

Women's Centre for Legal Aid and Counselling

Shadow Report for the Human Rights Committee

134th session – Israel Review 2022.

INTRODUCTION

1. This submission has been prepared by the Women's Centre for Legal Aid and Counselling (WCLAC), to assist the Human Rights Committee in their review of Israel in the 134 Session (28 Feb 2022 - 25 Mar 2022).

2. Contrary to what the State Party has declared in its fifth periodic report, question 2 (b) regarding the scope of the convention, WCLAC will through this submission highlight Israel's responsibilities to ensure and protect Palestinian's human rights in the oPt as an occupying power, which goes beyond IHL's customary law. Israel has still effective control on the 1967 occupied Palestinian Territory (oPt), and should include in its reporting to the Committee how it has adhered to its legal obligations under international human rights and humanitarian law especially the ICCPR (the Covenant). WCLAC will highlight in this report Israel's violations of the ICCPR from a gender lens occurring issues that constitute a violation and a failure by the State Party to abide by the Covenant's obligations.

Issues relating to specific provisions of the Covenant

Arbitrary or unlawful interference with private life and protection of family (arts. 2, 7, 12, 14, 17, 23, 26, and 27)

3. Punitive Demolition of Houses and Eviction Orders

(a) The year 2021 marked the second-highest year of Palestinian-owned structure demolitions since 2009.[1]

(b) The State Party's authorities continue to serve demolition notices and/or demolish houses of persons accused of committing security-related offenses, and/or the houses of their families. This punishment by association is usually done without having undergone any judicial process or fair hearing for the individual who has been accused of committing the crime itself or of collaboration with the accused. This jeopardizes the right to a fair trial[2] and equal protection before the law.[3] Punitive demolitions that are imposed on family

[1] OCHA, Data on demolition and displacement in the West Bank, https://www.ochaopt.org/data/demolition
[2] Article 14 ICCPR
[3] Article 26 ICCPR

members or persons otherwise connected to those accused of certain crimes amount to a form of collective punishment.

(c) Claims of ownership by Israeli settlers over single structures or whole neighborhoods as is the case in Sheikh Jarrah, Batn El-Hawa, and Al-Bustan, are also used as a reason for Israeli authorities to issue an eviction and/or demolition order. The 1970 Legal and Administrative Matters Law, enacted by Israel, allows Israeli Jews to claim ownership over land and property presumably "owned by Jews in East Jerusalem before 1948."[4] Currently, settler organizations such as Shimon's Estate are the ones filing eviction lawsuits in Israeli courts, all in spite of Israel not having legal jurisdiction over the illegally annexed land.

(d) Sheikh Jarrah is one of the many Palestinian neighborhoods in East Jerusalem under the threat of mass eviction. It is home to 38 Palestinian families, two of which have already been forcefully displaced, one in 2009 and another in 2017. Families of Sheikh Jarrah are refugees forcibly expelled from their homes in 1948, and who upon residing in Jerusalem were given a "permanent resident" status. This status reduces the right of Palestinians from entering and residing in Jerusalem to a "privilege" susceptible to revocation, rather than a protected right.

(e) The goal behind the creation of fragile identities and residency status is population transfer and a demographic shift in favor of Israel; an infringement of IHL, and is even considered by Article 22(2)(b) of the 1991 ILC Draft Code of Crimes against the Peace and Security of Mankind an "exceptionally serious war crime".

(f) On January 17, 2022, the Salayyha family from Sheikh Jarrah, woke up to find themselves surrounded by dozens of heavily armed military personnel and a bulldozer demolishing the family's business. An Israeli district court gave the approval for building a school for disabled children on the family's land consisting of a two-story house and a plant nursery, with no consideration to Al-Salayyha's rightful ownership over them, or even to their basic human rights. The family members refused to evacuate/leave the house they have owned for 50 years and even threatened to self-immolate themselves as a message of refusal to give up his right. Nevertheless, on January 19 at 5 am, armed Israeli military raided the houses, arrested almost all family members, and demolished the house to rubbles.

