 15 October 2004 – Jabaliya Refugee Camp and Beit Lahiya: 103 dead, 4000 forced displaced, 83 homes destroyed, 18 workshops, 19 public institutions, 210 acres of agricultural land razed; End of March– mid-May 2006 - Israel undertakes a policy of firing artillery shells at Gaza. The Israeli media reports 5100 shells fired during this time; "Operation Summer Rains" – a wide scale campaign involving many sub-operations each of which lasts several days. They include: "Operation Southern Shalit" (June 28); "Operation Bashan Oaks" (July 2); "Operation Feedback" (July 12); "Operation Final Grade" (July 16); "Operation Samson's Pillars" (July 26); "Operation Horizon Line" (August 2); "Operation Locked Garden" (26 August); "Operation Rain Man" (October 14); "Operation Four Kinds" (October 16); "Operation Squeezed Fruit" (October 17); and "Operation Autumn Clouds" on November 1. In total 434 Palestinians are killed in Gaza between June 25 and November 15, 2006; The year 2007 sees more military operations with some 290 Palestinians killed; "Operation Warm Winter" (29 February) 69 Palestinians are killed in Jabaliya.

<sup>90</sup> Though it is impossible to fully elaborate upon the extensive nature of Israel's military assaults on Gaza, they must be seen in the context of its wider policies towards the Palestinian national movement since September 2000, which have included policies of besiegement, house demolition, assassination, wide scale arrest, and targeting of infrastructure such as schools, hospitals, and power plants. Israel has on occasion acknowledged that its military offensives are not entirely defensive. For example, its March 7, 2004 assault into Gaza was described by Brigadier General Gadi Shamni, head of Israeli forces in Gaza, as a "stimulus and response operation," the purpose of which is "to stimulate the armed individuals to come out and then kill them off." See "The Victory of Brutality" Gideon Levy Haaretz, March 14, 2004.) Other studies have recognized a pattern whereby Israel destabilizes or violates a ceasefire, after which it is provided with military pretexts to launch military attacks. (See Nancy Kanwisher, "Reigniting violence: How do ceasefires end?" *Huffington Post*, January 6, 2008.) For a more comprehensive study of Israeli policies during the second Intifada, See "Between the Lines: Readings in Israel, the Palestinians and the U.S 'War on Terror', Tikva Honig-Parnass and Toufic Haddad Haymarket Books, Chicago, 2007.

<sup>91</sup> <sup>OCHA</sup>, *Weekly Report, 16 – 20 January 2009*, January 21, 2009.

<sup>92</sup> For full list of casualties during "Operation Cast Lead" see the Palestinian Center for Human Rights statistics at: <http://www.pchrgaza.org/files/PressR/English/2008/19-03-2009.html>. The list includes more people who died as a result of their injuries after the war ended.

<sup>93</sup> "The Humanitarian Monitor: occupied Palestinian territory, January 2009", OCHA Humanitarian Monitor #33. February 13, 2009.

<sup>94</sup> Cited in *Ibid*. The report references a UNDP report "Attitudes and perceptions of the Gaza Strip residents in the aftermath of the Israeli military attack", February 2009, p.16; and Near East Consulting Group, "Monthly monitor of Palestinian perceptions towards politics and economics", January 2009.

Commissioner for Refugees also noted that Gaza is “the only conflict in the world in which people are not even allowed to flee.”<sup>96</sup>

An estimated 2.6 percent of homes in Gaza were completely destroyed, and an additional 20 percent sustained serious damages.<sup>97</sup> 80-90,000 people were forced to leave their homes and live in open space in the dead of winter.<sup>98</sup> 219 major factories, among them several industrial sites, including food processing plants, Gaza's largest concrete factory, and the only operating flour mill were also among the toll of destruction. <sup>99</sup>An estimated 80 percent of agricultural land and crops were damaged,<sup>100</sup> while arable land was also contaminated by spills of sewage and toxic munitions.<sup>101</sup>

#### *b-7) Attacks and Harassment by Non-State Actors*

##### *Settler Attacks in the OPT:*

Attacks and harassment by Jewish settlers prevent Palestinians from accessing their land, result in the destruction of Palestinian property and livelihood, and in many cases, lead to the forced displacement of Palestinian communities. Kinds of attacks include physical assault, criminal trespassing, property damage, threats of violence, abuse and intimidation, killing of animals, desecration of cemeteries and mosques, dumping of waste, sexual harassment, as well as cases of killings. Incidents of settler violence in 2008 were most concentrated in the Hebron region (42%) and the outskirts of Nablus (21%), a trend also witnessed in previous years.<sup>102</sup> The first 10 months of 2008 witnessed 290 settler-related incidents targeting Palestinians and their property – a figure that illustrates the continued rise of this phenomenon over the course of the previous two years: 182 and 243 in 2006 and 2007, respectively.

