



STATE OF PALESTINE  
PALESTINE LIBERATION ORGANIZATION  
NEGOTIATIONS AFFAIRS DEPARTMENT

# OCCUPIED LIVES



## ISRAEL'S VIOLATIONS OF PALESTINIAN HUMAN RIGHTS



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### **PALESTINIAN HUMAN RIGHTS**

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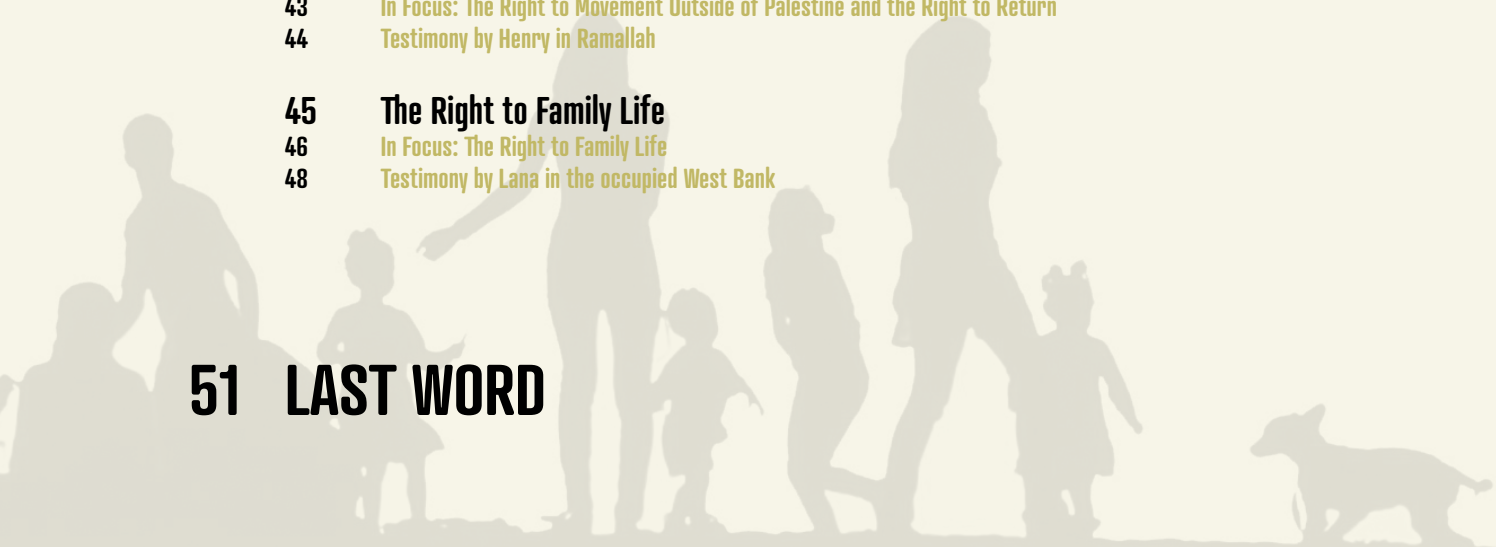
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## INTRODUCTION

For over a century, the people of Palestine have continued to call for the realisation of their inalienable right to self-determination despite continuous attempts at negating their very right to exist on their land. Starting with the infamous Balfour Declaration that denied Palestinian civil and political rights, colonial attempts have continued to impose and secure a system of Jewish Zionist supremacy.

The Nakba of 1948 and the mass ethnic cleansing campaigns continue to this day with the adoption of more racist laws and military orders against the indigenous Palestinian people in Israel proper and in the occupied Palestinian territory (OPT) since 1967. Israel continues to effectively discriminate against all Palestinians, on both sides of the Green Line and Palestinian refugees and exiles in the diaspora, imposing an institutionalized apartheid regime of systematic oppression and domination against the Palestinian people as a whole.

Regretfully the negation of the human and national rights of the Palestinian people has been largely normalized by the international community. Israel is a State that enjoys flourishing diplomatic

relations despite its documented inhuman policies against the land and the people of Palestine, threatening to turn a final status agreement between Israel and Palestine into a utopia only kept alive over the desks of those who are not willing to do what is needed to implement the long-overdue rights of the Palestinian people.

Fulfilling the human and national rights of the Palestinian people is a fundamental requirement for any peace agreement. Some 73 years after the Nakba and 54 years after the occupation, Israel's intentions of perpetuating this system of settler-colonial occupation, annexation, and apartheid, are not just clear, they have been even legislated for in Israel's own parliament, including the infamous Jewish Nation-State Law that turns a "de-facto" apartheid regime into a "de-jure" reality for all of historic Palestine.

This publication presents an overview of Israel's ongoing systematic violations of Palestinian human rights and its catastrophic consequences for both the daily lives of millions of Palestinians as well as for the prospects of a just and lasting peace.







## LEGAL CONTEXT

Israel is currently administering the OPT i.e. the West Bank, including East Jerusalem and the Gaza Strip, and No Man's Land in and around Jerusalem, under a prolonged belligerent occupation, now in its 54<sup>th</sup> year. Consequently, Israel's administration of the OPT is governed by the application of International Humanitarian Law (IHL) including the Hague Regulations of 1907, the Fourth Geneva Convention of 1949, customary international law, and complementary International Human Rights Law (IHRL).<sup>1</sup>

Despite Israel's 1967 de facto annexation and 1980 de jure annexation of East Jerusalem which have been recognized and condemned as internationally wrongful acts,<sup>2</sup> Israel's status in East Jerusalem is that of an Occupying Power. As such, Israel's annexation of East Jerusalem does not alter the legal status of the city.<sup>3</sup> Further, Israel's alleged disengagement from the Gaza Strip in 2005 has not altered the legal status of the Gaza Strip - Israel maintains effective control over the territory as Occupying Power, and the Gaza Strip, remains an integral part of the State of Palestine.

Last, the Oslo Accords. These are interim peace agreements signed in 1993 between the Palestine Liberation Organization (PLO) and Israel, with the purpose of reaching a final peace agreement. It is crucial to stress that these accords do not change the legal status of Palestine, as the territory, even after the signing of these accords, remains under de facto Israeli military occupation.

In addition to its obligations under IHL, Israel, as Occupying Power holds complementary human rights obligations to the occupied Palestinian population. This has been affirmed by the International Court of Justice (ICJ) in its Advisory Opinion on the Wall,<sup>4</sup> reports of the United Nations Secretary-General and the High Commissioner for Human Rights, in addition to human rights treaty bodies, and various General Assembly Resolutions.<sup>5</sup> As argued by legal scholars, the longer the occupation continues the heavier is the weight of the Occupying Power's human rights obligations to the protected population.<sup>6</sup> However Israel's prolonged denial of fundamental human rights has been key to preventing the realization of Palestinians collective inalienable right to self-determination.

Recent reports by the State of Palestine, Al-Haq and Badil highlight that Israel's policies and practices of racial segregation and discrimination against the Palestinian people as a whole may amount to the crimes of apartheid and persecution.<sup>7</sup> Since 1948, Israel, has through its laws, policies and practices enforced a system of Israeli-Jewish national domination where one racial group (Israeli-Jews) dominates another (Palestinians), systematically oppressing them and dividing them into segregated groups, through administrative means.<sup>8</sup> The apartheid advances Israel's settler colonial objectives, to fragment and segregate Palestinians into groups to prevent their resistance to its aggressive expansionist colonization.





The prohibition of apartheid under international law is a peremptory norm. This entails that derogation by States from such norms in their treaty practice is strictly prohibited.<sup>9</sup> The prohibition of apartheid is codified in the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),<sup>10</sup> and the International Convention on the Suppression and Punishment of the Crime of Apartheid (Apartheid Convention). More specifically, during international armed conflict, Additional Protocol I criminalizes “practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination”<sup>11</sup> as grave breaches of the Protocol, while individuals may also be prosecuted for the crime against humanity of apartheid under the Rome Statute of the International Criminal Court.<sup>12</sup>

Third States have a responsibility to not recognize or assist in maintaining a situation arising from an internationally

wrongful act, such as Israel’s settler colonial enterprise and apartheid, and must cooperate to bring the unlawful situation to an end.<sup>13</sup> For example, Article 1 of the Fourth Geneva Convention requires that States parties to the Convention “respect and ensure respect for the present Convention in all circumstances.” In its Advisory Opinion on the Wall, the ICJ concluded that: “It is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end”.<sup>14</sup> This is especially pertinent as this illegal situation of prolonged occupation, settler colonialism and apartheid, derives from Israel’s intentional and continued denial of the collective right of the Palestinian people to self-determination.

Stemming from these obligations, the international community as a collective, must use all means available to



bring the illegal situation to an end, including through the United Nations and its organs. It is therefore recommended that the international community;

- Annually update the Human Rights Council database on all business enterprises involved in certain activities relating to Israeli settlements in the West Bank, including East Jerusalem, to ensure that the database serves its purpose;
- Adopt legislation in their respective territories which would criminalize any private or public entity involved in the unlawful settlement enterprise;
- To abide by labelling illegal settlement products as such, and further formally enact domestic legislation to prohibit the import of settlement goods and services into their markets;
- Facilitate the establishment of fact-finding missions to investigate the crimes of apartheid and persecution by the Occupying Power in the OPT;
- Facilitate the establishment and work of the Independent Commission of Inquiry per resolution A/HRC/RES/S-30/1 of May 2021;
- Reconstitute the UN Special Committee against Apartheid and the UN Centre against Apartheid;
- Cooperate with the Office of the Prosecutor in the investigation into the Situation in the State of Palestine.

The international community must urgently act. Inaction emboldens Israel's violations of IHL and IHRL and places its actions- with the absence of accountability- under the cover of impunity. This continued attack on human rights is not a mere Palestinian issue, it is a universal one, where disregard to human rights anywhere is a disregard to human rights and the rule of law everywhere.





## DENIAL OF HUMAN RIGHTS UNDER OCCUPATION

On 15 May 1948, the Palestinian Nakba or catastrophe has started. Eight months later, the Universal Declaration of Human Rights (UDHR) was adopted through a UN General Assembly Resolution on 10 December 1948, with many provisions since having crystallized into binding customary international law. Despite the adoption of nine further core international

human rights instruments and Israel's accession to seven of these, the Nakba of the Palestinian people and Israel's continued inhumane acts of apartheid have made a mockery of these laws. It is regrettable that 73 years after the adoption of the UDHR, the Palestinian people are still demanding their most basic rights.