(g) In other cases, demolition and/or eviction orders are executed based on allegations related to building permits. Less than 1% of Area C is permitted for Palestinians to build upon, and only 15% of East Jerusalem[5]. Moreover, building permits are almost impossible to obtain, yet Israel continues to punish Palestinians residing in these areas by demolishing

[4] Legal and Administrative Matters Law, 5730-1970, retrieved from: https://www.nevo.co.il/law_html/law01/319_009.htm

[5] OCHA, Peak in demolitions and confiscations amidst increasing denial of the right to justice, December 2020 retrieved from: https://www.ochaopt.org/content/peak-demolitions-and-confiscations-amidst-increasing-denial-right-justice

their houses. In 2021, the Israeli authorities approved only five of over 100 outline plans submitted by Palestinians in Area C.[6]

(h) In the Northern Jordan Valley Area, tent, animals structure and house demolitions among Bedouin communities have been on the rise, most notably during a worldwide pandemic, which requires a safe shelter with access to water and other sanitary essentials. WCLAC has documented during the year 2020 (12) cases of private property demolitions, and 20 military training and waste violations, while in 2021 (4) demolition of agricultural structures, (11) tent demolitions across multiple areas including Khirbet El-Maleh and Ein El-Beida, Um El-Jmal, and Humsa. The average number of the affected women and children in each household is four to six.

(i) Amal Abd-Alqader is a 24-year-old married woman from Humsa village in the Jordan Valley. She is a mother of a 2-year-old girl and mainly works with her husband in raising livestock, grazing, and making cheese and dairy products. "Night raids and the destruction of everything we own has become within the past three years almost a daily routine," she said. Recently the IOF raided their tent at 2 am and destroyed all their belongings including the child's, with no preceding warning/notice, leaving them without a shelter. She lives in a constant state of anticipation and fear and worries a lot about her daughter's future. In many cases, the IOF awaits for and disrupts the Red Cross and/or the Wall Resistance Authority's work of providing families with other tents.

(j) Another interviewed woman, Sumaya Abu Habash, a 48-year-old mother of seven children, said that since her marriage their tent has been destroyed 30 times, seven of which were within a period of 4 months.

(k) There are seven military bases in the Northern Jordan Valley, with a total area of 14,395 dunums, in addition to the vital scope of these bases, which are considered military areas completely banned for Palestinians to enter/use. The danger of these bases is represented in the regular military training that they conduct throughout the year between the homes and tents of Palestinians; the occupation forces distribute orders to Palestinian Bedouins to evacuate their homes and tents before starting the maneuvers, in which live ammunition is used.

(l) These punitive measures place enormous psychological burdens upon women and girls, who are disproportionately affected by these kinds of collective punishments and are left to bear the weight of these consequences.

(m) House demolitions are usually carried out early in the morning or late at night. This is especially traumatizing for women and children who would be present during the time of the demolition. After the execution of the punitive measures, oftentimes, the occupation forces would usually conduct a number of arrests amongst family members, including children and women.

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[6] OCHA, Most Palestinian plans to build in Area C not approved, June 22, 2021, retrieved from: https://www.ochaopt.org/content/most-palestinian-plans-build-area-c-not-approved

(n) Another key negative impact of these punitive measures is the heavy financial burdens they impose on women and their families. In light of the current pandemic situation (2020 - 2022), many men have lost their jobs, which forces their wives to sell or give up on their share of inheritance to support the household's finances. This is true even in cases of self-demolition, a phenomenon that emerged after the enactment of Amendment 116 of the Planning and Building Law in 2017, which inter alia increased the use of financial penalties in cases of administrative construction offenses.

4. Demolition of Schools

(a) Bedouin Communities face the most cases of schools demolition. As of 2019, the Israeli occupation had given partial or total demolition orders to more than 42 schools in Area C[7]. A recent case is Al-Maleh school located in the Northern Jordan Valley area. The school was built at the end of 2020 and has only six classrooms that host kindergarten and elementary students from Khirbet Al-Maleh and neighboring Bedouin communities. As an effort to increase the capacity of the school, in September 2021 the Stop the Wall Campaign, with the support of the Middle East Children's Alliance (MECA), started constructing a new classroom and school clinic, which less than a month after, on October 21, 2021, Israeli bulldozers razed.[8]

(b) Targeting schools in Area C, belonging to Palestinian communities, is considered a discriminatory act and a direct breach of Articles 2 (1) and 26 of the ICCPR. As indicated by *CCPR General Comment No. 17 (3)* the right to education should be protected by the State Party to enable children to enjoy the other civil and political rights provided by the covenant.[9] Attacking educational institutions is also considered one of the six grave violations against children, and a violation to Article (53) of the Fourth Geneva Convention. Furthermore, demolition of schools can be seen as forced displacement efforts in an area where Israel has declared political aspiration to annex.

Recommendations:

- Review and reform Israel's housing permit process which deliberately discriminates against Palestinians, subjecting them to lengthy and costly procedures.
- An immediate stop to the illegal demolition of Palestinian homes and to increase the recognition of property rights of the Palestinian population.