A study of over two thousand Palestinian structures in the vicinity of settlements and their access roads in Hebron showed that at least 1,014 Palestinian homes (41.9 percent) had been vacated by their occupants.<sup>103</sup> Another report revealed that 90 percent of Israeli police investigations into Israeli settler offenses against Palestinians ended in failure: investigation files were closed on the grounds of "lack of evidence" and "perpetrator unknown," and in some cases complaints were filed and lost and hence never investigated.<sup>104</sup>

#### The impunity of Israeli settlers and its destructive effects upon Palestinian communities

<sup>95</sup> "Human Rights Situation In Palestine And Other Occupied Arab Territories Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", Richard Falk A/HRC/10/20, 11 February 2009.

<sup>96</sup> Cited in *ibid.*

<sup>97</sup> United Nations, Gaza Flash Appeal, January 2009.

<sup>98</sup> "European governments and citizens hold the key to imposing accountability on Israel", Centre on Housing Rights and Evictions, 12 January 2009; and Emergency Architects, Information flash: "The foundation of Emergency Architects helps with emergency re-housing in Gaza", 18 February 2009.

<sup>99</sup> "Israel destroyed Gaza's civilian economic infrastructure", Rory McCarthy, The Guardian, Monday 26 January 2009.

<sup>100</sup> See Palestinian Central Bureau of Statistics and UNOSAT Damage Assessment, 20 January 2009.

<sup>101</sup> The Observer, "Gaza desperately short of food after Israel destroys farmland", 3 February 2009.

<sup>102</sup> "Unprotected: Israeli Settler Violence Against Palestinian Civilians and their Property", OCHA Special Focus, December 2008.

<sup>103</sup> "Ghost Town", B'Tselem and the Association for Civil Rights in Israel, May 2007.

<sup>104</sup> "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.

was recognized by the World Bank in a 2007 report: “[L]acking legal remedy and physical protection, Palestinians last recourse is often to leave the land, further shrinking the agricultural sector and disrupting the economic and social fabric of Palestinian towns and villages.”<sup>105</sup>

### *c) Additional Human Rights Violations*

Israeli policies of forced displacement are not always restricted to overt measures of dispossession such as home demolition, land confiscation or revocation of residency rights. The repetitious, systematic violation of basic human rights in the OPT and the overall humanitarian situation are perpetual causes for Palestinian displacement within or beyond the borders of their homeland.<sup>106</sup> Among the gravest of these violations include:

#### *c-1) Denial of Right to Self Determination, the Right to a Nationality, Identity and Travel Document*

The continued denial of the right to self-determination fundamentally violates the Palestinian right to enjoy many other human rights that would naturally flow from a recognized nationality, identity and travel document. Even when Palestinians in the OPT democratically elect their representatives, their leaders are subject to mass imprisonment and assassination. 14 representatives of the January 2006 elections were already in Israeli prisons at the time of their election.<sup>107</sup> Israel has arrested 45 additional PLC members since June 2006, in addition to dozens of more junior elected officials.<sup>108</sup> Israel has also killed two other members of the Palestinian parliament, including Said Siyyam, a PLC member from Gaza who received the highest number of votes in the 2006 election.

The lack of a recognized national existence embodied in statehood results in different forms of documentation, pending where Palestinian refugees and IDPs reside. Like non-refugee Palestinians, refugees and IDPs in the 1967-occupied Palestinian territory may obtain a “Palestinian Passport” that functions as a travel document.<sup>109</sup> Refugees and IDPs who held Jordanian passports before July 1988<sup>110</sup> are also eligible for a two

<sup>105</sup> “Movement and Access Restrictions in the West Bank: Uncertainty and Inefficiency in the Palestinian Economy”, World Bank Technical Team, Executive Summary, 6 May 2007, para. 18.

<sup>106</sup> The Guiding Principles on Internal Displacement defines internally displaced person's as "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized border. See <http://www.unhcr.ch/html/menu2/7/b/principles.htm>

<sup>107</sup> "A Parliament of Prisoners", Toufic Haddad, Electronic Intifada, February 4, 2006.

<sup>108</sup> "Israeli forces arrest West Bank political leaders" Press release, Addameer, March 22, 2009.

<sup>109</sup> Article VI(1)(d), Agreement on the Gaza Strip and the Jericho Area, 4 May 1994. The front cover of the “passport” includes the phrase “travel document”. The passport is issued jointly by the Palestinian Authority and the Israeli military administration. However, restrictions on freedom of movement in the 1967-occupied Palestinian territory may prevent Palestinians from reaching exit crossings in the occupied West Bank and Gaza Strip. For further discussion of these changes, see Jamal, Manal and Darwish, Buthaina, Exposed Realities: Palestinian Residency Rights in the “Self Rule Areas” Three Years After Partial Israeli Redeployment. Bethlehem: BADIL Alternative Information Center, 1997.