## **"Everyone has the right to life, liberty and security of person"**

*Universal Declaration of Human Rights, Article 3*

### **I. The Right to Life**

**"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life"**

*The International Covenant on Civil and Political Rights, Article 6(1)*

During a military administration of territory, IHL governs the actions of the occupying authorities as *lex specialis*. Notably IHL includes the principle of distinction between combatants, who may be the target of an attack, and civilians, who may not. During military occupation, Article 46 of the Hague Regulations provides that "family honour and rights, the lives of persons, and private property, as well as religious convictions and practice, must be respected." The guarantee is mirrored in Article 27 of the Fourth Geneva Convention, which requires that civilians are "at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity". IHL further guarantees special protection for children,<sup>15</sup> women,<sup>16</sup> the disabled,<sup>17</sup> journalists,<sup>18</sup> and medical personnel,<sup>19</sup> whereas the Rome Statute of the International Criminal Court codifies the intentional directing of attacks against the civilian population, including medical staff as war crimes.<sup>20</sup>

Under complimentary IHRL norms, the right to life is the supreme right under the law.

By its nature, the right to life is essential for the realization of all human rights, it is a fundamental human right, from which no derogation is permitted even in situations of armed conflict, and shall be guaranteed without discrimination to all.<sup>21</sup> General Comment 36, which interprets the content of the right to life, explains that this right must not be understood narrowly, it articulates that the right to life "concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity."<sup>22</sup>

The treaty obligations require that states not only respect the right to life in their own territories but also requires that they respect such obligations in all territories that are under their effective control, including in situations of occupation. Therefore, an Occupying Power has a legal obligation to protect the right to life of the protected occupied population under its effective control.<sup>23</sup>







## In Focus: Absence of the Right to Life in Gaza

The Gaza Strip comprises 365 km<sup>2</sup> almost 6 percent of the total area of the OPT (less than 1 percent of the total area of historic mandate Palestine) and is home to more than 2 million Palestinians constituting 40 percent of the OPT's total population. It is considered one of the world's most densely populated territories with 5,600 inhabitants per km<sup>2</sup>. Most of the Palestinians living in the Gaza Strip today are refugees (1.4 million of the 2 million Palestinians living in the Gaza Strip) who were forcibly evicted from their homes in 1948 to live in refugee camps in Gaza. The economy is struggling and the unemployment rate which has dropped to 43 percent, due to the blockade and Israel's externally imposed conditions of de-development.<sup>24</sup>

The day-to-day lives of Palestinians are a challenge, they have no access to reliable and safe water and lack of energy supply hinders the functioning of sanitation facilities. According to international reports almost "96 % of water from the Gaza's sole aquifer is unfit for human consumption"<sup>25</sup> and there has been a significant decline in standards of living in healthcare and education. In the absence of sustained and fundamental basic living requirements the most vulnerable segment of the population especially children

and women are furthestmost impacted. In 2019, the United Nations Independent International Commission of Inquiry on the protests in the OPT found "that the ongoing blockade of Gaza and its impact on the health-care system in Gaza, and the ensuing deprivation of essential goods and services necessary for a dignified life, including basic medical supplies, safe drinking water, electricity and sanitation, constitute violations of the fundamental rights to life and health."<sup>26</sup>

Since 2006, the Israeli military has further imposed coercive measures on the Palestinian population of Gaza by enforcing a tight military blockade on Gaza's land, sea and airspace, cutting it off from the rest of its natural connection with the West Bank and the outside world. The imposed blockade and severe restrictions by Israel, the Occupying Power, on the movement of people and goods into and out of the Gaza Strip has had a deleterious effect on the population at large. Deteriorating conditions have been compounded by recurring Israeli military attacks,<sup>27</sup> the prevention of access of Palestinians to their fishing in the Mediterranean, fuel and electricity shortages, in addition, to the obstruction of the entry of food and non-food commodities into the Gaza Strip. In 2018, the UN Special Rapporteur warned that "Gaza has





become 'unliveable' due to Israel's collective punishment policies of holding the territory under a prolonged closure, leading to widespread unemployment, contaminated drinking water and a "collapsed healthcare system".<sup>28</sup>

During the 'Great March of Return' (2018-2019), Israeli Occupying Forces (IOF) including snipers targeted and killed 217 Palestinians including 46 children and injured over 36,100 others- all were marching to call for an end to the closure of the Gaza Strip, the end of collective punishment and for the realization of their collective right to self-determination and their right of return as refugees to their homes.<sup>29</sup> Thousands of civilian demonstrators sustained major gunshot wounds which varied from shattered bones in the head and lower limbs, resulting in long-term physical disabilities and psychological trauma.<sup>30</sup> The IOF indiscriminately targeted journalists and medics leading to the United Nations Independent Commission of Inquiry warnings that "the Occupied Palestinian Territory is one of the most dangerous places in the world to be a health worker" and concluding that war crimes and crimes against humanity may have been committed.<sup>31</sup>

In the Gaza Strip two major factors are exacerbating the already deteriorating humanitarian conditions: the

chronic 14-year military blockade and the deadly COVID-19 pandemic. The systematic collective punishment by Israel, the Occupying Power, has aggravated the scale of human suffering, particularly as the IOF have continued to bombard Palestinian cities and neighbourhoods during the pandemic. In May 2021, at the end of the Holy month of Ramadan, the IOF launched an aggressive military offensive on the Gaza Strip killing 261 Palestinians including 67 children,<sup>32</sup> including killing nine entire Palestinian families who were wiped off completely from the civil registry.<sup>33</sup>

Even still, Israeli parliamentarians urged further escalations with Itamar Ben Gvir – Member of the Israeli Knesset inciting, "Unfortunately, the number of enemy deaths is not increasing, which means that the army is only doing specific targeted missions [...]".<sup>34</sup> Meanwhile, António Guterres, Secretary-General of the United Nations, in his speech to the UNGA stated that "if there is a hell on earth, it is the lives of children in Gaza".<sup>35</sup> Despite the warning and international outcry, Israel employed heavy, military machinery and warplanes to raze Gaza's homes, buildings, mosques, banks, schools and many populated centers to the ground. The 11 days of intensive military attacks on Gaza displaced 75,000 people, most of whom took refuge in UNRWA schools.



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**Testimony by Jawad Mahdi, 68 (known as Abu Husam), a refugee from al-Majdal, a Palestinian village located 4km northwest of Tiberius, a businessman and owner of Al-Jala' tower in Gaza city which was bombed by the Israel on 15 May 2021. Abu Husam recalls the moments leading to the bombing of his tower and expresses the painful reality of living in Gaza.**

"I still cannot forget the moment my tower collapsed; the moment that turned my life upside down and my hopes and dreams were dashed...

That day in Ramadan was the anniversary of the Nakba (catastrophe) and all the Gaza Strip was under Israeli shelling. At about 1:30 pm an Israeli intelligence officer called and started provoking me, asking if we were celebrating the bombing of Tel Aviv? Then he informed me that we have only one hour to ensure the evacuation of the building. He asked me to inform the Press offices in the Tower (Al-Jazeera and the Associated Press) to evacuate the building, and all the other residents. I rushed and informed everyone within 20 minutes. He was still on the phone and I asked him to go back to make sure that no one is left in the tower, but he refused, and threatened to bomb the tower at any moment.

The 14-story Al-Jala' tower had 28 apartments resided in by families and the rest were offices housing the Press and other institutions and businesses. Some of the families tried to go back to get their expensive belongings but they could not. Even the press crews could not take all their equipment and cameras because the Israeli intelligence officer was threatening that he would bomb the tower at any moment. He said that we should stay 250 meters away from the building.

I used to live with my extended family in nine apartments. It was a severe pain to see your dreams collapse and the building being brought to the ground. It is tragic. The words cannot explain the tragedy we went through. We were all living together happily in the building. I'm responsible for 40 members in the family, including my grandsons, so where would we all go? Our dreams and all our years of memories in these houses vanished suddenly and what is left is the rubble.



The Tower was built in 1995. My son had recently renovated the house and bought new furniture. He just lived in his new house for a couple of hours before being bombarded. It kills me to see the sorrow in his eyes. I have 25 grandsons, that during the last aggression were crying all the time, not eating well, not sleeping, shuddering and screaming when they heard the sound of shelling.

Israeli actions, foremost of which is targeting civilians is tantamount to a war crime. I hired a lawyer to file a lawsuit against Israel and its war ministers to hold them accountable for targeting civilians' homes, endangering their lives and leaving them homeless in the streets without a shelter...."



## II. The Right to Safety and Security of Person

During a military occupation, the Fourth Geneva Convention provides for humane treatment of all persons deprived of their liberty.<sup>36</sup> Article 76 of the Fourth Geneva Convention provides that protected persons shall be detained in the occupied country, they shall be provided with sufficient food and hygiene which would keep them in good health, and receive the necessary medical attention as their state of health requires. The provision ensures that children should be provided special treatment. Article 75 of Additional Protocol I, further requires that persons detained or interned for actions related to the armed conflict "shall be released with the minimum delay possible and in any event as soon as the circumstances justifying the arrest, detention or internment have ceased to exist".

