



## **JOINT PARALLEL REPORT**

**submitted by**

**Al-Haq**

**Addameer Prisoner Support and Human Rights Association**

**BADIL Resource Center for Palestinian Residency and Refugee Rights**

**Women's Centre for Legal Aid and Counselling**

**To the UN Committee on the Elimination of All Forms of Racial  
Discrimination (CERD)**

**on the Occasion of**

**the Consideration of Israel's 14th, 15th and 16th Periodic Reports on the  
implementation of the International Convention on the Elimination of All  
Forms of Racial Discrimination**

**80th Session**

**13 February – 9 March 2012**

**Occupied Palestinian Territory, 30 January 2012**

**This Joint Parallel Report is prepared and submitted by:**

**Al-Haq**

**Addameer Prisoner Support and Human Rights Association**

**BADIL Resource Center for Palestinian Residency and Refugee Rights**

**Emergency Water, Sanitation and Hygiene group**

**Women's Centre for Legal Aid and Counselling**

**Contact Information:**

**Al-Haq**

**P.O. Box 1413**

**54 Main Street 2nd & 3rd Floor**

**Ramallah - West Bank - Palestine**

**Tel: + 970 (0) 2 2954646**

**Fax: + 970 (0) 2 2954903**

**Email: [yara@alhaq.org](mailto:yara@alhaq.org) / [mona@alhaq.org](mailto:mona@alhaq.org)**

**Web: <http://www.alhaq.org>**

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## **1. Introduction**

1. The authors of this Joint Parallel Report greatly welcome the opportunity provided by the Committee on the Elimination of All Forms of Racial Discrimination (hereinafter the Committee) to submit an alternative report containing information which is of relevance ahead of its review of Israel's 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Periodic Reports on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter the Convention), to which Israel became party on 3 January 1979.

### ***1.1. Submitting Parties***

#### *1.1.1. Al-Haq*

2. Al-Haq is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT), Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. The organisation conducts research; prepares reports, studies and interventions on breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies. Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), and the Palestinian NGO Network (PNGO).

#### *1.1.2. Addameer Prisoner Support and Human Rights Association*

3. Addameer Prisoner Support and Human Rights Association (Addameer) is a Palestinian non-governmental human rights civil institution that focuses on political and civil rights issues in the OPT, especially those of prisoners. Established in Jerusalem in 1992 by a group of activists and human rights advocates, Addameer offers support to Palestinian prisoners and detainees, advocates for the rights of

political prisoners, and works to end torture and arbitrary detention and to guarantee fair trials through monitoring, legal procedures and advocacy campaigns.

### *1.1.3. BADIL Resource Center for Palestinian Residency and Refugee Rights*

4. BADIL Resource Center for Palestinian Residency and Refugee Rights (BADIL) is an independent, community-based non-profit organization mandated to defend and promote the rights of Palestinian refugees and IDPs. Our vision, missions, programs and relationships are defined by our Palestinian identity and the principles of international law, in particular international human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis. BADIL has consultative status with UN ECOSOC and is a member of the global Palestine Right-of-Return Coalition.

### *1.1.4. Women's Centre for Legal Aid and Counselling*

5. The Women's Centre for Legal Aid and Counselling (WCLAC) was established by a small group of women in Jerusalem in 1991 as a Palestinian, independent, non-governmental, non-profit organisation. WCLAC aims to address the causes and consequences of gender-based violence within the community as well as the gender-specific effects of the occupation. WCLAC provides social and legal counselling, awareness raising programs, offers legal and social support and training, proposes bills and law amendments, and participates in the organization of advocacy and pressure campaigns nationally and internationally on behalf of Palestinian women and the community. WCLAC documents women's testimonies using the framework of international law and human rights, combined with a feminist vision of equality and social justice. The documentation is used to advocate on behalf of women in Palestine, to promote awareness of human rights violations and to work towards accountability for those responsible. The documentation also provides testimony to women's experiences of war and occupation.

## ***1.2. Scope of the Joint Parallel Report***

6. As leading human rights and humanitarian organisations based in the OPT, Al-Haq, Addameer, BADIL, EWASH and WCLAC (hereinafter the submitting parties) respectfully submit this Joint Parallel Report to provide information which is of relevance to the Committee's review of Israel's 14<sup>th</sup>, 15<sup>th</sup> and 16<sup>th</sup> Periodic Reports on its implementation of the Convention. The submitting parties wish bring to the attention of the Committee Israel's lack of compliance with the Convention.

7. This report will focus on the following issues:
- A. Security of person and protection by the State, enshrined in Article 5(b) of the Convention (see Section 3 of the Joint Parallel Report),
  - B. Legislative and administrative policies of discrimination, enshrined in Article 2(1) of the Convention (see Section 4 of the Joint Parallel Report), and
  - C. The discriminatory allocation of water in the OPT, as part of the right to housing enshrined in Article 5(e)(iii) of the Convention (see Section 5 of the Joint Parallel Report).
8. It should be noted that this Joint Parallel Report is not intended to comprehensively cover all violations, but rather focuses on certain issues that have been identified as particularly affecting Palestinians living in the OPT at the time of reporting. The information is relevant for the Committee's entire reporting period. Since part of the scope of the Convention may be outside the direct expertise of the submitting parties, the submitting parties have opted not to comment on these issues. However, the limitations of this report should not be understood to imply that Israel complies or does not comply with articles of the Convention that are not mentioned here.
9. This report identifies general trends and policies in regard to Israel's lack of compliance with the Convention in a topic-by-topic format. Under each topic, a general trend section provides an overview of the legal obligations that Israel has violated with respect to the Convention. The vast majority of the claims made in this report are substantiated by the submitting parties' field information, *inter alia* in the form of client affidavits, which are available to the Committee in English and Arabic upon request.

## 2. General Information: The Nature of the Discriminatory Policies and the Denial of Enjoyment of Equal Rights

### 2.1. Applicability of International Human Rights Law in the OPT

10. The submitting parties wish to bring to the attention of the Committee Israel's continuous refusal to report on the human rights situation in the OPT (West Bank, including Jerusalem, and the Gaza Strip).

11. It is a basic principle of international human rights law that human rights treaties apply to all areas over which a State party exercises effective control.<sup>1</sup> Accordingly, Israel has an obligation to implement all the human rights treaties to which it is party, including the present Convention, in accordance with its obligations as an Occupying Power under international humanitarian law.

12. While Israel rejects the application of international human rights law to the OPT, it stands alone in taking such a view. Israel's obligations towards the OPT have been repeatedly asserted by international treaty bodies and the International Court of Justice in its 2004 Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territories* (hereinafter Advisory Opinion on the Wall).<sup>2</sup>

13. The Committee itself reaffirmed this position in its Concluding Observations

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<sup>1</sup> UN Human Rights Committee (UN HRC), General Comment No 31, *The Nature of General Legal Obligations Imposed on States Parties to the Covenant* (29 March 2004), UN Doc. CCPR/C/21/Rev.1/Add.13, at paragraph 10: "States have a duty to respect and ensure the rights laid down in the Covenant to anyone within the power or effective control of that State party, even if not situated within the territory of the State party."  
<http://www.unhcr.ch/tbs/doc.nsf/0/58f5d4646e861359c1256ff600533f5f?Opendocument> accessed 30 January 2012.

<sup>2</sup> See for example: UN Committee on the Elimination of Racial Discrimination (UN CERD), 'Concluding Observations: Israel' (30 March 1998), UN Doc. CERD/C/304/Add.45, at paragraph 12  
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CERD.C.304.Add.45.En?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CERD.C.304.Add.45.En?Opendocument) accessed 30 January 2012; *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) ICJ Rep 2004, paragraph 112; UN HRC, 'Concluding Observations: Israel' (18 August 1998), UN Doc. CCPR/C/79/Add.93, at paragraph 10  
<http://www.unhcr.ch/tbs/doc.nsf/0/7ea14efe56ecd5ea8025665600391d1b?Opendocument> accessed 30 January 2012; UN HRC, 'Concluding Observations: Israel' (21 August 2003), UN Doc. CCPR/CO/78/ISR, at paragraph 11  
[http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.78.ISR.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.78.ISR.En?OpenDocument) accessed 30 January 2012.



after considering Israel's 10<sup>th</sup> to 14<sup>th</sup> periodic reports<sup>3</sup> (hereinafter 2007 Concluding Observations) when it reiterated its concern about Israel's position that the Convention does not apply in the OPT: "Such position cannot be sustained under the letter and spirit of the Convention, or under international law as also affirmed by the International Court of Justice."<sup>4</sup> In light of this, the Committee has recommended that "the State party review its approach and interpret its obligations under the Convention in good faith in accordance with the ordinary meaning to be given to its terms in their context, and in light of its object and purpose."<sup>5</sup>

14. In fact, all UN treaty bodies mandated to monitor compliance with Israel's treaty obligations have categorically held that human rights treaties ratified by Israel apply to the OPT. More recently, the Human Rights Council called upon Israel immediately to abide by "international protection for the Palestinian people in the Occupied Palestinian Territory, in compliance with international human rights and humanitarian law, applicable in the Occupied Palestinian Territory, including East Jerusalem."<sup>6</sup>

15. In the Human Rights Committee's recent consideration of Israel's Third Periodic Report to the Committee, it scrutinised Israel's position on the application of the International Covenant on Civil and Political Rights (ICCPR) in the OPT.<sup>7</sup> Israel stated that it did not report on the implementation of the ICCPR in the OPT "for several reasons, ranging from legal considerations to the practical reality", and noted that it does not consider the Gaza Strip as occupied territory as a result of the "disengagement" in 2005. The Committee and the participants of the session expressed concern about Israel's failure to comply with its obligations under international law by applying the ICCPR to the OPT.

