EURO-MEDITERRANEAN HUMAN RIGHTS NETWORK
RÉSEAU EURO-MÉDITERRANÉEN DES DROITS DE L'HOMME
الشبكة الأوروبية ـ المتوسطية لحقوق الإنسان

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Background note – additional information on the thematic priorities

1. Human Rights and international humanitarian law in the occupied Palestinian territory (OPT)

- Illegal closure of the Gaza Strip

14 June 2012 has marked the fifth year of Israel's closure – by land, air and sea – of the Gaza Strip. The closure has had a major impact on all aspects of the lives of the 1.6 million Palestinians living in Gaza. It severely restricts their freedom of movement and trade, and violates their basic human rights, including the right to life, health, education, food, water, standard of living, and adequate housing. International law is unequivocal: the closure constitutes a form of collective punishment of the entire civilian population of Gaza and is in clear violation of international humanitarian law. This position has been shared publicly by the ICRC in 2010[1]. Furthermore, the closure is undermining the possibility of an EU-backed two-state solution and constitutes a major obstacle to Palestinian self-determination.

The decisions by the Government of Israel to 'ease some restrictions on the Gaza Strip' over the last two years have not resulted in any meaningful improvement of the lives of most Palestinians living in the Gaza Strip. Indeed, according to the Al-Mezan Center for Human Rights, 31% of the population are jobless, 75% are aid-dependent, Gaza experiences up to 12 hours a day rolling blackout and only eight as compared to 240 truckloads of goods before the closure leave Gaza each week. There can be no partial violation of international law, and the 'easing' has left the foundations of the illegal closure policy intact. Lifting the full closure of Gaza remains a legal, economic and political imperative for those seeking a lasting resolution to the Israeli-Palestinian conflict.

For further information see:

- EMHRN statement, The EU Must Step-up Action to End the Illegal Closure of Gaza and Protect Civilians (June 2012).
- UN OCHA fact sheet, Five Years of Blockade – The humanitarian situation in the Gaza Strip (June 2012).

The situation of patients in need of medical treatment outside Gaza

According to the World Health Organisation (WHO), over 12,000 patients from Gaza were referred by the Palestinian Ministry of Health for specialised treatment in the West Bank, including East Jerusalem, and in Egypt, Israel and Jordan in 2011.[2] These referrals were necessary because Gaza lacks the capacity, equipment and medical supplies to treat such patients. Patients suffer protracted delays in receiving permits or outright denials, sometimes resulting in death, and face interrogation by Israeli security forces as an application condition. According to data collected by the Al Mezan Center for Human Rights, from August 2008 to date, 11 patients died after travel was prohibited or while they waited for their permits to be granted, and 1365 applications were rejected. Upon arrest, patients are bound, tortured, interrogated, coerced, and often not permitted to see their lawyers,

[1] See ICRC, news release, Gaza closure: not another year! (2010).
[2] WHO, Five Years of Blockade: A political Determinant of Health in Gaza (June 2012)

and from August 2008 to date, 16 patients or travel companions were arrested at the Erez Crossing. Denial of medical treatment, even in times of armed conflict, is recognised under international law as a form of cruel, inhumane, and degrading treatment, yet the Israeli military continues to hinder effective access to wounded persons in the Access Restricted Areas near Gaza's border with Israel.

For further information see:

- Al Mezan Center for Human Rights fact sheet, Five Years of Closure: Gaza Patients as Victims of the Referrals System (June 2012).
- WHO, Five Years of Blockade: A political Determinant of Health in Gaza (June 2012).
- Medical Aid for Palestinians and Save The Children report, Gaza's Children: Falling Behind - The effect of the blockade on child health in Gaza (June 2012).

The situation of students

Since 2000, Palestinian students from Gaza, as a category, have been prevented by military order from studying at Palestinian universities in the West Bank. Before the closure, 1,000 students per year studied at the prominent universities in the West Bank. One of these students was recently granted a permit to go to the West Bank on other grounds, thereby undermining any potential security argument put forward by the Israeli authorities. Refusing the right to education on other grounds than security risks is a violation of international humanitarian law (IHL).

In May 2012 the Israeli Supreme Court ordered the Israeli military to reconsider its refusal to allow four female Master's students from Gaza to reach their studies at Birzeit University in the West Bank. The decision marks the first time in 12 years that the court has indicated a willingness to intervene in the sweeping ban on Palestinian students from Gaza pursuing studies at Palestinian universities in the West Bank. The procedure is still pending.

For further information see:

- Al Mezan Center for Human Rights, Fact Sheet: Gaza Students Anxious to Complete Their Educations in the West Bank (June 2012).
- Gisha and Al Mezan press release, For the first time in 12 years: Israeli Supreme Court orders military to reconsider application of Gaza-West Bank student ban (May 2012).