Furthermore, pursuant to article 147 of the Fourth Geneva Convention, wilful deprivation of the right to a fair trial constitutes a grave breach of the Convention. Additionally under the Rome Statute of the ICC, severe deprivation of liberty may amount to a crime against humanity according to Article 7 (1) (e). Notably, the Apartheid Convention identifies "the arbitrary arrest and illegal imprisonment of the members of a racial group or groups" committed for the purposes of establishing domination by one racial group over another, as an inhumane act of apartheid.<sup>37</sup> This may be further prosecuted as the crime against humanity of apartheid, under the Rome Statute of the ICC.<sup>38</sup>

The right to safety and security of person is further guaranteed under Article 9 of the ICCPR. Paragraph 1 of Article 9 stipulates that "Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law." In explaining the meaning of liberty of person and security of person, General Comment 35 provides that, "liberty of person concerns freedom from confinement of the body" while "security of person concerns freedom from injury to the body and the mind, or bodily and mental integrity".<sup>39</sup> Forms of

deprivation of liberty include, inter alia, remand detention, house arrest, solitary confinement and administrative detention, which in the words of the General Comment would constitute a "severe risk of arbitrary deprivation of liberty".<sup>40</sup>

While not all deprivation of liberty is prohibited, arbitrary and unlawful deprivation of liberty is regarded as such. It should be noted that arbitrary,<sup>41</sup> does not necessarily mean unlawful, as detention which may be in compliance with the law, may nevertheless be arbitrary.<sup>42</sup> In addition, if the deprivation of liberty results from the legitimate exercise of other human rights, including the right to freedom of speech or freedom of association or assembly, it is inherently arbitrary.<sup>43</sup>

In order to protect individuals from interference in their right to security of person when their liberty has been deprived, it is crucial that the accused is promptly brought to stand before a judge.<sup>44</sup> Accordingly, the General Comment stresses that pretrial detention should not be a general practice, and should be conducted through a process of individualized determination, where such a determination is informed through specific clauses of law, which are neither vague nor widely construed.<sup>45</sup>

Children under all systems of law are given enhanced protection. Article 37 of the UN Convention on the Rights of the Child (CRC) provides that any deprivation of liberty for children should be a measure of last resort and for the shortest appropriate period of time. Throughout the period of the deprivation of liberty of a child, the 'best interest of the child' shall be a priority.<sup>46</sup> Children while deprived of liberty shall be placed in separate cells than adults, unless it is in their best interest.<sup>47</sup> They shall keep in close contact with their family, either through letters or visits, and held in facilities in close proximity to their family home.<sup>48</sup> Pre-trial detention of children should be avoided and the accused should be brought to trial expeditiously.<sup>49</sup> Any prolonged duration of pre-trial detention for children amounts to a violation of their rights under Article 37 of the CRC.<sup>50</sup>



## In Focus: Palestinian Children Deprived of Safety and Security

The arbitrary detention of children is a systematic, continuous Israeli policy that comes within punitive mass confinement campaigns, destroying the reality and future of Palestinian children. Since 1967, Israel, the Occupying Power, has arrested more than 50,000 Palestinian children.<sup>51</sup> Each year, the Israeli occupation detains and prosecutes, through its military court system, approximately 500-700 Palestinian children, some as young as 12 years old.<sup>52</sup> The most common charge against Palestinian children is stone-throwing. Under allegations of stone-throwing, the military courts may convict children with a maximum sentence of 20 years incarceration.<sup>53</sup> According to UNICEF, Israel is the only country in the world that has a military juvenile court, set up to exclusively try and convict Palestinian minors<sup>54</sup>.

Currently, there are 250<sup>55</sup> children in Israeli prisons including 4 administrative child detainees<sup>55</sup>, held in three prisons, where they are subjected to torture, inhuman treatment and punishment<sup>56</sup>. Almost all child detainees have reported some form of torture or mistreatment, whether physical (beatings or being placed in painful positions) or psychological (abuse, threats or intimidation<sup>57</sup>). Children are routinely held in detention centres under appalling conditions, and kept in centres with adults in rooms that lack proper lighting and ventilation, or kept in isolation cells.<sup>58</sup> In addition, they lack clothes and food. Child detainees depend on 80 percent<sup>59</sup> of their own income to obtain the necessary foodstuffs since Israeli prison service fails to provide adequate food.

Palestinian child detainees are routinely denied access to their parents and lawyers. In 2020, almost 77 percent of child detainees were threatened with violence, including rape, castration, home demolition, imprisonment for life, and denial of

food.<sup>60</sup> They are forcibly transferred outside the OPT for their incarceration, in contravention of the Fourth Geneva Convention (1949).<sup>61</sup> Additionally, Israel's collective punishment measures against child detainees include isolation, deprivation of families' visits, expensive financial fines, and prevention from going out to "Fora" (the break time in the prison yards).<sup>62</sup>

Child detainees have been forced to sign written statements in Hebrew, a language they don't understand, without knowledge of the content of the statement. Israeli authorities have blackmailed and bargained with children for their release so that they accept the accusations against them.<sup>63</sup> Moreover, child detainees reported that Israeli interrogators threatened the arrest of their parents, beating them during arrest and interrogation and tying them with plastic handcuffs.<sup>64</sup> These are only samples of Israeli violations against Palestinian child detainees, amongst others.

In the first five months of 2021, the occupation authorities have arrested 762 children, the majority of whom are from Jerusalem.<sup>65</sup> Children are either granted bail, or transferred to house arrest. Over the past few years, the Israeli occupation authorities have tried to turn the homes of children in Jerusalem into prisons.<sup>66</sup> This issue has created great challenges for the relationship between children and their families, and at the community level in Jerusalem. In some cases, the Jerusalemite child is subject to house arrest with a deportation order to another neighbourhood. This procedure exacerbates the child's psychological stress, threatens his/her education, family stability and future.<sup>67</sup> During the year 2020 alone, the occupation authorities issued 130 home arrest orders.<sup>68</sup>







## Testimony by Ibtisam Idris from Hebron, whose child Zein, 7, was forcefully arrested from his elementary school in 2019.

"I was at home preparing lunch and waiting for Taym and Zein to return from their school which is 100 meters away from my house. They were both late, and a young boy came knocked on my door and informed me that the Israeli soldiers had arrested Taym and Zein. I got dressed, left my other kids at home and ran to the checkpoint...

When I arrived, I saw the soldier forcefully seizing Zein who was crying and terrified. I asked the soldier why are you arresting my son? He wouldn't answer me. One of my neighbours was also there, so I left her with Zein and went looking for Taym in school. I found Taym hiding under the principal's desk, frightened from what he experienced. The teachers explained that when they tried to arrest Taym, the principal was able to take him into his office and keep him safe.

When I went back to check on Zein, the Israeli soldiers claimed that he had been throwing rocks at them. I was in disbelief because I know that my son would never do that, so I told them to check the school cameras. We checked the cameras which proved that my children were at the elementary school at the time when the Israeli soldiers raided the school.

Zein was not taken to any police station, but he was forcefully held for around two hours at the checkpoint in the soldiers jeep... A few minutes later I received a call from an officer, I was not able to understand what they wanted but they reiterated their baseless claim that Zein had been throwing rocks on the soldiers. Two hours later Zein was thrown out of the jeep and I was informed that I could take him home. I then went to the school, picked up Taym, and we went home.

... Zein had been exposed to violence, he had bruises on his neck, and his t-shirt was ripped. I wanted to file a lawsuit against the soldier that forcefully assaulted and arrested my child from his elementary school, but I never did.

The children were in a state of panic after what they experienced. Both Zein and Taym experienced nightmares, bedwetting, and sleep terrors. Until today, they both are in constant fear and try to hide whenever they see the soldiers. Initially, following the incident, when I would send one of them to go to the neighbourhood mini market, they would refuse. Zein even refused to go to school- but I assured him



that we have to be strong, and try to avoid any altercations with the soldiers and to avoid being around children who might be throwing rocks...

Now Zein is always stopped at checkpoints, his phone is searched, and he is harassed with numerous questions such as "who is this person in the picture?" "How do you know them?" They ask these questions hoping that they will turn the children against each other and incriminate someone. One day Zain was playing downstairs, and he saw the soldier

that violently arrested him, he ran up to the house, terrified, saying that he doesn't want to play outside because the soldier is downstairs.

Here, children don't have safety and security, not even in schools... Just imagine having 6 armed soldiers arrest your 7-year-old child from school, forcefully and violently dragging him in front of you, yet you are helpless and unable to help him because the soldiers keep pushing you away."



# RIGHT TO LEARN

ISRAELI VIOLATIONS AGAINST PALESTINIAN STUDENTS DURING 2021\*



Students Killed



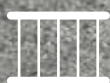
818

Students Injured

including

29

students at the hands of  
Israeli settlers



118

Students Detained

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\* Source: Palestinian Ministry of Education, covering incidents in Palestinian Public Schools only ( updated on 31 August 2021).

**“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services...”**

*Universal Declaration of Human Rights, Article 25*

## I. Right to an Adequate Housing

**“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right...”**

*The International Covenant on Economic Social and Cultural Rights, Article 11 (1)*

During the Occupying Power’s administration of the occupied territory, Article 46 of the Hague Regulations provides that the lives of persons and private property “must be respected” along with the specific qualification that “private property cannot be confiscated”. Article 27 of the Fourth Geneva Convention, further enshrines that protected persons are entitled in all circumstances to respect “for their family rights”. In reference to the latter, the Commentary to the Fourth Geneva Convention, notes that “the family dwelling and home are therefore protected; they cannot be the object of arbitrary interference”.<sup>69</sup> While Article 53 of the Fourth Geneva Convention also prohibits the destruction of private property, which includes the prohibition of the destruction of family homes. Furthermore, and in the context of punitive home demolitions, such policies constitute collective punishments which are prohibited under Article 33 of the Fourth Geneva Convention and Article 50 of the Hague Regulations of 1907.

Additionally, Article 49 of the Fourth Geneva Convention, prohibits the Occupying Power from individual or mass forcible transfer and deportation of the protected population from the occupied territory. Article 147, governing grave breaches of the Convention includes unlawful deportation or transfer of protected persons and the extensive destruction of property not justified by military necessity and carried out wantonly and unlawfully as a grave breach of the Fourth Geneva Convention. Forced evictions and punitive home demolitions are also prosecutable as war crimes under the Rome Statute of the International Criminal Court.<sup>70</sup>

Pursuant to the International Covenant on Economic Social and Cultural Rights (ICESCR), Article 11 paragraph 1 provides for the right to adequate housing, which constitutes an integral part of the right to an adequate standard of living. The critical importance of the right to adequate housing stems from the fact that the enjoyment of all other economic, social and cultural rights depend on the realization of this right.<sup>71</sup> Violation of the right to adequate housing not only breaches economic, social and cultural rights but also violates civil and political rights, such as the right to life, and the right to security of person,<sup>72</sup> underscoring the interdependence and indivisibility of all human rights.