16. The Gaza Strip continues to be considered occupied territory under international law; this having been confirmed by a number of UN resolutions and reports, as well as countless opinions by international legal experts.<sup>8</sup> Israel's military

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<sup>3</sup> UN CERD, 'Concluding Observations: Israel' (n 2).

<sup>4</sup> *Ibid.*, at paragraph 32.

<sup>5</sup> *Ibid.*

<sup>6</sup> UN HRC, 'The grave human rights violations by Israel in the Occupied Palestinian Territory, including East Jerusalem', Resolution (13 April 2011), UN Doc. A/HRC/RES/16/29 <http://www.unhcr.org/refworld/docid/4dbff8e02.html> accessed 30 January 2012.

<sup>7</sup> Human Rights Committee (HRC), 'Concluding Observations: Israel' (29 July 2010), UN Doc. CCPR/C/ISR/CO/3, at paragraph 5

<http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc> accessed 30 January 2012.

<sup>8</sup> See UN HRC, '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' (27 September 2010), UN Doc. A/HRC/15/21 [http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21\\_en.PDF](http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.PDF) accessed 30

withdrawal from the Gaza Strip alone does not render the Gaza Strip unoccupied. Israel continues to maintain its effective control over the Gaza Strip through different means, such as control over air space, sea space and the international borders, and it these facts on the ground that determine the legal status of the territory. The State party's relentless illegal blockade on the Gaza Strip and its complete control over its borders provide clear evidence of Israel's continuing effective control of the territory.

17. Despite numerous confirmations by UN bodies and experts that Israel is under an unequivocal obligation to ensure the enjoyment of the provisions of the Convention in the OPT, Israel continues to reject its responsibilities as an Occupying Power and fails to guarantee the human rights of the Palestinian population in occupied territory.

18. The submitting parties reiterate the obligation of Israel, as an Occupying Power, to implement the Convention in respect to the entirety of the OPT occupied since 1967 (West Bank, including East Jerusalem, and the Gaza Strip) and to afford Palestinians their rights as enshrined therein.

## ***2.2. The Principle of Non-Discrimination***

19. Article 2(1) of the Convention prohibits the policy of discrimination in all its form. States Parties are obliged to condemn racial discrimination and undertake to pursue a policy of eliminating racial discrimination. States Parties undertake to engage in no act or practice of racial discrimination, nor sponsor, defend or support racial discrimination, and States Parties shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.

20. Article 5 of the Convention obligates States Parties to the Convention to prohibit and eliminate discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, national or ethnic origin, equality before the law, notably in the enjoyment of certain civil, political, economic and social

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January 2012; UN HRC, 'Report of the United Nations Fact Finding Mission on the Gaza Conflict' (15 September 2009), UN Doc. A/HRC/12/48, 85, at paragraph 276 <http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/a-hrc-12-48.pdf> accessed 30 January 2012; League of Arab States, 'Report of the Independent Fact-Finding Committee on Gaza: No Safe Place' (30 April 2009), 16, <http://www.arableagueonline> accessed 30 January 2012; See also, J. Reynolds and S. Darcy, "Otherwise Occupied": The Status of the Gaza Strip from the Perspective of International Humanitarian Law' (2010), 15 *Journal of Conflict and Security Law*, 2.

rights. The list is not exhaustive.<sup>9</sup> However, the three issues identified in this Joint Parallel Report will focus on the right specifically enumerated under Article 2 and Article 5 of the Convention.

21. The principle of non discrimination is non derogable; even when war or a state of emergency exists, a State may not engage in acts that amount to racial discrimination. Accordingly, when a State faces a threat to its security, for example, it may not target members of a particular racial group for less favourable treatment than persons who do not belong to that group.<sup>10</sup> All restrictions on human rights must always be proportionate to the aim sought, targeted to that aim and be strictly necessary to achieve that aim. This means that every restriction of rights must be examined according to the particular circumstances of each case.<sup>11</sup>

### ***2.3. Discrimination based on National or Ethnic Origin: the Practice of Apartheid***

22. The submitting parties respectfully submit that the State party denies the local Palestinian population present in the OPT their enjoyment of full rights under the Convention, based on their citizenship status and national or ethnic origin. The State party's failure to ensure full enjoyment of rights under the Convention for all people is in clear violation of the Convention, and furthermore ignores the Committee's recommendation that the State party "ensures that Palestinians enjoy full rights under the Convention without discrimination based on citizenship and national origin."<sup>12</sup>

23. Contrary to the Committee concerns expressed in its 2007 Concluding Observations,<sup>13</sup> Israel continues to apply a completely different set of laws and policies to the Israeli settlers than it does to the local Palestinian population present in the OPT. The State party implemented this dual-legal regime through the illegal extra-territorial application of its laws to the Israeli settler population in the OPT.

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<sup>9</sup> See in particular, UN CERD, General Recommendation No. 20, *Non-discriminatory implementation of rights and freedoms* (Article 5) (15 March 1996), UN Doc. A/51/18 <http://www.unhcr.ch/tbs/doc.nsf/0/8b3ad72f8e98a34c8025651e004c8b61?Opendocument> accessed 30 January 2012.

<sup>10</sup> See UN Human Rights Committee, General Comment No 29, *States of Emergency* (Article 4) (31 August 2001), UN Doc. CCPR/C/21/Rev.1/Add.11, at paragraph 4 <http://www.unhcr.ch/tbs/doc.nsf/0/71eba4be3974b4f7c1256ae200517361> accessed 30 January 2012.

<sup>11</sup> *Ibid*, at paragraphs 5 and 8.

<sup>12</sup> UN CERD, 'Concluding Observations: Israel' (n 2), at paragraph 32.

<sup>13</sup> *Ibid*, at paragraph 35.

24. Israel's settlement policy is the source of a host of severe and systematic human rights violations against the local Palestinian population. The State party's extensive land appropriations and its support to of settlers' aggressive control over this land result in the confiscation and destruction of Palestinian property and severe restrictions on freedom of movement, which negatively impact Palestinian rights to work, housing, family life, access to education, food, health care and cultural life. The human rights situation of Palestinians in the OPT is dramatically different to that of Israel's settler population, who are granted the same rights as Israeli citizens inside Israel.

25. In effect, the settlement enterprise has created two parallel and unequal societies in the OPT. An Israeli settler society benefits from superior living conditions, greater protection under Israeli civil (as opposed to military) law, greater access to the resources of the OPT, including water, the freedom of movement, equal treatment before the law, and the enjoyment of all other human rights.<sup>14</sup> Meanwhile, the disadvantaged Palestinian society living in the same territory, by contrast, is denied many of its basic human rights.

26. This bifurcated system of norms, legitimising the perpetration of inhuman acts against Palestinians in a systematic and institutionalised manner is a formal and direct form of discrimination, which is reflective of a practice of apartheid in violation of international law. Strong indicators of the crime of apartheid inherent to Israel's egregious practices include policies and systematic practices of racial segregation and discrimination for the purpose of establishing and maintaining domination by one racial group over another.<sup>15</sup>

27. In examining Israel's practices, a study by a group of high-profile international legal experts, published by the Human Sciences Research Council of South Africa, found that the Israel's exercise of control in the OPT, with the purpose of maintaining a system of domination by settlers over Palestinians, constitutes a breach of the

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<sup>14</sup> Whilst Palestinians throughout the OPT are denied freedom of movement through a system of "road apartheid", settlers are given preferential treatment over Palestinians in respect of movement (major roads are largely closed to Palestinian vehicles and reserved exclusively for settlers) and can enter the closed zone between the Annexation Wall and the Green Line (the seam zone) without permits; See UN HRC, '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' (21 January 2008), UN Doc. A/HRC/7/17, at paragraph 30 <http://www.unhcr.org/refworld/docid/47baaa262.html> accessed 30 January 2012.

<sup>15</sup> See, International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) (the Apartheid Convention).

prohibition of apartheid.<sup>16</sup> The study found that Israel's laws and institutions, which seek to ensure its enduring Jewish character as a "Jewish State," are channeled into the OPT to convey privileges to settlers to the disadvantage of Palestinians on the basis of their respective group identities. This domination is associated principally with transferring control over land in the OPT, including East Jerusalem, to exclusively Jewish use, thus also altering the demographic status of the territory.<sup>17</sup> It thereby concludes that this discriminatory treatment cannot be explained or excused on grounds of citizenship, as it goes beyond what is permitted by the Convention.<sup>18</sup>

28. Furthermore, settlers are systematically perpetrating acts of organised violence against Palestinians. These acts, which are part of the settlers' violent reaffirmation of control over land, consist of beatings, shootings, theft and the destruction of property. Israeli occupying forces generally fail to prevent, stop or redress instances of settler violence. Settlers are rarely held accountable for their acts, and when they are, the punishment is lenient. Monitoring and documentation of these incidents by human rights organisations demonstrate that the actions of the Israeli law enforcement authorities in response to settler violence are ineffective, nonexistent and may amount to complicity.<sup>19</sup>

29. Israel has consistently violated and ignored the human rights of the Palestinian population in the OPT, and no effective remedy has been provided to ensure that victims of violations are able to obtain adequate reparations.<sup>20</sup> Moreover, Israel's High Court of Justice does not provide remedies for many violations, since the Court has declared them to be non-justiciable.<sup>21</sup> This includes Israel's practices and policies on the existence and construction of settlements in occupied territory and its establishment of a bifurcated system of norms between settlers and Palestinians.

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<sup>16</sup> 'Occupation, Colonialism, Apartheid? A re-assessment of Israel's practices in the occupied Palestinian territories under international law' (Human Science Research Council, Cape Town, 2009), 271-276 <http://www.setav.org/ups/dosya/24515.pdf> accessed 30 January 2012.

<sup>17</sup> *Ibid*, at 152-276; Executive Summary, 9-15.

