



CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



**Joint Alternative Report submitted by the
Centre on Housing Rights and Evictions (COHRE)
and
Al-Haq
to the Human Rights Committee
on the occasion of the
consideration of the Third Periodic Report of Israel**

**Israel's violations of the International Covenant on Civil and
Political Rights with regard to house demolitions, forced
evictions and safe water and sanitation in the
Occupied Palestinian Territory and Israel**

Submitted June 2010

**COHRE and Al-Haq are independent non-governmental organisations
in UN ECOSOC Special Consultative Status**

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1. INTRODUCTION

1. The Centre on Housing Rights and Evictions (COHRE) is a leading international non-governmental human rights organisation committed to promoting practical legal and other solutions to endemic problems of homelessness, inadequate housing and living conditions, forced evictions and other violations of housing rights including the related right to water and sanitation. COHRE places particular emphasis on securing respect for the rights of groups that have traditionally faced discrimination. COHRE has special consultative status with the United National Economic and Social Council. For further information see www.cohre.org, www.cohre.org/opt and www.cohre.org/israel. COHRE thanks Al-Maqdese for Society Development, a Palestinian non-governmental human rights organisation, for providing factual information for portions of this report.

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), the organisation has special consultative status with the United Nations Economic and Social Council. 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. The organisation has a specialised international law library for the use of its staff and the local community. For further information see www.alhaq.org.

3. Al-Haq and COHRE respectfully submit this Alternative Report to bring to the attention of the Human Rights Committee (Committee) Israel's lack of compliance with the International Covenant on Civil and Political Rights (Covenant) in regard to house demolitions and forced evictions carried out in the OPT and in Israel, as well as actions and omissions that result in Israel's denial of access to safe drinking water and sanitation facilities and infrastructure that amount to violations of the Covenant. The limitations of this report should not be understood to imply that Israel complies or does not comply with articles of the Covenant which are not mentioned here.

4. In submitting this report to the Committee, Al-Haq and COHRE wish to provide information which is of relevance to its review of Israel's Third Periodic Report on its implementation of the Covenant, and in particular Israel's response to the Committee's List of Issues from 17 November 2009, in particular paragraphs 4, 7, 12 and 18.

5. This report analyses Israel's compliance with the Covenant in a topic-by-topic format. To each topic, a legal analysis follows presenting the legal obligations which Israel has violated with respect to the Covenant. The vast majority of the claims made in this report are substantiated by Al-Haq's field information, *inter alia* in the form of client affidavits.

2. ISRAEL'S LEGAL OBLIGATIONS IN THE OPT

6. Al-Haq and COHRE reiterate the obligation of Israel, as an Occupying Power, to implement the Covenant in respect to the entirety of the OPT occupied since 1967 (West Bank, Gaza Strip and East Jerusalem) and to afford Palestinians their rights as enshrined therein. Furthermore, Al-Haq and COHRE affirm that Palestinians are entitled their **right to self-determination**, as set forth in **Article 1 of the Covenant**. Israel's denial of Palestinians' right to self-determination has effectively blocked Palestinians' realisation of other rights guaranteed within the Covenant.

7. The Committee has reiterated that Israel is bound by the Covenant towards all Palestinians in the OPT, including the occupied Gaza Strip.¹ In contravention to the findings of the Committee, the Israeli High Court of Justice has ruled in the case of *Al Bassiouni v. Prime Minister* that:

Israel no longer has effective control over the events in the Gaza strip. The military government that had applied to that area was annulled in a government decision, and Israeli soldiers are not in the area on a permanent basis, nor are they managing affairs there. In such circumstances, the State of Israel does not have a general duty to look after the welfare of the residents of the strip or to maintain public order within the Gaza Strip pursuant to the entirety of the Law of Belligerent Occupation in International Law. Nor does Israel have effective capability, in its present status, to enforce order and manage civilian life in the Gaza Strip. In the circumstances which have been created, the main duties of the State of Israel relating to the residents of the Gaza Strip are derived from the situation of armed conflict that exists between it and the Hamas organization controlling the Gaza Strip; these duties also stem from the extent of the State of Israel's control over the border crossings between it and the Gaza Strip, as well as from the relations which has been created between Israel and the territory of the Gaza Strip after the years of Israeli military rule in the area, as a result of which the Gaza Strip has now become almost completely dependent upon supply of electricity by Israel.²

8. In its reasoning, the Israeli High Court of Justice did not consider Israel's human rights obligations as *inter alia* enshrined in the Covenant, and minimised the application of international humanitarian law to 'basic humanitarian needs' – a concept without any basis in the law. By finding that Israel has no effective control over the Gaza Strip, rendering it a non-occupied territory, the High Court of Justice sought to create impunity for the violations of the human rights of thousands of Palestinian residents in the Gaza Strip and the corresponding legal obligations on Israel. The High Court of Justice has created a legal vacuum in which Palestinians are left without protection. The implications of this judgment are also serious in its lack of any regard being made to the fact that Israel maintains airspace control of the Gaza Strip, controls its borders and

¹ Human Rights Committee, Concluding Observations, Israel, CCPR/CO/78/ISR, 21 August 2003, para. 11; *see also* Human Rights Committee, Concluding Observations, Israel, CCPR/C/79/Add.93, 19 August 1998, para. 10.

² *Jaber al Bassiouni Ahmed v. the Prime Minister*, HCJ 9132/07, 30 January 2008, para. 12, available at http://www.adalah.org/eng/features/gaza/gaza%20_eng.rtf (accessed 24 April 2010).

have land access without restriction to the territory. If any, ‘**Operation Cast Lead**’ and the relentless illegal blockade on the Gaza Strip are the ultimate proof of Israel’s **effective control of the Gaza Strip**.

9. In a recent case from December 2009, the Israeli High Court of Justice not only upheld their previous judgment in the *Bassiouni case* but also elaborated on the conclusions previously made with respect to the occupied Gaza Strip. In HCJ 5268/08 and HCJ 5399/08, the Court looked into Israel’s decision to not permit Palestinians from the occupied Gaza Strip to enter Israel in order to visit relatives imprisoned there under conditions where there were no security concerns.

10. The Israeli High Court of Justice declared that:

It was made clear that the considerations weighed by the cabinet in its aforementioned decision were considerations of state and security. As known, the government has broad discretion in such matters, and the court does not generally intervene therein. The same is true regarding the policy which is derived from the decision and implements its spirit in practice. This approach is relevant also for the case at bar (on the issue of the government’s broad discretion in matters of foreign relations and security in general and the Gaza Strip in particular,

11. After which the Court, based on the *Bassiouni* case, concluded that:

I have not been convinced that in our matter there is cause to intervene in the decision of the competent officials, which established a general policy preventing the entry of Gaza residents into Israel for the purpose of prison visits. Permitting residents to enter Israel for this purpose is not among the basic humanitarian needs of Gaza residents which Israel is obliged to allow even today. What lies at the foundation of the policy implemented by the respondents are clearly considerations of state and security and it conforms to and effectively implements the cabinet decision made for these reasons.³

12. Yet again, the Israeli High Court of Justice disregarded international human rights law, and moreover ignored its duty to abide by international human rights law is respected and ensured, including especially when it comes to state security. Indeed, it needs to be emphasized that Israel must always comply with the Covenant including the restrictions it permits.

³ *Anbar et al., v. GOC Southern Command*, HCJ 5268/08 and 5399/08, 9 December 2009, paras. 4, 6-7, available at http://www.hamoked.org.il/items/110492_eng.pdf (accessed 28 April 2010).

3. FORCED EVICTIONS AND HOUSE DEMOLITIONS

3.1 *Punitive House Demolitions*

3.1.1 West Bank

Factual Background

13. In 2003 the Human Rights Committee urged Israel to cease the **punitive destruction of housing** including those carried out on houses of families whose members are suspected of carrying out terrorist activities. The Human Rights Committee also concluded that such actions violate the right not to be **subject to torture or cruel, inhuman or degrading treatment or punishment (Article 7 of the Covenant)**.⁴

14. Notwithstanding, it is clear that **punitive house demolitions** remain a pervasive feature of Israeli policy and practice in the OPT. Al-Haq documented the punitive demolition of 287 Palestinian homes between 2004 until February 2010, out of which 51 were partially demolished and 4 were sealed.⁵ Al-Haq provides the following documentation for **punitive house demolitions** carried out in the OPT, including East Jerusalem, for each year included in the reporting period;

- a. 2004: 168 Palestinian houses were demolished, including 15 partially demolished.
- b. 2005: 25 Palestinian houses were demolished, including 12 partially demolished.
- c. 2006: 45 Palestinian houses were demolished, including 10 partially demolished.
- d. 2007: 30 Palestinian houses were demolished, including 8 partially demolished.
- e. 2008: 13 Palestinian houses were demolished, including 6 partially demolished.
- f. 2009: 6 Palestinian houses were demolished, including 4 sealed.

15. Based on its documentation, Al-Haq concludes that **house demolitions** carried out for punitive reasons occurred mainly in the occupied Palestinian towns Bethlehem, Jenin, Nablus, and Tulkarem. Most demolitions were carried out in Nablus, closely followed by Tulkarem. Al-Haq provides the following documentation on **punitive house demolitions** carried out in the OPT, sorted according to governorate:

- a. Bethlehem Governorate: 44 Palestinian houses were demolished, including 5 partially demolished.

⁴ Human Rights Committee, *Concluding Observations of the Human Rights Committee: Israel. 21/08/2003*, UN Doc. CCPR/CO/78/ISR, (21 August 2003), para. 16, available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G03/437/98/PDF/G0343798.pdf?OpenElement> (accessed 14 April 2010).

⁵ Al-Haq considers sealed Palestinian houses within the category of Punitive House Demolitions, as de facto, the residents of the houses become prohibited and unable to enter their houses. When providing its documentation, Al-Haq, however, notes when the houses have been sealed as opposed to demolished.

- b. Hebron Governorate: 29 Palestinian houses were demolished, including 6 partially demolished.
- c. Jenin Governorate: 58 Palestinian houses were demolished, including 18 partially demolished.
- d. Jericho Governorate: 8 Palestinian houses were demolished.
- e. Jerusalem Governorate: 5 Palestinian houses were demolished, including 4 sealed.
- f. Nablus Governorate: 70 Palestinian houses were demolished, including 7 partially demolished.
- g. Ramallah Governorate: 16 Palestinian houses were demolished, including 2 partially demolished.
- h. Tulkarem Governorate: 46 Palestinian houses were demolished, including 13 partially demolished.
- i. Qalqiliya Governorate: 11 Palestinian houses were demolished, including 2 partially demolished.

16. According to B'Tselem, 1,802 houses were demolished from 2004 to 2008 (inclusive), leaving 13,177 persons homeless⁶ and the Israeli Committee Against House Demolitions (ICAHD) reports that **punitive demolitions** account for 8.5 per cent of overall demolitions.⁷

17. Since the Committee's release of its Concluding Observations in 2003, the Israeli judicial system has defied the Committee by giving its permission to the Israeli authorities to carry out **punitive house demolitions**. The go-ahead given by the Israeli judicial system is illustrated by the case *Abu Dheim v. GOC Homefront Command*.

18. On 19 January 2009, Israel sealed parts of the house owned by the father of the Abu Dheim family in Jabal al Mukabbir, occupied East Jerusalem, to punish them for the actions of their son who was responsible for a violent attack on a Jewish Yeshiva in March 2008. The floors that were sealed were a residential floor, on which the perpetrator, his parents and one of his brothers lived, and the basement floor, which has apartments for rent. The father declared "that he was not aware of his son's intentions, and further declared that had he known of his intentions – he would have done whatever in his power to stop him. From the respondent's response it transpires that the security forces do not have information according to which the terrorist's family members were aware of the planning of the terror attack."⁸

19. The sealing was permitted by the Israeli High Court of Justice, and upheld by the Supreme Court, which both rejected the petition of the family and of HaMoked: Center for the Defense of the Individual. The courts accepted Israel's argument that, in the opinion of the Israel Security Agency, **punitive house demolitions** serve as a deterrent, and held that

⁶ B'Tselem, *Demolition for Alleged Military Purposes*, <http://www.btselem.org/english/Razing/Statistics.asp> (accessed 9 May 2010).

⁷ ICAHD, 'Statistics on House Demolitions (1967-2009)', <http://www.icahd.org/eng/docs/ICAHD%27s%20updated%20House%20demolition%20statistics.pdf> (accessed 9 May 2010).

⁸ *Abu Dheim et al v. GOC Homefront Commander*, Israeli High Court of Justice, HCJ 9353/08, 5 January 2009, para. 3, available at http://www.hamoked.org.il/items/110991_eng.pdf (accessed 8 April 2010),

the State may use this measure again. The judges approved the sealing even though Israel did not argue that relatives of the perpetrator had aided him or known of his plans.⁹

20. Similarly, following a violent bulldozer attack on Jaffa Road in Jerusalem on 2 July 2008 by a Palestinian resident of occupied East Jerusalem, Mr. Hussam Duwiyat, high ranking Israeli officials including then Prime Minister Olmert and then Defense Minister Ehud Barak, publically called for the demolition of the home of the individual responsible for the attack. Attorney General Menachem Mazuz stated publically that demolishing the homes of “terrorists” is permissible by law, notwithstanding Israel’s human rights treaty obligations. Around 20 people lived in the home of Mr. Duwiyat in the Sur Bahir neighborhood of East Jerusalem. All, including members of his family, claimed no prior knowledge that the attack perpetrated by Mr. Duwiyat would be carried out.¹⁰ As recently as March 2009, Israeli officials have called for the home of the family of the Palestinian who carried out a bulldozer attack in Jerusalem to be demolished.

Evidence

21. Israeli occupying forces have a tendency to resort to unnecessary violence during the undertaking of a **demolition for punitive reasons**. Nidal Ahmad Da’oud ‘Agel’s father’s house was demolished during a search for his brother Mousa in Qalqiliya Governorate, but not before being beaten by the Israeli soldiers who also destroyed his adjacent house by shooting. At 3:15 pm. Nidal saw Israeli soldiers surrounding his father’s and his own house. Nidal and his brother-in-law, Firas, who had both been at Nidal’s father’s house went outside and watched the soldiers from in front of the gate when Israeli soldiers ordered them to put their hands behind their backs. Nidal here tells what happened next:

Two soldiers, wearing black masks on their heads revealing nothing but their eyes approached us and beat us with the edges of their weapons. I do not know what kind of weapons they were because I don’t know anything about the different kinds of weapons. They told us, ‘Lift what is covering your abdomens!’, and as we put down our hands to lift our clothes, they hit us more. The soldier beat me with his helmet, focusing the beating on my head.

The car of the Israeli army was a Ford with black windows. We could not see what was inside the car. The Israeli soldier ordered me to take off my trousers, but I refused. So he came himself and cruelly took them off, throwing me on a stone close to the fence of the house. My head was bleeding and my cousin’s was, too.¹¹

22. After the severe beating by the Israeli soldiers, the soldiers asked Nidal about the whereabouts of his brother Mousa, and whether he was in their father’s house. Nidal

⁹ *Abu Dheim et al v. GOC Homefront Commander*, Israeli High Court of Justice, HCJ 9353/08, 5 January 2009, available at http://www.hamoked.org.il/items/110991_eng.pdf (accessed 8 April 2010), see also *Abu Dheim v. GOC Homefront Commander*, Israeli Supreme Court, AHHCJ 181/09, 6 January 2009, available at http://www.hamoked.org.il/items/110992_eng.pdf (accessed 8 April 2010).

¹⁰ See COHRE statement, ‘COHRE calls upon Israel to end house demolitions as a means of collective punishment’, 15 July 2008, available at www.cohre.org/opt.

¹¹ Al-Haq Affidavit 4029/2008.

informed them that Mousa was not in the house, after which the soldiers decided to demolish his father's house.