In recognizing the importance of the right to adequate housing as an essential component of the right to an adequate standard of living, the Convention on the Rights of the Child (CRC) has integrated a special clause amongst its provisions for its protection. For example, Article 27(3) states that:

“States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing”.

As a result, and in accordance with the spirit of Article 11(1), the ICESCR specifically views the practice of forced evictions and punitive house demolitions as a violation of the Convention.<sup>73</sup>



## In Focus: The Right to a Standard of Living Denied in Occupied East Jerusalem

Over the past century, Israeli leaders have been driven by a Zionist agenda to establish a Jewish 'homeland' - with a firmly established Jewish majority - on the territory of Palestine. In East Jerusalem, as with the rest of occupied Palestine, Israeli policies and plans provide for the removal and erasure of the Palestinian population and their replacement with new illegal colonial-settlers to achieve this goal.<sup>74</sup> Successive Israeli governments have supported parastatal settler organizations, such as the Jewish National Fund, the World Zionist Organization and Jewish Agency under laws such as the Absentee Property Law, facilitating Palestinian property appropriation and transfer of ownership of land classified as public or state land, due to its supposed ecological, historical, or religious importance.

The impact of illegal Israeli-Jewish transfer in and the expulsion of Palestinians over 73 years has

radically altered the demographic and geographic character of historic Palestine. From 1873, before the first wave of European Jewish immigrants entered Palestine, and up until 1944, the overall Palestinian population in Jerusalem decreased from 73 percent to 40 percent respectively.<sup>75</sup> In 1948, Israeli forces expelled approximately 80,000 Palestinian residents, nearly the entire Palestinian population at that time, from the western environs of Jerusalem.<sup>76</sup> The mass expulsion of Palestinians continued in 1967 when an estimated 26,000 Palestinians were displaced by the IOF in less than a week.

Since 1967, Israeli policy makers have sought to implement strategies ensuring Israel's physical domination over occupied East Jerusalem. Policies have been developed and implemented in order for Israel to create geographic integrity and demographic superiority to engineer a



Jewish majority Jerusalem. First officially stated in 1973, a report by the Inter-Ministerial Committee to Examine the Rate of Development for Jerusalem, recommended that the “demographic balance of Jews and Arabs must be maintained as it was at the end of 1972.”<sup>77</sup> The balance of the total population in Jerusalem at that time was 73.5 percent Jews, and 26.5 percent Palestinian.<sup>78</sup> Since that time, this policy goal has been restated numerous times in Israeli policy briefs, news releases and even formal development plans. These policies aim to create a Jewish majority in the city through the establishment of “Jewish only” settlements,<sup>79</sup> by reducing and erasing the Palestinian population through policies that either forcefully evict Palestinians from Jerusalem or impede their growth and development as a community. This includes a policy of spatial segregation, i.e. reducing the visibility and the demographic ratio, of Palestinian presence in their home city.

Population growth figures in 2020 indicate that the Palestinian population reached 373,000 or 40 percent of the total population in Jerusalem.<sup>80</sup> Given this trajectory, Palestinian population may exceed 50 percent (3 percent growth rate) of the total population in Jerusalem by 2050. Israel is acutely aware of this ‘danger’ and is implementing draconian measures to reduce the Palestinian population in Jerusalem.

To ensure its annexation of the city is irreversible, in the year 2000, the Israeli government approved a “Master Plan 2020” to rearrange the boundaries of the city in such a way that would ensure a permanent demographic majority of Israeli Jews at the expense of the city’s indigenous Palestinian population. The master plan was no more than a blueprint for a state-sponsored ethnic cleansing campaign, which saw the destruction of thousands of Palestinian homes and the eviction of numerous families.<sup>81</sup> Estimates indicate that since 1967, Israel has demolished more than 3,700 homes and other structures in occupied East Jerusalem,<sup>82</sup> including several historic and religious sites, such as the historic Moroccan Quarter in the Old City of Jerusalem.<sup>83</sup>

One of the most visual elements of Israel’s ethnic cleansing policy has been Israel’s construction of the annexation Wall, construction of settlements and the insertion of Israeli settler outposts in key strategic points within Palestinian neighbourhoods in the West Bank, including Jerusalem. To ensure a permanent demographic majority of Israeli Jews, the route of the illegal Wall in and around occupied East Jerusalem splits the West Bank into two distinct areas completely isolating occupied East Jerusalem from the rest of the West Bank. Israel’s illegal Wall and associated regime limits the last available space for much needed Palestinian

growth in occupied East Jerusalem, while facilitating the construction and expansion of illegal settlements. In 2004, an Advisory Opinion, of the International Court of Justice concluded that the Wall and its associated regime created a fait accompli on the ground that could well become tantamount to a de facto annexation of Palestinian territory.<sup>84</sup>

The key element in Israel’s plan to completely integrate occupied East Jerusalem into pre-67 Israel and has been the construction of more than 12 settlements in and around the illegally established 1967-boundaries along with the transfer in of Israeli-Jewish settlers into critical Palestinian neighbourhoods. Israel, the Occupying Power together with settler organizations is creating a settlement arc around the Old City of Jerusalem, stretching from Sheikh Jarrah– from the Border Police headquarters, through Um Haroun, Karem Al-Ja’oni ‘Shimon HaTsadik’, the Shepherd Hotel, the Israeli Police Headquarters, the Israeli Interior Ministry, Beit Orot in the Mount of Olives, Maale Zeitim in Ras Al-Amoud in the Mount of Olives Police station– to the City of David settlement in Silwan, all of which are located in occupied East Jerusalem.<sup>85</sup> For the families living in these Palestinian communities, the ‘impending’ Israel’s plans mean that their reality is one of forced eviction from their homes, with the threat of violence from IOF and settler attacks, creating an atmosphere of fear and terror.

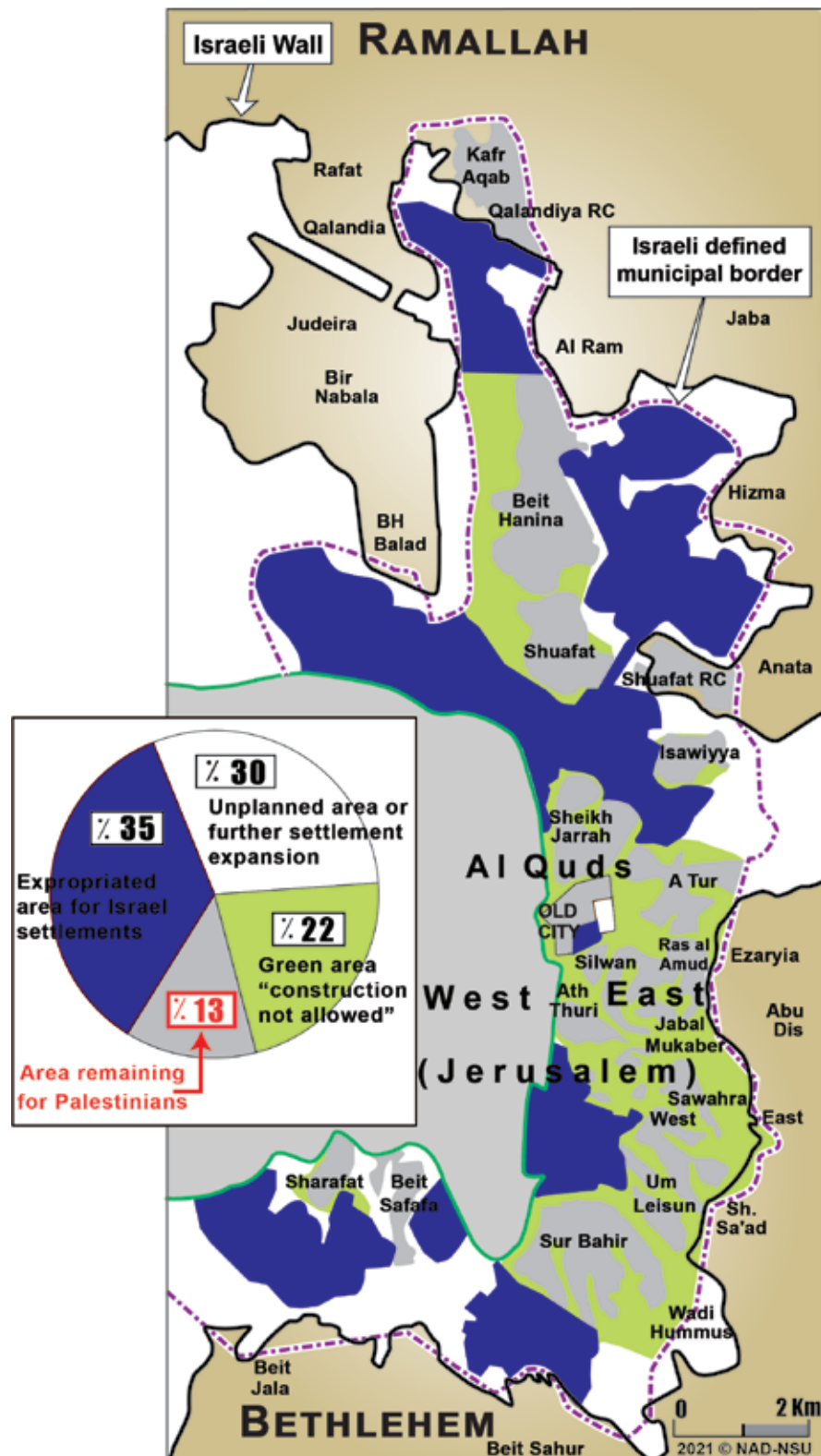
Direct confiscation or expropriation of land has been one of the tools utilized by Jerusalem municipal planners in altering the housing landscape for Palestinians in East Jerusalem. Palestinian development is systematically prevented through a series of discriminatory housing and zoning policies. For example, the Jerusalem District Committee for Planning and Building has zoned 35 percent of private Palestinian lands expropriated for approved Israeli settlements, a further 30 percent confiscated for future settlement expansion, 22 percent of undeveloped Palestinian land confiscated for “Green Areas”, leaving only 13 percent of land in Jerusalem zoned for Palestinian construction.<sup>86</sup> The municipal planners follow a strict policy of keeping confiscated Palestinian lands in East Jerusalem empty until they are zoned for the construction of housing and infrastructure for the exclusive use of Israeli settlers.<sup>87</sup>

One of the most egregious municipal strategies is the practice of zoning Palestinian land in and around East Jerusalem as “Green Areas” where any development other than agriculture is strictly prohibited. While Palestinian development is prohibited, when the land in question is required for the construction of an Israeli settlement then the zoning restriction is simply lifted, as exemplified in “Jabal Abu Gnaim” or the Har Homa settlement.<sup>88</sup>





# Israel's Discriminatory Policy on Land Use in Occupied East Jerusalem





## Testimony by Zuhair Rajabi, Head of Batn Al-Hawa Committee and the victim of attempted forcible displacement.

"Batn Al-Hawa neighbourhood in Silwan is one of the neighbourhoods threatened with forced displacement and the imminent expulsion of 86 families, who have received eviction notices from the Ateret Cohanim Organization, which is supported by the Israeli government. My family, my brothers, and all my sons have been here since the sixties. We were all born and raised in Batn Al-Hawa...They are claiming the land that we built our houses on and the land that has become our neighbourhood from the sixties belongs to them - affecting 700 people including children, women, and men who are threatened with forced displacement premised on a fabricated history and baseless claims.