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[7]Stop the Wall, Denial of education: An Israeli apartheid tool to annex the Jordan Valley, retrieved from: https://www.stopthewall.org/right2exist/denial-of-education-an-israeli-apartheid-tool-to-colonize-the-jordan-valley/

[8] Middle East Children's Alliance, After Demolition, Palestinians Call for Protection of Threatened Schools in the Jordan Valley, November 1, 2021, retrieved from: https://www.mecaforpeace.org/after-demolition-palestinians-call-for-protection-of-threatened-schools-in-the-jordan-valley/

[9] CCPR General Comment No. 17: Article 24 (Rights of the child), April 7, 1989, retrieved from: https://www.refworld.org/pdfid/45139b464.pdf

- Recognize the rights and freedoms of Palestinian women to enjoy access to adequate housing and family/private life.
- Stop the practice of and revoke all policies on the practice of punitive demolitions and forced evictions, which have a harmful impact on the physical and psychological well-being of Israeli-Arab women and girls, and Palestinian women and girls in the Occupied Palestinian Territory;

Freedom of expression, assembly, and association (arts. 19, 20, 21, and 22)

6. Harassment, detention, and arrests of human rights defenders and civil society organizations. (arts. 10, 17)

(a) National security rationale is merely but a constant justification by the State Party to acts and policies of purely political motives, with almost zero consideration to the rights of Palestinians. Such is the case with Israel's persistent attempts to repress and prosecute human rights defenders, activists, and civil society organizations, a clear violation of Article 19(1),(2), and Article 22 of the ICCPR, and Article 19 of the Universal declaration of Human Rights. Forms of muffling and harassments include arrests and interrogations during which inhuman treatment and/or torture are often imposed. By doing so, the State party does not respect Article 10 (1), which stipulates "*All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person*". In cases of administrative detention, human rights defenders' right to a fair trial is withheld. Additionally, for Jerusalemite activists, residency revocation threats are a common form of activism suppression.

(b) On July 7, 2021, Israeli forces arbitrarily arrested two Palestinian women, Layan Nasser a student at Birzeit University, and Dr. Shatha Odeh (60 years old) the Director of the Palestinian Health Work Committees (HWC) who until this day has not been released. The Israeli forces also raided the Union of Health Work Committees, confiscated its properties, and declared its closure. Both Layan and Shatha were arrested from their homes, late at night and in a degrading way. Layan was handcuffed, blindfolded, and her mouth covered.[10] A family member of Shatha Odeh stated that one of the soldiers arresting her told Shatha "bring all your medicines, this time you won't be returning to your home soon".

(c) Shatha Odeh is not the only one whose health is at risk. The HWC runs 34 health centers across the oPt and employs approximately 200 full-time staff.[11] The scope of it services has once reached 15% of the West Bank population.[12] The operation of the HWC was

[10] Addameer Prisoner Support and Human Rights Association, Birzeit University Student Layan Nasir Targeted Amid Israel's Broader Silencing Campaign Against Palestinian Students, August 3, 2021, retrieved from: https://www.addameer.org/news/4464
[11] People's Dispatch, The arrest of Shatha Odeh undermines access to health care in Palestine, July 15, 2021, retrieved from: http://peoplesdispatch.org/2021/07/15/the-arrest-of-shatha-odeh-undermines-access-to-health-care-in-palestine/
[12] Ibid.

banned by the IOF for 6 months only one month prior to the arrest of its director[13], putting at risk the lives of thousands of people. The ban of work also severely affected the financial stability of 200 employees.

(d) Student arrest, specifically university students, is not new. It is a policy that has long been used by the Israeli authorities. As a matter of fact, a number of the arrests happened on university campuses, and through a heavy military raid, the recent arrests occurred at Birzeit University during January 2022. Charges pressed against students include partaking an active role in a student organizations, and/or affiliating them with terrorist entities.

(e) "Arrests and night raids on the homes of Palestinian human rights defenders," as *the Special Rapporteur on the situation of human rights defenders Mary Lawlor* has expressed "form part of a wider crackdown against those defending the human rights of Palestinians in the Occupied Palestinian Territory".