There was a medium-sized bulldozer with wheels that started demolishing the fence and then left. On its way to **demolish my father's house**, it levelled our garden in which we had planted a number of vegetables. I asked Captain Feisal why they were demolishing the house. He replied, 'We are murderers and we want to demolish the house!' I told him to check the house before demolishing it and if they were to find Mousa in it, to go ahead with the demolition. He replied, '**We will demolish the house!**' It was 9:00 pm. The elderly from the town, as well as the head of the municipal council had arrived, but to no use. They started demolishing the house.

The demolition process was gradual and they did not allow us to get anything from inside the house. The house with everything in it was demolished. They stayed until 11:30 pm and then left the place. During the demolition process there was heavy shooting around the demolished house, as well as around my house and that of my brother, both in close vicinity to my father's house which was demolished. As a result, everything in both houses was damaged by the bullets, including curtains and furniture. The two houses are no longer good for housing.¹²

23. Similarly, at approximately 2:30 am, Kamal Kamel Abd-al-Rahman Abu-Zeid, a father of nine and resident of Jenin Governorate, was called out from his house by Israeli soldiers. Kamal was asked to strip, after which he was questioned about the whereabouts of his 18 year old son Kamel. Kamal informed the soldiers that his son was inside, upon which the soldiers ordered Kamal to bring him out. When the son Kamel exited the house he was handcuffed, blind-folded and put in a military jeep. Kamal was then asked to evacuate the rest of the family. Events followed as here told by Kamal:

At the same time, the soldiers began interrogating my son, Kamel, asking him about weapons in the house. 'Where are the arms which you have inside your home?' Kamel answered, 'There are no arms inside our house.' The soldiers then assaulted him and beat him in front of me. When Kamel started to shout in pain, I ran towards him to ask the soldiers to stop beating him. As a result, the soldiers threatened me and told me to return to where I was originally standing. At that moment, around 20 soldiers took Kamel out of the jeep and beat him severely with their feet, hands, and the butts of their guns, whilst continuously asking him, 'Where are the arms?' My wife, children and I began crying, but the soldiers kept on beating him. My wife and I could no longer watch our son being beaten, and we ran towards the soldiers and asked them to stop beating him. They then put Kamel back in the jeep. Again the officer asked about the weapons in our home. I swore that there were no weapons inside our home. The officer said, 'Abu-Kamel

¹² *Id.*

you will regret this if we find any weapons inside your home.’ Then he asked if there was anybody else inside the house, and I answered no.

[...]

Meanwhile, approximately 80 other soldiers accompanied by three big dogs broke into our home. These soldiers remained in our home until 6:00 am before they started to leave. As they were leaving, I saw a wire with a button at the end in the hand of one of the soldiers. To me, this meant the wire was running through the inside of our home. Then, I realised that the Israeli army wanted to explode and demolish my home. Feeling both angry and sad, I hurried towards the wire in order to cut it and stop the demolition, but the soldiers threatened to shoot me. I looked down at myself and saw tens of small laser red lights on my body. I knew that the soldiers would kill me if I cut the wire, so I returned to my wife and children. The soldiers took us around 80 metres away from our house, and the jeeps started to move away too. At 7:00 am the demolition took place.¹³

24. Kamal, concluding that “It seems that they were punishing us for something we did not commit,” stated that:

The Israeli occupation destroyed my life and demolished the home I built, through considerable exhaustion and suffering, for the shelter and protection of my wife and children. It is a brutal and cruel occupation that deprives a man of his son, home, and future.¹⁴

25. In a recent case from 2009, Rizeq Muhammad Hasan, father of five and resident of Qalqilya, got his house and his brother’s houses demolished as a punitive measure for unrelated reasons to Rizeq and his family. Rizeq who had been in a neighboring village rushed home after receiving news at about 7.00 am of a curfew and raid in the area he lived in, Al-Naqqar neighbourhood. Upon arrival in al-Naqqar, the following took place:

When we were at a distance of almost 200 metres away from the neighbourhood, an Israeli jeep stopped us. A soldier of medium height with a helmet on his head pointed his weapon at us. ‘No entrance,’ the soldier said in Arabic. I told the soldier I wanted to talk to the officer, but he refused and ordered me to get back. When my wife and I insisted, the officer came. I addressed the officer, ‘I heard that bulldozers were in front of my house as well as the houses of my brothers Mustafa and Lutfi.’ He replied that he wanted to demolish these houses. ‘Here is the house key,’ I said. “Take it and go and search the house. If you find anything inside,

¹³ Al-Haq Affidavit 2595/2005.

¹⁴ *Id.*

you can demolish it,” I continued. ‘Keep your keys with you,” the officer said, “we know how to enter houses.’

He also told me to get back. I walked for a distance of almost 20 metres and watched the Israeli soldiers. Then, I entered the house of my neighbour ‘Abdallah Daoud. The roof of his house was opposite my flat. I went up and saw bulldozers demolishing houses in the area. They demolished the house of my brother Lutfi as well as my house. My neighbour was worried about me and insisted that I get down. I stayed with him until 6:00 pm, when the Israeli army withdrew. As the area was declared a closed military zone, I went up and watched the Israeli army from the roof from time to time. Along with the majority of residents of the neighbourhood, we went to the area where the houses had been demolished. I saw my house and the houses belonging to my brothers Mustafa and Lutfi completely destroyed and reduced to rubble. I should note that my house was completely furnished, including a sitting room set, dining table, chairs, the children’s bedroom, a master bedroom, and a full kitchen. In the storage room, I also had thread used for manufacturing nylon stockings worth approximately NIS 50,000.¹⁵

26. The **punitive nature of the house demolitions** undertaken was made clear by the Israeli occupying forces claiming that “the houses were demolished because an armed confrontation had taken place in the area.”¹⁶

3.1.2 Gaza

Factual Background

27. The **punitive destruction of Palestinian homes** was also evidenced during Israel’s military assault on the Gaza Strip, ‘**Operation Cast Lead**’, which began on 27 December 2008 and lasted until 18 January 2009. While Israel ostensibly carried out this attack in response to illegal and indiscriminate rocket fire into its territory by Palestinian armed groups, the wide-spread and devastating effect in terms of deaths, injuries and **destruction of housing and related infrastructure** that the military campaign had on the civilian population demonstrates **collective punishment** as well as being a disproportionate military response. The Israeli offensive assault exacerbated the effects of the illegal blockade which has been imposed on the Gaza Strip for over 1,000 days at this point, and has created a humanitarian crisis in the area.

28. After 22 days of unrelenting aerial attacks coupled with an intensive ground invasion that began on 3 January 2009, Al-Haq and Al-Mezan documented the killing of 1,409 Palestinians, including 1,172 civilians, 342 of whom were children.¹⁷ Excessive civilian casualties were compounded by the unprecedented **destruction of civilian infrastructure** across the Gaza Strip including hospitals, schools, mosques, **civilian homes, water and sanitation facilities**, police stations and United Nations compounds. Al-Haq’s numbers

¹⁵ Al-Haq Affidavit 4770/2009.

¹⁶ *Id.*

¹⁷ Al-Haq, ‘*Operation Cast Lead*’ – *Statistical Analysis*, August 2009, pages 2-3, available at <http://www.alhaq.org/pdfs/gaza-operation-cast-Lead-statistical-analysis%20.pdf> (accessed 10 April 2010).

comply with the numbers noted in report of the UN Fact Finding Mission on the Gaza Conflict (Goldstone Report).

29. In respect of the **destruction of housing**, including house demolitions, Al-Haq and Al-Mezan have been able to document the destruction of, or damage to, 11,154 civilian homes (housing units) by the Israeli military during ‘**Operation Cast Lead**’. Of these, 2,632 were totally destroyed (i.e. destroyed beyond repair) and 8,522 were partially destroyed (i.e. assessed as repairable). Over 100,000 Palestinian residents were directly affected by this damage and destruction, including over 50,000 children. In addition to these house demolitions being in violation of the Covenant, such extensive destruction of property, carried out unlawfully and wantonly, and not justified by military necessity, is defined as a grave breach of the Geneva Conventions – the most egregious category of war crimes which entail an obligation on all High Contracting Parties to the Conventions to prosecute those responsible.¹⁸

30. Additionally, other reports on the effects of the invasion of Gaza for ‘**Operation Cast Lead**’, note that 3,354 homes were totally destroyed and 11,112 homes badly damaged.¹⁹ The offensive left 107,509 Palestinians homeless, including 53,275 children.²⁰ The resulting psychological trauma inflicted on the civilian population was immense, with OCHA reporting that “the psycho-social impact of recent events on Gaza’s residents is likely to last for years to come; some may never fully recover.”²¹ The psychological effects on women in particular in light of the destruction of homes were highlighted in the report by the UN Fact-finding Mission on the Gaza Conflict.²²

31. The **disproportionate house demolitions** which were carried out during ‘**Operation Cast Lead**’, and the lack of justification for these on the basis of military necessity, reflects an intention to punish Palestinians in the occupied Gaza Strip.

Evidence

32. Al-Haq’s documentation reveals that during ‘**Operation Cast Lead**’, Israeli soldiers would order Palestinians to leave their homes as they forcefully entered them. Upon their return to their homes, they found that their homes had been demolished. Approximately 100,000 Palestinians were left affected by the **demolitions**, many of which were internally displaced and left to live in tents set up by humanitarian organisations. Moreover, house **demolitions** were coupled with violence against the residents of the houses that were to become demolished. The use of residents of the houses as human shields was also evident. In the following case, a Palestinian father was ordered to demolish parts of his own house.

33. On 3 January 2009, 20-35 Israeli soldiers stormed the house of Majdi al-‘Abed Ahmad ‘Abed-Rabbo, a father of five. The soldiers, who had entered Majdi’s house whilst pointing a gun to the back of his neighbour, ordered Majdi’s wife and children to stay in the garden. The soldiers then handcuffed the neighbour they had brought with them and used as a human shield, and left him with the family. The soldiers then lead Majdi in front of them,

¹⁸ *Id.*, page. 8

¹⁹ OCHA, *The Humanitarian Monitor*, Number 33, January 2009, p. 7.

²⁰ Al-Mezan Human Rights Centre, *Cast Lead Offensive in Numbers* (2009), p. 20.

²¹ OCHA, *The Humanitarian Monitor*, Number 33, January 2009, p. 9.

²² Report of the United Nations Fact Finding Mission on the Gaza Conflict, UN Doc. A/HRC/12/48 (15 September 2009) page 271 – 274, in particular para. 1277.

pointing the gun in his back, as they re-entered his home to search it. Majdi describes what happened next:

Soldiers thoroughly searched the house. They damaged pieces of furniture and threw the contents on the ground. After they had searched the first and second floors, they led me to the roof. A soldier asked me about the house belonging to Hatem ‘Abed-Rabbo and demanded that I demolish the wall on my roof with a sledgehammer so that the soldiers could enter Hatem’s house. They raided Hatem’s house through the hole, that I had opened. With their weapons pointed at my back, they led me downstairs inside Hatem’s house. Having searched the house, they took me back to my house through the hole on the roof. Next they pointed their weapons at me and at my handcuffed neighbour Mahmoud Thaher (22 years) and led us in front of them through my house door.

At this time, resistance activists opened fire on the soldiers, who were behind us. The occupying soldiers opened intensive fire on the resistance activists. I was terrified as the shooting continued. The soldiers then forced me and Mahmoud to walk in front of them in the midst of the shooting.²³

34. Having used Majdi and his neighbour as human shields, they ordered Majdi to search and strip the bodies of Palestinians the soldiers had killed, and detained Majdi for days. Majdi witnessed his and his neighbour’s **houses completely demolished**. Majdi was still homeless when Al-Haq took his sworn affidavit on 11 February 2009.

35. Ibrahim Rajab Ibrahim ‘Abed-Rabbo, father of five, describes his family situation:

I live in the area of ‘Izbet ‘Abed-Rabbo, near the al-Haddad Ceramics Factory, east of the town of Jabaliya, in the governorate of Northern Gaza. My house consisted of a three storey building, with six residential flats. Each flat contained four bedrooms, a sitting room and utilities. The house, which my father owned, was built on an area of 360 square metres. I lived in this house along with my wife and five children.

The house also accommodated my brothers and their families. ‘Omar (50 years) has a wife and five children, all of whom are under 18 years of age. Mahmoud (37 years) has a wife and four daughters, all of whom are under 18 years of age. Muhammad (41 years) has a wife and six children, all of whom are under 18 years of age. Nabil (34 years) has a wife and two children. My father and mother as well as my sisters, Khadra (47 years) and Khawla (54 years), also lived in the house. A total of 36 members of my extended family lived in this house. My family included 6 men and their wives; my mother; my two sisters; as well as 20 children, including 12 males and 8 females. My father, Rajab Ibrahim Muhammad ‘Abed-Rabbo (75 years) owned the house, which was built of bricks and concrete.²⁴

²³ Al-Haq Affidavit 4677/2009.

²⁴ Al-Haq Affidavit 4679/2009.

36. Following an incursion into Ibrahim's neighbourhood, the families were ordered to leave their house on 7 January 2010. On 18 January 2010, as the Israeli soldiers retreated, Ibrahim found the following upon his return to his neighbourhood:

After the Israeli occupying army had withdrawn from the area of 'Izbet 'Abed-Rabbu, my family and I immediately returned to my house. I saw that my house was completely destroyed, and so were a large number of houses belonging to my neighbours and to residents of the neighbourhood. I could not believe what I was seeing. There was large-scale destruction and damage; houses and factories were demolished and agricultural land levelled in the area of 'Izbet 'Abed-Rabbo.

My family and I received two tents from the International Committee of the Red Cross (ICRC). Along with dozens of other families, my 36 family members and I lived in the tents, which we erected near the wall of my destroyed house, during the cold winter.

My house comprised six residential flats, which were completely furnished. Due to them being demolished by the Israeli occupying army, our losses are estimated at USD 50,000 for each flat, including construction cost and furniture. All the furniture was buried under the rubble of the house.²⁵

37. Ihab Samih 'Atwa al-Sheikh lived with her seventeen family members in her father's house in northern Gaza and explains what happened to her neighbourhood and the punitive demolition of her home during **'Operation Cast Lead'**:

At around 3:00 pm the same day, the Israeli occupying troops ordered my father to get everybody out of the house. My father, mother, three married brothers with their wives, and my nine unmarried brothers and I left our place. Then, the Israeli army ordered us to go to the house of Muhammad Abu-Shbak, where the young men were being searched. When there, soldiers examined our IDs and ordered us to strip. At this time, women and children left the area immediately. My father, brothers and a large number of the residents of the neighbourhood were detained inside Abu-Shbak's house for about two hours. On the Israeli army's demand, we left the area. We travelled to a house belonging to a relative of ours in the area of Jabaliya al-Nazla [downtown Jabaliya]. During this time, the intensive shelling and incursion continued to take place in the area. We stayed at the house of my aunt, Maryam al-Sheikh, in the area of Jabaliya al-Nazla, until 18 January 2009. We had a very difficult time during the land incursion and air raids on the area.

At around 7:00 am on Sunday, 18 January 2009, and immediately after the Israeli army had withdrawn from the area of 'Izbet 'Abed-Rabbo, my family and I returned to our house. I was shocked by the

²⁵ *Ibid.*

volume of destruction and damage which the Israeli army had caused during its incursion in the land operation called 'Cast Lead'. In addition to the neighbourhood's Salah-al-Din Mosque, I saw that dozens of houses belonging to residents in the neighbourhood were completely destroyed. A large area of agricultural land, factories and roads were also destroyed and levelled. It appeared as if an earthquake had ravaged the area.

I saw that our house had been pulled to the ground on top on my father's ambulance. The house was registered in the name of my mother, Hiyam 'Abd-al-Hadi al-Sheikh. The agricultural land adjacent to my house was levelled as well. Furthermore, the house of my uncle Jihad al-Sheikh was destroyed completely. My uncle's one-storey house, which was built on an area of about 120 square metres and bordered my house from the south was also destroyed as well as the houses belonging to my neighbours. These included the three-storey house of "Muhammad Munib" Faraj 'Abed-Rabbo to the east of my house; the three-storey house of Rajab Ibrahim 'Abed-Rabbo to the north of my house; the two-storey house of Kamal al-Kahlout; the one-storey house of 'Abd-al-'Aziz and Jum'a al-Sharatiha; the two-storey house of Abu-'Isam Thaher; and the two-storey house of Abu-Sahl 'Abed-Rabbo.