<sup>18</sup> Furthermore, certain provisions in Israeli civil and military law provide that Jews present in the OPT, who are not citizens of Israel also enjoy privileges conferred on Jewish-Israeli citizens in the OPT by virtue of being Jews; *Ibid*.

<sup>19</sup> See Al-Haq's forthcoming report, 'Harbouring Impunity: Settlers' 'Price Tag' Policy Inciting Violence and Hatred Against Palestinians in the Occupied Palestinian Territory'.

<sup>20</sup> Al-Haq, 'Legitimising the Illegitimate? The Israeli High Court of Justice and the Occupied Palestinian Territory', Report, (2010), <http://www.alhaq.org/pdfs/legitimising.pdf> accessed 30 January 2012; Al-Haq, Press Release, 'Overlooking the Annexation Wall: Seven-Year-Long State Inaction on the International Court of Justice Advisory Opinion Must End (18 August 2011), <http://www.alhaq.org/advocacy/topics/wall-and-jerusalem/435-overlooking-the-annexation-wall>

accessed 30 January 2012; David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (State University of New York Press, 2002).

<sup>21</sup> Al-Haq, 'Legitimising the Illegitimate?' (n 20), at 19-21.

### **3. Security of Person and Protection by the State**

#### ***3.1. The Committee's Recommendations***

30. The submitting parties wish to bring to the attention of the Committee the serious violations of Article 5 (a), (b) and (c) committed by the State party. In the Committee's 2007 Concluding Observations, the Committee has stated that "[a]lthough different legal regimes may apply to Israeli citizens living in the Occupied Palestinian Territories and Palestinians, the State party should ensure that the same crime is judged equally, not taking into consideration the citizenship of the perpetrator."<sup>22</sup> The Committee is concerned by the persistence of violence perpetrated by Jewish settlers, in particular in the Hebron area (Articles 4 and 5 of the Convention).<sup>23</sup> The Committee recommends that the State party increases its efforts to protect Palestinians against such violence. The State party should ensure that such incidents are investigated in a prompt, transparent and independent manner, the perpetrators are prosecuted and sentenced, and that avenues for redress are offered to the victims.<sup>24</sup> Further the Committee has considered that "the application of different criminal laws (is) leading to prolonged detention and harsher punishments for Palestinians than for Israelis for the same offences (Articles 2, 3 and 5 of the Convention)."<sup>25</sup>

31. In practice, Israel has done nothing to comply with the Committee's recommendations. In fact, Israel continues to severely punish Palestinians under military court rulings, while Israeli citizens – in the rare cases they are tried – are subjected to the civilian ordinary courts of the Israeli system, enjoy a much less strict legal system.

#### ***3.2. Lack of Protection of the Safety of Persons and Their Properties: Settler Violence***

32. In September 2009, the number of settlers reached about 500,000 in the West Bank, approximately 200,000 of whom live in East Jerusalem. Israel recognised 121 settlements in the West Bank; it considers another 12 settlements in

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<sup>22</sup> UN CERD, 'Concluding Observations: Israel' (n 2), at paragraph 35.

<sup>23</sup> *Ibid.*, at paragraph 37.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*, at paragraph 35.

East Jerusalem (including annexed areas of the West Bank) as part of Israel.<sup>26</sup> In 2005, an Israeli government report identified 105 unofficial settlements, referred to as 'outposts,' 15 of which are located wholly on Palestinian individual private land and 39 partly on reg Palestinian individual private land, which the Israeli Civil Administration has nonetheless supported by providing them with housing, roads and connections to electricity and water networks, as well as other benefits.<sup>27</sup>

33. In the reporting period a particular form of settlers violence has particularly increase. In particular those called 'price tags.' Price Tag is the name given to incidents of recent acts of settler violence that have intensified following the Israeli government's decision to evacuate outposts built on private Palestinian land. In response to these evacuations, settler communities in the Occupied Palestinian Territory (OPT) have mobilised to implement the so-called 'Price Tag' policy – a public incitement campaign that advocates for the use of physical violence against Palestinians and their property. These are organised acts mounted to counter civil persons and objects, resulting in the intimidation of the civilian population, with the aim of influencing the behaviour of those persons and the political decisions of the Israeli state authorities. Settlers operate from communities maintained by the State of Israel, they are securitised, armed and trained by the government and their social and religious activities are financed by the Israeli authorities.<sup>28</sup>

34. Incidents of settler violence against Palestinians, including those involving the use of firearms, have intensified in recent years, representing a serious concern for the safety of the Palestinian population.<sup>29</sup> Such incidents are not simply random criminal acts carried out by individuals, but are organised activities carried out by politically motivated groups of settlers with an organised leadership and operational network. These incidents frequently result in injury to Palestinians, large-scale

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<sup>26</sup> H. Levinson, 'Civil Administration Report: Rate of Population Growth in 66% of Settlements Higher than in Israel', *Haaretz* (2 February 2010) (in Hebrew). See also, B'tselem, 'Army and Civil Administration data: One-fifth of settlements' built-up area is private Palestinian land', Press release (6 July 2010) [http://www.btselem.org/press\\_releases/20100706](http://www.btselem.org/press_releases/20100706) accessed 30 January 2012. See also, Diakonia, 'Israeli settlements in the OPT', (11 August 2009) <http://www.diakonia.se/sa/node.asp?node=971> accessed 30 January 2012.

<sup>27</sup> T. Sasson, 'Report: Opinion Concerning Unauthorized Outposts' (10 March 2005) (English summary) <http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Summary+of+Opinion+Concerning+Unauthorized+Outposts+-+Talya+Sason+Adv.htm> accessed 30 January 2012.

<sup>28</sup> For more information see Al-Haq's forthcoming report, 'Harbouring Impunity: Settlers' 'Price Tag' Policy Inciting Violence and Hatred Against Palestinians in the Occupied Palestinian Territory'.

<sup>29</sup> See generally, UN Office Coordination Humanitarian Affairs (UN OCHA), 'Unprotected: Israeli settler violence against Palestinian civilians and their property', Special Focus (18 December 2008), <http://unispal.un.org/UNISPAL.NSF/0/665317F0F18D199B852575230075076D> accessed 30 January 2012.



damage to private and public property, including, but not limited to, the desecration of religious places.<sup>30</sup>

35. The practices that ensue from the implementation of this policy amount to severe acts of violence executed by settlers against the Palestinian population and their property. The direct and indirect support provided to settlers by Israeli authorities has afforded settlers the protection of their rights and interests at the expense of Palestinian rights. Israel's legislative and administrative regime in the OPT has effectively shielded settlers from the law and facilitated the perpetuation of acts of violence against Palestinians. The current regime has created a climate of impunity in the OPT causing a remarkable increase in settler violence.<sup>31</sup>

36. **Hana Abu Haikal** (51 years old) lives in Jabal Al-Rahma, Hebron governorate with her daughter, her sister and her elderly mother. Her home is located close to the Israeli settlement outpost of Ramat Yishai, which was built in 1984. On 11 April 2009, her mother was at the hospital and needed to return home. A Red Cross employee assured Hana that the ambulance was on its way to drive her and her mother from the hospital to the house. On the way back, the ambulance was stopped at one of the checkpoints. While an Israeli soldier was inspecting the ambulance a group of settlers started to throw stones at the back window of the ambulance, targeting the two women. She was very frightened and yelled at the soldier to take the settlers away. The soldiers did not do anything and showed no concern. In the end, the ambulance had to leave Al-Shuhada Street and drove back to the hospital. Hana's mother was not able to return home that day and the incident severely affected her health condition.<sup>32</sup>

37. On 23 September 2011, about 15 settlers from Esh Qodish outpost uprooted olive trees near al-Qasra village, Nablus governorate. **'Ammar Samer Masamir** (18 years old) took part of clashes that broke out between the Palestinians and the settlers following the violence against Palestinian property. When a soldier saw 'Ammar throwing a stone, he approached him and hit him with his M-16 machine gun

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<sup>30</sup> A. Issacharoff, 'Palestinian mosque torched in suspected 'price tag' operation by settlers', *Haaretz* (4 October 2010) <http://www.haaretz.com/news/diplomacy-defense/palestinian-mosque-torched-in-suspected-price-tag-operation-by-settlers-1.317090> accessed 30 January 2012; A. Issacharoff and A. Pfeffer, 'Palestinians claim: settlers tried to burn down a mosque in Fajr village in the West Bank', *Haaretz* (4 October 2010) <http://www.haaretz.co.il/hasite/spages/1191875.html> accessed 30 January 2012; C. Levison, 'Settlers tried to burn down a mosque in Moghair village in the Shilo bloc', *Haaretz*, (7 June 2011) <http://www.haaretz.co.il/hasite/spages/1230528.html> accessed 30 January 2012.

<sup>31</sup> See Al-Haq's forthcoming report, 'Harbouring Impunity: Settlers' 'Price Tag' Policy Inciting Violence and Hatred Against Palestinians in the Occupied Palestinian Territory'.

<sup>32</sup> WCLAC, 'Voices of Palestinian Women' Case Study 3 (2009).



in the neck. Some 15 soldiers surrounded 'Ammar within seconds and allowed a settler to hit him with a stone in the face. 'Ammar was severely beaten, blindfolded, and thrown inside a military jeep. He was denied medical help when he asked for it. 'Ammar was then dropped off around two kilometers away from the village.<sup>33</sup>

### ***3.3. The Right to Freedom of Expression and to Peaceful Assembly***

38. The submitting parties also wish to bring to the attention of the Committee Israel's violations of the right to freedom of expression and the right to peaceful assembly, enshrined in Article 5 (d) viii, and Article 5 (d) ix.