- Restrictions to freedom of movement, including the Barrier/Wall

Restriction on freedom of movement

Movement restrictions imposed in violation of IHL, including those resulting from the Wall/Barrier, continue to have a serious effect on Palestinians' rights, including regarding the access to medical care, livelihood and family life. According to UN OCHA, in September 2011, 522 roadblocks and checkpoints obstructed Palestinian movement in the West Bank, compared to 503 in July 2010.[3] According to the same source, 200,000 people from 70 villages were forced to use detours between two to five times longer than the direct route to their closest city due to movement restrictions. Particularly severe restrictions in the Jordan Valley and the 'seam zone'[4] (both in Area C) seriously affect Palestinian residents' ability to grow and sell their crops, and to maintain contact with family members. According to UN OCHA in December 2011, around 6,500 Palestinians who reside in the

[3] UN OCHA fact sheet, Movement and Access in the West Bank (September 2011).
[4] The 'seam zone' refers to areas from the West Bank which are West of the Barrier/Wall and East of the Green Line, making them closed areas behind the Barrier/Wall.

Seam Zone, excluding East Jerusalem, require special permits to continue living in their own homes; and this number will reach 25,000 will be isolated if the Barrier is completed as planned.[5]

For further information see:

- B'tselem, Restrictions on movement - Impact of the restrictions on Palestinian fabric of life, (January 2012).
- UN OCHA fact sheet, Movement and Access in the West Bank (September 2011).
- UN OCHA, Palestinian Communities Affected by the Barrier (December 2011).

The Barrier/Wall

The International Court of Justice has concluded in 2004 that the construction of the Barrier/Wall on OPT is in violation of peremptory norms of international law and declared that it must be dismantled.[6] Nevertheless, Israel is unrelenting in completing its construction for alleged security reasons.

The total length of the Barrier/Wall is 708 kilometres, approximately twice the length of the Green line and 85% of it will have been built within the West Bank upon its completion. The Barrier/Wall systematically cuts across Palestinian farmland, separating and isolating Palestinian villages and families, as well as hampering Palestinian freedom of movement and access to health and education. As its ultimate objective, is the annexation of Palestinian land and further entrenchment of Israeli settlements in the OPT, with the path of the Barrier/Wall accommodating the further 'needs' of the settler population.

For further information see:

- UN OCHA, The humanitarian impact of the Barrier (July 2012).
- Al Haq campaign – The Annexation Wall: 10 years too long, Facts and Figures (June 2012).

- Forced displacement of Palestinians and demolitions of civilian infrastructures in area C of the OPT

The planning authority regime in Area C, demolitions and exploitation of natural resources

According to UN OCHA, as of the end of May 2012, 257 structures in Area C were demolished, and 497 people were forcibly displaced by demolitions or evictions.[7] This is the consequence of a discriminatory Israeli planning regime, which goes beyond the limits of IHL, and under which Palestinians are denied building permits and recognition of their village plans. This system also has a serious impact on Palestinians' access to water, and results in the destruction of cisterns and other water and sanitation infrastructure. According to the EWASH advocacy task force, in the Jordan Valley and northern Dead Sea, Israel has closed off 77.5% of the land area to Palestinians, therefore impeding their access to water sources.[8]

[5] UN OCHA, Barrier Update (July 2011).
[6] International Court of Justice advisory opinion, Legal Consequences of the construction of a wall in the occupied Palestinian territory (July 2004).
[7] UN OCHA, The Monthly Humanitarian Monitor (May 2012).
[8] EWASH advocacy task force fact sheet, Demolition and destruction of water, sanitation and hygiene infrastructure in the OPT (December 2011).

For further information see:

- Oxfam report, On the Brink: Israeli settlements and their impact on Palestinians in the Jordan Valley (July 2012).
- Al-Haq, A Thirst for Justice: Six Palestinian Wells Demolished in Jenin (June 2012).
- B'Tselem, Dispossession and Exploitation: Israel's Policy in the Jordan Valley and Northern Dead Sea (May 2012).
- Al-Haq, Six Water Cisterns Demolished near Hebron (April 2012).
- Al-Haq, "Water scarcity" in the OPT - A Man-Made Disaster in Need of a Rights-Based Solution (March 2012).
- Al-Haq, The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory (November 2011).

Demolition order and forced displacement in Susiya

Of particular concern is the situation in the village of Susiya (Hebron district), where on 12 June 2012, 50 buildings were placed under demolition order, including the homes of 100 people. The village has already been subjected to numerous waves of demolition, and is now being threatened as a result of a settler lawsuit. In combination with previous demolition orders, the entire village of 350 people (including 120 children) is at risk of forced displacement. Buildings under threat in Susiya reportedly include aid projects funded by the European Commission, Germany, Poland, Australia, and a number of European NGOs.

For further information see:

- B'tselem, Civil Administration threatens to demolish most of Susiya village (June 2012).
- Al-Haq, Sousiya May Soon Disappear (June 2012).
- See OCHA OPT, Susiya: at imminent risk of forced displacement (March 2012).

Demolition order and forced displacement in Al-Walaja

In April 2006, Israel announced plans to encircle the West Bank village of Al-Walaja with the Barrier/Wall making it a Palestinian enclave within the illegal settlement bloc, a plan which is currently under way. By completely surrounding the village and leaving the residents with just one way in and out, the Barrier/Wall and its associated regime will impact the residents' access to health, education and livelihood resources outside of the village. The movement of people and goods will be strictly regulated by the Israeli forces, effectively making the residents of Al-Walaja prisoners in their own village. Israeli authorities have already demolished around 50 houses for a lack of building permit while an additional 56 demolition orders are still pending. Residents of al-Walaja are faced with the threat of a second forced displacement since 1948.