After we saw that our house had been completely destroyed, my family and I went to al-Wusta (C) Preparatory Girls School in the Jabaliya refugee camp, which was used as a shelter by the United Nations Works and Relief Agency (UNRWA). Like the thousands of families who had been displaced as a result of the Israeli war on the Gaza Strip, we were registered on the lists of UNRWA and of the International Committee of the Red Cross (ICRC). Accordingly, we stayed in a classroom at the school for 15 days. We were forced to leave the shelter after classes were resumed. Then we received a tent from the ICRC.

We continue to live in the tent near our house, which was destroyed by bulldozers of the Israeli army during its incursion into the area in the context of the military land operation. We live under very harsh conditions in the cold winter.

Our house comprised four residential flats that were fully furnished. Each flat contained three bedrooms, a sitting room and utilities. Our losses are estimated at more than JD 70,000.²⁶

²⁶ Al-Haq Affidavit 4697/2009. One Jordanian Dollar = 1.4 US Dollars.

3.2 *Administrative House Demolitions*

3.2.1 West Bank

Factual background

38. According to the 2008 report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967:

Houses are frequently demolished for ‘administrative’ reasons, on the grounds that no permit has been obtained to build - which Israel defends as a normal feature of town planning. Both law and fact show, however, that houses are not demolished in the course of ‘normal’ town planning operations, but are instead demolished in a **discriminatory manner** to demonstrate the power of the occupier over the occupied.²⁷

39. Although, **administrative house demolitions** are occurring throughout the occupied West Bank, such measures are of particular regard in East Jerusalem and in Area C of the West Bank. At least 28 percent of Palestinian homes in East Jerusalem are built in contravention to the Israeli so called zoning requirements, putting about 60,000 Palestinians in East Jerusalem at risk for **administrative house demolitions**.²⁸

40. The building of Palestinian homes in contravention of administrative provisions established by the Occupying Power are the result of an intentional Israeli policy which discriminates against and aims at diminishing the Palestinian population in East Jerusalem and Area C. Three reasons are given for the construction of buildings without the ‘proper’ permits. First, Israel does not grant building permits to Palestinians in accordance with their existing demand for housing and Palestinian neighborhoods are not provided adequate planning for expansion. Second, the shortage of housing for Palestinians has been exacerbated by the construction of the Annexation Wall, which incidentally has been found to be illegal by the International Court of Justice when built on the occupied. And third, the fear of Palestinians of losing their Jerusalem based ID cards, should they move outside of the Jerusalem borders, which have been defined by Israel.²⁹

41. Accordingly, OCHA reports that Palestinian construction in 70 per cent of Area C of the West Bank is currently effectively prohibited due to the planning regime of the Israeli occupying authorities.³⁰

²⁷ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, para. 41, UN Doc. A/HRC/7/17 (21 January 2008).

²⁸ Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *the Planning Crisis in East Jerusalem: Understanding the Phenomenon of “Illegal construction”*, April 2009, page. 2, available at http://www.ochaopt.org/documents/ocha_opt_planning_crisis_east_jerusalem_april_2009_english.pdf (accessed 26 April 2010); Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, *Restricting Space: the Planning Regime applied by Israel in Area C of the West Bank (OCHA Report: Restricting Space)*, December 2009, in particular page 2, available at http://www.ochaopt.org/documents/special_focus_area_c_demolitions_december_2009.pdf (accessed 26 April 2010).

²⁹ *Id.*, pages. 2 and 3; and

³⁰ *OCHA Report: Restricting Space*, page. 2, *id* footnote 18.

42. In the meantime, Israel has, at the expense of the Palestinians, expropriated over one third of **occupied East Jerusalem** in order to build and enlarge **Israeli settlements**. Israeli settlements are in and of themselves violations of international humanitarian law.³¹

43. The **discriminatory enforcement of administrative provisions** which Israel claims is the reason behind house demolitions, and the discriminatory application of granting building permits which push Palestinians into building without a permit and thereby putting their homes at risk for future demolition, is reflected by the manner in which Israel treats illegal settlements. Indeed, data collected by the Israeli defence establishment which was recently brought into the public revealed that the vast majority of illegal Israeli settlements have been built without appropriate permits or contrary to the permits which were provided. Furthermore, 30 settlements, including extensive construction of buildings and infrastructure, have been built on private land owned by Palestinians in the occupied West Bank.³² Instead of demolishing the Israeli owned houses and infrastructure which have been built without a permit or contravenes a permit granted, similarly to the manner in which Palestinian houses are being demolished for ostensibly the same reason, Israeli Prime Minister Netanyahu declared that

The building in Jerusalem - and in all other places - will continue in the same way as has been customary over the last 42 years,³³

and,

I am saying one thing: there will be no freeze in Jerusalem.³⁴

44. Instead, Israel has approved the building of 1,600 new Israeli illegal housing units in occupied East Jerusalem whilst demolishing Palestinian homes, claiming that Palestinian houses are not built according to their town planning.³⁵ Moreover, another 1,300 new housing units await the final approval of Israeli Prime Minister Netanyahu. The building proposals for the new housing units are reportedly in their advanced stages.³⁶

45. From 2004 until February of 2010, Al-Haq has documented the administrative demolition of 593 Palestinian homes in the OPT, including **East Jerusalem**. Out of these, 575 Palestinian homes were totally demolished, whilst 17 were partially demolished and one

³¹ *Id.*, page. 2.

³² Uri Blau, *Secret Israeli Database reveals full extent of illegal settlement*, Haaretz, 1 February 2009, available at <http://www.haaretz.com/hasen/spages/1060043.html> (accessed 20 April 2010).

See also: Yitzhak Benhorin, *Netanyahu to ABC: Jerusalem construction justified*, Ynet News, 19 April 2010, available at <http://www.ynetnews.com/articles/0,7340,L-3878165,00.html> (accessed 20 April 2010).

Uri Blau, the Israeli author of *Secret Database reveals full extent of illegal settlement* is currently in London, fearing arrest by Israel upon his return to the country due to his reports on Israel. For further information see Jared Malsin, *Israel's crisis of 'legitimacy'*, Maan News Agency, 13 April 2010, available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=276127> (accessed 20 April 2010).

³³ Haaretz, *Netanyahu; Israel will keep building in Jerusalem*, 21 March 2010, available at <http://www.haaretz.com/hasen/spages/1156570.html> (accessed 26 April 2010).

³⁴ BBC, *Netanyahu refuses to budge over Jerusalem construction*, 23 April 2010, available at http://news.bbc.co.uk/2/hi/middle_east/8638895.stm (accessed 26 April 2010).

³⁵ BBC, *Clinton rebukes Israel over East Jerusalem homes*, 12 March 2010, available at http://news.bbc.co.uk/2/hi/middle_east/8565455.stm (accessed 20 April 2010), see also Sayed Dhansay, *The worst diplomatic crisis in decades*, Maan News Agency, 10 April 2010, available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=274684> (accessed 20 April 2010).

³⁶ Maan News, *Report: 1,300 housing units await Netanyahu approval*, 19 March 2010, available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=269568> (accessed 26 April 2010).

home was sealed. Israel's demolition of Palestinian homes has **rendered hundreds of Palestinians homeless** in the West Bank and East Jerusalem. OCHA reveals that in 2009 alone, about 400 Palestinians were made homeless in this way.³⁷

46. Indicative of Israel's **discriminatory policy** in occupied East Jerusalem, aimed at reducing the Palestinian population in what it, illegally, considers its sole capital, Al-Haq documentation reveals that a great majority of **administrative house demolitions** were carried out in East Jerusalem. The following are Al-Haq's verified and documented instances of house demolitions carried out for 'administrative reasons' by Israel,

- a. Bethlehem Governorate: 40 Palestinian houses were demolished
- b. Hebron Governorate: 103 Palestinian houses were demolished
- c. Jenin Governorate: 72 Palestinian houses were demolished
- d. Jericho Governorate: 13 Palestinian houses were demolished
- e. Jerusalem Governorate: 288 Palestinian houses were demolished, including 15 partially demolished and one sealed
- f. Nablus Governorate: 40 Palestinian houses were demolished
- g. Ramallah Governorate: 17 Palestinian houses were demolished, including one partially demolished
- h. Tulkarem Governorate: 18 Palestinian houses were demolished.
- i. Qalqiliya Governorate: 2 Palestinian houses were demolished.

47. Between 2000 and 2008, OCHA attest to the official statistics revealing the **administrative house demolition** of 670 Palestinian houses in occupied East Jerusalem. Moreover OCHA reports that since the occupation of the Palestinian territory in 1967, an estimated 2,000 Palestinian houses have been demolished.³⁸ For the year of 2009, in respect of Area C in particular, OCHA reveals that 180 Palestinian-owned structures were demolished, displacing 319 Palestinians, including 167 children. The communities targeted in Area C are the most vulnerable communities in the West Bank. The Israeli State's Attorney's Office reported that 2,450 Palestinian-owned structures in Area C have been demolished due to lack of permits in Area C for the past 12 years.³⁹ Overall, OCHA has found that administrative house demolitions peaked in the year of 2008, in comparison to the previous four years.⁴⁰

³⁷ *Id.*

³⁸ *Id.*

³⁹ *OCHA Report: Restricting Space*, page 2-3, *id.*, footnote 18.

⁴⁰ United Nations Office for the Coordination of Humanitarian Affairs - Occupied Palestinian Territory, *Special Focus, The Planning Crisis in East Jerusalem: Understanding the phenomenon of 'Illegal' Construction*, April 2009, page 4, available at http://www.ochaopt.org/documents/ocha_opt_planning_crisis_east_jerusalem_april_2009_english.pdf (accessed 13 April 2010).



Demolished Palestinian home, Qalqilya, West Bank, Palestine

Evidence

48. An illustrative example of the precarious situation which Israel has created for Palestinians residing in occupied East Jerusalem is the **house demolition** of Mahmoud Shams al-Din. Mahmoud and his wife hold Israeli identity cards permitting them to reside in East Jerusalem. They used to rent a house in the Old City of **occupied East Jerusalem** measuring 50 square metres, a house too small for them to live in, so they wanted to build a larger house. Mahmoud and his wife are unable to move to the West Bank, which offer much cheaper housing for a suitable house due to the fact that his relocation will result in the loss of his and his wife's Israeli identity cards, which effectively results in a prohibition to enter **East Jerusalem** in the future and reside there. The Israeli identity card also entitles Mahmoud and his wife to health insurance, which is indispensable for Mahmoud. Mahmoud describes the demolition of his house, without a demolition order, as follows:

On Monday, 2 February 2009, my wife and I were at my father-in-law's house, which is adjacent to the land on which we constructed our house. As we were having our breakfast, I heard a noise. I looked through the southern window and saw a large number of Israeli occupying troops from the Border Guard, police officers, and two hydraulic excavators heading towards our building. We went down to see what was going on. However, a number of Border Guard officers stood at the door of my father-in-law's house and prevented us from leaving. They also said that no one would be allowed to leave the house until demolition of the neighbouring building was complete. 'I am the owner of the building that you want to demolish, and I did not receive any

demolition order.’ I said. An officer replied, ‘My order is to demolish. If you have any objection, go to the court.’ I was prevented from leaving the house for three hours. I saw the Israeli machines demolish my dream of having a healthy and spacious home that would protect me, my wife and children in the future. My wife cried bitterly. Her dream of owning a house and building a beautiful family was also undermined. The occupying authorities destroyed our dream.

I thought of how I would manage to repay my debts and whether I could rebuild my house. My tears gushed out as I saw the excavator destroy everything, including the stones near the building. I was further tormented as I remembered that I would continue living in the little house in the old city of Jerusalem. Even the sun does not reach it.⁴¹

49. Yet another illustrative example of Israel’s policies in **occupied East Jerusalem** is the case of Ihab Zuhdi Fayyad al-Tawil. His story should be read in light of Israel’s policy to not allow Palestinians to build and expand their houses in occupied East Jerusalem whilst Israeli settlements are allowed to grow rapidly, causing a shortage of housing for Palestinians. Ihab, a father of five, was subjected to confiscation of parts of his land prior to the demolition of his 120 square metres house twice despite his applications for building permits. Ihab explains the first demolition as follows:

Please note that I applied for a building permit from the Jerusalem municipality many times. Every time I would apply they would tell me the land I wanted to build on was green land, and that I am not allowed to build on it. Please note, also, that the municipality confiscated part of my land, along with parts of the adjacent land. Their excuse was that they wanted to use it to build public facilities like opening new roads, building a park and a playground for the children. They have done nothing of what they promised, other than making a street. Even so, they still refused to give me a permit to build.

In 2005 the occupying Israeli authority in East Jerusalem forced me to pay a fine of 36,000 Israeli Shekels because I built my home without a permit. They said I had six months to apply for and get a permit. If I did not get one, then they said they would demolish my house. I could not get a building permit. A demolition order was issued. My home was flattened in the same year. The demolition, however, does not override the 500 Israeli Shekel fine I have to pay monthly. My family and I stayed at my father’s house. I had a fourth child at my parent’s house. My parents’ home was very tight and uncomfortable. It seemed to be getting smaller every day.

I thus had to build a small cement house which had an area of 50 square metres. The house consists of two bedrooms, a bathroom, and a kitchen. The roof was made out of Zinc. I built the house on

⁴¹ Al-Haq Affidavit 4657/2009.

top of the ruins of the old one; that is on the same piece of land I had built my first house on.

50. Only a few days after the construction of his second home, the Israeli authorities posted a second **demolition order** on his door. Ihab was given 48 hours to vacate the house, but the demolition was postponed for about 3 months due to legal challenges brought by his lawyer. Nonetheless, in June 2008, Ihab is given 10 days to vacate the home and hence had to find another place to live, despite the difficulties which Ihab faces in finding a house in occupied East Jerusalem and his inability to pay the high rent required for rental houses. As often happens, Israeli occupying forces resort to **violence against the residents** of the house during the demolition; Ihab describes here what happened:

On 11 June 2008, municipality inspectors came to my home, took pictures of it, and told me that it was going to be demolished on 12 June 2008. At 8:00 am on 17 June 2008, military jeeps belonging to the Israeli police and border patrol surrounded my home. Several members of the border patrol came to my door and ordered my family and me to leave the house. Amidst the commotion one of the soldiers beat me, hit my abdomen, and my legs. They moved me away from the house, about 100 meters far. I sent my wife and children to my mother's house. Half an hour after the soldiers had arrived an Israeli bulldozer and demolition equipment arrived and began demolishing the house. The house cost me 48,000 New Israeli Shekels. I now live in a tent that was supplied by the Red Cross. My wife, five children and I all live in the tent. The oldest of my children is nine years old and the youngest is five months old and suffers from asthma.⁴²

51. Like Ihab when Israel confiscated parts of his land, Israel alleged that the **house demolition** of Ala Abd-al-Razeq Abd-al-Hamid al-Shuweiki in **occupied East Jerusalem** was necessary since his house was constructed on so called 'Green Land', on which houses cannot be built. Ala and his family had resided in his house for 10 years prior to the demolition of his house. Ala described the events surrounding the house demolition as follows:

I tried my best to convince officials at the municipality to grant me a permit. I said that my house was located within a Palestinian residential neighbourhood and was away from Israeli communities. However, they rejected my application and handed me a second demolition order. This occurred in December 2008. When I returned to the court, the judge confirmed the house demolition order, claiming that the court had given me a respite of one year to obtain a permit, which I did not get.

At around 7:00 am on 13 July 2009, my family and I woke up to Israeli border guard officers shouting and demanding that we get out of the house. When I went outside, I saw dozens of Israeli police, border guard and Special Forces officers.