The people of Batn al-Hawa suffer from persecution and are attacked almost daily by settlers, supported and strengthened by the occupation, and by the border guards or the Israeli police. This is some of their many ways of attempting to displace us.

Batn al-Hawa is not the only neighbourhood subjected to forced displacement. Other neighbourhoods in Silwan are also under threat of displacement and imminent expulsion such as Al-Bustan, Wadi Hilweh, Wadi al-Rababa, whose lands have already been seized, and Ain-al Lawze. Al-Bustan has 40 houses under threat of demolition [to make way for the City of David, a biblical theme park]. Silwan is also known as Ain al-Lawzeh, that is the valley that they call the "Holy Basin". We are located at the southern garrison of Al-Aqsa Mosque, in the "Holy Basin" that they are looking for, which starts from Sheikh Jarrah and Wadi Al-Joz, reaching the Mount of Olives and Ras Al-Amoud, which is in Silwan.

Forcible displacement is extortion and ethnic cleansing by the Israeli government... Even though the Israeli courts are run by the Israeli State, we have no choice but to seek justice in these courts. They claim that they provide justice and are democratic but when we Palestinians try to seek justice, they are racist and in favour of the settlers and in favour of seizing our homes. There must be someone to stop what is happening. Since the Israeli courts don't, perhaps criminal courts have the most important role in our case."





## II. The Right to Water Under International Law

On 28 July 2010, through Resolution 64/292, the United Nations General Assembly (UNGA),<sup>89</sup> explicitly recognized the human right to water and sanitation and acknowledged that clean drinking water and sanitation are essential and a prerequisite for the realization of all human rights. Similarly, General Comment 15 provides that the right to water is an integral component of the realization of the rights to an adequate standard of living and the highest attainable standard of health.<sup>90</sup> That everyone is entitled to sufficient, safe, acceptable, accessible and affordable water is a fundamental human right,<sup>91</sup> indispensable for a life of dignity.<sup>92</sup>

Palestine shares the Jordan River Basin with other riparian countries but has no access since 1967. Moreover, Palestine shares with Israel the Mountain Aquifer in West bank (the Eastern Aquifer, the North Eastern Aquifer and the Western Aquifer) and the Coastal Aquifer basin that extends underneath the Gaza Strip.

Israel has recognized "Palestinian water rights in the West Bank" in the Oslo Interim Accords<sup>93</sup> however these rights were postponed to the permanent status negotiations. Several attempts at permanent status negotiations took place; (Camp David Negotiation in 2001, Annapolis in 2008-2009 and Kerry efforts in 2012-2014), but to no avail. In the meantime, and for the duration of the military occupation of the OPT, Israel, the Occupying Power and the political representatives of the occupied protected population are obliged to give effect to the rights enshrined in the Geneva Conventions, as supplementary to the Hague Regulations.<sup>94</sup>

Under IHL, the Occupying Power, as a temporary administrator, is not the sovereign in the territory it occupies and therefore does not have full rights of sovereignty to alienate natural resources.<sup>95</sup> Rather, the occupied people continue to enjoy full rights of self-determination and permanent sovereignty over their national and natural resources, as a matter of customary international law.<sup>96</sup> Accordingly, Article 55 of the Hague Regulations strictly limits the Occupying Power's administration of natural resources in the occupied territory as one of usufructuary. Hence, an Occupying Power cannot exploit natural resources to the point of undermining their capital, or use such resources for the economic benefit of its own economy.<sup>97</sup> IHL further prohibits attacks on objects indispensable to the survival of the civilian population, such as water infrastructure, through article 54 (2) of Additional Protocol I, and regards any excessive destruction of property or appropriation not justified by military necessity, as a grave breach of the Fourth Geneva Convention and a war crime under the Rome Statute of the International Criminal Court.<sup>98</sup>

The UNGA has repeatedly reaffirmed on a yearly basis the right of "permanent sovereignty of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem... over their natural resources".<sup>99</sup> Further, the UNGA has called for the restitution and full compensation for the illegal exploitation of Palestinian natural resources by Israel.<sup>100</sup>





## In Focus: Right to Water in the Jordan Valley

Palestinians living under prolonged Israeli military occupation in the OPT are deprived of their basic, fundamental human right to sufficient, safe, acceptable, accessible and affordable water. Israel and Palestine share a number of contiguous water resources, including the Mountain Aquifer,<sup>101</sup> the Coastal Aquifer basin that extends underneath the Gaza Strip, and the Jordan River basin also shared as an international water course alongside Jordan, Syria and Lebanon. The deprivation takes the form of prohibited access to shared resources, and Israel's exploitation of Palestinian water resources for the benefit of its illegally transferred in settler-colonial population, and citizens inside the Green Line.

Since 1967, Israel's Allon Plan showcased clear plans to annex the Jordan Valley, home to around 65,000 Palestinians.<sup>102</sup> As a strategic economic and security area, stemming from its inclusion of water reserves, around one-third of underground water reserves, alongside agricultural and tourism potential, thus marking the Jordan Valley as an area of strategic value.<sup>103</sup> In order to fulfil these ambitions, throughout the duration of the occupation, Israel has been

systematically appropriating land under the pretext of "state land", the authorities later use these lands for the purpose of settlement construction and expansion.<sup>104</sup> On the other hand, Israel imposes building restrictions and carries out home demolitions, carefully designed to forcibly displace the Palestinian population from the Jordan Valley.<sup>105</sup>

Water is a vital component of the systematic ethnic cleansing of Palestinians in the Jordan Valley. The Jordan River and its upper tributaries (Hasbani River, Dan River, Banias River), Tiberias Lake, part of the Yarmouk River and the lower Jordan River until its discharge in the Dead Sea, which are part of occupied Palestine, are controlled by the Israeli occupation. Israel has issued several military orders placing water in the OPT under the control of the military commander and making any drilling or development of these water resources subject to prior Israeli military approval.<sup>106</sup> After the start of the 1967 occupation, Palestinian water pumps and installations were totally destroyed along the lower Jordan River, and today, Palestinians are still prevented from accessing the Jordan River and the Dead Sea, which are designated by Israel as 'closed military zones'.<sup>107</sup> Meanwhile,





Israel allocates Palestinian water and natural resources for the benefit of illegally transferred settlers in the West Bank including East Jerusalem, maintaining its regime of institutionalized racial discrimination and domination, amounting to inhumane acts of apartheid.<sup>108</sup>

While most Palestinian communities in Area C of the Jordan Valley are not connected to the water network, average water consumption in these areas is estimated at less than the 50 litres per capita per day, substantially less than the minimum recommended by the WHO 100 litres per capita per day,<sup>109</sup> and much lower again, than the Israeli per capita of 300 litres per day, with the water allocation for West Bank settlers reaching 400-600 litres per day.<sup>110</sup> This means that Palestinians have no other option than to buy tankered water, from Israel's water company Mekorot at a price of \$12 US per cubic meter, reaching eight times the average price of water in the occupied West Bank.<sup>111</sup> While Palestinian communities in the Jordan Valley only have access to scarce and expensive water, 11,000 of Israel's illegally transferred settlers have access to around 18 times more water than Palestinians in the West Bank.<sup>112</sup>

Israel's restrictions on Palestinian access to water in Area C,<sup>113</sup> has impeded Palestinian water and sanitation infrastructure development, resulting in poor water and sanitation in rural

areas, and made Palestinians dependent on the Israeli water company Mekorot for the provision of water, a form of corporate capture.<sup>114</sup> In 2019, Palestinians purchased around 79.1 mcm/a from Mekorot to meet their demand.<sup>115</sup> In 2016 alone, the Israeli Minister for Finance deducted US \$94 million from Palestinian clearance revenues for unpaid Mekorot water and wastewater treatment bills.<sup>116</sup> It should be noted, that the UN has identified Mekorot on the UN Database of companies illegally present in the OPT.<sup>117</sup>

A UN report published in 2012, claimed that 90 percent of Gaza's water is not fit for human consumption without treatment, and warned that by 2020, Gaza would become "uninhabitable".<sup>118</sup> Absence of clean water in Gaza is also exacerbated by Israel's denial of Palestine's share of the Jordan River basin and West Bank aquifers, impacting the water rights of 2.3 million Palestinians in Gaza. The resulting excessive abstraction of the Gaza sub aquifer due to water shortage has led to high levels of saline in the aquifer due to sea water intrusion.<sup>119</sup> Lack of electricity has worsened the situation, as sewage and untreated water returns to the aquifer with an estimated 90,000 cubic meters of raw sewage discharged to the sea each day.<sup>120</sup> Pollution of the aquifer and sea is a grave threat to Palestinian's health, sanitation and overall living environment, in the Gaza Strip.