For further information see:

- UNRWA, The story of a tree and a barrier: Al-Walaja faces a second uprooting.

Forced displacement of Palestinian Bedouins

The Israeli Civil Administration's plan to expel around 27,000 Bedouins from the area of the settlement of Ma'ale Adumim in Area C blatantly contravenes IHL, which prohibits the forced transfer of protected persons, such as these Bedouin communities, unless the move is temporary or necessary for their safety or to meet a military need. The Civil Administration's expulsion plan meets

none of these conditions. Israel, as the occupying power, is obligated to act for the benefit and welfare of residents of the occupied territory. Expansion of the settlements does not correspond to this requirement.

For further information see:

- B'Tselem, Civil Administration plans to expel tens of thousands of Bedouins from Area C (October 2011).

- Violation of the rights of Palestinians in East Jerusalem

Following 1967, Israel illegally annexed by force occupied East Jerusalem. Israel perceives united Jerusalem (including East Jerusalem) as its capital. At its core, Israel seeks to judaize East Jerusalem and to this end has employed several measured aimed at altering the demographical composition of the area, effectively diminishing the presence of Palestinian Jerusalemites.

Measures employed by Israel include the construction of the Barrier/Wall on OPT, denial of family reunification requests, a residency permit regime which is based on the so-called "centre of life" criteria (which entails consistently proving a continuous residence in East Jerusalem), and the effective impossibility of Palestinians to acquire building permits resulting inevitably in house demolitions. Since the start of the year up until 13 June 2012, Al-Haq documented 17 house demolitions in East Jerusalem. In 2011, Al-Haq documented 38 house demolitions. This situation is exacerbated by the fact that nearly half of the entire settlement population (200.000 settlers) is in East Jerusalem.

For further information see:

- B'Tselem, Background on East Jerusalem (Update July 2012).
- UN OCHA, Settlements in Palestinian Residential Areas in East Jerusalem (April 2012).
- Al-Haq, The Jerusalem Trap (October 2010).

- Illegal Settlements built in the occupied territory

There are some 501,856 settlers living in the West Bank: 190,425 in neighbourhoods in East Jerusalem (according to figures of the Jerusalem Institute for Israel Studies for the end of 2010) and 311,431 in the rest of the West Bank (according to figures of Israel's Central Bureau of Statistics for the end of 2010). According to UN OCHA, once the Wall/Barrier is complete, approximately 80% of the settlers' population currently residing in the OPT will be located between the Wall/Barrier and the Green Line (*de facto* annexation of land) therefore consolidating the illegal appropriation of Palestinian land and resources.[9]

On 22 February 2012, the Israeli Civil Administration approved new constructions in the settlements of Shvut Rachel and Shilo and retroactively legalised more than 200 built without permits. On April 24th the Israeli Government decided to legalise the outposts of Sansana, Rechelim and Bruchin. With this decision, these three outposts become new "legal" settlements in the West Bank, with all the benefits that entails, including the right to plan and expand. On 8 June, the government announced the construction of 851 new units in Beit El (300 units), Ariel (117 units), Efrat (114 units), Adam (Geva Binyamin; 144 units), Kiryat Arba (84 units) and Maale Adumim (92 units) in compensation of the evacuation of Ulpana.

[9] UN OCHA, The Humanitarian Impact of Israeli Settlement Policies (January 2012).

For further information see:

- B'Tselem, interactive map of settlements.
- Al-Haq, Israel's Land Grab Policy Leaves Palestinians Dispossessed (March 2012).
- UN OCHA, The Humanitarian Impact of Israeli Settlement Policies (January 2012).

The UN Committee of Investigation into the legality of the Settlement Enterprise

On 6 July 2012, the UN Human Rights Council announced the creation of a "fact-finding mission on the implications of Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the OPT, including East Jerusalem"[10], composed of independent international experts. The President of the Human Rights Council appealed to Israel to co-operate with the fact finding mission, which Israel refused right away.[11]

For further information see:

- Al-Haq, UN Fact-Finding Mission to Investigate Impact of Israeli Settlements (March 2012).

- Culture of impunity in Israel

The fourth Geneva Convention requires that states parties search for and provide effective penal sanctions against persons suspected to have committed, any grave breaches of the Convention. Grave breaches include killing or wilfully causing great suffering or serious injury to body or health of civilians and destruction of property in the absence of military necessity. Other acts are criminalised and must be suppressed by states parties, but are not described as grave breaches. The International Covenant on Civil and Political Rights requires that victims of violations be given effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.

Since 2000, Israel has increasingly avoided accountability for serious violations of human rights and IHL committed in the OPT. Indeed, following the outbreak of the second Intifada, the Military advocate general (MAG) declared that the reality in the territories had become an "armed conflict" and hence that military police investigations were only initiated in cases in which there is a suspicion of criminal behaviour by the soldiers. The decisions are based on the findings of operational inquiries. The change of policy resulted in a drastic drop in the number of investigation launched by the Military Police. In April 2011 however, the State Attorney's Office announced that a Military Police investigation would be opened automatically in every case in the West Bank –but not the Gaza Strip- in which a soldier killed a Palestinian civilian who was not taking part in hostilities. When it comes to the West Bank, the policy change is welcome, however remains problematic in several ways. Between the MAG announcement of its change in policy and through the end of February 2012, five Palestinians have been killed in the West Bank by soldiers. In each of these cases, a Military Police Investigation Unit (MPIU) investigation was opened immediately after the event although, insofar as is known to B'Tselem, none of them has yet been concluded.