39. According to Al-Haq's documentation, at least 13 protesters have been killed at non-violent demonstrations across the West Bank, including East Jerusalem, since 2004. The Israeli military regularly targets protesters as well as bystanders, homes and property with rubber-coated metal bullets, tear-gas canisters, sound grenades and 'skunk,' a foul smelling chemical substance. Al-Haq's report demonstrates that the use of force targets civilians and is disproportionate in nature.<sup>34</sup>

40. The latest incident occurred on 9 December 2011, when 28-year-old **Mustafa Tamimi** died after being struck in the head by a tear gas canister fired by an Israeli soldier at point blank range during the weekly protest in al-Nabi Saleh. Mustafa's injury occurred during the time that the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Frank La Rue, was in the village as part of his first mission in the region.

41. During his visit in Israel and the OPT, the UN Special Rapporteur commented on the repression of peaceful demonstrations by the Israeli authorities, urging the Israeli military to respect the right to peaceful assembly and to ensure that use of force against demonstrators "be minimal and proportionate to the threat posed." In this regard, he reiterated that tear gas canisters should never be fired directly at

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<sup>33</sup> Al-Haq Affidavit No. 6636/2011.

<sup>34</sup> Al-Haq, 'Israel Continues Violent Repression of Peaceful Protests' Press Release (10 December 2011), <http://www.alhaq.org/advocacy/topics/right-to-life-and-body-integrity/510-israel-continues-violent-repression-of-peaceful-protests> accessed 30 January 2012. For more information on repression of non-violent protest in the OPT, see Al-Haq, 'Repression of Non-Violent Protest in the Occupied Palestinian Territory: Case Study on the village of al-Nabi Saleh' (10 December 2012), <http://www.alhaq.org/publications/publications-index/item/repression-of-non-violent-protest-in-the-occupied-palestinian-territory-case-study-on-the-village-of-al-nabi-saleh> accessed 30 January 2012.

demonstrators. He also urged that in case of injury or loss of life when dispersing demonstrators, adequate investigations and sanctions take place.<sup>35</sup>

42. Furthermore, the Israeli army has employed a range of tactics outside of using excessive force during protests in a bid to silence those who wish to exercise their rights to freedom of expression and peaceful assembly. These include conducting night raids; firing teargas and skunk water into homes, crops and water tanks; arresting men, women and children without charge; imposing demolition orders on homes with the promise that they will be lifted if the protests stop; conducting interrogations; and restricting freedom of movement which also affects access to work, education and family. Palestinians remain steadfast, but the violations of Articles 5 (d)(viii) and 5 (d)(ix), and psychological impact of such restrictions and treatment is clear.

43. **A Tamimi's** house was raided on the night of 23 November 2011 while she was at home in Nabi Saleh asleep with her husband and their four children aged 3 to 9 when she woke up in the middle of the night shaken and startled. Seconds later, A realised it was loud banging on their door that had woke her up. It was 12:40 after midnight. She went to get dressed and A's husband went to see who it was. Eight heavily armed and masked soldiers were at the door and asked to be let in. When her husband asked what they wanted one of them said they wanted to search the house, but didn't say why or for what. They asked who else was in the house and A told them their four young children were sleeping. One of the soldiers ordered them to wake the children up and to all gather in the hallway.

44. *"I shouted back at him and told him my children are young and sleeping, I refused to wake them up. At this point he told us to gather in the bedroom where the children were sleeping and had two soldiers enter the room with us. They were masked and one of them was pointing his gun at me, the other at the children in bed. I was trembling."*

45. *"They asked for my husband's identity card and wrote down all the details on a piece of paper. The other soldiers went into the rest of the house and took pictures. They took a picture of my husband but when they asked to take a*

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<sup>35</sup> Al-Haq, 'UN Special Rapporteur on freedom of expression urges authorities to respect the right to peaceful assembly', Press Release (22 December 2011), <http://www.alhaq.org/advocacy/targets/united-nations/513-un-special-rapporteur-on-freedom-of-expression-urges-authorities-to-respect-the-right-to-peaceful-assembly> accessed 30 January 2012.

*picture of me I refused. My husband stood between me and the soldier with the camera and refused to move. By this time three of my children were awake in bed while my youngest was still sleeping. The soldier took pictures of the children in bed, even of my youngest with his head half buried in the pillow. They didn't tell us why they were doing this".*

46. Half an hour later the soldiers left but the family could not go back to sleep, the army jeep was still in the neighbourhood driving up and down the street. The children wanted to know whether soldiers shoot children and whether they harm mothers and fathers. A described the mess they had left behind: mud was all over the carpets, kitchen cupboards were left open and curtains were pulled aside.

47. *"Soldiers have access to the best intelligence in the world and yet they break into homes of people who have nothing to do with anything, frighten young children in the middle of the night and scare the hell out of us. This is meant to terrify us, to keep us wondering what might come next and to stop us protesting the loss of our land".* Two days later A was still feeling pain in her legs and was wondering what impact this might have had on her young children. *"I have no idea what goes on in their minds. I worry that they might grow up full of fear and hatred, I worry about their future".*

48. This was the third time in a year that A's house was raided and she believes this will not be the last.

### ***3.4. Arbitrary Arrests of Lawmakers***

49. The submitting parties also would like to emphasise their concern about the escalation of arbitrary arrests of members of the Palestinian Legislative Council (PLC) and other lawmakers, in particular those residing in occupied East Jerusalem.

50. On Thursday, 19 January 2012, **Aziz Dweik**, head of the PLC, was arrested by Israeli forces near Ramallah. He has since been sentenced to six months administrative detention without charge by an Israeli military court. On the same day, Israeli forces stormed the Bethlehem home of MP **Khaled Tafesh** and arrested him.

51. **Mohammed Totah**, another member of the PLC, and **Khaled Abu Arafeh**, former Minister of Jerusalem Affairs, were arrested on Monday, 23 January 2012, in Jerusalem. The two men had sought refuge at the International Committee of the

Red Cross (ICRC) compound in East Jerusalem for the past 18 months after Israel revoked their residency permits and ordered their expulsion from Jerusalem.

52. **Ahmed Attoun**, also a member of the PLC, was arrested on 26 September 2011 in Jerusalem. He had also been sheltering in the ICRC compound for 15 months after Israeli authorities revoked his Jerusalem residency status and ordered that he be forcibly transferred from the city in June 2010.<sup>36</sup>

53. **Mohammad Abu Teir**, a Jerusalem based lawmaker, was detained in December 2010 and charged with illegally residing in Jerusalem after Israeli authorities revoked his residency rights. He was forcibly transferred to Ramallah after spending five months in administrative detention.

54. The Israeli authorities are revoking residency rights and forcibly transferring elected Palestinian officials and other lawmakers, particularly from Occupied East Jerusalem. This has obvious implications for free and fair Palestinian elections in Jerusalem and is representative of Israel's attempts to derail any such elections, thereby interfering with the right of the Palestinian people to self-determination.

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<sup>36</sup> Al-Haq, 'Cracking Down on Palestinian Political Life in East Jerusalem: Israel Arrests PLC Member Mr. Ahmed Attoun to Enforce His Forcible Transfer from the City', Press Release (1 October 2011), <http://www.alhaq.org/advocacy/topics/population-transfer-and-residency-right/467-cracking-down-on-palestinian-political-life-in-east-jerusalem-israel-arrests-plc-member-mr-ahmed-attoun-to-enforce-his-forcible-transfer-from-the-city> accessed 30 January 2012.

## 4. Right to a Nationality: Legislative and Administrative Policies of Discrimination in Occupied East Jerusalem

### 4.1. The Right to Nationality

55. The right to nationality is a human right enshrined in Article 5 (d) of the Convention. Yet, until this day the majority of Palestinians have no nationality, as they remain stateless.<sup>37</sup> Israel grants a superior legal and political status to all Jewish nationals wherever they may reside – in Israel, in illegal settlements throughout the OPT, and even abroad. On the other hand, Palestinian Arabs have an inferior legal and political status regardless of whether they live within Israel, in the OPT, or exile. The statelessness is particularly striking in occupied East Jerusalem. Some East Jerusalemites have passports of other States, however, the majority only have the status of a permanent resident in the city. This status is characterised by the looming threat of revocation – i.e. stripping of permanent residency status by the Israeli administration – if East Jerusalemites do not fulfill the strict criteria of ‘the centre of life test.’

56. From the outset of the illegal annexation of East Jerusalem in 1967, there has been a clear Israeli strategy focused on establishing a strong Jewish demographic majority within the Israeli-declared municipal boundaries of Jerusalem. In the years following the illegal annexation, Israel articulated a government policy that sought to maintain a demographic balance of 70 per cent Jews to 30 per cent ‘Arabs’ within the Israeli-declared municipal boundaries of Jerusalem.<sup>38</sup> This official policy remains in effect today. ‘Master Plan 2000 for Jerusalem,’ ratified by the Planning and Construction Committee of the Jerusalem municipality in 2007, directly addresses this policy – albeit considering a more realistic 60/40 ratio as high Palestinian birth rates have made the 70/30 goal unlikely.<sup>39</sup> Palestinian Jerusalemites with the status

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<sup>37</sup> The majority of Palestinians are refugees, without nationality. Palestinians residing in the OPT have travel documents from the Palestinian Authority (PA) administration that are regulated by the Oslo Accords interim agreement, the PA has no nationality law, and minor control on who can these PA travel documents be attributed to. See V. Kattan, ‘The Nationality of Denationalized Palestinians’, (2005) 74 *Nordic Journal of International Law*, 67–102.

<sup>38</sup> N. Shragai, ‘Demography, Geopolitics, and the Future of Israel’s Capital: Jerusalem’s Proposed Master Plan’, (Jerusalem, Jerusalem Center for Public Affairs, 2010), 14

<http://www.scribd.com/doc/27960017/Jerusalem-Master-Plan> accessed 30 January 2012.