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**Testimony by Munir Nasasrah, 52, a farmer from Jiftlik village in the Jordan Valley, who describes the struggle of being a Palestinian farmer under the Israeli occupation.**

"Since the start of the Israeli occupation in 1967, we have been experiencing Israel's systematic illegal policies that aim at driving us out of the village. My village Jiftlik, located 35 km north of Jericho, is well known for its availability of water and the sustainability of agriculture, but the Israeli occupation is destroying the village and its agricultural sector by confiscating our lands and taking over our water sources, depriving the residents of their basic rights. You feel the bitterness of injustice when you see the pipe of the Israeli water company 'Mekerot' placed in front of your home pumping 1000 cubic meters per hour to settlers... stealing our water, to give it to settlers!

We are seven farmers who own an artesian well of 150 meters depth in Jiftlik called the "Burhan Al-Thamen" well which used to pump water at a power of 120 cubic meters per hour and provides irrigation to about 3,000 dunums of agricultural fields planted with palms and grapes. Six years ago, the well stopped pumping sufficient water because some springs which feed the well with water became blocked with rubble. We have submitted a request to the Israeli so-called Civil Administration, to move the well to enhance its productivity and are still awaiting the answer.

I own 220 dunams of land of which only 100 are planted with grapevines and palm trees in Khirbet Allan in Jiftlik, due to the scarcity of water resources. Israel controls the water resources and deliberately destroys the ones we use for irrigation... Between May 2020 to February 2021, the Israeli occupation authorities damaged my main water source for irrigation, causing me huge financial losses amounting to 250,000 NIS. In May 2020 the IOF confiscated my water networks that were used for irrigating 27 dunums planted with grape trees, and they also confiscated 600 meters of water pipes that were connected to "Burhan Al-Thamen" artesian well. Then in August 2020, the IOF again demolished three artificial water pools, two belonging to me, claiming they were 'built without a license'. I used to rely heavily on these pools for irrigation and they were built to collect rainwater for agricultural use. After I renovated the pools they came back in February 2021 and demolished them.



It is crystal clear that the Israeli goal is to keep harassing us until we leave 'voluntarily' but this will never happen because we remain steadfast like the roots of our trees.

We live in constant anxiety, it is too painful to see your land dry and uncultivated. Planting your land is like raising your son and seeing him growing older and older. When I see my land planted and my trees growing fruitful and my production increase, I feel happy that my dream is realized and very proud of myself for being able to compete with the Israeli products and control the market. However, when

I see my land dry being unable to cultivate it due to the scarcity of water I feel oppressed because I am deprived of my basic right to access water resources. It is important to indicate that due to the scarcity of water caused by illegal Israeli measures, my grapes' production dropped from 180 tons per year to 90 tons this year, and instead of hiring 45 employees, I currently employ 22.

Our asks are basic rights enshrined in international law, to ensure that we get sufficient water for drinking and irrigation to sustain our agricultural products and livestock."



**“1. Everyone has the right to freedom of movement and residence within the borders of each State. 2. Everyone has the right to leave any country, including his own, and to return to his country”**

*Universal Declaration of Human Rights, Article 13*

## I. The Right to Freedom of Movement

Article 13, of the UDHR, provides the basic guarantee that “everyone has the right to freedom of movement”. This is echoed in Article 12 of the ICCPR whereby, “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence” and that “everyone shall be free to leave any country, including his own”.<sup>121</sup>

General Comment 27 represents an authoritative interpretation to the content of article 12 of the ICCPR. Accordingly, citizens of a State are regarded as legally present in that territory under the law,<sup>122</sup> and are guaranteed the right to freely move in the whole territory of their State.<sup>123</sup> By default, this entails that everyone has the right to freely choose their place of residence, within the whole territory of their State.<sup>124</sup> In the Gaza Strip, Israel's illegal blockade on the civilian Palestinian population, legally present in their own territory, amounts to a manifest violation of the right to freedom of movement, and collective punishment, prohibited under treaty and customary international law.<sup>125</sup>

Similarly, internal forcible displacement is a clear violation of ICCPR.<sup>126</sup> In the OPT, the forcible displacement of protected persons by Israel, the Occupying Power, not only breaches the rights of freedom of movement of the protected population, it also amounts to grave breaches of the Fourth Geneva Convention,<sup>127</sup> war crimes, and crimes against humanity of the Rome Statute of the International Criminal Court.<sup>128</sup>

Importantly, the right of return is expressly protected as a component of the right of freedom of movement. Crucially, General Comment 27 states that:

“the right of a person to enter his or her own country recognizes the special relationship of a person to that country... it may also entitle a person to come to the country for the first time if he or she was born outside the country... the right to return is of the utmost importance for refugees seeking voluntary repatriation. It also implies prohibition of enforced population transfers or mass expulsions to other countries.”<sup>129</sup>

It further explains that the specific right “to enter one's own country” does not distinguish between an alien or national,<sup>130</sup> and that “a State party must not, by stripping a person of nationality or by expelling an individual to a third country, arbitrarily prevent this person from returning to his or her own country.”<sup>131</sup>

This clear recognition of the right of return is not foreign to the international legal system. Very recently the Pre-Trial Chamber I of the International Criminal Court in the Situation in Bangladesh/Myanmar warned that a denial of the right of return could amount to a crime against humanity under article 7(1)(h) and 7(1)(k) of the Rome Statute of the ICC.<sup>132</sup> In regards to Palestinian refugees, the right of freedom of movement enshrined in the UDHR and ICCPR, in addition to UNGA resolution 194 unquestionably protects the Palestinian right to return. The continuous denial of the right to return for 73 years directly impedes the fundamental right of the Palestinian people as a whole to collective self-determination.







## In Focus: The Right to Movement in Occupied Palestine

The Israeli-Palestinian interim agreement signed in September 1995 was intended to lead to a final resolution of the 'conflict' within a timeframe of five years at most. In Annex I, Article 1, paragraph 2 specifically states that "... in order to maintain the territorial integrity of the West Bank and the Gaza Strip as a single territorial unit ... both sides shall .... [respect and preserve] without obstacles, normal and smooth movement of people, vehicles, and goods within the West Bank, and between the West Bank and the Gaza Strip."

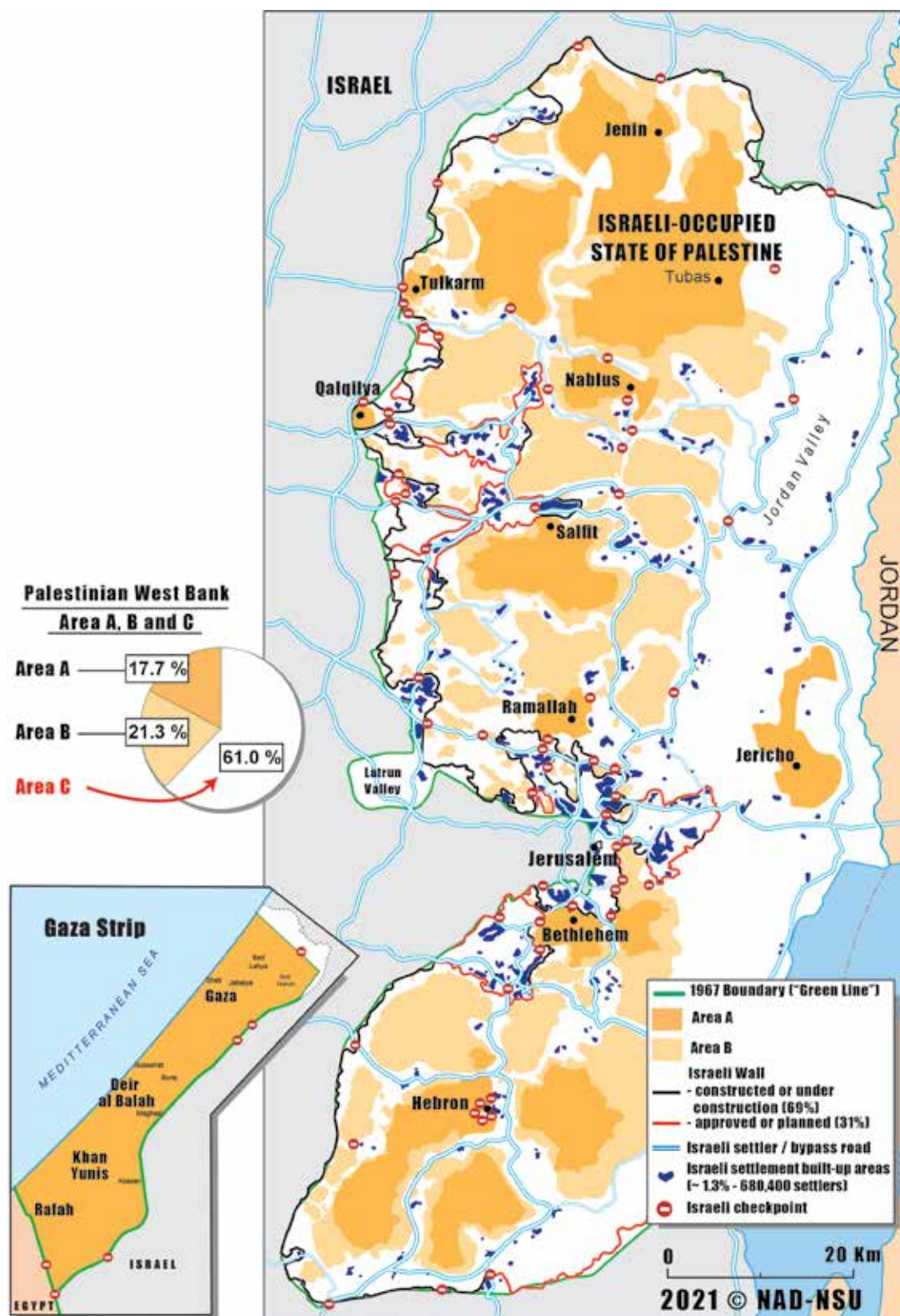
Between September 1995 and March 2000 five phases of redeployment were implemented and resulted in the Israeli withdrawal from a total of 17.7 percent of the West Bank for areas administratively referred to as Area A, and 21.3 percent of the West Bank for areas administratively referred to as Area B. The fact that Israel did not meet its obligations to the signed agreement meant that Israeli

forces never actually redeployed from the OPT. Instead the classification and fragmentation of the West Bank into Areas A, B and C has resulted in a unique state of geographical apartheid for Palestinians.