⁴² Al-Haq Affidavit 4312/2008.

'Get out of the house. You have ten minutes to take out what you need from the house' they demanded. 'My house is full. We have been living here for ten years. Eight persons are living in this house. How can I empty it in ten minutes?' I asked the officer. 'You were already given notice. You could have vacated it a long time ago. I don't have time to wait for you' The officer replied. However, he said he would bring in some workers to help me. Indeed, four Israeli workers arrived. They threw pieces of furniture out of the house in a harsh and careless manner, damaging most of it.

Half an hour later, when I saw the bulldozer starting to demolish my house, I lost my temper, especially because most of the furniture was still inside the house. I sat on the floor, refusing to leave. The soldiers and policemen grabbed me by my shoulders and pulled me outside of the house. Confrontations took place between my children and the occupying troops and border guard officers as they tried to prevent the bulldozer from demolishing the house. During this time, I lost consciousness and I was taken to the emergency health centre close to my house. I sustained contusions as a result of having been pulled by the soldiers, and as a result of trying to separate my children from the policemen. My brother was also arrested, ostensibly because he had assaulted the occupying troops.

After I returned from the health centre, I found that the municipality employees and police and border guards had left. They had destroyed my house, which had sheltered me and my wife and children. Today, I live in a leased house, the rent of which I cannot afford. The house measures only 70 square metres.⁴³

52. Israel's disregard for the residents of the house during a **house demolition**, coupled with unnecessary and excessive use of force as well as violating Palestinians' right to **fair trial** and **due process**, are prominent in the case of Mahmoud Muhammad Hammas al-A'mas. Mahmoud had been unable to obtain a building permit for his house in occupied East Jerusalem.

I was in my home, located near the building. I went outside and saw the large number of soldiers and policemen. As I approached a yard that leads to the building, a soldier dressed in grey grasped my hand strongly and then grabbed me forcefully by the neck. Approximately ten soldiers carrying batons and guns then gathered around me. They pushed me away from the yard, and then prevented me from returning to my home. The soldiers began to push me and beat me with their hands and batons on various parts of my body until I fell to the ground. While I was lying on the ground, a soldier tied my hands with plastic handcuffs before lifting me up and forcefully pushing me into a jeep that had arrived in the meantime.

⁴³ Al-Haq Affidavit 5089/2009.

After a few minutes in the jeep, the soldiers brought my son-in-law, Abu-Zeid 'Awadallah. He also had his hands cuffed and they pushed him into the military jeep. The jeep then headed towards an Israeli police station located in the vicinity of Sour Baher. There, we were put into an uncovered yard where we remained for about ten hours without charge, and without any food and only one bottle of water.

After our release, at 8:00 pm on 22 January 2007, I returned home to find the four-storey residential building demolished along with all of its contents, including furniture and household appliances. I estimate that the losses resulting from the destruction stand at about 3,000,000 shekels. This material damage is in addition to the physical and psychological impact of being beaten, after the soldiers assaulted me on 22 January 2007, the day of the demolition.⁴⁴

53. A telling example of the **discriminatory application of house demolitions** being carried out in **Area C**, is the house demolition of Nidal Husein Mahmoud Kamel. In his case, no formal explanation was provided for the complete destruction of his house and furniture. Nidal holds an Israeli identity card permitting him to live in occupied East Jerusalem. Because of fear of losing his identity card, and with it the ability to enter occupied East Jerusalem, Nidal lives there despite having a house in Janata municipality, close to Bethlehem.

I was 200 metres away from the house (there is a fence around the farm with a gate) when one of the soldiers stopped me and asked me why I was there. I said it was my house and so he phoned an officer who told him to immediately arrest us. He took our identity cards and the car keys and told us not to move, that we were detained until the officer in charge arrived. I stayed in the car, surrounded by soldiers, until 9:00 am, during which time the demolition continued. At approximately 9:00 am, an officer named Sharif, who was Druze and approximately 180 cm tall, with bronze-coloured skin and carrying an M-16 rifle, introduced himself as the military commander's assistant. He wore the uniform of the regular Israeli army, with two stripes on his shoulders. Sharif asked who I was. I said I was the landlord and then I asked what the reason was for the demolition. He answered in Arabic, and said that he had no idea, but that he was there on behalf of the Beit El civil administration planning department.

He asked me to follow him in his jeep, and gave me back my keys (although he kept the identity cards). I followed him in my car, and after 200 metres his jeep stopped, near my house. I got out and went to the jeep where there was an Arabic-speaking official wearing civilian clothes and a kippa, with a pistol on his side and a white Land Rover jeep. He was Jewish, and he introduced himself

⁴⁴ Al-Haq Affidavit 3394/2007.

as Gazi, saying that he was an official at Beit El planning. I asked why he demolished the house and he replied that there was a secret file. Then the officer, Sharif, intervened and said, the guy must know why his house was demolished. Gazi then said there was no licen[s]e. So I asked where the notice was. He gave me Beit El's telephone number and told me to call them and they would inform me. I did not argue and at 9:30 am or 10:00 am, the army and the bulldozers left. I stayed for half an hour, but the house and the well were completely demolished.⁴⁵

3.2.2 Israel: Mixed Cities

54. Israel's **discriminatory application of administrative house demolitions** are not limited to the Palestinian territory occupied since 1967. For instance, similar "administrative" reasons are given for the demolition of homes belonging to Israeli citizens of Palestinian descent who reside in the so-called "**Mixed Cities**" of Israel such as Acra, Ramla, Lod, Haifa and Jaffa. Additionally, Bedouin residents of the so-called "**Unrecognized Villages**" in the Negev/Naqab face forced eviction and house demolition as an intentional tactic designed to concentrate them into urban ghettos known as "government townships." These "government townships", Tel Sheva, Rahat, Arara, Kseiffa, Segev Shalom, Houra, and Laqiyya are the poorest recognised communities in Israel, and stand in stark contrast to the nearby Jewish-Israeli settlements, many of which boast some of the highest socio-economic indicators in the country. The absence of official planning for these areas prevents residents from building legally and prevents them from being connected to basic services such as **electricity, water and sanitation**. The Israeli Committee Against House Demolitions reports that in 2007, 759 demolitions took place in Israel, the vast majority against Bedouin owned structures in the Negev/Naqab, and 4,122 demolition orders were issued.⁴⁶

55. In one stark example, Israeli forces, demolition workers, and two bulldozers entered the village of Twail Abu-Jirwal in the Negev/Naqab at 9:30 am on 8 May 2007, while all the men of the village were at work. They destroyed every structure in sight, forcing the women, children and elderly in the village out of the thirty homes before destroying them all, **rendering one hundred more Palestinians, who also happen to be Israeli citizens, homeless.**⁴⁷

56. Similarly, according to a recent article by Hazem Jamjoum:⁴⁸

The clearest method through which Israeli authorities have displaced Palestinian Bedouin from the unrecognised villages is house demolition. At 5:00 am on 15 December 2008, more than 200 police and a number of Green Patrol units descended upon the

⁴⁵ Al-Haq Affidavit 3708/2007.

⁴⁶ Israeli Committee Against House Demolitions, *Annual Report 2007*. Available at <http://www.icahd.org/eng/news.asp?menu=5&submenu=1&item=578> (accessed 9 May 2010).

⁴⁷ Isabelle Humphries, "42,000 Homes on the Demolition List", al-Majdal, Issue #34, BADIL Resource Center, Summer 2007. For more on home demolitions and rights violations in the unrecognized villages of the Naqab, see: Human Rights Watch, "Off the Map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages", Volume 20, No. 5 (E), March 2008.

⁴⁸ Hazem Jamjoum, *Ongoing Displacement of Palestine's Southern Bedouin*, 4 February 2009.

Bedouin encampment of Abdallah al-Atrash, near the Rahat township. Over the following 6 hours, they proceeded to demolish the entire village and forcibly expel all 20 families living there. Not a single structure was left standing, and all men, women, and children were pushed off their land. The residents of this village had been living in the same location for close to 20 years, after having been expelled from their previous homes farther to the west.⁴⁹

3.3. Other Forced Evictions

3.3.1. West Bank

Factual Background

57. Other **forced evictions** occur in the OPT that are not necessarily in the context of administration or punitive house demolitions. For instance, the Palestinian neighbourhood Sheikh Jarrah in **occupied East Jerusalem** has been the subject of international concern for the past several years. In contravention to the Covenant's provisions on, *inter alia*, the **right to family and home (Article 17)**, Palestinian families have been forcefully evicted from their homes in Sheikh Jarrah.

58. In 2008, the al-Kurd family was **forcibly evicted**, after which the family erected a tent in which to reside, overseeing their lost home, see *infra*. During 2009, the situation of Palestinian families in Sheikh Jarrah deteriorated, with the additional forceful eviction of the Hannoun families and al-Ghawi families. By 6 April 2010, a total number of eight Palestinian families are facing eviction in Sheikh Jarrah, the latest families being served eviction orders are the Dajani and Dahoodi families.⁵⁰ The United Nations has attested to the possible displacement of 120 Palestinians by December 2009 due to orders for eviction handed over by Israeli occupying authorities to the eight Palestinian families.⁵¹

59. The then Commissioner General of UNRWA, Ms. Karen AbuZayd, exclaimed in regard to the numbers of affected Palestinians:

But these numbers don't speak to the human suffering and trauma that has been the unfortunate hallmark of these forced evictions,

and that the evictions took place where

[the] failure of the international community to fulfil the promise of the Universal Declaration [of Human Rights] is so acutely felt and

⁴⁹ "Bedouin Village Demolished -- Population Expelled", RCUV Situation Alert (received via email), 15 December 2008.

⁵⁰ Maan News, *Sheikh Jarrah: 2 families handed eviction orders*, 6 April 2010, available at <http://www.maannews.net/eng/ViewDetails.aspx?ID=274434> (accessed 26 April 2010).

⁵¹ UN News Centre, *Israel's Eviction in Jerusalem violate international law, says senior UN official*, 10 December 2009, available at <http://www.un.org/apps/news/story.asp?NewsID=33210&Cr=palestin&Cr1=> (accessed 26 April 2010).

where the pain and the ugliness of dispossession and occupation are so tragically in evidence.

60. Furthermore, the then Commissioner General clarified that:

The UN, she said, rejects Israel's claims that these cases are a private matter to be dealt with by municipal authorities and domestic courts.

Such acts are in violation of Israel's obligations under international law.⁵²

Evidence

61. As part of the widely publicized Israeli **forced evictions** of Palestinians from their homes in Sheikh Jarrah in occupied East Jerusalem, Fawziyya Muhammad Sidqi al-Kurd lost her home and much more. At the time that Al-Haq took her statement, she was living in a tent near her home. Fawziyya explained that her home had been given by UNRWA to her husband's family in 1958 in return of five Jordanian piasters a year and the relinquishment of their refugee status. A Jewish settlement association claimed that they owned the house since 1969. Fawziyya describes here what happened:

At around 3:00 am on 10 November 2008, I got up after I heard noise and sounds in the neighbourhood. At that stage, I and my husband were sleeping in the house whereas five international peace activists were sleeping in a tent erected in the yard. Suddenly, I heard someone knock heavily on my house door. As soon as I opened the door many Israeli occupying soldiers, police officers, some of whom were female, raided the house. They carried my husband from his bed, put him in his wheelchair, and dragged him outside. As a result, the urine drainage bag, which was connected to his body through a pipe, dropped on the ground.

'What are you doing?' I shouted at the soldiers.

'We have come in order to evict you from the house and hand it over to the settlers.' A soldier replied. 'If you have any objection, go to the court.' He went on.

I saw them drag Abu-Kamel on the wheelchair outside the house.

'Don't you see he is sick! This man suffers from heart disease and you will be responsible for anything that happens to him.' I shouted at the soldier.

I heard a police officer from the Salah al-Din Street Police Station tell others to get my husband out of the house. In the end, I managed to persuade the officers to send my husband to the house of the al-Sabbagh family, our neighbours, because it was cold. Soldiers insisted that I stay at a distance of 300 metres away from the house. There, I sat on a hill in the cold weather, watching

⁵² *Id.*

settlers transport their pieces of furniture into my house and settle in it.⁵³

62. The **forced eviction** was devastating on the family. Fawziyya, her husband and their children were left homeless and about 12 days following the eviction her husband passed away.

In addition to diabetes, my husband suffers from a heart disease. He could not stand the fact that his house was plundered. He inherited it from his father and lived in it all his life. While they forced us out of the house, the occupying police forces did not pay due attention to the condition of my husband. On 10 November 2008, my husband's health condition deteriorated as a result of the forced eviction. At dawn on 22 November 2008, he suffered from a sharp heart attack and passed away. In short, I have been expelled from my house and have lost my husband. In only ten days, the occupying authorities turned my life upside down.⁵⁴

63. Similarly to the **forced eviction** of Fawziyya and her family, in 2009, Nadia Mousa Yousef Hannoun was **forcibly evicted** from her home in Sheikh Jarrah due to settlers' claim to the house from 1870. Following several court-hearings concerning the ownership of her home, Nadia was ordered to evacuate her home. Nadia however refused to leave her home and together with international solidarity activists and family members she slept at the entrance of the house for days fearing the eviction.

Each night, we slept in shifts at the entrance to the house. At around 4:30 am on 2 August 2009, I felt exhausted so I went with Mahir into the house to sleep. I was sure that they would not come because it was late – past 4:30 am. At around 5:00 am, however, I heard someone shout 'They've come! They've come! They've come!', while I was lying in bed. Only seconds later, I heard the sound of doors and windows break and saw my daughter Jana stand near a window. I screamed at the police officer who had broken the window with a club and hit Jana's face.

'Get out! Get out!', I heard somebody shout nervously.

I saw Jana enter my room while I was trying to put on my clothes. At the same time, I tried to call several persons, especially the media. Then, I saw Israeli Special Forces troops, who were in their dark blue uniforms, raid my room and shout loudly. Putting on gas masks and carrying clubs, they forced Mahir to stand against the wall and a police officer guarded him. Immediately then, police officers attempted to force me out of the house, but I screamed and refused to get out. I said I would not go out unless my husband was with me. As they dragged me along the ground, I clung to corners of the room and held the cupboard. In the end, they dragged me outside while I was barefooted. They forced

⁵³ Al-Haq Affidavit 4548/2008.

⁵⁴ *Id.*

Mahir, who was also barefooted, outside as well. When I was climbing down the staircase, I saw that Rami had been beaten and his shirt torn apart. At the external gate of the house, I saw that the police officers had gathered all the family members on the sidewalk. I saw Mahir lying on the ground and my children gather and cry around him. I also saw Mahir's brothers as well as their wives and children leave one by one from the house. Meanwhile, my brother-in-law Majed stuck to his flat and refused to leave.

'If you don't get out voluntarily, we will take you out by the force of weapons.' I heard them shout at Majed in Hebrew.

Then, I watched the Police officers drag him outside and throw him on the sidewalk. I also saw them force Samya, my 72-year-old sister-in-law who had been visiting us on that day, to leave the house. Though she was in her nightgown, Police officers refused to allow her to put on proper clothes. Furthermore, they took her out while her head was uncovered.

[...]

Later, police officers took Mahir to the house once again. Afterwards, I learned that they requested that he bring a truck to transport the furniture from the flats within a period of 20 minutes. However, Mahir refused and confirmed that he would not leave his house. However, the Police brought a truck and workers, whom I saw transport the furniture in a very bad way. I watched many pieces of furniture drop on the ground and break apart. The workers did not care. All the pieces of furniture were transported to a football playground in the al-Sheikh Jarrah neighbourhood.

At around 6:30 am, I saw dozens of Israeli settlers arrive at the area and enter our houses. In the meantime, hundreds of police and Border Guard officers spread around. I also saw a bulldozer dismantle the sit-in tent, which was erected last year after the al-Kurd family had been evicted from their house in the same neighbourhood. The area continued to be under siege from 5:00 am until 6:00 pm and we were not allowed to move around.⁵⁵

64. At the time that Al-Haq took her statement, Nadia and her family were refusing to leave the area and are staying on the ground until they are allowed back into their homes.