<sup>39</sup> *Ibid.*

of permanent residents are subject to the discretion of the Israeli Minister of Interior to revoke this status.<sup>40</sup>

## ***4.2. Residency Rights for Palestinian Jerusalemites***

57. The submitting parties wish to underline the grave violation of the right to enter and leave the country for the residents of occupied East Jerusalem enshrined in Article 5 (d) of the Convention. Until 1995, the criteria imposed on Palestinian residents of East Jerusalem were relatively minimal: as long as they renewed their exit permits at the Ministry of Interior every three years, their status as permanent residents of the city would not be affected and they were free to live outside the municipal boundaries of East Jerusalem. Residency rights could have been revoked if Palestinian residents of East Jerusalem remained outside of Jerusalem for over seven years without renewing their exit permit.

58. In December 1995, the Ministry of Interior introduced a new policy with respect to residency rights for Palestinian Jerusalemites. Essentially, the 'centre of life' policy requires Palestinian permanent residents to consistently prove that they hold continuous residence in East Jerusalem by providing extensive documentary evidence, which includes rental agreements, home ownership documents, tax receipts, school registration and receipts of medical treatment in Jerusalem. If Palestinian Jerusalemites cannot provide proof of this status to the Israeli authorities, they risk losing their residency rights.<sup>41</sup>

59. The effect of the 'centre of life' policy has been the revocation of over 10,000 Jerusalem ID cards since 1995. In 2008 alone, 4,577 residents had their residency rights revoked after the Ministry of Interior decided to launch investigations into the status of thousands of Palestinian residents.<sup>42</sup>

60. Despite the Interior Minister's affirmation that the 'centre of life' policy would cease to be applied in March 2000, recent numbers demonstrate the considerable broadening of the Ministry's implementation of this policy. With the imposition of the 'centre of life' policy, the burden of proof has been placed upon Palestinian

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<sup>40</sup> Al-Haq, 'The Jerusalem Trap: The Looming Threat Posed by Israel's Annexationist Policies in Occupied East Jerusalem' (2010), <http://www.alhaq.org/publications/publications-index/item/the-jerusalem-trap> accessed 30 January 2012.

<sup>41</sup> Al-Haq, 'Legal and Administrative Measures Impacting Residency Rights and Freedom of Movement', Submission Russell Tribunal on Palestine (3 November 2011), <http://www.alhaq.org/images/stories/PDF/Testimony-Abstract.pdf> accessed 30 January 2012.

<sup>42</sup> Al-Haq, 'The Jerusalem Trap' (n 40).

Jerusalemites to regularly confirm to Israeli authorities that they live in occupied East Jerusalem.

61. **Firas Al-Maraghi**, a Palestinian resident of East Jerusalem, was born and raised in the neighbourhood of Silwan in East Jerusalem to a Palestinian family with deep roots in the city. In 2007, Firas temporarily moved to Berlin to be with his wife, a German national. Since then, Firas has regularly returned to Jerusalem. Knowing that they would return to Jerusalem after the completion of his wife's PhD, Firas had refused to apply for any other passport or travel document that might strip him from his Jerusalem permanent residency or the *laissez-passer*, a travel document issued by Israel to Palestinian residents of East Jerusalem.<sup>43</sup>

### ***4.3. Palestinian Development in East Jerusalem***

62. Another consequence of Israel's demographic policy are the severe restrictions on land available for Palestinian development in East Jerusalem. While more than one third of East Jerusalem has been expropriated to construct Israeli settlements, approximately 13 per cent is currently zoned by the Israeli authorities for Palestinian construction.<sup>44</sup> However, even in this area, much of the land is already built up, the permitted construction density is limited and the application process for construction permits or land zoning changes is complicated and expensive.<sup>45</sup> Palestinians who attempt to find a way around the administrative planning process are commonly refused permits.

63. In its 2007 Concluding Observations, the Committee reiterated their call "for a halt to the demolition of Arab properties, particularly in East Jerusalem, and for respect for property rights irrespective of the ethnic or national origin of the owner."<sup>46</sup> The State party has neglected to take the Committee's recommendation in consideration; quite the contrary, recent years have witnessed a significant rise of home demolitions both in Areas C as well as in East Jerusalem.

64. According to the UN Office for the Coordination of Humanitarian Affairs (UN OCHA), in 2011 almost 1,100 Palestinians, of whom more than half are children,

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<sup>43</sup> Information collected in interview with Firas' father, Yacoub Al-Maraghi. Conducted by Al-Haq on 11 August 2010, see Al-Haq, 'The Jerusalem Trap' (n 40), at 6.

<sup>44</sup> UN OCHA, 'The Planning Crisis in East Jerusalem: Understanding the Phenomena of "Illegal" Construction' Special Focus (April 2009), 2 <http://unispal.un.org/pdfs/EJerSpFocus300409.pdf> accessed 30 January 2012.

<sup>45</sup> *Ibid.*

<sup>46</sup> UN CERD, 'Concluding Observations: Israel' (n 2), at paragraph 35.

were displaced due to home demolitions by Israeli forces. This figure is more than 80 per cent higher than the statistics in 2010. Furthermore, 4,200 additional people were affected by the demolition of structures related to their livelihoods. Israeli forces destroyed 622 structures owned by Palestinians, a 42 per cent increase in comparison to 2010. These included 222 homes, 170 animal shelters, two classrooms and two mosques (one twice).<sup>47</sup>

65. On 25 October 2011, the Israeli military, accompanied by five bulldozers, demolished **Ahmad Muhammad Hilwa's** home and chicken farm in the village of 'Anata, Jerusalem governorate, under the pretence that the structures lacked permits. Ahmad asked the Border Police officer to show him the demolition order, but the officer refused. Ahmad had received an order in March from the Israeli Civil Administration to cease construction of his farm. A short while after, Ahmad was approached by an officer from the Israeli Civil Administration who proposed that if Ahmad agrees to share information they need, the Israeli authorities would leave his farm untouched and would even allow him to expand his farm.<sup>48</sup>

#### ***4.4. The Discriminatory Impact of the Annexation Wall***

66. The construction of the Annexation Wall around East Jerusalem is another unilateral measure taken by Israel to physically reinforce its control over the illegally annexed territory and to completely sever it from the rest of the West Bank. The wall effectively cuts off Palestinian areas that have strong social and economic ties to East Jerusalem and prevents West Bank ID-holding residents of these villages from accessing East Jerusalem, unless they acquire a permit, which is virtually impossible to obtain.<sup>49</sup>

67. The completion of the Wall around occupied East Jerusalem has created an absurd reality with enclaves of Palestinian communities along its path, some of which are surrounded on three sides by the Wall. In some cases, the route of the Wall deviates to carve out areas located within the Israeli-defined municipal boundaries of Jerusalem in order to exclude those heavily populated with Palestinian Jerusalemites, such as Kufr 'Aqab, Semiramis, Shu'fat refugee camp and 'Anata.<sup>50</sup>

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<sup>47</sup> UN OCHA, 'Demolitions and Forced Displacement in the Occupied West Bank' Fact Sheet (January 2012), [http://www.ochaopt.org/documents/ocha\\_opt\\_demolitions\\_factSheet\\_january\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_demolitions_factSheet_january_2012_english.pdf) accessed 30 January 2012.

<sup>48</sup> Al-Haq Affidavit No. 6769/2011.

<sup>49</sup> Al-Haq, 'Legal and Administrative Measures Impacting Residency Rights and Freedom of Movement', (n 41).

<sup>50</sup> Al-Haq, 'The Jerusalem Trap' (n 40).



68. The effect of the Wall on Palestinian Jerusalemites is colossal. Movement between East Jerusalem and the rest of the West Bank is now strictly controlled through a total of 16 checkpoints located along the Wall.<sup>51</sup> In addition, the route's digression from the Israeli-defined municipal boundaries of Jerusalem has left many Palestinian Jerusalemites on the eastern side of the Wall. Currently, approximately 25 per cent of Palestinian Jerusalemites are required to cross a checkpoint to access health, education and other services to which they are entitled to as tax-paying residents of the city.<sup>52</sup>

69. The State party has not taken the 2007 Concluding Observations into consideration, in which the Committee expressed its deep concern "that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories, targeting a particular national or ethnic group, especially through the wall, checkpoints, restricted roads and permit system, have created hardship and have had a highly detrimental impact on the enjoyment of human rights by Palestinians, in particular their rights to freedom of movement, family life, work, education and health."<sup>53</sup> The Committee has recommended that "the State party should review these measures to ensure that restrictions on freedom of movement are not systematic but only of temporary and exceptional nature, are not applied in a discriminatory manner, and do not lead to segregation of communities. The State party should ensure that Palestinians enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health."<sup>54</sup>

70. Moreover, the State party has recently threatened to change the boundaries of the municipality, to formally exclude areas that are on the eastern part of the Wall.<sup>55</sup> This might result in the stripping of hundreds of thousands of Palestinians of their residency status, which will not only deteriorate their life circumstances, but will also be in violation of both Articles 2 and 5 of the Convention.<sup>56</sup>

71. For about two years, '**Ammar Khaled Bardiyya**, originally from the Old City of Jerusalem, has been involved in legal battles against the Israeli National Security Agency (NSA) for the purpose of maintaining his Jerusalem residency status and

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<sup>51</sup> *Ibid.*, at 13.

<sup>52</sup> *Ibid.*

<sup>53</sup> UN CERD, 'Concluding Observations: Israel' (n 2), at paragraph 20.

<sup>54</sup> *Ibid.*

<sup>55</sup> E. Bronner, 'Israelis Say Settlements Must Be Part of Israeli State,' *New York Times* (27 January 2012), [http://www.nytimes.com/2012/01/28/world/middleeast/details-emerge-of-israeli-offer-to-palestinians-on-two-state-solution.html?\\_r=2&hp](http://www.nytimes.com/2012/01/28/world/middleeast/details-emerge-of-israeli-offer-to-palestinians-on-two-state-solution.html?_r=2&hp) accessed 30 January 2012.