(f) Coinciding with the newly established open investigation on Israel's war crimes by the International Criminal Court (ICC), on October 22, 2021, Israel designated six Palestinian organizations operating in the West Bank as "Terrorist" organizations. A designation as such puts Palestine civic space at a higher risk than the pre-existing one. (g) The work of the six CBOs - Addameer, Al-Haq, the Bisan Center for Research and Development, Defense for Children International-Palestine, the Union of Agricultural Work Committees and the Union of Palestinian Women Committees, by its nature covers a large portion of the different aspects necessary for the realization of Palestinians rights and freedoms. These include among others women's rights and participation in the society, detainees rights, child rights, and environmental rights. People working at these CBOs are now at the risk of prosecution for offences that carry "a maximum penalty of five years in prison for membership of an organization, 10 years for serving in a managerial position and up to 25 years for heading one."[14]

(h) Spyware surveillance, which contravenes Article 17 of the ICCPR, is one of the more recent and advanced forms of harassment, it operates on the basis of invading privacy in an attempt to terminate a person's activism or the work of associations. Efforts by Front Line Defenders, Citizen Lab and Amnesty International's Security Lab (upon request), revealed that some employees working at the newly designated NGOs as terrorist have had their phones hacked by Pegasus Spyware.[15] In July 2021, the global Pegasus Project analyzed more than 50,000 phone numbers.[16]

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[13] Ibid.
[14] CIVICUS, Palestine: 'The counter-terrorism law is used to restrict political work in Palestine & shrink civic space in Israel', January 5, 2022, retrieved from: https://www.civicus.org/index.php/media-resources/news/interviews/5538-palestine-the-counter-terrorism-law-is-used-to-restrict-political-work-in-palestine-and-shrink-civic-space-in-israel
[15] Al-Haq, Spyware Surveillance of Palestinian Human Rights Defenders, November 8, 2021, retrieved from: https://www.alhaq.org/advocacy/19188.html
[16] Ibid

(i) The deprivation of freedom of expression, assembly, and association in regards to the situation in the oPt hinders the Palestinian society's ability towards gaining its national freedom.

Recommendations:

- Immediately end discriminatory and punitive measures against Palestinian human rights defenders in the OPT (including East Jerusalem) in both law and practice, including administrative and arbitrary detention, deportation outside the OPT, ill-treatment, invasion of privacy and conduct an independent investigation into all such cases.
- Implement a gender-sensitive international consultation with women human rights defenders to assess all possible avenues to improve their situation which may include providing communications technologies to improve their safety, secure transport and security in their homes and offices, and prompt access to urgent appeal procedures of the Special Mechanisms of the Human Rights Council in situations where they are subjected to harm by the Israeli authorities or those acting on their behalf.

Non-discrimination and self-determination (arts. 1, 2, 9, 12, 17, 18, 25 and 26)

7. Family reunification and equal access to services

(a) The law of citizenship and Entry into Israel (Temporary order, 2003) ultimately discriminates against Palestinians and aims to reduce the number of Palestinians in Jerusalem. This law has been extended annually; however, the Israel Supreme court rules the Ministry of Interior (MoI) that it cannot act according to this law, as it expired after the Knesset voted down the bill to extend it.[17] However, the MoI continues to apply the law of citizenship despite its expiration.[18] According to the UN General Assembly report of the 31st session of the HRC that took place in 2016, the law display blatant discrimination, which in result has separate husbands from wives, parents from children, and extended families from one-another, and caused traumatic complications for women attempting to remain with their families in both Jerusalem and West Bank. [19]

(b) Palestinian women from the West Bank and other parts of the oPt married to Jerusalemites, often reside are denied temporary residency permits and family

[17]HAMOKED,The Supreme Court rules the Ministry of Interior cannot act according to expired law; must process Palestinians' request for family unification according to the normative arrangements for granting status in Israel, until judgment is issued in the NGOs' petition in the matter. 22 January, 2022.
https://hamoked.org/document.php?dID=Updates2275
[18] Ibid.
[19] "Human rights situation in the Occupied Palestinian Territory, including East Jerusalem", United Nations General Assembly, 20 Jan. 2016,
http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/_layouts/15/WopiFrame.aspx?sourcedoc=/EN/HRBodies/HRC/Regu larSessions/Session31/Documents/A_HRC_31_44_E.doc&action=default&DefaultItemOpen=1

reunification despite being married for decades to holders of Jerusalem identity documents or Israeli citizens. These women explained to WCLAC in their recent testimonies that after the Israeli authorities suspended their temporary residency permit, they stop going out of the house except for urgent necessity, as their presence i "illegal" and they are often terrified to be caught by the police.