Regarding Gaza, three years after the Israeli offensive "Operation Cast Lead" on the Gaza Strip, Israel (as well as the Palestinian authorities) have failed to conduct investigations that meet the required international standards of independence, impartiality, thoroughness, effectiveness and promptness

[10] UN news, Human Rights Council to probe expansion of Israeli settlements in the OPT (July 2012).
[11] Israeli MFA, Israel: UNHRC's action is flawed and biased (6 July 2012).

into the violations of international law it allegedly committed[12]. These investigations were demanded in the report of the UN Fact Finding mission on the Gaza conflict (the so-called "Goldstone report") - endorsed by the UN General Assembly and the UN Human Rights Council - and called for by the EU.

As reported by various Israeli, Palestinian and international NGOs, independence and impartiality of the Israeli investigations are severely compromised by the fact that all these inquiries have been carried out by army commanders or by the military police. In addition, these inquiries are overseen by MAG, whose office cannot be considered a disinterested party as it provided legal advice to Israeli forces on their choice of targets and tactics during Operation Cast Lead. Moreover, many aspects of these military investigations are carried out in the form of so-called operational debriefings, which are conducted for the purposes of evaluating lessons learned for the military itself, and not to investigate the possibility of criminal behaviour. Further, Israeli investigations as a whole look only into violations resulting from deviations from orders and do not examine the legality of the orders themselves. However, most of the harm to civilians, property and civilian buildings during Operation Cast Lead was a result of policies determined at the senior government and army levels, with the approval of the MAG. Several of these shortcomings have been confirmed in the 2010 and 2011 reports of the Committee of independent experts in international humanitarian and human rights laws mandated by the UN Human Rights Council to monitor and assess domestic proceedings by Israel and the Palestinian Authority from an international law point of view. [13]

As of 2012, the sum of Israeli domestic accountability for Operation Cast Lead amounts to three indictments and three cases of purely disciplinary action within the military.[14] Killing or injuries committed after Operation Cast Lead have neither led to proper investigation by Israel even though from 19 January 2009 to 31 May 2012, B'Tselem has reported 235 Palestinians killed by Israeli security forces in the Gaza Strip.[15] According to the Al Mezan Center for Human Rights, in one case, a soldier was indicted for stealing and using a credit card. Soldiers who used a child as a human shield were sentenced to suspended six months. Another soldier who shot women without orders was not sent to prison.

The lack of independent and transparent investigations, together with monetary barriers, the 2-year statute of limitations imposed on filing tort (compensation) cases[16] and the lack of access to Israeli courts for victims, witnesses and lawyers living in Gaza - due to the illegal Israeli closure policy- [17],

[12] In general, the Israeli Military Advocate General (MAG) did not investigate all complaints submitted to it in relation to Operation Cast Lead but it seems to have picked certain cases addressed in the UN Fact Finding Report (the so-called Goldstone report). It officially closed other complaints/cases, while lacking to provide information about the status of many other complaints submitted by NGOs.

[13] For the 2010 Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance and the 2011 report of the Committee of independent experts in international humanitarian and human rights law established pursuant to Council resolution 13/9.

[14] B'Tselem statement, Three years since Operation Cast Lead: Israeli military utterly failed to investigate itself (January 2012).

[15] See B'Tselem's statistics page, consulted on 11 July 2012.

[16] Under Israeli law, a complaint for civil damages must be brought within two years of the date of the incident, or the right to compensation is irrevocably lost. As a result of the illegal closure of the Gaza Strip, and the significant number of victims of Operation Cast Lead, this two-year limit means that the victims are often unable to submit their cases within the required time-frame. Prior to 1 August 2002, the statute of limitations was seven years.

[17] According to PCHR, since June 2007, despite a letter from the court requesting the victims and witnesses' presence, the Israeli military authorities have not allowed a single individual to leave Gaza to appear in court. See PCHR, Israel High Court of Justice vacates verdict in Cast Lead Case: Appoints New Panel of Judges and Orders Case on behalf of 1,046 victims be Re-heard. Adalah filed a petition to the Jerusalem Administrative Court in October 2011 against Israel's policy of preventing Palestinian residents of the Gaza Strip who file tort (damages) lawsuits against the Israeli security forces, and their witnesses from entering Israel in order to appear in court and completing the necessary legal proceedings. See Adalah's

fundamentally deny the victims' legitimate right to an effective judicial remedy. It allows those allegedly responsible of committing those violations to escape accountability, contributing to a culture of impunity in Israel. Under such conditions, there is a real danger that the basic principles of international law, which aim at securing protection for civilians, will continue to be violated in the future.