<sup>110</sup> Prior to 1995, Palestinians were issued two-year documents. Between 1948 and 1967, Palestinian residents of the West Bank were able to travel abroad on passports issued by the Jordanian government. After 1967, Israel required Palestinian residents of the occupied territory to obtain special permits to travel abroad. In July 1988, the King of Jordan announced that “legal and administrative links” between the East and West Bank would be severed. West Bank Palestinians who held Jordanian passports thus lost their right to citizenship and residence in Jordan. Palestinian residents of the occupied Gaza Strip were able to travel abroad on special travel documents issued by the All Palestine Government until 1960, when they were replaced with Egyptian travel

or five-year renewable Jordanian passport, which functions as a travel document. Those who hold both a Palestinian passport and a passport from a second state must enter and exit the OPT on their “Palestinian Passport”. Palestinian residents of Jerusalem who hold Jordanian passports and wish to travel via land to Jordan must obtain a permit from the Israeli Ministry of Interior; a *laissez-passer* is required for travel via Israel’s international airport. Since January 2002, holders of Palestinian passports from the occupied West Bank and Gaza Strip, including Palestinians with dual citizenship, have not been permitted to exit or enter Israel through Ben Gurion International Airport in Tel Aviv.<sup>111</sup>

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documents. After 1967, they also required special Israeli-issued permits.

<sup>111</sup> Palestinians seeking to leave and return via land crossings with Jordan and Egypt face frequent restrictions and delays upon exit and entry.



Israel has begun issuing a new tourist visa that restricts travelers to Palestinian Authority areas only. This unprecedented move may usher in an era of formalizing the de facto creation of Palestinian Bantustans throughout the West Bank.

It would seem logical that the Palestinian Authority issues visas for its areas itself. But the PA does not have that power, and Israel is taking the initiative to do so on its behalf, but without PA consent.

The repercussions of this are multifold. “Palestinian Authority areas” become ‘hardened’ as a territorial and jurisdictional unit, when previously these areas were only intended to be temporary areas of jurisdiction, that would eventually form the basis of a future Palestinian state, to be negotiated between Israel and the PLO. Hence, without the need to negotiate the latter, and to gain agreement from the PA for the actual borders of its state-to-be, (and all that entails with regards to sovereignty), Israel is de facto transforming and elevating a pre-existent jurisdictional arrangement, into a de facto border between itself and the areas the Palestinian Authority “controls.” In sum, Israel appears to be issuing a visa for a Bantustan-like state, that is yet to be declared officially, but which de facto is being created by such bureaucratic measures.

Source: The Faster Time, <http://thefastertimes.com/Palestine/2009/08/06/is-this-what-an-israeli-apartheid-stamp-looks-like/>, 6 August 2009. Palestinian Authority Only": New Israeli Stamp limits Travel to Tourists by Toufec Hadad,

### *c-2) Violations of the Right to Life*

Israel routinely violates the right to life of Palestinians in the OPT employing excessive force, willful killing and extrajudicial assassination. In 2008, 868 Palestinians were killed by the Israeli army or settlers and at least 2,260 Palestinians



were wounded.<sup>112</sup> The total number of Palestinians killed since the beginning of the current Intifada in September 2000, including the military assault on Gaza at the end of 2008 and the beginning of 2009, thus stands at 6282 people, including 1165 children and 279 women.<sup>113</sup> The number of injured is over 31,366. Among the dead include 11 journalists and 26 medical personnel. Israel's use of extra-judicial assassination has also killed 742 people.

### *c-3) Arrest, Torture and Cruel and Inhuman Treatment*

As an occupying power, Israel has imprisoned an estimated 700,000 Palestinians since 1967.<sup>114</sup> At the end of 2008, at least 9,000 Palestinians, including 248 children and 69 women, were held in Israeli custody in detention facilities mostly inside Israel.<sup>115</sup> At least 337 of these prisoners were arrested before the Oslo Accords in 1994. Israel additionally holds 40 members of the Palestinian Legislative Council and some 900 "administrative detainees", persons not convicted for any offence and held for renewable periods of up to six months. Palestinian prisoners in Israeli jails are subjected to various forms of torture and inhuman and degrading treatment.<sup>116</sup> Around 150 prisoners are Palestinian citizens of Israel.