(c) In cases of divorce or disputes between spouses of different identity documents, family reunification procedure is often denied for women with Palestinian Identity Documents. Hence, women face difficulties in accessing courts to follow-up custody cases due to the restriction of movement, as well as denial of other basic services that are obtained once Palestinians have the residency permit, such as access to healthcare services, health insurance, as guaranteed by the covenant. This specifically results in violation of art. 17,[20] that prohibit arbitrary or unlawful interference with one's privacy, family, home or correspondence, and in violation of the right to liberty of movement and freedom to choose residency guaranteed in art. 12.[21]

(d) Many women endure domestic violence to stay with their children in Jerusalem being heavily dependent on their husbands for obtaining annual residency permits from the Israeli MOI. They also cannot ensure custody of their children due to conflicting legal systems, lack of access to justice and difficulties in implementing court rulings under two different legal jurisdictions. For instance, women live in the fear of being separated from their children in the case they are forcibly transferred. Palestinian women who live in Jerusalem lose their temporary residency permits through a family unification procedure if the husband decides to divorce. If the children have Jerusalem I.D and remain with the father, women will no longer be able to live in the same city as their children, or even visit them. If a woman is a victim of violence in the household, she will be reluctant to go to the Israeli authorities for fear of being forcibly transferred outside Jerusalem and losing her children's custody.[22]

(e) Hence, women will have to lock herself in the family home without any legal status, and they will be stripped of their fundamental rights such as the right to movement or work, in addition to the psychological impact of social stigma of being a divorcee. WCLAC conducted interviews with women, published in a report[23]address that the lengthy process of reunification applications leaves women in a state of financial and social limbo, not being able to access health insurance, social security benefits, or well-paid work.

(f) Israel has used a variety of discriminatory methods to reduce the Palestinian population of Jerusalem, in an attempt to maintain demographic majority. Since the illegal annexation of East Jerusalem, Palestinians were treated as immigrants in their own country, the Minister of Interior has discretionary powers to revoke

[20] ICCPR, Article 17
[21] ICCPR, Article 12
[22] To reinstate a Jerusalem I.D., Palestinians have to prove their "center of life" is Jerusalem for a minimum period of 2 years. However when they do not have any legal status, this means that these women have to live 2 years without any legal status in the city.
[23] "Women's Voices: In the Shadow of the Settlements", Women's Center for Legal Aid and Counselling, 2010,http://www.wclac.org/english/userfiles/English%20WCLAC%20(2).pdf

residency.[24] Therefore, Palestinians living in Jerusalem and who are married from different identity documents are not granted equal access to the enjoyment of their rights in accordance with the Covenant.

(g) In contrast, The Israeli Law of Return that was passed in 1950 grants every Jew the right to immigrate to Israel and become a citizen. This is a clear violation of art 2, 26, and 18 of the covenant. The Law of Return was then amended in 1970 to allow for the expansion of immigration, and to grant the right of migration to non-Jewish offspring of Jewish origin until the third generation. In addition, the Israeli Citizenship Law, which was amended in 1980, enables every Israeli to enjoy Israeli citizenship, whether inside or outside the occupying country. Contrary to dealing with Palestinians living in Jerusalem, who are denied the right to citizenship and family reunification by the same law that legally guarantees other civil and political rights.

(h) Israel is still imposing residency revocation against the Jerusalem population, as a direct tool utilized to forcibly transfer Palestinians from East Jerusalem. According to Israel's Ministry of Interior (MoI), Israel has revoked the status of 14,701 Palestinians from East Jerusalem between 1967 and 2020, on the claims that their status "expired of itself".[25] As of March 7, 2021, the MoI indicated that in the year of 2020, Israel revoked permanent residency status of 18 Palestinians from East Jerusalem, including 10 women. The claims behind the revocation of the 18 people was due to their absence (outside of Israel) on the date of the revocation. [26]

(i) In January 2017, a bill was reintroduced at the Knesset to grant the MoI authority to revoke the permanent residency of persons who have committed or are suspected of committing an attack against Israel, as well as their family members. Women are disproportionately affected by this form of collective punishment since men are often the victims of extra-judicial killings or arrests by Israel.

(j) Israel also revokes health and social security entitlements as a punishment to family members of alleged attackers, which is entitled as a form of collective punishment. These policies have disastrous consequences on the lives of Palestinian women and children. The Human Rights Committee has noted that the prohibition against collective punishment is non-derogable, even in states of emergency. Often, women also have to face the psychological ill-treatment that Israel imposes on them through arrests, detentions, house raids, as well as the detention of bodies of deceased family members, kept in Israeli fridges for months before being returned to the family for burial.

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[24] Article 11(A) of the Law of Entry to Israel of 1952: "The Minister of the Interior may at his discretion…cancel any permit of residence under this Law."

[25] Hamoked, Ministry of Interior data: 18 East Jerusalem Palestinians were stripped of their permanent residency status in 2020 as part of Israel's "quiet deportation" policy; 10 of them women; 9 March, 2021 Retrieved from: https://hamoked.org/document.php?dID=Updates2224

[26] Ibid, Hamoked. Retrieved from: https://hamoked.org/document.php?dID=Updates2224

Recommendations:

- Immediately cease the practice of the Ministry of Interior Affairs allowing residency revocations and review the "Entry into Israel Law" which endangers Palestinian women's rights to custody of their children and makes women reluctant to press charges against domestic violence out of fear of being forcibly transferred.