For further information see:

- Al Mezan Center for Human Rights legal brief, Israel's evasion of Accountability for Grave international crimes (July 2012).
- B'Tselem press release, Army closes investigation into the killing of 21 members of the a-Samuni family in Gaza (1 May 2012).
- B'Tselem, Military Police investigations regarding the deaths of Palestinians (update April 2012).
- B'Tselem, Change in military investigation policy welcome, but it must not be contingent on the security situation (April 2012).
- PCATI, Adalah, PHR-Israel and Al Mezan briefing, Report to the UN committee against torture on Israel's lack of compliance with the Convention Against Torture (March 2012).
- B'Tselem statement, Three years since Operation Cast Lead: Israeli military utterly failed to investigate itself (January 2012).
- Adalah Press Release, Adalah Petitions against the Ban on Gaza Residents from Entering Israel to Access the Courts for Tort Cases against the Israeli Security Forces (October 2011).
- PCHR statement, Israel High Court of Justice vacates verdict in Cast Lead Case: Appoints New Panel of Judges and Orders Case on behalf of 1,046 victims be Re-heard (June 2011).
- B'Tselem's Report: Void of responsibility (October 2010).
- PCHR update, Genuinely Unwilling (August 2010).

The absence of investigation and prosecution for torture offenses

Since 2001, over 750 complaints were submitted by victims to the Israeli Attorney General that demonstrate that the Israeli authorities submit Palestinian detainees to torture and other forms of cruel, inhuman and degrading treatment. However, there is no crime of torture in the Israeli law and Israeli authorities have been benefitting from a clear impunity in this regard. According to the Public Committee Against Torture in Israel, none of the complaints of torture and ill treatment by security detainees received and processed by the Israeli authorities between 2001 and 2011 led to a criminal investigation.[18] Despite the recommendations of the UN Committee Against Torture[19] that Israel should, inter alia, criminalise torture and fully investigate complaints of torture, Israel remains indifferent as reported by PCATI, Adalah, Physicians for Human Rights Israel and Al Mezan.[20]

PCATI describes the Israeli inquiry process as follows: "In practice, the Attorney General has delegated his authority to a senior official within the State Attorney's office, who is not legally empowered to dictate the fate of complaints against the Israeli Security Agency (ISA). This official in turn automatically and comprehensively refers complaints to a preliminary inquiry, conducted by the Inspector of Interrogee Complaints (IIC) - himself an ISA agent – in a formula which ultimately guarantees the absence of credible, independent investigations into complaints of torture and ill

Press Release (October 2011): Adalah Petitions against the Ban on Gaza Residents from Entering Israel to Access the Courts for Tort Cases against the Israeli Security Forces.

[18] PCATI report, Accountability Still Denied (January 2012).

[19] UN Committee Against Torture, Concluding observations of the Committee against Torture – Israel (June 2009).

[20] PCATI, Adalah, PHR-Israel and Al Mezan press release, Report to the UN committee against torture on Israel's lack of compliance with the Convention Against Torture (March 2012).

treatment." In 2010, the UN Human Rights Committee noted its concern over this process in its Concluding Observations.[21] Furthermore in June 2012, the UN Committee Against Torture in its "List of issues prepared by the Committee prior to the submission of the fifth periodic report of Israel" has questioned Israel's on-going lack of independent investigations into torture.[22] In November 2011 the Attorney General pledged to create a permanent post in the Ministry of Justice for conducting investigations and to transfer the post from the ISA agent. PCATI reports that to date this has not been actualised.

For further information see:

- Adalah, Physicians for Human Rights-Israel and Al Mezan Centre for Human Rights journal, On Torture – International Day against Torture (26 June 2012).
- PCATI report, Accountability Still Denied (January 2012).

Impunity regarding settler violence

The number of settler attacks resulting in Palestinian casualties and property damage has increased by 32% in 2011 compared to 2010, and by over 144% compared to 2009, the UN reports.[23] Moreover, according to data collected by Yesh Din, the perpetrators act with virtual impunity, with over 90% of complaints of settler violence closed by the Israeli police without indictment in 2005-2010.[24]

For further information see:

- UN OCHA fact sheet, Israeli Settler Violence in the West Bank (update December 2011).
- Yesh Din Monitoring Update, Law Enforcement upon Israeli Civilians in the West Bank (February 2011).

2. Human Rights in Israel

- Arab Minority

The "Prawer plan"

On the 11th of September 2011, the Government of Israel approved the "Prawer Plan" for the regulation of the settlement of Arab Bedouin citizens of Israel in the unrecognized villages in the Naqab (Negev) in the South of Israel. The "Prawer Plan" was developed without any consultation from the Arab Bedouin or other Arab community leaders. If implemented the plan would violate the basic rights of the Arab Bedouin including their right to dignity and the right to preserve their way of life and culture. It will also dispossess them from their ancestral land and discriminate between Arab Bedouin and Jewish citizens in land and planning in the Naqab.

The UN Committee for the elimination of racial elimination and the European parliament have called on Israel to withdraw this plan in March and July 2012.[25] Legislation to implement the Prawer Plan is

[21] UN Human Rights Committee, Concluding observations of the Human Rights Committee –Israel (July 2010).
[22] Committee against Torture, List of issues prepared by the Committee prior to the submission of the fifth periodic report of Israel (June 2012).
[23] UN OCHA fact sheet, Israeli Settler Violence in the West Bank (update December 2011).
[24] Yesh Din Monitoring Update, Law Enforcement upon Israeli Civilians in the West Bank (February 2011).
[25] UN Committee on the Elimination of Racial Discrimination, Concluding observations of the Committee on the Elimination of Racial Discrimination – Israel (March 2012) and European Parliament resolution, EU policy on the West Bank and East Jerusalem (July 2012).

expected to be tabled in the Knesset very soon. In the meantime, the government has started implementing the Plan.