<sup>56</sup> Al-Haq, 'The Jerusalem Trap' (n 40).

rights. 'Ammar brought forth the case against the NSA after they claimed that he and his family do not reside within the Jerusalem municipality border and therefore the family owes them over ten million shekels of services they benefited from for the past 12 years. This legal fight is particularly important for the sake of his ill daughter, who is required to visit Israeli hospitals in Jerusalem on a regular basis.

72. For 12 years, 'Ammar has been living with his family in al-Matar, Qalandiya Refugee Camp, Jerusalem governorate. The status of the building in which 'Ammar resides is quite complex; two thirds of the building is located on land that is outside the Jerusalem municipality border as defined by Israel and one third is located within this line. A professional land surveyor found that 85 per cent of 'Ammar's apartment is located within the Jerusalem municipality border, but when 'Ammar presented these documents during the District Court session, they were dismissed by the Court.

73. On 21 September 2011, an Israeli court rendered a decision that 'Ammar Khaled Bardiyya's home in Qalandia Refugee Camp is not located within the Jerusalem municipality borders.<sup>57</sup>

74. For many mixed-residency couples and families, the Jerusalem municipality zones on the eastern side of the Wall are the only places where they are able to reside together while fulfilling the requirements of the 'centre of life' policy. Israel has thus far failed to enforce permit requirements for West Bank ID holders in these municipal areas.

75. **Fatima Hasan al-Tousi** (51 years old) holds a Jerusalem ID and had lived in al-Sheikh Jarrah, East Jerusalem, until 1981 when she moved to al-Ram, Jerusalem governorate, after getting married to her husband who holds a West Bank ID. At the time, Fatima and her family did not face any restrictions of their movement. After the Second Intifada however, Israel increased the restrictions on movement and it became more difficult for Fatima's children to reach their schools in Jerusalem and for herself to get the necessary medical treatment she needed.

76. Fatima moved to Kufr 'Aqab, located within the Israeli Jerusalem Municipality border (eastern side of the Wall), and started the procedure for filing for family reunification at the Israeli Ministry of Interior. Her daughters, 17 and 22 years old,

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<sup>57</sup> Al-Haq Affidavit No. 6777/2011.

were denied permits. Fatima's son, Hussein, was given a Jerusalem ID while her other son, Firas, was only given an open permit for six months and was told he could renew it whenever needed, although there are no guarantees that the Israeli administration would agree to renew his permit each time he applies.

77. Fatima separated from her husband in 2007 and could not bring her two daughters to live with her when she moved to Jerusalem. While she prefers to live in Jerusalem as she receives regular treatment at medical facilities there for her illness, Fatima is being forced to move to Kufr 'Aqab if she wants to live with her son Firas and her other two daughters. Moreover, Fatima never received the benefits from the State, usually granted to divorced or separated women registered with the Israeli NSA.<sup>58</sup>

#### ***4.5. The 2003 Citizenship and Entry into Israel Law***

78. The 2003 Citizenship and Entry into Israel Law, which applies as well to permanent residents of East Jerusalem, is one of the most discriminatory laws in Israel. It still remains in force today, despite strong international criticism and repeated calls to revoke the law, including by the Committee in its 2007 Concluding Observations.<sup>59</sup> On 11 January 2012, the majority of the HCJ has upheld the constitutionality of the Citizenship and Entry into Israel Law, ruling that even if there is a constitutional right to family life, this right does not extend to this being exercised necessarily within Israel. In other words, even if the law harmed the constitutional rights of citizens and residents of Israel, this infringement is proportional as it fits within the limitation of national security. In the view of the human rights organisation *Adalah*, one of the petitioners in this case, the High Court has approved a law "the likes of which do not exist in any democratic state in the world, depriving citizens from maintaining a family life in Israel only on the basis of the ethnicity or national belonging of their spouse." The ruling, which constitutes a blatant example of racial discrimination, proves once again how much the respect of individual rights in Israel (when they concern the Palestinian population) has been subjected to the mercy of the sacred and undefined notion of 'national security'.

79. **Wasfi Muhammad Nasrallah** (51 years old) and his wife have been married for 27 years. Wasfi holds a West Bank ID and is originally from 'Aida refugee camp in Bethlehem, while his wife holds a Jerusalem ID and has been living in Shu'fat

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<sup>58</sup> Al-Haq Affidavit No. 6690/2011.

<sup>59</sup> UN CERD, 'Concluding Observations: Israel' (n 2), at paragraph 20.

Refugee camp, East Jerusalem. Upon getting married, Wasfi moved in to live with his wife in Shu'fat Refugee camp. After the First Intifada, Israel erected checkpoints that prevented Palestinians holding a West Bank ID from entering Jerusalem. It was then that Wasfi applied for family reunification.

80. Wasfi provided the Israeli Ministry of Interior with all his documents but they refused to give him a permanent Jerusalem ID. Instead, they gave him a six months long open permit, which allowed him to stay in Jerusalem. Six months later, Wasfi had his permit renewed. For about 15 years, Wasfi had his permit renewed, but was never granted permanent residency. Five years ago, Wasfi went to renew his permit, but it was denied. Since then, three lawyers have been working on his case, but to no avail. The reason for the denial of the family unification request involved unknown 'security reasons.'<sup>60</sup>

81. The implementation on the 2003 Citizenship and Entry into Israel Law further encourages the Israeli administration, through internal regulations and bylaws, to make the family unification procedures even more complicated. The case of **Mahmoud Basem al-Rishq** (27 years old) presents a striking example. Mahmoud, a resident of 'Anata, Jerusalem governorate and holder of a Jerusalem ID card, is married to an Egyptian national.<sup>61</sup> Since the wedding, Mahmoud has been trying to apply for family unification at the Israeli Ministry of Interior, so he could live together with his wife in Jerusalem. Mahmoud was given two months in order to provide various documents to the Israeli Ministry of Interior. Several times, Mahmoud was given contradictory information by the Ministry of Interior.

82. Four months later, Mahmoud was denied entry into Egypt for unknown 'security reasons' and had to move with his wife to Jordan. Mahmoud then received a letter from the Ministry of Interior stating that he needed to immediately provide documentation right away or else his application for family reunification would be denied.

83. Mahmoud sent his father to the Ministry of Interior in order to check if the papers had to be submitted but he was told that there were no papers required at this time. One month later, Mahmoud's application was denied. In addition to this, he was

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<sup>60</sup> Al-Haq Affidavit No. 6896/2011.

<sup>61</sup> Mahmoud's wife is an Egyptian national and therefore not from an 'enemy state'. The 2003 Citizenship and Entry into Israel Law identifies Syria, Iraq and Iran as 'enemy states.'

threatened to have his Jerusalem ID revoked if he keeps living outside of Jerusalem. Mahmoud came back to Jerusalem and he has filed once again a request for family unification with the assistance of a lawyer. Mahmoud has already provided his lawyer with all the documentation necessary for the application and is currently waiting to hear from the Ministry of Interior. He always gets from his lawyer the same response when he checks on the progress of the application, which is he needs to wait ten more days.<sup>62</sup>

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<sup>62</sup> AI-Haq Affidavit No. 7001/2012.

## 5. Discriminatory Allocation of Water in the OPT

### 5.1. Contextual Background

84. For many years the Palestinian population of the OPT has suffered from a shortage of clean, safe water. While below average rainfall has affected some parts of the OPT in isolated years, water is not scarce in the region, which contains several productive aquifers as well as the Jordan River and other natural water sources. The water shortage in the OPT is a direct result of deliberate acts and omissions of Israel. Israel's policies and practices in the West Bank have been to expropriate and assert control over Palestinian water resources, maintain an unequal and discriminatory allocation of water resources to benefit both Israeli citizens living in Israel and those living in settlements in the OPT, and prevent Palestinians from developing or accessing their own resources.<sup>63</sup>

### 5.2. Discriminatory Allocation of Water in the West Bank

#### 5.2.1. Discrimination in Availability of Water in the West Bank

85. The problem of availability of water for Palestinians is a direct result of Israel's water policies and practices in the OPT, which are implemented for the solely benefit of Israeli citizens living in Israel and those residing in settlements in the West Bank, including East Jerusalem. This systematic discrimination continues to result in widespread violations of the right to water for Palestinians, which in turn has severe impacts on the rights to life, to adequate food and housing, to work and to health.<sup>64</sup>

86. It should be noted that the discriminatory restrictions on access to water supply and sanitation imposed against Palestinians disproportionately affect women in the OPT. Such restrictions, which can include a lack of safe water or having to travel excessive distances to access safe water, make fulfilling household chores

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<sup>63</sup> See Al-Haq, 'The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory' Palestinian Council for Human Rights Organisations contribution to European External Action Service regarding implementation of EU-Israel Action Plan in 2011 (29 November 2011), <http://www.alhaq.org/advocacy/targets/european-union/501-the-right-to-water-a-policy-of-denial-and-forced-displacement-in-the-occupied-palestinian-territory> accessed 30 January 2012; Al-Haq and EWASH, 'Joint Parallel Report to the Committee on Economic, Social and Cultural Rights on the occasion of the consideration of the Third Periodic Report of Israel' (1 September 2011), at paragraph 24 [http://www2.ohchr.org/english/bodies/cescr/docs/ngos/EWASH-Al-Haq\\_Israel\\_CESCR47.pdf](http://www2.ohchr.org/english/bodies/cescr/docs/ngos/EWASH-Al-Haq_Israel_CESCR47.pdf) accessed 30 January 2012

<sup>64</sup> Al-Haq, 'The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory' (n 63), at 4.

and taking care of children more difficult.<sup>65</sup> In addition, the ramifications that this has on adequate sanitation can lead to families being susceptible to diseases, increasing the worry and workload of women who tend to be responsible for their family's health and hygiene.<sup>66</sup> It should also be noted that women are recognised as having special sanitation needs and these are not adequately met in the current situation.<sup>67</sup>