- Immediately repel the "temporary order" to "Entry into Israel Law"(2003) related to family reunification. Grant Palestinian spouses of Jerusalem I.D holders Jerusalem residency status to access the full enjoyment of the rights guaranteed by the Covenant. In particular, demand the occupation power to grant Palestinian women the right to see their children without enforcing the Center of Life policy.

- Facilitate the process of family reunification and the registration of children who were born in Jerusalem.

- Reinstate the residencies of all Palestinians who wish to reinstate their Jerusalem residency status and give all current residents of Jerusalem indefinite right-to-remain.

8. Access to land, natural resources, water, and sanitation

(a) As part of the annexation scheme Israel is systematically seeking to execute, discriminatory water allocation policies in the Northern Jordan Valley area are being practiced. 90% of the Jordan Valley is designated as Area C, and has the largest water basin along to a number of springs and wells. However, Mekorot the government company which has claimed ownership over water supply in the oPt since 1982, "operates dozens of wells, trunk lines, and reservoirs in area C that abstract water inside Palestinian territory and provides service instead to the Israeli settlements in the West Bank."[27]

(b) A recent policy the occupation forces have been carrying out in the Northern Jordan Valley, specifically among Bedouin communities, is the confiscation of water tanks and the trucks mobilizing them. The years 2020 and 2021 have witnessed the highest rate of property demolition including water tanks. Almost any attempt by the humanitarian community, people of the Valley, or private vendors to provide water tanks is terminated by confiscation. Such policy is a clear violation of IHL which prohibits the occupying power from confiscating or exploiting private property from the protected inhabitants.[28]

(c) Furthermore, such acute water unavailability is causing health issues, especially among women and kids. Rania Abu al-Habbash, from Hamsah village, says that she cannot meet

[27] The allocation of water resources in the Occupied Palestinian Territory, including East Jerusalem, Report of the United Nations High Commissioner for Human Rights, P5, Advance Unedited Version, 23 September 2021.
[28] Rule 51 (Customary IHL)

the minimum requirements of hygiene, which has caused her two-year-old daughter to develop multiple skin diseases. In other cases, water unavailability is prompting internal forced displacement.

(d) Israeli settlers' multiple attempts to besiege and confiscate natural water resources such as Ein El-hilwa water stream, as well as banning Palestinians from entering their agricultural lands throughout the oPt (especially during harvest season), are clear indication of the unabating discriminatory policies of an apartheid regime. A regime that aims to maintain an Israeli institutionalized oppression and domination over Palestinians, including access to water and land as a fundamental inherent human right of all peoples.

(e) Alaa S. 38 years old woman living in Der istya town located in Salfit Governorate, recalls the details of her traumatizing experience of settler attacks on her land *"On October 10th 2020, around 7 o'clock in the morning, I went with my husband and my children to pick olives from the land we own on a mountain west of the town, where Yakir settlement sits. At 10 o'clock, we sat under an olive tree for tea, only to be interrupted by a group of settlers in civil clothing. I was very intimidated as they very often attack Palestinian citizens. We sat in fear, shivering, as they stood 600 meters away blasting in laughter and mocking behavior while looking at us. I asked my children to remain close. They shouted, "Death to Arabs", "Get out of here, this is not your land" while laughing. I am too afraid to pick olives again. Each year, we face physical and verbal violent attacks, including burning our crops and other times preventing us from accessing our land altogether. I can no longer enjoy the beautiful moments of the olive-picking season with my family."*

(e) In the Gaza Strip, 1.8 million people are confined in a territory with an alarming water shortage. Their only resource of water, a coastal aquifer, is overexploited and polluted. Israel imposes a "dual-list" policy on Gaza which does not allow materials, that can be used for either civilian or military purpose, to enter the strip. Materials such as cement and iron are banned, yet are crucial in constructing and rehabilitating Gaza's water and sanitation infrastructure.[29] Infrastructure that was destroyed by the continuous bombardment of Gaza by Israel throughout the decade. Furthermore, Gaza's electricity crisis has directly affected the effective operation of 130 local water and sanitation facilities which further resulted in the contamination of the coastal aquifer and civilians health.[30]

(f) In violation to Article (33) of the Fourth Geneva Convention, Israel has completely cut off electricity in all Gaza during the last aggression in May 2021, which lasted 11 days. Wastewater pipes, water-pipes and wells have all been damaged as a result of the airstrikes destroying the infrastructure[31], directly violating Article (54)(2) of the Additional Protocol I of the GC. This resulted in a tighter and rapidly deteriorating situation of water and