For further information see:

- Adalah briefing paper, Understanding the Prawer Plan Law (January 2012).
- Adalah, Four Reasons to Reject the Prawer Plan (January 2012).
- Adalah, Analysis of the Prawer Plan (October 2011).

Discriminatory laws and bills

The absence of an explicit guarantee of the right to equality and non-discrimination in Israel's Basic laws or ordinary statutes leaves the Palestinian Arab Minority in Israel vulnerable to discrimination. The current constitutional situation has allowed the State of Israel to enact laws that discriminate against the Palestinian Arab Minority. We count today more than 30 main laws that discriminate directly or indirectly toward the minority.

Of particular concern is the recent decision (11 January 2012) of the Supreme court of Israel to uphold the Citizenship law, which severely restricts Palestinian Arab citizens of Israel from living together in Israel with their Palestinian spouses from the OPT or from "enemy states" defined by the law as Syria, Lebanon, Iran and Iraq". Thousands of Palestinian families are affected by this law, forced to move abroad, to live apart or to live together illegally in Israel. In its recent report of 9 March 2012, the UN Committee for the elimination of racial discrimination reiterated its "concern at the maintenance of discriminatory laws especially targeting Palestinian citizens of Israel such as the Citizenship and Entry into Israel Law". The Committee was "particularly concerned at the recent decision of the High Court of Justice, which confirmed its constitutionality (Articles 2 and 5 of the Convention)".[26]

For further information see:

- Adalah, New Discriminatory Laws and Bills in Israel (update June 2012).
- Adalah press release, Israeli Supreme Court Upholds Ban on Family Unification (January 2012).

- Rights of Palestinian Prisoners and detainees in Israeli prisons

The agreements between the Israeli Prisoners Service and hunger strikers

On 14 and 15 May 2012, an agreement was concluded between hunger-striking Palestinian prisoners and detainees and the Israeli Prison Service (IPS). Its provisions included the release of hunger-striking administrative detainees whose lives were in danger at the end of their current terms; ending the use of long-term solitary confinement for "security" reasons for 19 prisoners; renewal of family visits from the Gaza Strip and alleviating restrictions for families from the West Bank; ending punitive measures such as night raids and restrictions on access to legal counsel and education; improvement of conditions of incarceration including medical care; and limiting the use of administrative detention as a whole. Despite this agreement, Israel has not changed its policy of administrative detention, family visits from the Gaza Strip have not been renewed, and punitive policies are still employed against prisoners and detainees. Moreover, at least one administrative

[26] UN Committee on the Elimination of Racial Discrimination, Concluding observations of the Committee on the Elimination of Racial Discrimination – Israel (March 2012), p. 4.

detainee, Hassan Safadi, who was due to be released, has had his detention order renewed for an additional six months in violation of the agreement.

Eighteen Palestinian prisoners have been taken out of solitary confinement and into regular cells. Dirar Abu Sisi, who has also been held in long-term solitary confinement since before the agreement, has not yet been removed from solitary confinement, in contravention of the agreement. Abu Sisi was abducted by the Israeli Mossad from Ukraine last year. An additional prisoner was also given a 6-month solitary confinement order on the week of 17 June 2012. Other Palestinian prisoners are still being held in prolonged solitary confinement, and the use of solitary confinement as a punitive measure is still on-going. The IPS has claimed that the agreement does not include those prisoners held in solitary confinement ordered by the IPS authorities as a disciplinary measure or in order to maintain prison security and order.

There has been a partial renewal of visits for relatives from the West Bank whose access to the prisons was previously denied. It is not yet clear what percentage of West Bank prisoners' families have now newly been granted permits and how many have been denied permits. Family visits to prisoners from the Gaza Strip have been denied since 2007. According to the agreement, visits should have been resumed within one month of the end of the hunger strike. There are informal reports that the visits are due to be resumed in July. The ICRC has reported that they are in contact with the IPS regarding renewal of visits from the Gaza Strip, but there is no official date yet. The IPS responded in a letter to Adalah on 20 June 2012 that due to the large number of parties involved, including the Israel military, the Attorney General, the Israeli Police, and other security forces, it is difficult to arrange permits for family members to visit.

Violent raids by IPS special forces on prisoners' sections continue despite the agreement. Families of prisoners have reported to PHR-Israel that some wings are suffering from collective punishment due to suspicion of holding mobile phones. Punishments include fines, denial of permission to buy extra food and supplies, and denial of family visits. The latter is a basic right, not a privilege.

Despite the agreement, access to higher education has not been renewed and there is no discussion of intention to renew it. Adalah filed a motion to the Israeli Supreme Court in March 2012 for permission to appeal the Nazareth District Court decision to reject a prisoner's request to continue his higher education in the Open University after two years of study via correspondence.[27] In June 2011, the IPS had suddenly and arbitrarily decided to stop all Palestinian political prisoners from studying higher education courses. To date, there has been no response from the state.