Areas A and B are geographically disconnected. One can envision the place as a pool of 165 broken eggs where the egg yolks resemble Areas A and B and the egg white resembles the contiguous Area C that has full Israeli control. To move from one Palestinian area to another, Palestinians need to cross over Area C. The interim agreement was never fulfilled and the final status of Jerusalem, settlements and refugees did not materialize and was never agreed. Thus, the interim agreement did not deliver its goal of ending the Israeli occupation of Palestine.

With a stagnant peace process since 2000 and with an unfinished interim agreement,

## Shrinking Occupied Palestine into Enclaves



Palestinians today are living with Israel's administratively imposed denial of freedom to move within the West Bank, to and from Jerusalem, between the West Bank and the Gaza Strip. Israel's construction of checkpoints, gates, road blocks, fences, and the Annexation Wall, and imposition of a discriminatory permit regime, restricts Palestinian movement between Palestinian towns, and prevents many Palestinians from accessing their agricultural land in the Israeli controlled Area C. Across the West Bank, there are over 590 obstacles curtailing Palestinian movement, including 71 checkpoints, 108 partial checkpoints, 76 closed gates and 68 road blocks.<sup>133</sup> Checkpoints and gates impede the movement of Palestinians to and from their homes and places of work, including agricultural lands that are their source of income and living.

The Annexation Wall, designed to completely isolate Jerusalem from the rest of the West Bank, was planned and constructed by Israel in 2002, now has a length exceeding 710 km, which de facto annexes approximately 94 percent of the area of the West Bank that includes all of East Jerusalem to Israel.<sup>134</sup> For the remaining Palestinians in the West Bank, Jerusalem is only accessible through checkpoints and gates incorporated into the Annexation Wall, that are opened and closed under the control of Israeli soldiers. Israel operates a tightly controlled permit regime, controlling who from the West Bank is allowed or denied access to Jerusalem.<sup>135</sup> In 2004, the International Court of Justice (ICJ) issued an Advisory Opinion finding that Israel's construction of the Wall and its associated administrative regime are contrary to international law and called on third States to comply with their international law obligations to not contribute to, or aid or assist the unlawful acts and to coordinate to bring the illegal situation to an end.<sup>136</sup>

The lack of freedom of movement has reflected on the right of Palestinians to health. For the approximately 300,000 Palestinians who live in small dispersed communities in the West Bank their access to health care

is impeded by Israeli checkpoints and road blockages.<sup>137</sup> Palestinians find themselves traveling longer distances with lack of proper public transportation, which costs more than they can afford, while military road blocks also prevent ambulances from reaching the communities.<sup>138</sup> For Palestinians in Gaza who seek specialised healthcare in Jerusalem, Israel requires permits to leave Gaza and enter Jerusalem, and these are issued only to patients requiring "lifesaving care", a definition that "excludes patients with cancer and other chronic illnesses if their lives are not in immediate danger".<sup>139</sup> Palestinians from Gaza submit an average of 2,000 permit applications per month, with one third are for cancer patients, while all require essential health services not available in the Gaza Strip.<sup>140</sup> From January to May 2020, one third of the applications for permits were unsuccessful.<sup>141</sup>

Palestinian children continue to struggle to realize their right to education, due to movement restrictions. In the West Bank, many Palestinian school children have to cross checkpoints sometimes under the threat and harassment of the Israeli army. These access restrictions pose daily challenges and threats to the fulfilment of children's rights.<sup>142</sup>

Overall, the movement restrictions pose a major obstacle to the viability of the Palestinian State under occupation. For example, in Gaza, the closure and severe movement restrictions imposed by the IOF since 2007 continue to impede the realization of Gaza's full economic potential. The estimated cumulative economic cost of Israel's prolonged closure and severe economic and movement restrictions on Gaza, has been estimated at \$16.7 billion - equivalent to six times the value of the GDP of Gaza in 2018.<sup>143</sup> In the West Bank including East Jerusalem, Israel's maximalist policies towards Palestinian land has been increasing due to the absence of international accountability. Unobstructed, Israel's vision of a Palestinian state as an archipelago of semi-autonomous Bantustans, disjointed, and stripped of the basic elements of sovereignty, must be rejected emphatically by the international community, and dismantled as apartheid.





RAFAH BORDER CROSSING © ANAS-MOHAMMED/ SHUTTERSTOCK

## In Focus: The Right to Movement Outside of Palestine and the Right to Return

During the 1948 Nakba, more than 750,000 Palestinians,<sup>144</sup> who constituted two-thirds of the population of historic Palestine,<sup>145</sup> became refugees, as violent Jewish settler militias, ethnically cleansed Palestine for the establishment of the State of Israel. The expulsion and dispossession of the Palestinian people has been ongoing for 73 years, in breach of the rights enshrined for their protection under international law. Starting with the Nakba, and continued in 1967 with the Naksa when Israel occupied the rest of Palestine, in the second biggest wave of displacement which continues to this day. As of 2021, the number of Palestinian refugees registered with the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has reached 5.5 million refugees,<sup>146</sup> with an estimated number of two million refugees, from 1948 and 1967, outside of the operation areas of UNRWA.<sup>147</sup>

The newly established State of Israel in 1948, which rose on the ruins of destroyed Palestinian towns and villages, and the expulsion of its indigenous residents, sought to consolidate their expulsion and prohibit

their return, therefore, immediately enacted measures that would reinforce the Jewish character of their newly established state and permanently ban the return of the Palestinian refugees.<sup>148</sup> Subsequently, Israel enacted the Prevention of Infiltration Law, 1954, which deemed Palestinian return to their homes a criminal offence invoking a penalty of imprisonment and expulsion.<sup>149</sup> In 1952, Israel enacted the Nationality Law which ultimately cemented the exile of Palestinian refugees.<sup>150</sup> Their lands and properties, were placed under the control of the Custodian of Absentee Property who facilitated the transfer of Palestinian refugee land to the State of Israel, for the exclusive benefit of the Jewish population, rendering it legally impossible for the refugees to reclaim their property.<sup>151</sup>

The United Nations through various General Assembly and Security Council Resolutions has emphasized the importance of reaching a just resolution for the Palestine refugee question, including the right of return of refugees to their homeland and the compensation of the properties for those choosing to not return.<sup>152</sup>





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**Testimony by Henry\* that represents a microcosm of what Israeli policies of Jewish supremacy have meant for the Palestinian people since 1948. He shares his experience of living in Palestine without a permit to stay.**

"I was born in Ramleh, on the road between Jerusalem and Jaffa, back in 1945. My father worked with the British Authorities and moved to Jerusalem when I was a baby. As a child, we lived in the Qatamon neighbourhood of West Jerusalem, ethnically cleansed by Zionist militias between March and May 1948. From that moment, our lives were divided between Ramallah and East Jerusalem . . .

After the occupation of 1967, I became a 'resident of Jerusalem', carrying a blue Jerusalem ID, fulfilling all responsibilities as imposed by the Occupying Power, including paying high taxes (arnona) to the Israeli authorities beginning in June 1967. I continued my work as a travel agent in Jerusalem for decades after the occupation. In the meantime, I married and had three children: All my family received Jerusalem IDs.

In the year 2000, my wife passed away from cancer, after which I decided to leave the country with my daughter moving to the United States and later to Canada. My son also joined us to continue his studies. After a few years my son decided to return to Palestine as he was concerned about losing his Jerusalem ID.

We all planned our return to Palestine, yet my daughter couldn't leave on time because of her studies. The consequences of this are felt until today: She stayed in Canada, graduating and starting a family and was unable to go back to reside in her homeland. Her brother managed to return on time and kept his Jerusalem ID. As for me, my Jerusalem ID was revoked for the fact of having spent a few years outside the country.

I made use, to no avail, of all the contacts I had from the time I worked as a travel agent. The Israeli occupation failed to listen to my arguments and our family became effectively divided - a daughter in Canada, a son in Jerusalem, and I am confined to Ramallah, from where I haven't moved from for over a decade.

Given the fact that the Palestinian population registry is controlled by Israel, the Palestinian Authority could not provide me with any papers, even to move between Palestinian cities. Being a committed organist for the church, I could not visit the Holy Sepulchre or the Nativity Church, both located in 1967 Palestine, for all the time that I have been confined. Israel neither wants me in Ramleh, nor in Jerusalem, and eventually also not in Ramallah."

\* The individual's name has been changed for the sake of privacy.

## II. The Right to Family Life

Both the Hague Regulations of 1907,<sup>153</sup> and the Fourth Geneva Convention of 1949,<sup>154</sup> grant special protection to the family. As reflected in the Commentary to the Convention "The obligation to respect family rights, already expressed in Article 46 of the Hague Regulations, is intended to safeguard the marriage ties and that community of parents and children which constitutes a family... The family dwelling and home are therefore protected; they cannot be the object of arbitrary interference."<sup>155</sup> Article 16

of the UDHR recognizes that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State". This was later consolidated through Article 17 of the ICCPR which prohibits arbitrary and unlawful interference into privacy, family, home, and correspondence. Therefore, the imposition of a discriminatory administrative regime which denies family unification violates fundamental human rights guarantees against arbitrary interference in family life.



## In Focus: The Right to Family Life

That the Israeli authorities have instituted an apartheid regime against the Palestinian people as a whole, is evidenced through the division of the Palestinian population, and the different laws which are applied to each group of Palestinians depending on their geographical location. In East Jerusalem, where Israel has since 1967, illegally annexed and extended its laws to the city, family unification has been frozen since the year 2002. Initially, Israeli Government Decision number 1813, froze the process of family unification and refused new applications. As a result, Palestinians in Jerusalem who marry a Palestinian from the West Bank or Gaza have to choose whether to have their family unit outside of Jerusalem, and thus lose his/her residency rights in their birth city, due to Israel's 'center of life' policy,<sup>156</sup> or choose to retain their right to live in his/her home in Jerusalem but risk the unity of their family under one roof.