3.4 Legal Analysis

Article 17: Arbitrary or Unlawful Interference with the Home

65. The Committee has previously concluded that **forced eviction violates Article 17** of the Covenant.⁵⁶ In its Concluding Observations on Israel in 2003, the Committee called

⁵⁵ Al-Haq Affidavit 5217/2009.

⁵⁶ For instance, see, Human Rights Committee, Concluding Observations on Kenya, para. 22, UN Doc. CCPR/CO/83/KEN (29 April 2005) ("While noting the delegation's explanations on the issue, the

on Israel to “cease forthwith” the practice of punitive house demolitions.⁵⁷ As the facts above demonstrate, Israel has not abided by this directive and the practice of punitive house demolitions continues unabated.

66. In addition to **punitive house demolitions**, homes of Palestinians have been demolished for ostensibly ‘administrative’ reasons. As mentioned above, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 has pointed out that:

Houses are frequently demolished for ‘administrative’ reasons, on the grounds that no permit has been obtained to build - which Israel defends as a normal feature of town planning. Both law and fact show, however, that houses are not demolished in the course of ‘normal’ town planning operations, but are instead **demolished in a discriminatory manner** to demonstrate the power of the occupier over the occupied.⁵⁸

67. Indeed, paragraphs 380 and 381, including tables 16, 17, 18 and 19, provided in Israel’s own periodic report indicate the discriminatory nature of housing demolitions in **occupied East Jerusalem**. While Israel fails to disaggregate the ethnic background of those suffering from home demolition, the information disaggregated into “Eastern neighbourhoods of Jerusalem” and “Western neighbourhoods of Jerusalem” illustrate the racially discriminatory impact of home demolition due to the disproportionate number of Palestinians living in the “Eastern neighbourhoods of Jerusalem” vis-à-vis the “Western neighbourhoods of Jerusalem.”

68. Similar **home demolitions** have occurred in the West Bank, including in the Jordan Valley and other parts of the so-called **Area C**, which is under near total Israeli control. Such discriminatory forced evictions and housing demolitions also violate the prohibition on arbitrary or unlawful interference with the home as enshrined in **Article 17 of the Covenant**.

69. Interference with the home based on **unlawful discrimination** is arbitrary by definition and thus violates **Article 17 of the Covenant**. Moreover, the manner in which the **administrative house demolitions** are carried out does not comply with the aims and objectives of the Covenant, which are to further the recognition of the inherent dignity and equal and inalienable rights of all,

70. Such interference with the home is also unlawful in that it violates, *inter alia*, Israel’s obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) as well as humanitarian law. For evictions to be considered justified under the ICESCR, they must satisfy certain legal requirements, being:

Committee remains concerned about reports of the forcible eviction of thousands of inhabitants from so-called informal settlements, both in Nairobi and other parts of the country, without prior consultation with the populations concerned and/or without adequate prior notification. This practice arbitrarily interferes with the Covenant rights of the victims of such evictions, especially their rights under article 17 of the Covenant.”)

⁵⁷ Human Rights Committee, Concluding Observations on Israel, UN Doc. CCPR/CO/78/ISR (21 August 2003).

⁵⁸ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, para. 41, UN Doc. A/HRC/7/17 (21 January 2008).

71. First, evictions may *only* occur in very “**exceptional circumstances**”.⁵⁹

72. Second, States *must* ensure, prior to any planned evictions, and particularly those involving large groups, that **all feasible alternatives are explored in consultation with affected persons**, with a view to avoiding, or at least minimizing, the need to use force.⁶⁰

73. Third, in those rare cases where eviction is otherwise considered justified, it *must* be carried out in strict compliance with international human rights law and in accordance with **general principles of reasonableness and proportionality**. These include, *inter alia*:

- Genuine consultation with those affected;
- Adequate and reasonable notice for all affected persons prior to the scheduled date of eviction;
- Information on the proposed evictions, and where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected;
- Especially where groups of people are involved, government officials or their representatives to be present during an eviction;
- All persons carrying out the eviction to be properly identified;
- Evictions not to take place in particularly bad weather or at night unless the affected persons consent otherwise;
- Provision of legal remedies; and
- Provision, where possible, of legal aid to persons who are in need of it to seek redress from the courts.⁶¹

74. Finally, even if the above three conditions have been met, evictions should not result in **rendering individuals homeless or vulnerable to the violation of other human rights**. Where those affected are unable to provide for themselves, States parties must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available. Furthermore, evictions can not be undertaken in a **discriminatory manner**.⁶²

75. The forced evictions and home demolitions fail to meet any element of this legal test, and consequently are unlawful under the ICESCR.

76. With respect to humanitarian law, Article 33 of the Fourth Geneva Convention prohibits collective punishment while Article 53 prohibits “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations.” Consequently, the above-mentioned interference with homes is unlawful

⁵⁹ International Covenant on Economic, Social and Cultural Rights, G.A. res. 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* 3 January 1976 (stating in paragraph 19 that “the Committee considers that instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law.”).

⁶⁰ Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing, para. 14, (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

⁶¹ *Id.* at para. 16.

⁶² *Id.* at para. 17.

under humanitarian law binding upon Israel and thus amounts to unlawful interference with the home in violation of **Article 17 of the Covenant**.

Article 26: Equal Protection of the Law

77. As mentioned in the previous section, **Palestinians disproportionately suffer forced evictions and housing demolitions**. This is not only the case in the West Bank and East Jerusalem, but also in the Negev/Naqab and the so-called Mixed Cities of Ramla, Lod and Acre – where Palestinians with Israeli citizenship suffer from “administrative” actions similar to those carried out in East Jerusalem. This treatment of Palestinians must also be seen in juxtaposition to the favourable treatment received by those residing in Israeli outposts and settlements in the OPT.

78. Such **disproportionate treatment** violates the **prohibition on forced eviction** guaranteed by Article 11 of the ICESCR. Since Article 11 is not respected, protected or fulfilled without discrimination and Palestinians, whether in the occupied territory or in Israel, do not enjoy the equal protection of Article 11 of the ICESCR, such disproportionate treatment also rises to a violation of **Article 26** of the International Covenant on Civil and Political Rights.

79. Israel’s violation of **Article 26 of the Covenant** is evidenced by the **disproportionate demolition** of hundreds of Palestinian houses, for punitive or ostensibly administrative reasons, including in light of and in the backdrop of the expansion of Israeli settlements on Palestinian lands. Whilst 50,000 housing units for construction on the OPT are in process of approval by the occupation authorities, including 1,600 housing units which have already been approved for construction in **occupied East Jerusalem**,⁶³ Israel is demolishing Palestinian houses on a rapid scale and by force evicting Palestinian families from their homes in areas in East Jerusalem, such as in Sheikh Jarrah.

80. Racial discrimination or discrimination based on nationality or both is also demonstrated by the fact that unlawful Israeli ‘outposts’ in the occupied Palestinian territory (*e.g.*, unlawful structures under Israeli law that are often the beginning of **unlawful Israeli settlements**) are not only tolerated by Israel but often supplied with infrastructure such as **water, sanitation and electricity**. Furthermore, according to the Israeli Committee Against House Demolitions (ICAHD), there are up to 84,000 illegal structures in Israel proper – one third of which are Jewish owned – that are not subject to demolition even though they too lack of permits.⁶⁴

Article 27: Minority Rights

81. The Bedouin, particularly in the Negev/Naqab, are a minority within Israel that shares a common culture, including a particular way of life associated with the use of land resources. Israel, however, uses forced evictions and home demolitions as means to displace the Bedouin from their traditional lands and force them into urban centres that essentially are urban ghettos known as “government townships”. Indeed, as mentioned above, these “government townships”, Tel Sheva, Rahat, Arara, Kseiffa, Segev Shalom, Houra, and Laqiyya are the poorest recognised communities in Israel, and stand in stark contrast to the

⁶³ Report of Al-Maqdese for Society Development to COHRE (1 April 2010)

⁶⁴ Israeli Committee Against House Demolitions, *Annual Report 2007*. Available at <http://www.icahd.org/eng/news.asp?menu=5&submenu=1&item=578> (accessed 9 May 2010)

nearby Jewish-Israeli settlements, many of which boast some of the highest socio-economic indicators in the country.

82. Such violations of housing rights, by being designed to destroy the common culture of the Bedouin, rise to violations of **Article 27 of the Covenant**.

4. SAFE WATER AND SANITATION

4.1 *Gaza*

Factual Background

4.1.1 Sanctions and Blockade

83. A catastrophic humanitarian situation has been caused in the Gaza Strip by Israel's restrictions on the movement of people and goods at Gaza's border crossings since June 2007, as well as its reduction of fuel and electricity supplies to Gaza since September 2007. These actions exacerbate an already dire situation caused by financial and economic sanctions placed on the Gaza administration by Israel and several Western countries since Hamas won the Palestinian legislative elections in January 2006. The sanctions and blockade on Gaza have led to the periodic paralysis of the **water and sanitation** sector in Gaza which has resulted in severe human suffering.

84. Israel has attempted to justify its policies on the basis of security threats from Hamas and other armed groups in Gaza. A failure to prevent rocket attacks on southern Israeli communities represents a breach of international humanitarian law by the de facto Gaza authorities. However, to punish the civilians of Gaza for the acts and the political position of their administration constitutes **collective punishment** in violation of international humanitarian law. When such punishment results in unlawful or arbitrary interference with the home, is discriminatory in its intent or effect, and/or leads to threats to or actual loss of life or severe pain or suffering, whether physical or mental, it arises to violations of, *inter alia*, **Articles 2, 6, 7, 17, 26 or 27 of the Covenant**.

85. Israel's violations of the Covenant with respect to the occupied Gaza Strip; the international sanctions, the blockade and reductions of fuel and electricity supply have had the following intentional results,

- As a result of the closure of Gaza's border crossings, equipment and supplies needed for the construction and maintenance of **water and sanitation facilities** have been denied entry to the Gaza Strip. These actions have hindered projects to repair, rehabilitate and upgrade existing infrastructure, including **water and sewage networks** and waste water treatment plants, much of which is old or has been damaged by Israeli Defence Forces (IDF) or both.
- There is evidence that damage to **water and sewage networks** is leading to sewage contamination in the water network.

- In many cases, the blockade has prevented the entry of essential water purification chemicals into Gaza. In February 2008, a lack of chlorine placed around 400,000 people at risk of drinking **contaminated water**. Limited supplies of hydrochloric acid have also hindered the operation of desalination plants.
- Restrictions on fuel and electricity, most of which is usually supplied by Israel, has led to the periodic paralysis of **water and waste-water services**. For instance, in the first week of May 2008, all 135 water wells in Gaza were out of fuel. Twenty ceased to operate. The remaining 115 were relying on intermittent electricity supplies and were therefore non-functional for around eight hours each day. By June 2008, 15 per cent of Gaza's population had **access to water** for a mere 4-6 hours per week, 25 per cent had access to water only every four days and 60 per cent had access to water every other day. Only 10 out of 37 sewage pumping stations were functioning. All three waste-water treatment plants had run out of fuel and were totally dependent on the intermittent electricity supply. Most **water and waste-water service** vehicles had stopped operating. Around 70 per cent of Gaza's agricultural wells were running out of fuel supplies.
- As of January 2008, the sanction and blockade regime resulted in per capita daily use of **water in Gaza** falling to an average of 52 litres, with some residents using a mere 14 litres. This is far below World Health Organization standards of 100 litres per person per day. A reduction in water quantity has meant that many people have been forced to compromise on hygiene and health care.
- In June 2009, John Holmes (the United Nation's most senior humanitarian official) concluded that the blockade of Gaza amounted to collective punishment. **Electricity** supply was still in crisis due to the blockade, in particular due to restrictions on industrial fuel and lack of entry for parts required to fix the electrical network damaged during **'Operation Cast Lead'**. In June 2009 alone, there were power cuts for 6-8 hrs each day, affecting 90 per cent of the population of Gaza. The remaining 10 per cent have had no electricity at all since January due to destruction of the electrical network. This situation continues to affect **access to water and sanitation**.
- The plunging incomes of many Gazans due to the sanction and blockade regime has meant that the proportion of household expenditure currently spent on water and sanitation services has increased. An intermittent supply forces people to buy from more expensive and less safe sources such as water tankers. Many Gazans are unable to pay for clean drinking water and are instead resorting to untreated agricultural wells for domestic use. Many people are unable to afford the cost of emptying their septic tanks and are disposing their sewage into the streets.
- Even before **'Operation Cast Lead'**, the three waste-water treatment plants in Gaza were in a critical state of disrepair and at high risk of flooding due to the sanction and blockade regime. In March 2007, a small lake created by overflow into a natural depression next to the filtration basin at Beit Lahia burst its banks and flooded the village of Um Al-Nasser with partially treated sewage causing the death of five people and displacing 1,000. This has raised concerns that the adjacent larger lake which had been formed in the same way would similarly burst its banks and flood Beit Lahia town. If this happens, 1.5 million cubic litres of sewage will flood surrounding areas threatening the life and property of up to 50,000 people and

contaminating the ground water supplies of up to 300,000 people. The retaining wall of earth, built up in 2007, shows signs of deterioration with deep longitudinal cracks that may cause serious structural weakening of the banks when it next rains. The fear of the collapse of waste water treatment plants places suffering on the population living in their vicinity of filtration basins.

- Since January 2008, due to the intentional cut off of power, around 50,000 cubic metres of raw or partially treated sewage has been released daily into the Mediterranean Sea. This is causing extreme environmental harm and constitutes a grave threat to the population's health in both Palestine and Israel. A study conducted by the Ministry of Health and World Health Organization in June 2008 found that sea water on 11 out of 30 beaches in Gaza was contaminated with faecal bacteria.⁶⁵

- Prior to the severe damage caused by '**Operation Cast Lead**', the fuel shortage and electricity cuts had caused the periodic stoppage of sewage pumping stations. Sewage flooded the streets in the Zeitoun district of Gaza City in January and May 2008, placing 250,000 people at risk for serious health impairment. This neighbourhood remains prone to flooding. Some sewage pumping stations have been forced to release sewage into pools designed to store storm water overflow in residential areas.

- Financial and economic sanctions have prevented the authorities in Gaza from providing an adequate service to the population. In the first half of 2008, many municipal employees in Gaza, including those responsible for providing services related to water and waste-water, had not been paid for between three and twelve months.

- Much needed donor investment in the water and waste-water sectors has been withdrawn. At least three major projects have been cancelled or frozen including projects to upgrade water networks and sewage infrastructure and to modernize waste-water treatment plants.⁶⁶

86. In addition to the sanctions and blockade regime, since the outbreak of the second Intifada, Israeli Defence Forces (IDF) have **deliberately targeted water and sewage infrastructure** throughout the Gaza Strip. The United Nations reported that between 2000 and 2006 IDF destroyed 244 wells in the Gaza Strip, including two drinking water sources.⁶⁷ Many roads, water supply lines and sanitation networks have been dug up using specially designed "back-hoe" tanks and bulldozers. Waste-water treatment plants in Gaza City and Rafah have been attacked or partially destroyed and water storage tanks on Palestinian roof tops and cisterns have been fired at. According to the then Special Rapporteur on the occupied Palestinian territory:

⁶⁵ OCHA, 'Gaza Strip Inter Agency Humanitarian Fact Sheet', June 2008, p.1.

⁶⁶ COHRE, Hostage to Politics: The Impact of Sanctions and the Blockade on the Human Right to Water and Sanitation in Gaza, Geneva: COHRE (2008).

⁶⁷ United Nations Economic and Social Council, Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people living in the occupied Palestinian territory, including Jerusalem, and of the Arab population in the occupied Syrian Golan, -Note by the Secretary-General (2006), UN Doc. A/61/67- E/2006/13, para. 19.