The IPS continues to deny entry of independent doctors to hunger strikers and visits have been enabled only through prolonged court processes. Transfer of hunger strikers to civilian hospitals is also prevented despite a clear need to provide specialised care not available in the IPS medical facility. More generally, the quality of medical care provided to all inmates is a key complaint of Palestinian prisoners and their families. Following the hunger strike, female Palestinian prisoners held in Hasharon prison boycotted the prison clinic for one week in protest at the lack of adequate medical care and unreasonable waiting periods.

As of 1 June 2012, 4,659 Palestinian prisoners were in Israeli custody, including 302 administrative detainees held without formal charge or trial (an increase of 74 compared to 228 in May 2011 and 213 in May 2010).

For further information see:

[27] Adalah, Adalah Appeals District Court Decision Banning Palestinian Prisoner Rawi Sultany from Higher Education (March 2012).

- Al-Haq, Adalah, Addameer, Al Mezan, PCATI and Physicians for Human Rights Update, Update on the current situation of Palestinian prisoners and detainees in Israeli custody, six weeks after the conclusion of an agreement between hunger-strike leaders and the Israeli Prison Service (IPS) (June 2012).
- Adalah, PHR-Israel and Al Mezan, Solitary Confinement of Prisoners and Detainees in Israel Prisons (June 2011).
- UN Special Rapporteur on Torture, Interim report of the Special Rapporteur of the Human Rights Council on Torture, Cruel, Inhuman or Degrading Treatment or Punishment, A/66/268 (August 2011).

The "Unlawful Combatants Law"

Israel passed the 'Unlawful Combatants Law' in 2002, and amended it in 2008. Gazans who are detained under this law are entitled neither to the status of a prisoner-of-war, under the Third Geneva Convention, nor are they entitled to a civilian detainee status under the Fourth Geneva Convention. This law practically strips detainees from any rights and protections provided for by IHL and human rights law. The UN Human Rights committee has expressed its concern at the "continued application and declaration of conformity with Basic Laws by the State party's Supreme Court, of the Detention of Unlawful Combatants Law as amended in 2008"[28]. The Committee also regretted "the absence of information on the possibility for a detainee to challenge any decision of postponement".

According to this Law, persons who are suspected to have taken part in hostile activities against the State Israel 'directly or indirectly', or carried out hostile activities against the security of the State of Israel can be considered 'unlawful combatants'. The Law lends wide powers to Israeli regular courts, which can order arrest, conviction and/or detention of any suspected person for unlimited periods of time without showing evidence at the court or allowing for adequate legal representation.

Moreover, the Law grants full authority to the Israeli Military Chief of Staff, or a deputy of his, to order the arrest of any person based on mere suspicions that he/she could be an 'unlawful combatant', even without the presence of the subject before the military commander who issues the arrest warrant. According to the latest information received, following the liberation of Mahmoud Sarsak on 10 July 2012, there are no more cases of detention under this law.

For further information see:

- Al Mezan, Unlawful Combatants - The Violation of Gazan Detainees' Rights in Israeli Prisons (April 2009).

The military legislation applicable to minors in the West Bank

On 27 September 2011, the Israeli military law was amended to change provisions relating to minors in the military-justice system, which applies to Palestinians in the West Bank (Israelis living in the West Bank are prosecuted according to Israeli penal law). In a welcomed move, the amendment has raised the age of minority from 16 to 18, conforming the age of minority in the West Bank to it to the customary age around the world, including in Israel. However, other grave infringements of Palestinian minors' rights (under the Convention on the Rights of the Child) remain, as Israeli authorities continue to breach the rights of Palestinian minors suspected of stone-throwing at all stages of the process: arrest, interrogation, trial, and imprisonment.

[28] UN Human Rights Committee, Concluding observations of the Human Rights Committee – Israel (July 2010).

Problems remain in different areas of this legislation. The law still allows exceptions to the obligation of notification of the parents of the arrested minor. Firstly, the details of the detention do not have to be given by the authorities, but by the minor, and the authorities are only required to make a "reasonable effort under the circumstances" to locate the parents and are not required to notify the parents when there is a "reasonable suspicion" that notice will obstruct the interrogation or "harm the security of the region." Secondly, the amendment requires the authorities to inform minors who have been arrested of their right to consult with an attorney in private. However, it only requires the interrogator to inform the minor's attorney about the interrogation, and specifies that the giving of notice will not delay the interrogation. In addition, the interrogator must give notice to "a defense attorney whose particulars were provided by the minor," although it is unlikely that a minor under arrest will be in possession of an attorney's contact details. Thirdly, the amendment reduces the prescription period of offenses committed by minors from two to one year, except for a long list of offenses that are defined security offenses, such as causing death, assault, stone-throwing, organizing and participating in demonstrations, disturbing a soldier in the performance of his duties, and throwing a burning object. In effect, the amendment will not apply to most minors accused of committing what are classified as security offenses. Lastly, the amendment states that minors over age 16 may be kept with adults, provided that doing so benefits the minor, and that adults do not have access to minors during sleeping hours, which is highly problematic and can be very damaging later on in life.

For further information see:

- B'Tselem, Army raises minority age of Palestinians to 18, as in Israel; violation of minors' rights continues (October 2011).
- B'Tselem report, No Minor matter (July 2011).