87. As of September 2011, 313,000 Palestinians across 113 communities are not connected to a water network and are considered at high risk of water scarcity.<sup>68</sup> As such, they depend on water delivered by trucks, which costs up to five times the amount paid by household connected to the water network and is often of questionable quality.<sup>69</sup> Overall, in the West Bank there are some 50,000 people in 151 communities that receive less than 30 liters per capita daily (lpcd).<sup>70</sup>

88. Israel has also actively prevented the construction and maintenance of water and sanitation infrastructure in Area C. This has primarily been achieved through Israel exercising its effective veto through the Joint Water Committee, which is mandated to approve all water and sanitation projects in the West Bank. In Area C (around 61 per cent of West Bank territory) a further layer of bureaucracy exists, as the Israeli Civil Administration must grant a permit for any construction, including water and sanitation projects. The vast majority of applications for a permit are denied, and any structure built without a permit faces the risk of demolition by the Israeli authorities and subsequent forced displacement.<sup>71</sup> As well as prohibiting nearly all construction of wells necessary for Palestinians to secure additional quantities of water to support population growth and socio-economic development,

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<sup>65</sup> EWASH Advocacy Task Force, 'Fact Sheet 8: Women's Access to Water and Sanitation in the Occupied Palestinian Territory' (8 March 2011), [http://www.ewash.org/files/library/110308\\_EWASH\\_FS\\_8\\_A4\\_web%5b1%5d%20new%20desgn%20.pdf](http://www.ewash.org/files/library/110308_EWASH_FS_8_A4_web%5b1%5d%20new%20desgn%20.pdf) accessed 30 January 2012.

<sup>66</sup> *Ibid.*

<sup>67</sup> United Nations Office of the High Commissioner for Human Rights (UN OHCHR), 'Women and Girls and Their Right to Sanitation', (3 October 2011), <http://www.ohchr.org/EN/NewsEvents/Pages/Womenandgirlsrighttosanitation.aspx> accessed 30 January 2012.

<sup>68</sup> Al-Haq, 'The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory' (n 63), at 4.

<sup>69</sup> UN General Assembly (UN GA), Department of Public Information, 'Arbitrary Detention, Excessive Force, Israeli Settlement Activity Increasing Palestinian Hardship, Regional Commission Chief Tells Second Committee' (26 October 2011) Second Committee, 23rd & 24th Meetings UN Doc GA/EF/3319.

<sup>70</sup> Al-Haq and EWASH (n 63), at paragraph 24.

<sup>71</sup> In the first seven months of 2011, demolitions of water infrastructure, other livelihood infrastructure and homes have forcibly displaced 755 people and affected the livelihood of some 1,400 others. This is more than during the whole year of 2010 when 606 people were forcibly displaced. *Ibid.*, at paragraph 21.

such policies have denied communities access to water and sanitation facilities, including water, toilets, sewage networks and cisterns for rainwater harvesting.<sup>72</sup>

### *5.2.2. Discrimination in Accessibility of Water in the West Bank*

89. Some communities have access to less than 25 lpcd, which is on par with disaster and humanitarian crisis criteria. These amounts are well below the minimum 100 lpcd, which according to the World Health Organisation (WHO) is necessary for human dignity and thus should be considered a minimum core obligation to provide.<sup>73</sup>

90. The situation in the Jordan Valley provides a striking example of discriminatory policies and practices with respect to access to water and sanitation, again rendering preferential treatment to Israeli settlements. Palestinians, who are prevented from accessing 77 per cent of the Jordan Valley, including all access to the Jordan River and adjacent springs, have access to only 30 per cent of all water production from the Eastern Aquifer. Israel utilises all the remainder, with 75 per cent of that allocated for settlement use.<sup>74</sup>

91. For instance, the Jordan Valley settlements of Beda'ot and Ro'i enjoy more than 400 lpcd for household use only. The nearby Palestinian village of al- Hadidya, a herding community with a population of 230, struggles with only 22 lpcd.<sup>75</sup>

92. The village of Al 'Aqaba (Tubas governorate) in the north of the Jordan Valley, is another striking example of how Israel's discriminatory water policies affected Palestinians living in the OPT.

93. **Sami Sadeq Sbeih** is one of 300 people living in al-Aqaba, who suffer daily from a severe lack of water sources in the village. There are no water systems in place, not even a water reserve or a well, as Israeli authorities do not allow construction of water infrastructure. The Israeli water company, Mekorot, is the main water supplier. It provides water services only to the settlements and military camps

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<sup>72</sup> Israel prohibits the construction of wells in both the Western and North Eastern Aquifers and has only recently allowed a few wells to be constructed in the Eastern Aquifer, albeit these are not sufficient to allow for Palestinian development of the agreed additional water under Oslo.

<sup>73</sup> World Health Organisation, 'Technical Note No. 9 – Minimum water quantity needed for domestic use in emergencies' (2011), [http://wedc.lboro.ac.uk/resources/who\\_notes/WHO\\_TN\\_09\\_How\\_much\\_water\\_is\\_needed.pdf](http://wedc.lboro.ac.uk/resources/who_notes/WHO_TN_09_How_much_water_is_needed.pdf) accessed 30 January 2012.

<sup>74</sup> Al-Haq and EWASH (n 63), at paragraph 26.

<sup>75</sup> Al-Haq, 'The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory' (n 63), at 5.



in the Jordan Valley. While Mekorot's water systems are located only seven kilometers from the village, the people of al-Aqaba village are denied access to this infrastructure. As a result, they are forced to buy water from moveable water tanks from villages nearby. Every water tank is used on a weekly basis and costs between 150-200 NIS. Every cup of water costs between 15-20 NIS. However, every cup of water provided for by Mekorot costs less than one NIS.

94. Many of al-Aqaba's residents are farmers or shepherds and require larger amounts of water for irrigation and for their cattle. Their struggle for water and the costs associated with the lack of access to water systems has forced them to abandon their work in agriculture or to sell their cattle.<sup>76</sup>

95. Israeli settlers in the West Bank, with a population of over 500,000, consume approximately six times the amount of water used by a Palestinian population of some 2.5 million.<sup>77</sup>

96. In conclusion, the availability of and access to water enjoyed by Israeli settlers demonstrates that resources are available to provide water in the West Bank. The lack of sufficient water for Palestinians in the West Bank is not on account of lack of available resources but rather of discriminatory policies in water management by Israel.

### *5.2.3. Denial of Access to Water and Forced Displacement*

97. Israeli forces regularly target for destruction cisterns, wells and springs that are used by Palestinians in Area C. This policy is exemplified by the destruction of three wells in the Jordan Valley in September 2011 alone.

98. On 13 September 2011, Israeli forces destroyed **Muwaffaq Fakhri Daraghme**'s water well in Hay al-Hadiqa, Toubas governorate. He built his water well on Area "B" after obtaining a building permit from the Palestinian water authorities. Muwaffaq incurred damages of about NIS 750,000 and is now facing financial problems as he relied on his well to irrigate his crops. Muwaffaq never received a demolition order from the Israeli authorities.<sup>78</sup>

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<sup>76</sup> Al-Haq Affidavit No. 6371/2011.

<sup>77</sup> Al-Haq and EWASH (n 63), at paragraph 27.

<sup>78</sup> Al-Haq Affidavit No. 6651/2011.

99. *“On 13 September 2011 at 7:00 am, I was surprised when I received a phone call from the guard watching over my water well. He told me that Israeli forces, accompanied by military bulldozers, had just arrived to the area where my well was located. I quickly headed towards the area, which is about ten kilometers from my home. As soon as I arrived, I saw eight Israeli olive green military jeeps. I have previously seen these jeeps before near Toubas where al-Far’a water wells are located. [...] A bulldozer began placing dirt and rocks inside my water well. When I tried to reach the well, Israeli soldiers threatened me with their weapons and prohibited me from approaching.”<sup>79</sup>*

100. Another demolition of water wells took place near al-Nassariyah village, Nablus governorate, on 8 September 2011. Israeli occupying forces destroyed three artesian water wells near the village, under the pretence that they lacked permit. The area of al-Nassariyah village presents an absurd situation, in which the residential area of the village located in Area A and therefore subject to Palestinian control, but the surrounding agricultural lands belonging to some of the villagers are located in Area C and therefore subject to complete Israeli control.

101. One of the wells destroyed belonged to farmer **Nabil ‘Adel Judeh**, originally from the nearby village of ‘Iraq al-Tayeh, also located in Area A. Nabil was able to build this water well after obtaining a building permit from the Palestinian water authorities. Nabil was present during the demolition and went to speak to the soldier in command about the permit he owns. The soldier in command dismissed the papers Nabil gave him and ordered the bulldozer driver to proceed with the destruction of the wells. The wells destroyed were being used to irrigate around 1,200 *dunums*<sup>80</sup> of agricultural land. Nabil was particularly distraught as two months prior to the demolition he was forced to renovate his water well at a cost of about NIS 130,000 after it had been destroyed for the first time by Israeli forces on 12 July 2011.<sup>81</sup>

102. In certain cases, water infrastructure is destroyed on the pretext that it was constructed without an Israeli permit. This occurred for instance on 29 May 2011 in an agricultural area belonging to the village of Kufr Than, Jenin governorate. Representatives of the Israeli water authorities, accompanied by Israeli soldiers,

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<sup>79</sup> Excerpt from Al-Haq Affidavit No. 6651/2011. Given by Muwaffaq Fakhri Daraghmeh, a resident of Hay al-Hadiqa village, Toubas governorate, West Bank.

<sup>80</sup> 1 dunum = 1000 m<sup>2</sup>.