... between June and November 2006, IDF carried out 346 military incursions into different parts of Gaza, accompanied by persistent artillery shelling and air to surface missile attacks. Missiles, shells and bulldozers destroyed, or caused serious damage to, homes, schools, hospitals, mosques, public buildings, bridges, water pipelines and sewage networks.⁶⁸

87. Indeed, Israeli Defense Forces have **deliberately targeted water and sewage infrastructure** on several occasions. For instance, between 27 February 2008 and 4 March 2008, damage to electrical transformers and voltage lines affected 10 water wells leaving 230,000 Gazans without water for nearly two days. Furthermore, municipal workers have been fired upon at times, preventing them from carrying out work related to water and waste-water services (elaborated upon below).

88. In October 2007 the Israeli military carried out 134 attacks on the Gaza Strip, a large proportion in Palestinian residential areas, targeting civilian property.⁶⁹ Those living in areas with high incidences of military incursions, such as the North Gaza town of Beit Hanoun and Southern towns of Khan Younis and Rafah, are frequently unable to access and maintain water wells or properly discharge sewage. When asked about the safety/security level for those collecting water from water points at a distance from their homes, a representative from the Coastal Municipalities Water Utility replied; “There is a risk of getting shot in certain places.”⁷⁰ In February 2008, the Gaza based Al Mezan Center for Human Rights reported that the IDF was “frequently firing at municipal and water authority workers, who approach solid waste dumps or the sewage treatment plant project in the east of Jabalia [which] prevents them from performing works necessary for public health.”⁷¹ During the IDF military incursion into the Gaza Strip between 27 February and 4 March 2008, OCHA reported that:

230,000 Gazans were without water for almost two days following damage to 8 electrical transformers and 2 high voltage lines affecting 10 water wells. Water supply to a larger part of the Gazan population was interrupted for shorter periods, due to lack of access of the Water Utility personnel to some wells in the Gaza Strip.⁷²

89. International humanitarian law strictly prohibits attacks on civilian infrastructure and indiscriminate and excessive use of force.⁷³ Additional Protocol I to the **Geneva Conventions** explicitly mentions that attacking drinking water installations constitutes a crime under the laws of war.⁷⁴ Moreover all States parties to the International Covenant on Economic, Social and Cultural Rights have the obligation to respect the right to water and

⁶⁸ Dugard, J, *Report of the Special Rapporteur on the situation of human rights in the Palestinian Territories occupied since 1967*, (August 2007) UN Doc.A/62/275, para. 13.

⁶⁹ Palestinian Monitoring Group, ‘Monthly Summary of Israeli Violations, 01 October 2007- 31 October 2007’, p.3, <http://www.nad-plo.org>, (click on ‘Reports from the Palestinian Monitoring Group’).

⁷⁰ Information provided to COHRE by CMWU, December 2007.

⁷¹ Al Mezan Center for Human Rights, ‘Severe drinking water crisis in Gaza, IOF Siege continues, Prevents entry of materials essential for water treatment’, Press Release, 28 February 2008, <http://www.mezan.org>.

⁷² OCHA, ‘Humanitarian Situation Update for the oPt’, 20 March 2008, p.1.

⁷³ For more detailed information on international humanitarian law, see COHRE, *Hostage to Politics: The Impact of Sanctions and the Blockade on the Human Right to Water and Sanitation in Gaza*, Annex, Section 5.2 (COHRE: Geneva 2008)..

⁷⁴ Article 54.

sanitation. **General Comment No. 15 states: “The obligation includes, *inter alia*, refraining from engaging in any practice or activity that denies or limits equal access to adequate water ... or destroying water services and infrastructure as a punitive measure, for example, during armed conflicts in violation of international humanitarian law.”**⁷⁵ Physical security must be guaranteed when accessing water amenities and services.⁷⁶ The sanctions and blockade have also hindered investment into rehabilitation of damaged water and sewage infrastructure. All told, these intentional acts and omissions by Israel to deny access to water and sanitation have caused severe pain and suffering on the civilian population of the Gaza Strip who have not only struggled to manage their personal and domestic needs due to lack of access of sufficient supplies of safe water but have had to live with both the indignity and potential health risks of sewage flowing in the streets of residential areas. Indeed, UNRWA reports that diarrhoea and acute bloody diarrhoea, diseases directly caused by lack of access to safe water and adequate sanitation, remain the major cause of morbidity among infectious diseases affecting the refugee population of the Gaza Strip.⁷⁷

4.1.2 Military Invasion of Gaza: ‘Operation Cast Lead’

90. The already dire situation in the Gaza Strip was drastically exacerbated in early 2009 with the military invasion by Israel. During the Israeli military offensive on the Gaza Strip, **‘Operation Cast Lead’**, between 27 December 2008 and 18 January 2009, **water wells, water networks, waste water facilities and water tanks were intentionally targeted and destroyed**, causing an estimated \$US 6 million of damage and immense human suffering.⁷⁸ Three new wells were completely destroyed in Jabaliya and Beit Hanoun which supplied more than 50,000 persons with water.⁷⁹ The **intentional destruction of water wells and other water and sanitation infrastructure** was also documented in the recent Human Right Council Fact-finding mission report lead by Justice Goldstone.⁸⁰ At the height of the Israeli military offensive up to one third of the population of Gaza was left without access to clean water, some for ten or more days. The **targeting of sewage and waste water treatment plants** led to sewage flowing in the streets in a number of areas include Beit Hanoun and Beit Lahia. On 24 January there were severe problems with sewage according to CMWU, which reported that waste water from the treatment plant in the Netzarim area was flooding up to one kilometre from the plant and that waste water in the Beit Lahia lagoon was increasing to the point of risking a collapse of the lagoon.⁸¹ As of 8 February 2009, 300,000 persons remained without tap water, tankered water was in short supply due to a lack of water tankers and prices for water had risen to around 30-40 NIS/cubic metre (US\$ 7.5 - 10) – unaffordable for many. Following the end of overt hostilities, the blockade further prevented humanitarian agencies from being able to enter materials such as cement as well as technicians to carry out the necessary repairs to water and waste water facilities, and otherwise provide aid to the population. This denial of access to Gaza violates the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War

⁷⁵ Committee on Economic, Social and Cultural Rights, General Comment No. 15, para. 21.

⁷⁶ Committee on Economic, Social and Cultural Rights, General Comment No. 15, para. 12 (c) (i).

⁷⁷ OCHA, *Protection of Civilians Weekly Report, 18-24 February 2009*, www.ochaopt.org.

⁷⁸ Coastal Municipalities Water Utility, *Damage Assessment Report: Water and Waste Water Infrastructure and Facilities*, (January 2009), p. 5.

⁷⁹ *Id.*

⁸⁰ Report of the United Nations Fact Finding Mission on the Gaza Conflict, in particular Chapters XIII and XVII, UN Doc. A/HRC/12/48 (15 September 2009).

⁸¹ EWASH Report, *Gaza Emergency WASH Cluster weekly situation report no. 1* (8 February 2009).

which requires the occupying power to facilitate relief schemes reaching the occupied population (Article 59) and has prolonged the suffering of innocent civilians.

91. Furthermore, according to the Report of the United Nations Fact Finding Mission on the Gaza Conflict (**Goldstone Report**), confirmed these reports, finding that the “systematic destruction of food production [and] water services [which was related to] the overall policy of disproportionate destruction of a significant part of Gaza’s infrastructure.”⁸² The Goldstone Report found that sanctions and blockade regime resulted in a dire situation, including the fact that 80 per cent of the water available in Gaza did not meet the World Health Organization guidelines for safe drinking water and that access was severely limited.⁸³ ‘**Operation Cast Lead**’ exacerbated these dire conditions, including by destroying thousands of metres of water and sewer pipes as well as destroying around 5,700 roof top water storage tanks and damaging an additional 2,900.⁸⁴ The **Goldstone Report** also found that at the height of the military offensive, some 500,000 lacked any access to running water.⁸⁵

92. According to the Palestinian Water Authority (PWA), an initial report on damage to water infrastructure caused by the Israeli invasion of Gaza included:

- Complete destruction of four water wells (Beit Hanoun, Jabalia, Gaza (2));
- Damage on the main water carrier on one of Gaza’s main water wells (Zimmo well);
- Damage on the main water carrier of Gaza (Safa wells);
- Damage on the main water carrier to Nusairat (from Mughraga wells);
- Damage on the main carrier for Fukhary and Naser villages (Knahounis area);
- Damage on the electrical works of a number of wells in Jabalia and Gaza;
- Damage to the distribution networks east of Gaza City and in the northern area.

93. According to the PWA, an initial report on **damage to sewage infrastructure** caused by the Israeli invasion of Gaza included:

- Damage on the embankments of the wastewater treatment plant in Sheikh Ejleen area;
- Damage on many main sewage collection lines in Gaza, Jabalia and Beit Hanoun;
- Damage to the electrical panel of one sewage pumping station in Beit Lahia.

⁸² Report of the United Nations Fact Finding Mission on the Gaza Conflict, para. 1023, UN Doc. A/HRC/12/48 (15 September 2009).

⁸³ *Id.* at para. 1243.

⁸⁴ *Id.*

⁸⁵ *Id.*

4.2 *West Bank*

Factual Background

94. There has been a series of droughts affecting the region in recent years which have continued into 2009. Yet, water shortages in the West Bank are not solely the result of natural phenomena but are intentionally exacerbated and perpetuated due to acts and omissions of Israel. Israel's policy and practice in the West Bank since the occupation began in 1967 has 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 illegal West Bank settlements, and prevent Palestinians from developing their own resources. This has been achieved primarily through the issuance of military orders subsequent to the occupation, which transferred the power over water resources and water resource management to the occupation authorities. The Oslo peace process only served to formally institutionalise this arrangement. Under the terms of the Oslo II Agreement of September 1995, Israel was allocated nearly six times more water from trans-boundary underground aquifers. Moreover, Israeli citizens consume on average 4.6 times more water than a Palestinian living in the West Bank.

95. Israel has also actively prevented the construction and maintenance of water and sanitation infrastructure in the West Bank. 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 areas of the West Bank that remained under direct Israeli control following Oslo (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. As well as prohibiting the construction of wells necessary for Palestinians to secure additional quantities of water to support population growth and socio-economic development, such policies have denied communities access to water and sanitation facilities, including water and sewage networks and cisterns for rainwater harvesting. In addition to destruction of cisterns and wells, Israeli Defense Forces and Israeli settlers routinely shoot holes in and consequently **destroy water tanks** on Palestinian homes.⁸⁶

96. According to B'Tselem:

Discriminatory and unfair division of the shared water sources creates a chronic water shortage in the West Bank. Average per capita daily water consumption of Palestinians in the West Bank is two-thirds of the amount recommended by the World Health Organization. Due to the shortage, many Palestinians have to buy water from tankers at three to six times higher than regular prices, forcing poor families to spend up to one-fifth of their income on water, compared to the slightly more than one per cent that average-income Israeli families spend on water.

⁸⁶ See, e.g., COHRE, *Policies of Denial: Lack of Access to Water in the West Bank*, Geneva: COHRE 2008; Amnesty International, *Troubled Waters: Palestinians Denied Fair Access to Water*, London: AI 2009.

An extreme example of the inequality is seen in the average daily per capita water consumption of the 396 settlers living in Pnei Hever, in Hebron District (194 liters), compared to the figure for the 70,000 Palestinians living in the eight kilometres away in the town of Yatta (27 liters).⁸⁷

97. Israeli so-called ‘security’ measures inside the West Bank such as roadblocks, checkpoints and the construction of the Wall have also obstructed Palestinian **access to water resources, services and facilities**, resulting in severe suffering of the Palestinian population. Areas that have been designated closed military areas, nature reserves and ‘settler only’ roads have left large areas of the West Bank inaccessible to Palestinians, or movement within these areas highly restricted. Such measures isolate Palestinian communities from their springs, wells and other water points; force Palestinians to travel long distances to **access water**; and hinder water tankers and sewage disposal trucks from accessing certain areas, causing them to make long detours which due to increased time and fuel costs have rendered such services unaffordable in many cases.

98. The intentional policies and practices outlined above have restricted the ability of the Palestinian authorities to provide an adequate service to the Palestinian population, and in some cases prevented humanitarian organizations from providing aid and assistance to vulnerable communities. Again, the result is severe suffering of the Palestinian population. As an occupying power, Israel is primarily responsible for the welfare of the Palestinian population in the West Bank and is under an obligation not to obstruct the Palestinian authorities from carrying out their duties in areas for which they are responsible, including water and sanitation provision.

99. Some specific examples of **violations of the right to water and sanitation** in the West Bank include:

- In August 2007, during a forced eviction of Humsa, a small village in the Jordan Valley, Israeli authorities confiscated water tanks and tractors, the only means by which villages access drinking water.⁸⁸ On 16 February 2009, during a demolition in Latoon Abu Jumma, a mobile water tank belonging to Bedouin was confiscated by the Israeli authorities.⁸⁹
- The impact of the **Annexation Wall** has cut off **access to water** for several Palestinian villages. The areas of the West Bank cut off from the rest of the West Bank by the Wall include some of the areas richest in water resources, including wells and cisterns. For instance, the villages of Jayyus and Falamyia (in the Qalqilyia district) have been cut off from six groundwater wells and the water networks which previously supported them. As a result, the quantity of water has been reduced in Jayyus to 23 litres per capita per day, well below the WHO levels that stipulate 100 litres as necessary to ensure all health concerns are met.⁹⁰

⁸⁷ B’Tselem, The Water Crisis: 22.3.09: World Water Day – 22 March – waters that cross borders.

⁸⁸ Amnesty International, *Amnesty International Report 2008: The State of the World’s Human Rights*, (2008), at p. 168.

⁸⁹ Information gathered by the Displacement Working Group, facilitated by OCHA, February 2009.

⁹⁰ COHRE Report, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008 at pp. 29-31.

- The approximately 2,000 residents of the farming communities of Masfar Yatir have been cut off from the rest of the West Bank by settlements, bypass roads, closures and checkpoints. These communities have had both housing and water wells destroyed by Israeli Defense Forces. The major source of water involves the collection of rainwater in cisterns, which are in serious disrepair due to continued denial of building permits. This situation has led to outbreaks of water-borne disease beginning in 2006.⁹¹
- Palestinian residents of the village of Al Tuwani are not allowed to maintain, repair or develop water infrastructure. Any work that is completed is **demolished** by Israeli authorities.⁹² Like in other parts of the West Bank, the discriminatory nature of Israeli policies and practices is apparent as water infrastructure is constructed for nearby unlawful Israeli settlements and outposts.
- In the area around the village of Al Hadidiya, the 20 wells are no longer functioning due to lack of permission to rehabilitate them. Furthermore, in the course of **home demolitions** the Israeli Defence Forces have **confiscated tractors and water tanks** that are the only means by which residents can access water.⁹³
- Between November 2001 and February 2005, the United Kingdom's Department for International Development funded the Hebron Water Access and Storage Project. The project aimed to improve infrastructure in a number of villages in the south Hebron region as well as work with the communities to improve health and sanitation through education. The project built 686 cisterns and rehabilitated an additional 117 and also co-financed the construction of 1,136 toilets and rehabilitated an additional 81. Halfway through the project the Israeli Defence Force began to **target project infrastructure for demolition**. On 28 April 2004 two toilets were demolished in Um Fagarah, three in Isfey Tihta and four in Tabban along with two houses. On 3 June 2004, one toilet and three **cisterns were destroyed** in Um Sidreh, and on 5 July 2004, four group toilets and one single toilet were destroyed in Zenula and one toilet destroyed in Dir Si'deh.⁹⁴

100. As will be detailed below, the above actions and omissions of Israel not only cause immense **physical or mental suffering** of the Palestinian population, but are undertaken in a manner which is purely **discriminatory** considering the stark discrepancy in the allocation of water between Israelis, including illegal settlers, and Palestinians.