Later, in 2003, the Law of Nationality and Entry into Israel,<sup>157</sup> prohibited "the granting of any residency or citizenship status to Palestinians from the 1967 Occupied Palestinian Territories (OPTs) who are married to Israeli citizens".<sup>158</sup> Although this was supposedly a temporary Order,<sup>159</sup> the Knesset (the Israeli parliament) annually renewed its application until 2020.<sup>160</sup> On 6 July 2021, the temporary Order failed to be extended by the Israeli parliament, however the situation has not changed on the ground. Family unification delays have been reported due to a lack of any policy, and the direct instruction from Interior Minister, Ayelet Shaked, to the Population and Immigration Authority, to hold off on discussing the matter.<sup>161</sup>

In 1967, the Israeli authorities conducted a census in Palestine, which included only Palestinians who were physically present in the West Bank and the Gaza Strip.

Consequently those Palestinians who were outside of Palestine, for any reason, including for study or work, were not included. This meant that around 270,000 Palestinians were excluded from receiving a Palestinian ID, and therefore, they were unable to return to their homes or to their families.<sup>162</sup> Moreover, between 1967 and until 1994, around 130,000 registered Palestinians lost their permanent residency, due to long years spent outside of the West Bank.<sup>163</sup>

Under the Oslo Accords,<sup>164</sup> control of the population registry was to be handed back to the Palestinian Authority, with the proviso that any and every change to the population registry including any change in the place of residence of Palestinian citizens, shall be notified to the Israeli authorities. In practice, the population registry including any change of residence between the West Bank and the Gaza Strip has been retained under full Israeli control. As Israel controls every aspect of movement in the OPT, including through the granting of permits for movement between the West Bank and the Gaza Strip, relocation for the purpose of family unification has been futile. This has had a catastrophic effect on the close family ties between Palestinians in the West Bank and Gaza, which far pre-date the Israeli occupation. For example, Israel considers Palestinians from Gaza who are present in the West Bank without a special permit from the Israeli authorities, or where Israel is unwilling to change his address to the West Bank, as effectively 'unlawfully' present there, and thus dealt with as criminal infiltrators.<sup>165</sup>

Foreigners who choose to marry Palestinians are not spared the cruel treatment and arbitrary policies towards their family. Under the Oslo Accords, entry into occupied Palestine requires Israeli permission.<sup>166</sup> This means that foreign spouses of Palestinian citizens require an Israeli issued visa in order to live under one roof with their family. In the year 2000, Israel suspended all family unification procedures for Palestinians with foreign spouses as a retaliatory measure after the Second Intifada. In 2008, then Israeli Prime Minister Ehud Olmert approved 32,905 family unification applications from 50,000 applications as a 'political gesture', only to suspend the process again the next year. Since then only very rare cases are approved and under "rare humanitarian circumstances".<sup>167</sup>

With family unification suspended, foreign spouses of Palestinians in the OPT, can only enter using a B/2 visitor's visa, for a maximum period of 27 months.<sup>168</sup> In many cases, foreign spouses are forced to pay a bond deposit ranging between 5,700 USD to 22,700 USD, as a condition for their entry.<sup>169</sup> Under the B/2 visa, the spouse is conferred rights of access as a mere temporary visitor and not permitted to work in Palestine. Ultimately, when the visitor visa expires, the foreign spouse has to make the choice of leaving Palestine and attempting re-entry under the mercy of the Israeli authorities, where the foreign spouse might be rejected entry, or deciding to stay, and thus become illegal in their family home. In *Al Saudi v. Head of the Civil Administration in the Gaza Strip* the Israeli Supreme Court sitting as the High Court of Justice upheld the ban on family unification finding:

"It should be emphasized that the refusal to grant entry to a husband or wife from outside of the region does not mean that the couple is forced to live apart, because there is nothing to prevent the spouse from leaving for the purpose of family unification outside of the region. If the unity of the family is indeed the supreme consideration of those seeking family unification, then this consideration can be duly satisfied in this way....

...The State of Israel is not willing to accept a situation in which any resident of the region who wishes can marry a woman from outside and bring her here, or any [female] resident of the region, or her family, can decide that she will marry someone living abroad and bring him to the region. The decision about who will enter and who will settle one of the regions (Judea and Samaria, or the Gaza Strip) is a matter for the government's decision, and no resident is entitled to impose his private decision on the government in this matter."<sup>170</sup>

The Palestinian Civil Affairs Committee has reported 25,000 pending family unification applications for foreign spouses, where at least 5,000 of these are for foreign spouses who have over stayed the period of their visa.<sup>171</sup>





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**Testimony by Lana\*, a Jordanian citizen married to a Palestinian, who has been living without a Palestinian ID for the past seven years. Lana reveals the struggle of living in what she calls a “big open prison”.**

“In May 2014, I entered Palestine from Jordan. My now husband applied for a tourist visa for me, which is given to Christians during the Easter and Christmas holidays, for a period of a month and a half. During that month we got married and applied for the family unification process. Initially, I thought the process would take a year or a maximum two years. However, it has been seven years and I still haven't received a Palestinian ID, which needs Israeli authorization and I have been overstaying my visa ever since. My Jordanian passport has now expired and I am unable to travel to Jordan to renew my passport. After continuous inquiries about our family unification application, until today, no updates have been provided.

Ever since my arrival in 2014, I haven't left the country and I haven't been able to visit my family in Jordan or renew my Jordanian passport. I've missed many family events, the hardest of all was the death of my father five years ago, where I was unable to attend the funeral and grieve with my family. Leaving the country means risking my chances of returning to Palestine and not being able to see my husband and children, since I won't be given a permit to enter.

I can see how this is starting to impact my children. My eldest child is three years old and from the moment he was born he has only seen my mother and my family in Jordan through video calls. He always asks me “Why can't we visit Grandma?” What am I supposed to answer a three year old? How do I explain this unjust reality to my children? They won't understand and comprehend.

Not only is it risky to leave the country, but I am also unable to move between cities due to Israel's militarized checkpoints within the West Bank. If we decide to go to a different city we are always in a state of fear and anxiety of being stopped at the checkpoints and having our IDs checked. This issue impacts every aspect of our lives. It feels like I am living in a big open prison, unable to move. Taking family trips is out of the question. While my two children have a Palestinian passport, since the Palestinian law follows the father, if we were to plan a trip I won't be able to join them.

*\* The individual's name has been changed for the sake of privacy.*



So many people in the West Bank share my struggle—we are around 50,000 Palestinians with no IDs, and many people are not aware of this. We are unable to work, some are unable to continue their education, open bank accounts, and since we don't have health insurance we cannot receive medical treatment in public hospitals. We are only permitted to access private hospitals and clinics. I don't have anything registered under my name, not even a sim card, merely because I don't have a valid ID and no legal status.

This is forcible displacement because they aim to push you towards leaving the country and when you are unable to handle it, you leave. I know many people who felt so

hopeless they ended up leaving. However, it is very difficult for my family and I to leave the country. My husband has his business and network here— if we were to leave, he would have to start from zero. All that we are experiencing gives us the feeling of being sentenced to prison, unable to practice our right to freedom, right to movement, and right to life.

A few months ago I joined a movement called 'Family Reunification is My Right', run by a group of Palestinians and foreign nationals in the West Bank who are struggling to obtain a Palestinian ID due to Israel's family unification policies. Regardless of the risk, we want people to advocate for our cause, we want support."





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## LAST WORD

The cases that have been presented in this publication are not mere numbers but a daily reality for millions of Palestinians. Fulfilling their rights is not a matter of negotiations with Israel but rather it is an Israeli obligation under international law. The international community also carries its unfulfilled obligation to make sure that Israel respects and ensures respect for international humanitarian law as well as the principles of the UN Charter and UN resolutions.

Granting impunity, treating Israel as a state above the law, and conditioning Palestinian rights to the outcome of negotiations have all detrimentally contributed to the current reality of annexation and apartheid. Just as the international community has acted in other cases, there are no alternatives than to implement international law. Ultimately, the free pass given to Israel to continue committing international crimes and violations represents a serious threat to the concept of a rules-based world order.

Even from the perspective of a Peace Process design, the basic requirement

for any political engagement must be the respect for the rights of all, including to freedom, justice, security and equality. All other formulas aimed at perpetuating Israel's impunity have failed to provide any results but the deepening of the Israeli occupation, annexation and apartheid. This current reality can and must be changed, but it requires the strong commitment of the international community with its own stated principles, including by simply implementing the Article 1 of the UN Charter on the organization's purposes:

"To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace [...]"<sup>172</sup>





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- Mountain Aquifer is divided into three sub aquifer basins namely the Eastern Aquifer, the North Eastern Aquifer and the Eastern Aquifers with an overall capacity yield of 669 million cubic meter (MCM) other than saline waters amounted around 200 MCM.
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- Id.
- Quote from UNHRC report: A/HRC/40/73, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967" (15 March 2019), available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_40\\_73.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_40_73.pdf) : As the Occupying Power, Israel is restricted by law to acting only as the temporary administrator of the Palestinian territory until it returns the territory in full, in as short and as reasonable a time as possible, back to the inherent sovereign and protected population: the Palestinian people. As such, the occupying power acquires no sovereignty right over any of the territory, and it is prohibited from taking any steps towards annexation. It must govern the occupied territory in good faith, and it must act as trustee in the best interests of the protected people throughout the occupation, subject only to its own legitimate security and administrative requirements. While acting as the temporary occupant, among Israel's most important legal duties is to respect and preserve the fundamental rights of the protected population under international law. Regarding the natural wealth of the occupied territory – which includes its water, its soil and lands, its environment and both its finite and renewable natural resources.
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- Area A – Consisting of approximately 17.2% of the Occupied West Bank, divided into 13 separate, non-contiguous areas, Area A is where the vast majority of the Palestinian population lives. The Palestinian Authority has responsibility for internal security and has wide civil powers. Israeli checkpoints surround each of these areas.
- Area B – The majority of the remainder of the Palestinian population lives in "Area B," consisting of 23.8% of the West Bank. The Palestinian Authority has civil control over the area, but overall security control rests with Israel. Israeli checkpoints surround each of these areas.
- Area C – Israel was able to strengthen its hold over the majority of Palestinian land (while carving away the Palestinian population) by creating "Area C," consisting of 59% of the Occupied West Bank. Israel has full security and civil responsibility over these areas. This is the only contiguous area in the Occupied West Bank; it surrounds and divides Areas A and B.
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