### *c-4) A Continual State of Discrimination and Violating Rights to Work, Education, Health Care and Food Security*

Israel prevents Palestinian's in the OPT from being able to enjoy basic rights to work, education and health services, largely through restrictions the occupation puts on freedom of movement of people and supplies. The very essentials of a self-sustaining Palestinian existence are hence prevented, creating a situation of chronic dependence upon Israel, instability and underdevelopment. For example from 2000 to 2007, the Israeli Government destroyed 2,851 dunums of land, 13,147 dunums of vegetables and 14,076 dunums of Palestinian field crops.<sup>117</sup> Over the course of the past five years, Israel destroyed 455 wells, 37,929 dunums of irrigation network, 1,000 km of main pipelines, 1,9 km of irrigation pools, 930 agricultural stores and 1,862 of animal barns and stables. In the same period 1.6 million Palestinian trees were uprooted, further jeopardizing Palestinian food production.

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<sup>112</sup> See PCHR Annual Report 2008 p.32

<sup>113</sup> Statistics come from the Palestinian Center for Human Rights "Statistics" page (<http://www.pchrgaza.org/alaqsaintifada.html>) checked May 7, 2009, in addition to the "The Dead in the course of the Israeli recent military offensive on the Gaza strip between 27 December 2008 and 18 January 2009." Special Report (<http://www.pchrgaza.org/files/PressR/English/2008/list.pdf>), and a PCHR press release of March 12, 2009 (REF: 36/2009)

<sup>114</sup> "2008 Annual Report" B'Tselem, 2008.

<sup>115</sup> PCHR 2008 Annual Report. This is in violation of article 76 of the Fourth Geneva Convention which obligates the occupying power to detain persons from occupied territory in that territory.

<sup>116</sup> The main forms of torture and mistreatment practiced against Palestinian detainees include blindfolding and hitting; strangling, insulting, forcibly removing beards, hanging a detainee by his feet and hitting him on sensitive body parts, sexually abusing detainees, putting the detainee's head in a bag or using tight blindfolds (Shabeh) for long periods, using tight handcuffs and sleep deprivation. See PCHR Annual Report 2008, p. 52.

<sup>117</sup> "'Food Security' in Palestine" Palestine Monitor, May 5, 2009

### 3. *Recommendations*

*We call upon the Special Committee:*

- a. To urge the General Assembly to adopt a resolution based on Resolution ES/10/15, which specifies further measures to be taken by states, including sanctions and boycotts, in order to ensure Israel's respect of its obligations under the ICJ *Advisory Opinion*, UN resolutions and international law.

Such a resolution is necessary and urgent in light of Israel's ongoing practices of forced displacement and population transfer of Palestinians in/from the OPT, in particular from the occupied West Bank, including East Jerusalem, through colonization and construction of the Wall. Additional urgent measures are immediately necessary to require Israel to comply with its international legal obligations, including under UNGA 194 (1948) and UNSC 237 (1967), to facilitate the return to their homes and property restitution to those Palestinians already displaced from 1948 onwards.

- b. To call for immediate intervention and re-activation of the UN system, its mechanisms and resources, to re-examine the obstacles to the return, restitution and compensation of all displaced Palestinians, in particular those displaced in/from the OPT since 1967 and those forced to live as refugees in the OPT since 1948.

- c. To urge the General Assembly to closely monitor the progress of the UN Register of Damages caused by Israel's Wall in the OPT under Resolution A/ES-10/L.20/Rev.1 of December 2006, and urge the Register's Board to ensure that meaningful and comprehensive registration of damages becomes available for Palestinian victims in the OPT at the earliest possible date, in order to prevent destruction of valuable evidence over time.

- d. To Encourage OCHA, UNRWA or OHCHR to register IDP covering all causes of displacement, and to undertake profiling by registering people at risk, IDP, including refugees who are also IDP and compile statistics on their numbers, causes of displacement, locations and situations following displacement. It is imperative that we know who and how many people are displaced in order to understand the scope of displacement, raise awareness and develop and adequate programmatic response. Statistics on the number of IDP should be published in the Humanitarian Monitor or by OHCHR and by other DWG publications. If resources allow, the movement of IDP should be monitored over the years, so that we know what happens to them following displacement.

- e. To Ensure that internal displacement is mainstreamed in UN programs amongst all UN agencies and remains a central theme of the Protection Cluster. Internal, in particular arbitrary displacement needs to be a priority because it encapsulates a number of human rights and humanitarian law violations that affect the rights of Palestinians, such as self-determination, property rights, freedom of movement, and residency rights.

- f.** To urge the General Assembly to address the question of internal forcible displacement in the OPT and Israel by urging Israel to revoke and annul its discriminatory laws, policies and practices which are the root cause of the forced displacement, and to facilitate the return of and just reparation to the displaced and/or dispossessed persons, including restitution and compensation; and to encourage international agencies to provide effective protection to Palestinians in the OPT within the framework of the UN Collaborative Response to Internal Displacement.
- g.** To bring the issues of revocation of residency rights, property demolition and ethnic cleansing in eastern Jerusalem to the urgent attention of the General Assembly.