- Rights of migrants and refugees

The past two months have witnessed a marked escalation in measures taken by Israeli authorities against African refugees and asylum seekers in Israel, accompanied by a sharp rise in racially-motivated street violence and public incitement against them. The current escalation has resulted in fear and panic among asylum seekers in Israel. There is urgent need for intervention on their behalf, insisting on the rights of asylum seekers to individual examination of their claims, as well as to basic protection and services while residing in Israel.

The anti-infiltration law

On 9 January 2012, the "Prevention of Infiltration Law" was passed in the Knesset with a vast majority. The law considers anyone who enters Israel irregularly as an "infiltrator", a term used in the past to designate Palestinians refugees trying to return home. The law fails to distinguish migrant workers from asylum seekers or recognised refugees. The Law legalises the detention of migrants and asylum seekers for three years without any charge or trial if they have entered the territory without permit. If the migrant and asylum seekers are identified as coming from an 'enemy' country, such as Sudan, they might face indefinite detention. The law does not exclude pregnant women or children. Consequently, accompanied minors are also to be subjected to the same detention periods as their older relatives.

This law is another step in a series of measures undermining the rights of asylum seekers, planned and implemented by the Israeli government. Other such measures include the building of the largest immigrants' detention facility in the world - a tent city that will house some 20,000 people in the Negev desert in substandard conditions for prolonged periods, until deportation. Furthermore, the

ministry of interior has announced that it will apply Administrative Detention orders to arrested migrants in order to enable their detention without trial by immigration authorities.

For further information see:

- EMHRN press release, Israel: Knesset's repressive "anti-infiltration bill" to give another blow to migrants' rights (January 2012).
- PHR-Israel briefing note, Israeli treatment of African asylum-seekers and refugees arriving in Israel via Sinai (April 2012).

Israel's treatment of asylum seekers

Israel gives the majority of asylum seekers (mainly from Eritrea and Sudan) 'temporary humanitarian group protection' rather than access to an individualised process of examination of their asylum claims (RSD). This means that:
a) They can all be deported as a group when the group protection is removed, without individual examination of their claims. Over the past month and a half this is happening in practice to all South Sudanese, with approval of the courts. This raises concerns regarding Israel's *non refoulement* obligations not to return asylum seekers to places where they fear for their safety, including the threat of potential torture or ill treatment.
b) They have no permission to work, and no access to essential social / health services (bearing in mind that many are victims of torture).

The RSD process that does exist for refugees under 'temporary humanitarian group protection' has only resulted in the recognition of one refugee in 2011.

For further information see:

- PHR-Israel briefing ahead of the EU-Israel subcommittee on migration and social affairs, Update – Escalating measures against asylum-seekers and refugees in Israel (June 2012).
- PCATI, Adalah, PHR-Israel and Al Mezan, Submission of a report to the UN Committee Against Torture on Israel's lack of compliance with the Convention Against Torture (March 2012). Hotline for Migrant Workers Report: "Until Our Hearts are Completely Hardened": Asylum Procedures in Israel (March 2012).

- Attacks against Israeli NGOs

In July 2011, Israel adopted the "Anti-boycott Law". This law undermines the freedom of association and expression in Israel and stand in stark contrast to the fundamental principles of democracy. The anti-boycott law prohibits calls for a "boycott of the state of Israel" by Israeli citizens and organisations, and, in some cases, agreement to participate in a boycott. The definition of "boycott of the state of Israel" does not only comprise the state of Israel and its institutions but also any area under its control, thus including the Israeli settlements in the OPT erected contrary to international law.

Irrespective of the actual merits of the tactic of boycott, the attempt to prohibit it severely restricts freedom of expression as it targets non-violent public expressions of opposition to Israeli occupation policies. It will also affect freedom of association, since it will expose organisations engaging in public campaigning against the settlements and other human rights violations to legal and financial sanctions and costly compensation claims by settler organisations.

On 13 November 2011 the Ministerial Committee for Legislation approved two additional bills intended to significantly curtail the work of human rights organisations in Israel by severely restricting their funding from foreign governments (such as the EU and the UN). According to the "Akunis bill" Israeli NGOs that seek to influence state policies (deemed to be "political organisations") would not be allowed to receive donations of more than NIS 20,000 (EUR 4,000). The "Kirshenbaum bill" seeks to amend the Income Tax Order so that funding from foreign state entities to Israeli NGOs will be subject to a 45% taxation rate. This is liable to prevent foreign governments from funding such organisations, due to their domestic laws.

Following condemnations from Israeli NGOs and pressure from the EU and the US, a revised and combined version of the two bills was proposed in November 2011. The bill was approved by the ministerial committee but – as the pressure continued – subsequently held back and not taken to the Knesset assembly for the three votes necessary for it to pass into law. No further discussions have taken place in 2012.

For further information see:

- Adalah and ACRI, Press Release on Petition to Israeli Supreme Court to Cancel the Anti-Boycott Law (March 2012).
- Israeli Human Rights groups, The anti-boycott law harms freedom of expression and targets nonviolent political opposition to the Occupation (July 2011).
- APRODEV, EMHRN, Front Line, the Observatory for the Protection of Human Rights Defenders and QCEA statement, Anti-boycott law violates human rights and further undermines Israeli democracy - EU must unequivocally condemn the law (July 2012).