101. The difficult situation resulting from **lack of water** provided to the Palestinians is exacerbated by the pollution of the spring water which runs through Palestinian villages. In the Palestinian villages of Nahhalin, in Bethlehem Governorate, and Salfit, of Salfit Governorate, Israeli illegal settlements are allowed to disperse their waste water into the water springs and lands, polluting whatever water Palestinians are allowed to access.⁹⁵

⁹¹ COHRE Report, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008, at p. 34.

⁹² COHRE Report, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008, at p. 34.

⁹³ COHRE Report, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008, at p. 36.

⁹⁴ COHRE Report, *Policies of denial: Lack of access to water in the West Bank*, Geneva: COHRE 2008, at p. 23.

⁹⁵ See Al-Haq Affidavits 2164/2005, 2552/2005, and 3739/2007.

Evidence

102. A telling example of Israel's discriminatory **restriction of water** is the case of Rashed Khader Naji Jaber from the Palestinian village al-Baq's, in Hebron Governorate. Rashed, a father of 15 children, cultivates a total of 15 *dunums* of land with grape vines and tomato seedlings and uses the drip irrigation method to water his crops. Rashed tells that:

In the morning of Monday, 8 June 2009, the Israeli occupying authorities started to demolish water pools in the area of al-Baq'a. At the same time, they seized drip irrigation pipelines from a piece of land measuring dozens of *dunums*. A private Israeli company working for the Israeli occupying authorities also damaged irrigation networks on our groves.

103. Rashed who had a subscription for water supply at Bani N'eim Municipality under his brother's name, continues to tell how the Israeli occupying forces destroyed in particular his own drip irrigation system:

At around 11:00 am, while I was at my nine-*dunum* piece of land, which is cultivated with tomatoes, ten workers from the said private company arrived, and started to cut off irrigation pipelines. An employee from the Israeli Water Company Mekorot was accompanying the workers. 'Why do you want to cut off my irrigation pipelines? I have a water subscription from Bani N'eim Municipality.' I addressed the employee from the Israeli Water Company. 'There are no water subscriptions here. Get out of here. You just want to cause problems.' He replied to me in Arabic. He then threatened me saying that if I did not go away, he would call the army and have me evacuated. While I was talking to the Mekorot employee, a worker from the private company came along. 'Get out of here. We want to work.' He told me. He carried a pair of scissors to cut off the irrigation pipelines. 'You get out of here! This is my land!' I replied, taking the scissors from him and throwing them away.

At that point, six soldiers physically assaulted me. They beat me with their fists, feet and rifle butts. They also threw me to the ground and tied my hands behind my back. About ten minutes later, two soldiers dragged me to Road No. 60. I suffered pain in various parts of my body.⁹⁶

104. Whilst being beaten on Road 60, a Palestinian ambulance tried to provide first aid. The Israeli soldiers refused the Palestinian medics to approach Rashed and the ambulance left the site after quarrelling with the soldiers. The soldiers then put Rashed in a military jeep, in which Rashed is continuously beaten by rifle butts towards his head. Rashed was brought to an Israel police station by the soldiers where he was accused by a soldier of obstructing the work of the employees who were removing pipelines. By 11:00 pm, Rashed had been left without food for hours, after which the soldiers drove Rashed

⁹⁶ Al-Haq Affidavit 4924/2009.

in a military jeep for an additional two hours until they released him in Wadi al-Mghayyar – about a kilometre away from his home. Rashed sustained injuries from the beatings which did not allow him to walk. The soldiers left him sitting on a rock until his brother-in-law eventually him. Rashed concluded:

On Wednesday, 10 June 2009, I went to the Palestinian District Coordination Office and filed a complaint against the perpetrators. Later I found out that the Israelis had cut off the pipelines of my irrigation network on my groves. Let alone my work and effort to get them installed, the irrigation network cost me approximately 20,000 NIS, not including the work done on its extension. This is a real problem, which threatens to entirely ravage the tomato crops this year.⁹⁷

105. With respect to the **pollution of water** which is allowed to take place by the Israeli occupying authorities, Mahmoud Muhammad Mousa Shakarna provided a statement about the waste water problem caused by Bitar, an unlawful Israeli settlement:

The village inhabitants have suffered from the wastewater problem of Bitar settlement (one kilometer from Nahhalin center), as a result of the opening of the sewage network of the settlement (three pipelines of 18 inches each) during the eighties and nineties and the period from 2000 – 2005. Despite the several complaints we submitted, the settlers continued such operations, the last of which occurred on 13 February 2005 when the three pipes of the settlement were opened for three days. These pipes poured the wastewater in 'Ein-Fares (a spring of water used for irrigating vegetables and as drinking water with a capacity of 80-100 cubic meters every 24 hours). The pipes are only 300 meters from the spring. Emptying these pipes, which were connected with the wastewater refinement plant of Bitar 'Alit, lasted for three days. This resulted in destruction of plants (vegetables and grapes) cultivated around the spring as they were fully contaminated. Moreover, this also resulted in stopping drinking and irrigation of plants and animals from this spring (around 100 *dunums* planted with olive trees, vine groves, and vegetables were completely destroyed). At the same time approximately 750 sheep were deprived of drinking from the spring.⁹⁸

106. Israel's involvement in the **pollution of water** for Palestinians is clear by the following statement provided Mahmoud:

I submitted a complaint during the period 13 - 16 January 2005 in the name of the village council to a number of concerned parties including the ICRC, the Palestinian Civil Liaison, and the Israeli Civil Administration in 'Atsyoun. The answer came through the Liaison officer Jamal Ghayata 'Go and solve your problem with Bitar settlement by yourselves.'⁹⁹

⁹⁷ *Id.*

⁹⁸ Al-Haq Affidavit 2164/2005.

⁹⁹ *Id.*

107. Similarly, the Director of the Health and Environment Department of Salfit municipality, Ashraf Muhammad Mustafa Zuhud, explains the **pollution of water** from nearby **settlements**:

The history of waste-water goes back to the establishment of Ara'el settlement in 1978. Since this time, the waste-water has flown into the Palestinian Territories, to the al-Matwi valley located four kilometres west of Salfit. The waste-water enters the land of Burqin village, five metres away from residential houses and continues to flow into the land of Kufr al-Dik village, then on to the west, contaminating all the agricultural land it passes through until it crosses the Green Line.

[...]

In the same area there is the Burqin industrial settlement. This settlement includes between 80 - 120 factories for plastic, leather dyeing, fibreglass, aluminium and steel founding, batteries and electronics manufacturing and weapons factories. The waste-water from this settlement causes huge and serious contamination of the soil and water and this contamination reaches humans through food and water and consequently causes diseases, especially different types of cancer to all parts of the body. The stagnant water coming out from the settlement becomes a gathering place for insects such as flies, mosquitoes and especially the Lachmania fly, which we call in slang, the 'Jericho Seed', which seriously affects human beings. Many cases of people affected by this disease have been reported in the area, especially in Burqin.

[...]

The third place from which waste-water is coming is from the cluster of settlements around Deir Istia town and Qana Valley. In that area, the waste-water from seven settlements flows into the land of the Qana Valley, contaminating the springs located in that area, the land and the vegetation. It is worth noting that Qana Valley is considered one of the West Bank's natural reserves.¹⁰⁰

108. Israel's involvement in the pollution caused by waste water is explained here by Ashraf:

Concerning the sewage from Ara'el settlement, the Israeli authorities refuse to accept the legal petitions we filed relating to the damage resulting from the waste-water and sewage coming from Ara'el. In addition, the Israeli authorities prevented the building of Salfit's purification plant. A location was chosen for a purification plant for Salfit city in al-Shalal area. After excavations and digging had taken place and after the plant was equipped, Salfit municipality received a letter from the Israeli military requiring the

¹⁰⁰ Al-Haq Affidavit 3739/2007.

transfer of the plant to another area. [...] It was realised that the intentions of the Israeli authorities behind the transfer of the purification plant was not because it was in an inappropriate place or for environmental reasons, but because they wanted to connect Ara'el settlement's sewer with this plant.

Forty per cent of the population of Salfit city is connected to the municipal sewer network. The sewage is emptied without any treatment into the land near the site of the purification plant to which the Israelis objected. However, since the Israelis impeded the construction of a purification plant in Salfit, which was scheduled to be completed in 1998, this waste-water contaminates the area.¹⁰¹



Water tank with tires and faucet intentionally destroyed by Israeli Defense Forces in Area C, West Bank, Palestine

4.3 Israel: Violations in the Negev/Naqab

Factual Background

109. Due to the lack of recognition of many Bedouin villages in the Negev/Naqab by Israel and subsequent lack of official planning for the area, the residents of these **'unrecognized' villages** are not provided with any basic services including **water and**

¹⁰¹ *Id.*

sanitation.¹⁰² Like in the Palestinian territory occupied since 1967, the treatment of Palestinians, including Bedouins residing in Israel is wrought with **discrimination and coercive intent**. COHRE's research on the **unrecognized villages** found that:

- While 98 per cent of Israeli citizens have fresh water 'on tap' in their homes, and 100 per cent of Israelis in urban areas have access to improved sanitation, Israeli policy and practice is to refuse access to water and sanitation for the Bedouin of the unrecognized villages.
- While water consumption in Savion (one of Israel's richest communities) averages 383 cubic metres per year and per capita, in Tel Sheva, a Bedouin community, the average per capita consumption is 29.1 cubic metres per year. Average daily per capita water consumption in Bedouin communities is often below World Health Organization guidelines.
- Between 2003 and 2006 the Water Allocation Committee of the Israeli Lands Administration (mandated to approve connections to the water network for Bedouin citizens) received 210 requests for water connections and approved water pipes for only 30 of these. Further, water pipes, if approved, are only permitted to be of a one inch diameter which does not allow for a sufficient supply for a large number of people and causes the water pressure to be very low.
- Water connections, where they exist, often result in the pipes being laid above ground which causes the water to freeze in winter and become near boiling hot in the summer months.
- Residents of a number of unrecognized villages such as Atter and Um Al-Harin have to travel a number of kilometres to access a water connection. In Tel Arad, residents travel 1Km to access the nearest water point. Accessing water and filling water tanks can take a number of hours and prevents those responsible for water collection from engaging in other productive activities.
- There is a large incidence of water borne disease and other negative health impact amongst Bedouin communities related to a lack of access to clean water and adequate sanitation. In the month of August 2008 alone, some 16,000 Bedouin children were hospitalised for dysentery as compared to 5,000 Jewish children. These numbers are even more illuminating when one considers the Jewish vis-à-vis Bedouin population numbers generally.
- Some Bedouin villages, such as Umm Betin, have raw sewage flowing through them.
- In some villages such as Tel Arad, residents are paying around 40 per cent of their monthly income on clean drinking water (this includes fuel costs for water tankers).
- In October 2007, Israel disconnected the water supply to the city of Rahat (an official city) on the basis of non payment of water bills. However, Israel also

¹⁰² The concept of "Unrecognized Villages" is a legal fiction designed to legitimize the failure of Israel to provide essential services to this segment of the Israeli population.

disconnected the water supply to a number of residents who had paid their bills including kindergartens and schools which is evidence of collective punishment.

- A number of legal cases taken before the Water Allocation Committee and the Water Tribunal in Haifa, to find remedy for the discriminatory violations of the right to water and sanitation inflicted upon the Bedouin, have been rejected by those mechanisms.¹⁰³

4.4 Legal Analysis

Article 6: The Right to Life

110. The **right to life** should not be defined in a restrictive manner.¹⁰⁴ In this context, the denial of access to the necessities of life constitutes a violation of the **right to life**. **Article 6** should also be seen in light of **Article 1(2)**, which states that “in no case may a people be deprived of its own means of subsistence.”¹⁰⁵

111. As the World Water Council stated, “The **right to water** is also an integral part of other human rights, such as the right to life, which is contained in the International Covenant on Civil and Political Rights”¹⁰⁶ This linkage of water to the right to life was also made by the UN Sub-Commission on the Promotion and Protection of Human Rights, which in resolution 2006/9 stated that “the right to drinkable water is directly linked to the right to life.”¹⁰⁷ The Sub-Commission went on to say that “negligence, omission or planning that results in an absence of water distribution services must be regarded as an action threatening human life” and that “**the destruction of the means of supplying water, the sale of water rights and privatization or management of water resources that results in a lack of access to drinkable water for groups of the population must be regarded as an encroachment upon this right.**”¹⁰⁸

112. Finally, in its General Comment No. 15, the Committee on Economic, Social and Cultural Rights pointed out that “**The right [to water] should also be seen in conjunction with other rights enshrined in the International Bill of Human Rights, foremost amongst them the right to life and human dignity.**”¹⁰⁹

¹⁰³ More information on violations of the right to water and sanitation in the Negev/ Naqab can be found at: COHRE, *Submission to the Goldberg Committee regarding violations of the right to water and sanitation in the Negev/Naqab*, (2008), www.cohre.org/israel.

¹⁰⁴ See, Human Rights Committee, General Comment 6, Article 6 (Sixteenth session, 1982), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 6 (1994).

¹⁰⁵ International Covenant on Civil and Political Rights, Art. 1(2), G.A. res. 2200S (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* 23 March 1976, *ratified by Israel* 3 January 1992.

¹⁰⁶ World Water Council, *The Right to Water: From Concept to Implementation*, Paris: WWC 2006, at p. 16.

¹⁰⁷ UN Sub-Commission on the Promotion and Protection of Human Rights, Resolution 2006/9, UN Doc. E/CN.2/Sub.2/Res.9 (24 August 2006).

¹⁰⁸ *Id.*

¹⁰⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 15 on the right to water, para. 3, (Twenty-ninth session, 2003), UN Doc. E/C.12/2002/11 (2002), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 105 (2003).

Article 12: Freedom of Movement

113. The Committee has found violations of **Article 12** in its Concluding Observations on Israel of 1998 and 2003. For instance, in its 2003 Concluding Observations, the Committee correctly concluded that the construction of a “**Seam Zone**”, including by the **Annexation Wall**, violated the right to freedom of movement guaranteed by **Article 12 of the Covenant** and called for a halt to any further construction.

114. The conditions resulting in violations of **Article 12** that were condemned by the Committee in 2003 and 1998 have only grown worse, with continued construction of the Separation Wall as well as Israeli-only “**bypass roads**” throughout the West Bank, and continued use of check points. The whole of these measures have resulted in serious violations of the right to freedom of movement for Palestinians in the OPT, including movement necessary to access water resources such as wells and springs.

Article 17: Unlawful Interference with the Home

115. **Access to water and sanitation** are integral components of housing. As such, denial of access to water and sanitation rises to a violation of the right to not have one’s home interfered with in an arbitrary or unlawful manner. Indeed, in its General Comment No. 15 on the right to water, the Committee on Economic, Social and Cultural Rights stated that “The right to water is also inextricably related to the right to ... adequate housing.”¹¹⁰

Article 26: The Right to Equal Protection of the Law

116. Similar to the **Article 26** analysis above related to housing, Israel also engages **discriminatory actions and omissions with respect to water and sanitation services**. Again, such discrimination is apparent not only in the West Bank, East Jerusalem and the Gaza Strip, but in the Negev/Naqab as well. While 98 per cent of Israeli Jewish citizens enjoy household water and sewer connections and unlimited access to drinking water, Bedouin citizens of Israel residing in the unrecognized villages are denied their right to water and sanitation as one means to facilitate their displacement.

117. In addition to the **discriminatory treatment** of Palestinian homes vis-à-vis Israeli “outposts” and settlements, there is also discrimination in that the water supplied to Israeli settlers via the Israeli national water company Mekerot, which is highly subsidized by Israel, is subject to a different pricing policy than that supplied to Palestinians in the West Bank by Mekerot. Further, water is often distributed to Israeli settlers and Palestinian communities through the same network, but the pipes leading to Palestinian communities are much narrower in diameter, only half an inch as opposed to two inches wide, or water flow is restricted due to the insertion of ‘unit roles’, which are designed to limit the amount of water flowing through the pipe. Due to access to and availability of water, Palestinians in the occupied Palestinian territory have access to approximately 70 litres/per capita/per day while Israeli settlers enjoy access to approximately 320 litres/per capita/per day. This discrimination is one means by which Israel seeks to make life untenable for Palestinians in order to coerce them to leave their lands and amounts to a violation of **Article 26 of the Covenant**.