<sup>81</sup> Al-Haq Affidavit No. 6656/2011; Al-Haq Affidavit No. 6498/2011.

destroyed 12 water wells under the pretence that they lacked permits. According to **Muhammad Fahmi Mir'i**, the director of Kufr Than's collaborative society for irrigation, 300 citizens from Kufr Than village are affected by the destruction of the water wells, as they are heavily dependent on the crops grown in their agricultural lands. The destruction of the water wells came exactly at the start of the cucumber season, a season the village residents heavily rely on as a financial asset each year.<sup>82</sup>

103. Rooftop storage containers, water tankers and tractors used to transport water, including those provided by humanitarian organisations, are all targeted for destruction. Other activities include undermining Palestinian water sources by drilling deeper wells for settlements' exclusive use upstream of natural water sources, which cause the springs to run dry.<sup>83</sup>

### ***5.3. Discriminatory Allocation of Water in East Jerusalem***

104. The East Jerusalem section of the West Bank, illegally annexed by Israel and under its civil rather than military administration, also suffers from Israel's discriminatory policies in the allocation, availability of and access to water.

105. For instance, Palestinian residents of East Jerusalem lack access to adequate water and sanitation infrastructure and services primarily due to the Jerusalem Municipality's strict housing and urban planning regime, which places stringent and unrealistic criteria for access to such services.<sup>84</sup> Over half of the Palestinians living in East Jerusalem, some 160,000 persons, are not allowed under Israeli law to connect to the water network, mainly because the required housing permits are not issued.<sup>85</sup>

106. As set out in the above section on the Legislative and Administrative Discriminatory Policies, some Palestinian areas of East Jerusalem have been excluded from the boundaries of the city, leading to a crisis in access to water and sanitation. For instance, the parts of East Jerusalem that have been cut off by the construction of the Annexation Wall have no access to municipal services including water and sanitation, such are Kufr Aqab, the Palestinian village of Beit Iksa, and Shu'fat refugee camp.

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<sup>82</sup> Al-Haq Affidavit No. 6439/2011.

<sup>83</sup> Al-Haq and EWASH (n 63), at paragraph 54.

<sup>84</sup> See further Bimkom, 'The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem' (2006), <http://eng.bimkom.org/Index.asp?ArticleID=94&CategoryID=125> accessed 30 January 2012.

<sup>85</sup> Al-Haq and EWASH (n 63), at paragraph 54.

#### **5.4. Discriminatory Allocation of Water in the Gaza Strip**

107. The 1.5 million Palestinians living in the Gaza Strip have access to only one source of water; the southern end of the Coastal Aquifer. Israel does not allow the transfer of water to the Gaza Strip, and the population there has resorted to over-extraction from the Coastal Aquifer at a rate of twice the aquifer's yearly sustainable yield.<sup>86</sup> This has resulted in a progressive deterioration in the water quality in the Gaza Strip.

108. While the average amount of water available in the Gaza Strip stands at 80-100 lpcd, at present, 90-95 per cent of this water supply is polluted and unfit for human consumption.<sup>87</sup> The only fresh water source is polluted by raw sewage and the infiltration of seawater, which is itself contaminated by raw sewage as well.<sup>88</sup> According to the Department of Health of the UN Relief and Works Agency (UNRWA), waterborne diseases are increasingly common, and watery diarrhoea and acute bloody diarrhoea are major causes of death in the refugee population of the Gaza Strip.<sup>89</sup> The Coastal Aquifer currently has nitrate levels that exceed WHO standards for human consumption by as much as 1,600 per cent, with chloride levels up to 1,200 per cent of what is considered safe for domestic use.<sup>90</sup>

109. As a result of the ongoing comprehensive illegal closure of the Gaza Strip, the population does not have access to the majority of the materials necessary to improve the water and sanitation infrastructure. The ICRC has found that the closure in Gaza amount to collective punishment.

110. *"The whole of Gaza's civilian population is being punished for acts for which they bear no responsibility. The closure therefore constitutes a collective punishment imposed in clear violation of Israel's obligations under international humanitarian law."<sup>91</sup>*

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<sup>86</sup> Amnesty International, 'Troubled Waters: Palestinians Denied Fair Access to Water' (October 2009), <http://www.amnesty.org/en/library/asset/MDE15/027/2009/en/e9892ce4-7fba-469b-96b9-c1e1084c620c/mde150272009en.pdf> accessed 30 January 2012.

<sup>87</sup> Al-Haq, 'The Right to Water - A Policy of Denial and Forced Displacement in the Occupied Palestinian Territory' (n 63), at 5.

<sup>88</sup> *Ibid.*

<sup>89</sup> UN Relief and Works Agency (UNRWA), 'Epidemiological Bulletin for Gaza Strip' (February 2009), [http://www.who.int/hac/crises/international/wbgs/gaza\\_unrwa\\_epi\\_15feb2009.pdf](http://www.who.int/hac/crises/international/wbgs/gaza_unrwa_epi_15feb2009.pdf) accessed 30 January 2012; see also Amnesty International, 'Troubled Waters' (n 86).

<sup>90</sup> Al-Haq and EWASH (n 63), at paragraph 80.

<sup>91</sup> ICRC, 'Gaza Closure: not another year!' News Release (14 June 2010), <http://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm> accessed 30 January 2012.

111. As of July 2011, there were 17 water and sanitation projects placed on indefinite hold due to Israel's refusal to admit the required building materials.<sup>92</sup> Until Israel allows access to indispensable building materials, it is estimated that the quality of water in the Coastal Aquifer will continue to deteriorate and will be unusable by 2016, when, in the absence of any alternatives, the Gaza Strip could become unfit for human habitation.<sup>93</sup>

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<sup>92</sup> UN OCHA, 'Monthly Humanitarian Monitor' (July 2011), [http://www.ochaopt.org/documents/ocha\\_opt\\_the\\_humanitarian\\_monitor\\_2011\\_08\\_19\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2011_08_19_english.pdf) accessed 30 January 2012.

<sup>93</sup> Al-Haq and EWASH (n 63), at paragraph 80.

## **6. Suggested Questions**

1. Question the State Party on the persistence of lack of compliance with the recommendations of the Committee according to which the Convention should be applied in the OPT, regardless of the national or ethnic origins of the residents.

2. Question the State Party about policies and systematic practices of racial segregation and discrimination for the purpose of establishing and maintaining domination by one group over another, in clear violation of international law, and the obligations enshrined in the Convention, especially in Article 3 of the Convention.

3. Question the State Party about the measures it is taking to ensure the protection of the population in the OPT from the rising scale of settlers violence.

4. Question the State Party on the discriminatory practices regarding freedom of movement, caused by the arbitrary system of IDs, the Annexation Wall and other obstacles to the freedom of movement.

5. Question the State Party on its lack of compliance with the Committee's 2007 Concluding Observations, concerning the obligation of Israel to comply with the ICJ 2004 Advisory Opinion on the Wall to dismantle the parts unlawfully built, and to compensate the victims.

6. Question the State party on the implementation of zoning and planning schemes in the OPT, in particular in East Jerusalem and Area C, which are based on unjustified national and ethnic discrimination.

7. Question the State party on the lack of implementation of the Committee's 2007 Concluding Observations on practices of home demolitions, in particular in East Jerusalem and in Area C.

8. Question the State Party on the lack of implementation of the Committee's 2007 Concluding Observations on the revocation of the 2003

**Citizenship and Entry in Israel Law, and the indiscriminate refusal of family unification requests, in particular for residents of occupied East Jerusalem.**

**9. Question the State party on its policy of water allocation, and the measure it takes to ensure fair and equitable sharing of water resources to entire population of an area regardless of national or ethnic origin.**

**10. Question the State party on the violation of its obligation to provide the protected people in the OPT with adequate water and sanitation infrastructure, whether by not permitting that such infrastructure be built such as in the case of the Gaza Strip due to the illegal closure, or by preventing access to existing infrastructure in occupied East Jerusalem and Area C.**

**11. Question the State party on the deprivation of the Palestinian population from the use of their water resources, in particular in the Jordan Valley, in addition to the prohibition of digging wells in Area C, compromising by such the livelihood of this population.**

## **7. Recommendations**

The submitting parties recommend the Committee to:

- 1. remind the State party of its obligation to condemn racial discrimination and undertake to pursue a policy of eliminating racial discrimination of all populations in all territories under its effective control;**
- 2. urge the State party to include information on the human rights situation of the Palestinians in the Occupied Palestinian Territory, comprising of the West Bank, East Jerusalem, and the Gaza Strip, in its next periodic report;**
- 3. urge the State party to cease the settlement project and to abolish the bifurcated system of norms by stopping the illegal extra-territorial application of its civil law to the Israeli settler population in the OPT;**
- 4. urge the State party to abstain from excluding certain groups of people from enjoying their basic human rights on the bases of nationality, ethnicity or status;**
- 5. urge the State party to comply with the Committee's 2007 Concluding Observations, in particular to protect Palestinians residing in the OPT from settlers violence, and apply a fair legal system that sanctions violations against them;**
- 6. urge the State party to halt the discriminatory measures in the OPT, and in particular in occupied East Jerusalem, such as home demolitions, revocation of residency rights, and restrictions on freedom of movement;**
- 7. urge the State party to comply with the Committee's 2007 Concluding Observations and revoke the 2003 Citizenship and Entry in Israel Law;**
- 8. urge the State party to review its policy on family reunification to ensure it is not applied in discriminatory fashion, and ensure that any restrictions are strictly necessary and limited in scope, and that they are not applied on the basis of nationality, residency or membership of a particular community;**



**9. urge the State party to take all the necessary measures to allow undiscriminatory access to adequate water and sanitation infrastructure, in particular in occupied East Jerusalem and Area C, and to refrain from hindering the construction of such infrastructures in the Gaza Strip on the basis of indiscriminate and disproportionate security reasons;**

**10. urge the State party to manage the water resources in the OPT in conformity with its obligation as an Occupying Power by guaranteeing the protected population unhindered access to water in order to sustain their livelihoods.**