[29] The allocation of water resources in the Occupied Palestinian Territory, including East Jerusalem, Report of the United Nations High Commissioner for Human Rights, P5, Advance Unedited Version, 23 September 2021.
[30] Ibid.
[31] OCHA, Escalation in the Gaza Strip, the West Bank and Israel, Flash Update #7, 17 May 2021.
Retrieved from: https://www.ochaopt.org/content/escalation-gaza-strip-west-bank-and-israel-flash-update-7-1200-17-may-2021

electricity shortage, which Gaza already suffers from on a regular basis, as part of the illegal prolonged blockade.

(g) In the Eastern borders of the Gaza strip, Palestinian farmlands suffer from frequent water flooding as a result of Israel's systematic water dams opening for their own rainwater harvest.[32] Nariman S. a 41 years old, married women from Al Shaja'ya in Gaza, owns farmland in the eastern border area. This agriculture land is the main source of income for her family of seven children and her husband. On January 20, 2021, Israeli authorities opened one of the water dams near the land, resulting in flooding of water that damaged all the crops consisting of Zucchini and peas Faqus and wheat, okra. Hence, costing Nariman and her family financial loses.

(h) The state party's water allocation practices throughout the occupied territory undermine Palestinians' right to self-determination. Since 1967, all water resources have been placed under the State party's military control[33], whilst prohibiting Palestinians from constructing or maintaining water installation without a military permit. After signing the Oslo II interim agreement, some authority was given to the Palestinian Authority (PA) through the Israeli-Palestinian Joint Water Committee (JWC)[34], with Area C remaining a region of Israeli sovereignty. Further, the interim agreement- meant to last five years- placed 80% of the Mountain Aquifer water for the use of the State Party, and only 20% for Palestinians. Today, power allocations according to the expired agreement are still in force and the imbalance is much bigger.

(i) Theoretically, both Israel and the Palestinian Authority have a veto right within the JWC, nevertheless, the disparity between approval rates over projects proposed by the PA as opposed by Israel proves the domination of the latter. According to EWASH, "only 56 percent of Palestinian projects regarding water and sanitation were granted permits by the JWC (against a near 100 percent approval rate for the Israeli projects), and only one-third of those could actually be implemented."[35]

(j) The right to self-determination is explicitly affirmed in the United Nations Charter[36], and in human rights treaties, such in articles 1 of the ICCPR and ICESCR respectively. The right includes, as maintained by common article 1 (2) of the Covenant, the ability for people to "for their own ends, freely dispose of their natural wealth and resources", including water.

9. Freedom of movement in the Gaza Strip

(a) Despite the Israeli disengagement from Gaza in 2005, the Gaza Strip is still- more than any other Palestinian territory- under the effective control of the Israeli occupying

[32] Middle East Monitor, https://www.middleeastmonitor.com/20210122-israel-floods-farmlands-with-rainwater-in-eastern-gaza/
[33](Military order No.92, 1967), http://www.jmcc.org/documents/JMCCIsraeli_military_orders.pdf.
[34] Article 40, Oslo II Accords.
[35] https://www.aljazeera.com/news/2016/6/23/israel-water-as-a-tool-to-dominate-palestinians
[36] Article.1.(2)

authorities, and is admitted as occupied territory by the UN. Accordingly, the prolonged blockade over its land, sea, and air is illegal and amounts to collective punishment.

(b) 14 years of sweeping restrictions over the Gaza Strip has not only diminished Palestinians' exercise of sovereignty over their land, but it has also contributed to the de-development of the economy, deterioration of the infrastructure, and its different service sectors, most notably the healthcare sector. Israeli authorities impose restrictions on the movement of persons and goods including medical equipment and medicine. Restrictions on the entry of medical supplies necessary for cancer patients and other chronic diseases, such as PET/CT and nuclear medicine scanning, are justified under the pretext of "dual-use". In August 2021, the Ministry of Health (MoH) in Gaza "had less than one month's supply of 44% of essential oncology and hematology medications".[37]

(c) Consequently, many Palestinian patients living in Gaza are forced to seek treatment elsewhere, namely, the West Bank - including East Jerusalem. However, in order to do that, patients and their companions, usually family members, are unlawfully required to apply for a travel permit.

(d) The permit regime enforced by the Israeli occupying authorities is part of the illegal blockade over the Gaza Strip. It threatens the well-being/health of thousands of Palestinians and violates their right to "*the enjoyment of the highest attainable standard of physical and mental health.*", recognized by ICESCR, Article 12, and articles (2, 6 (a), and 12) of the ICCPR.