¹¹⁰ *Id.*

Article 27: Minority Rights

118. The Bedouin, particularly in the Negev/Naqab, are a minority within Israel that shares a common culture, including a particular way of life associated with the use of land resources. Israel, however, uses intentional denial of access to water and sanitation as means to displace the Bedouin from their traditional lands and force them into urban centres that essentially are urban ghettos known as “government townships”. Indeed, as mentioned above, these “government townships”, Tel Sheva, Rahat, Arara, Kseiffa, Segev Shalom, Houra, and Laqiyya are the poorest recognised communities in Israel, and stand in stark contrast to the nearby Jewish-Israeli settlements, many of which boast some of the highest socio-economic indicators in the country.

119. Such violations of the right to water and sanitation, by being designed to destroy the common culture of the Bedouin, rise to violations of **Article 27 of the Covenant**.

5. CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT AND TORTURE

5.1 Legal Analysis

120. Housing demolitions, forced evictions and violations of the right to water and sanitation, in certain circumstances, rise to violations of **Article 7 of the Covenant**.

121. As examined above, Israel’s policies and practices of forced eviction and home demolition as well as acts and omission resulting in violations of the **right to water and sanitation** at times amount to violations of the prohibition on torture enshrined in **Article 7 of the Covenant** on account of resulting in **physical or mental suffering** or both. In the event that the Committee doesn’t find that all of Israel’s acts and omission meet the definition of **torture**,¹¹¹ these acts and omissions at a minimum violate the **prohibition on cruel, inhuman or degrading treatment or punishment**. Israel has failed to prevent actions and omissions amounting to cruel, inhuman or degrading treatment or punishment instigated by its own policies and practices as well as failing through consent or acquiescence to prevent actions and omission amounting to cruel, inhuman or degrading treatment or punishment by **Israeli settlers** in the occupied Palestinian territory.

122. Whilst **torture** is in violation of **Article 7 of the Covenant**, it is specifically defined in the Convention against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. For an act to amount to torture, it must (1) result in severe pain or suffering, whether physical or mental; (2) be intentionally inflicted on a person for such purposes as (a) obtaining from him [or her] or a third person information or a confession, (b) punishing him [or her] for an act he [or she] or a third person has committed or is suspected of having committed, or (c) intimidating or coercing him [or her] or a third person, or (d) for any reason based on discrimination of any kind; (3) when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.

¹¹¹ For the purposes of this Alternative Report, the definition of torture is the definition found in the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment.

5.1.1 Result in severe pain or suffering, whether physical or mental

123. **Forced eviction has been condemned as a “gross violation of human rights”** by the UN Commission on Human Rights on several occasions.¹¹² As the emblematic factual situations illustrate, **forced eviction and house demolition** cause both physical and mental suffering, as one's home is essential for living a life with dignity and security. Similarly, creating conditions that result in a **lack of drinking water and sanitation**, whether through act or omission, results in both physical and mental pain and suffering as water and sanitation are essential for one's health and well being and indeed very survival.

5.1.2 Intent to punish

124. According to the 2007 report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967:

The demolition of houses has been a regular feature of Israel's occupation of the OPT. Different reasons or justifications are advanced for such demolitions: military necessity, *punishment* and failure to obtain a building permit. Although the IDF claims to have discontinued **punitive home demolitions**, instances of such demolitions still occur.

On 29 August 2007, the IDF demolished seven housing units in the Naqar neighbourhood of Qalqiliya, which were home to 48 persons (including 17 children) on the ground that they housed members of the military wing of Hamas.¹¹³

125. Similarly, as discussed in section 3.1 above, **collective punitive forced evictions** and house sealing or demolition was the policy and practice until 2005 and continues to be the practice since 2005. With the Israeli High Court of Justice Abu Dheim case, it appears that the practice of collectively punitive forced eviction and house demolition will again be official policy. Indeed, the policy and practice of punitive house demolition has since continued. For instance, as recently as April 2009 there was yet another family forcibly evicted only to watch their home being demolished on account of criminal acts of a family member in which the family played no role.¹¹⁴ In any event, the intent to punish a person for acts they or a third person committed or are suspected of having committed is clear from this policy and practice.

¹¹² See UN Commission on Human Rights resolution 1993/77, UN Doc. (adopted 10 March 1993); and UN Commission on Human Rights resolution 2004/28, UN Doc. (adopted 16 April 2004).

¹¹³ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, para. 41, UN Doc. A/HRC/7/17 (21 January 2008).

¹¹⁴ Israeli Committee Against Home Demolitions, *Israel continues the policy of collective punishment*, Jerusalem: ICAHD, 7 April 2009; see also Al-Haq affidavit 4700/2009.



Demolition of family home in East Jerusalem
(photo credit: ICAHD)

126. With respect to the **right to water and sanitation**, Section 4 above details **intentional violations of the right to water and sanitation** through direct targeting of water and sanitation infrastructure and persons attempting to repair such infrastructure and denial of water and sanitation service provision. The systemic and systematic nature of such policies and practices, and the resulting intolerable living conditions that they impose on the Palestinian population, also have **the intent and effect of creating such physical and mental suffering** that Palestinians move off their land and out of their homes – resulting in constructive forced eviction.¹¹⁵

127. With respect to the military attack on Gaza in early 2009 which resulted in, *inter alia*, **intentional destruction of homes and water and sanitation infrastructure**, the statement on 29 February 2008 by Matan Vilnai, at the time Israel’s Deputy Minister for Defence, that Palestinians risked “bringing an even bigger Shoah” (the Hebrew word for Holocaust) upon themselves if they did not stop firing Qassam rockets into Israel, reveals that Israeli officials not only intended to punish persons or third persons for acts they committed or were suspected of having committed but also demonstrates that Israeli authorities were well aware of the magnitude of the suffering they would be inflicting on the people of Gaza.

128. Finally, the sanction and blockade regime imposed on Gaza itself is intended to punish the civilian population. For instance, then Prime Minister Olmert, referring to the blockade, stated that “We will not let the residents of Gaza live a comfortable and pleasant life” and in early February 2009, in an apparent admission of intent to violate international

¹¹⁵ “Collective forced eviction” is defined as creating the conditions that make life untenable and thereby forcing them to leave their housing.

law, stated that Israel will resort militarily with a “disproportionate” response to rocket attacks from Gaza.

5.1.3 Intent to intimidate or coerce

129. The **punitive acts and omissions** of Israel also are **intended to intimidate or coerce** the civilian population of Gaza to end its actual or perceived support of the democratically elected government of Hamas.

130. Indeed, since first elected in 2006, the policy of Israel has been to use whatever means necessary to intimidate or coerce the population of Gaza into rejecting Hamas. The means have included forced eviction and housing demolition as well as destruction of water and sewage facilities and infrastructure. Article 33 of the Fourth Geneva Convention expressly forbids **collective punishment** and concludes that it is a war crime. When resulting in **severe pain or suffering**, such collective punishment also rises to violations of Articles 1 or 16 of the Convention Against Torture.

131. Furthermore, Israel has explicitly or implicitly given its consent or, at a minimum, acquiesced to actions by Israeli settlers in the occupied Palestinian territory **intended to intimidate or coerce** Palestinians to leave their homes and land. For instance, Israeli settlers have used violence, threats and destruction of possessions, crops, water sources and infrastructure as a means of intimidating Palestinians near which they live.¹¹⁶ According to B’Tselem, “Israelis, individually or in organized groups, carry out the attacks on Palestinians and Palestinian property to frighten, deter, or punish them; using weapons and ammunition they received from the Israeli Defence Forces.”¹¹⁷ B’Tselem continues:

The actions against Palestinians include blocking roadways, so as to impede Palestinian life and commerce. The settlers also shoot solar panels on roofs of buildings, torch automobiles, shatter windowpanes and windshields, destroy crops, uproot trees, abuse merchants and owners of stalls in the market. Some of these actions are intended to force Palestinians to leave their homes and farmland, and thereby enable the settlers to gain control of them.

During the olive-picking season, when many Palestinians are at work in the orchards, settler violence increases. The violence takes the form of gunfire, which sometimes results in casualties among the Palestinian olive-pickers, destruction of trees, and theft of Palestinian crops.¹¹⁸

5.1.4 Based on discrimination

132. The suffering caused by violations of **housing rights and the right to water and sanitation** as a result of **discrimination** as described above rise to the level of violations of **Article 3 of the Covenant**. The **racially discriminatory practices** bear repeating in that context.

¹¹⁶ Oxfam et al., *Assessment of the Quartet’s Performance*, London: Oxfam, 25 September 2008.

¹¹⁷ B’Tselem, *Settler Violence: The Nature of the Violence*, at:

http://www.btselem.org/english/Settler_Violence/Nature_of_the_Violence.asp (accessed 12 May 2010).

¹¹⁸ *Id.*

133. As mentioned above, according to the 2007 report of the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967:

Houses are frequently demolished for “administrative” reasons, on the grounds that no permit has been obtained to build - which Israel defends as a normal feature of town planning. Both law and fact show, however, that houses are not demolished in the course of “normal” town planning operations, but are instead demolished in a discriminatory manner to demonstrate the power of the occupier over the occupied.¹¹⁹

134. **Racial discrimination** or **discrimination based on nationality** or both is also demonstrated by the fact that unlawful Israeli ‘outposts’ in the occupied Palestinian territory (*e.g.*, unlawful structures under Israeli law that are often the beginning of **Israeli settlements**) are not only tolerated by Israel but often supplied with infrastructure such as water, sanitation and electricity. Furthermore, in Israel proper it is the case that according to ICAHD there are up to 84,000 illegal structures – one third of which are Jewish owned (Annual Report 2007). However, forced eviction and demolition of housing disproportionately targets Palestinian citizens of Israel. Further, while 98 per cent of Israeli citizens enjoy household water connections and unlimited access, Bedouin citizens of Israel residing in the unrecognized villages are denied their **right to water and sanitation** as one means to facilitate their displacement and attack their common culture and way of life.

135. In addition to the **discriminatory treatment** of Palestinian homes vis-à-vis Israeli “outposts”, there is also discrimination in that the water supplied to Israeli settlers via the Israeli national water company Mekerot, which is highly subsidized and subject to a different pricing policy than that supplied to Palestinians in the West Bank by Mekerot. Further, water is often distributed to Israeli settlers and Palestinian communities through the same network, but the pipes leading to Palestinian communities are much narrower in diameter, only half an inch as opposed to two inches wide or water flow is restricted due to the insertion of ‘unit roles’. Due to **access to and availability of water**, Palestinians in the occupied Palestinian territory consume 70 litres/per capita/per day while Israeli settlers enjoy 320 litres/per capita/per day. This discrimination is one means by which Israel seeks to make life untenable for Palestinians in order to coerce them to leave their lands.

5.1.5 Inflicted by the State

136. It should be clear and uncontested that it is Israel that is directly responsible for the infliction of pain and suffering through, *inter alia*, forced evictions and house demolitions as well as acts or omissions resulting in violations of the right to water and sanitation. Furthermore, Israel has intentionally failed to protect Palestinians from violations by non-State actors, in particular the Israeli settlers in the occupied Palestinian territory. Indeed, as mentioned above, these offending actions and omissions are part of explicit State policies and practices.

¹¹⁹ Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, para. 41, UN Doc. A/HRC/7/17 (21 January 2008).

6. RECOMMENDED CONCLUDING OBSERVATIONS

137. Al-Haq and COHRE recommend the following Concluding Observations to the Human Rights Committee:

1. Israel's policies or practices on forced eviction, house demolitions, denial of access to sufficient water or adequate sanitation amount to violations of the obligation to respect, protect and fulfill the right to self-determination (Article 1 of the Covenant);

Consequently, the State party should repeal policies and desist forthwith from practices of forced eviction, house demolitions, denial of access to sufficient water or adequate sanitation where they violate Article 1 of the Covenant.

2. Israel's policies or practices resulting in denial of access to sufficient drinking water or adequate sanitation may, in certain instances, amount to violations or threats of violations of the right to life (Article 6 of the Covenant);

Consequently, the State party should desist from the policies or practices that may result in denial of access to sufficient drinking water or sanitation where they violate Article 6 of the Covenant.

3. Israel's policies or practices on forced eviction and house demolitions may, in certain instances, amount to violations of the obligation to respect the prohibition of torture or amount to cruel, inhuman or degrading treatment or punishment (Article 7 of the Covenant);

Consequently, the State party should desist from the policies or practices of forced eviction and house demolition where they violate Article 7 of the Covenant.

4. Israel's policies or practices resulting in denial of access to sufficient drinking water or adequate sanitation may, in certain instances, amount to violations of the obligation to respect the prohibition of torture or amount to cruel, inhuman or degrading treatment or punishment (Article 7 of the Covenant);

Consequently, the State party should desist from the policies or practices that may result in denial of access to sufficient drinking water or sanitation where they violate Article 7 of the Covenant.

5. Israel's explicit or implicit consent, or acquiescence, to violence by Israeli settlers may, in certain instances, amount to violation of the obligation to ensure the prohibition of torture or cruel, inhuman or degrading treatment or punishment (Article 7 of the Covenant);

Consequently, the State party should exercise due diligence including by strictly prohibiting, investigating and prosecuting any such violence by Israeli settlers where such violence violates Article 7 or other Articles of the Covenant.

6. Israel's policies or practices that prohibit access of Palestinians to water and land resources, including the construction of the Separation Wall, bypass roads and checkpoints, result in violations of the obligation to respect and to ensure the freedom of movement (Article 12 of the Covenant);

Consequently, the State party should repeal policies and desist from practices that result in prohibiting free movement, including removing the Separation Wall, opening bypass roads without discrimination and removing checkpoints, where they violate Article 12 of the Covenant.

7. Israel's policies or practices on forced eviction and house demolitions as well as denial of access to water and sanitation amount to violations of the obligation to respect the right to non-interference with the home (Article 17 of the Covenant);

Consequently, the State party should repeal policies allowing for and desist from the practice of forced eviction and house demolitions as well as denial of access to water and sanitation where they violate Article 17 of the Covenant.

8. Israel's failure to protect Palestinian residents and their homes from violence and destruction by Israeli Settlers amounts to a violation of the State party's obligation to ensure the right to non-interference with the home (Article 17 of the Covenant);

Consequently, the State party should exercise due diligence including by strictly prohibiting, investigating and prosecuting any such violence by Israeli settlers where such violence violates Article 17 or other Articles of the Covenant.

9. Israel's policies or practices on forced eviction and house demolition which are undertaken based on racial, ethnic or nationality discrimination amount to violations of the obligation to respect and ensure equal protection of the law (Article 26 of the Covenant);

Consequently, the State party should repeal policies allowing for and desist from the practice of forced eviction and house demolitions where they violate Article 26 of the Covenant.

10. Israel's policies or practices resulting in denial of access to sufficient drinking water or adequate sanitation which are undertaken based on racial or ethnic discrimination amount to violations of the obligation to respect and ensure equal protection of the law (Article 26 of the Covenant);

Consequently, the State party should repeal policies allowing for and desist from practices that result in the denial of access to sufficient drinking water or adequate sanitation where they violate Article 26 of the Covenant.

11. Israel's policies or practices toward Bedouin individuals, groups and communities regarding forced eviction, home demolition, denial of access to sufficient drinking water or adequate sanitation, as well as denial of access to traditional land-based livelihoods amounts to violations of the obligation to respect and ensure minority rights (Article 27 of the Covenant);

Consequently, the State party should repeal policies allowing for and desist from practices that result in forced eviction, home demolition, denial of access to sufficient drinking water or adequate sanitation, as well as denial of access to traditional land-based livelihoods where they violate Article 27 of the Covenant.

7. CONTACTS

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