(e) During the (2020) COVID-19 pandemic, movement restrictions were heightened. The general lockdown, the almost full closing of Beit Hanoun (Erez) Crossing, and the hospitals' preventive measures all added to the suffering of patients in need of treatment outside the Gaza Strip. The current situation of the Erez Crossing is relatively static, and an unjustifiable number of permit requests are getting rejected.

(f) The Palestinian Ministry of Health has the ability to issue referrals, yet a referral does not relieve patients from the arbitrary obligation to apply for a travel permit. In September 2021, the MoH issued 2,050 referrals for the Gaza Strip, out of 1,370 patient applications to cross Beit Hanoun (Erez), only 54% were approved.[38] According to the World Health Organization this percentage of approval is considered "one of two lowest records since April 2019 when the approval rate was 53%.",the other one was during the month of May 2021.[39]

(g) Sabreen N. a 14-year-old girl who is supposed to be in the ninth grade, but due to her health condition she is in the fifth grade. Sabreen suffers from muscle atrophy and soft joints, a condition she was born with. Although her older brother and sister suffer from the

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[37] "How Restrictions on Gaza Are a Matter of Life and Death for Breast Cancer Patients - Latest News & Developments." Medical Aid for Palestinians, October 20, 2021. https://www.map.org.uk/news/archive/post/1302-how-restrictions-on-gaza-are-a-matter-of-life-and-death-for-breast-cancer-patients.

[38] "Monthly - Emro.who.int." World Health Organization- occupied Palestinian territory. WHO, November 7, 2021. http://www.emro.who.int/images/stories/palestine/documents/Sep_2021_Monthly.pdf?ua=1

[39] Ibid.

same condition, her case is more severe. The family's only source of income is a check from social affairs.

Sabreen's condition hinders her movement and physical strength. It is difficult for her to sit, and she is susceptible to injuries from the slightest and lightest thing. In 2007, shortly after she was born, her mother (Samar) took her to the doctor who gave her a growth hormone agonist and set her on a physiotherapeutic plan, but there was no response or improvement in her condition. In 2010, it was decided to perform surgery on her, and was transferred to a hospital in the city of Nablus (West Bank), and indeed, a vertebral fixation operation using platinum plates was performed on her back. However, complications occurred; the stitches started losing up after a while, causing a bacterial infection that led to inflammation. Accordingly, she was admitted to get checked and treated every 6 months in the West Bank.

The platinum plates cause Sabreen an increased intrapleural as well as increased intrapericardial pressure, especially while sitting. Throughout the year 2020, Sabreen was unable to get treatment due to the complete closure of the crossing and the denied travel permits under the pretext of COVID-19 restrictions. As a result, the platinum plates started rusting away causing inflammatory cysts to grow on Sabreen's back.

Usually, it is either Samar or her husband who would accompany Sabreen during travel, but not both. For the travel that was set on August 11, 2021, Samar requested to accompany her daughter instead of her husband who was recently denied access to the West Bank for "security reasons". Nevertheless, her request was rejected, without giving her any reason. Samar did not give up, she re-applied for a permit with a due date to travel on September 1, 2021, yet again her request was denied for no clear reasons. Sabreen's health condition is only getting worse over time, she is in urgent need of treatment and possibly another operation only available in the West Bank.

(h) The complex and arbitrary permit regime deprives Palestinians of their right to access healthcare services. According to Article (59) of the Fourth GC which states "If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal." The permit regime also strips people living in Gaza of their freedom of movement which is recognized as a basic human right and a protected right under the fourth Geneva convention 1949, and by the ICCPR in Article 12, which states "*Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement,*". Further, restrictions shall not be imposed except if "*provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*"[40]

Recommendations:

[40] ICCPR, Article 12

- Condemn Israel's ban on the entry of medical devices, in particular those used for diagnosis, into the Gaza Strip.
- Exert pressure on Israel to comply with its legal obligation towards the oPt to provide adequate medical care and take preventive measures in order to minimize the spread of COVID-19, and actively endorse the principles of gender equality and equal treatment for all Palestinians particularly women patients who are in urgent need for medical treatment.

Right of life (arts. 2, 6, and 24):

10. Settlement expansion and Settler Violence

(a) The expansion of settlements and growth of settler population has brought a concurrent increase in settler violence, despite the pandemic and lockdown measures during the past two years. Human Rights experts expressed that; "the year 2021 witnessed the highest recorded levels of severe settler violence in the recent years".[41] Settler violence incited on Palestinians is in violation of arts. 6 and 20 of the covenant.

(b) Attacks of violence involve physical aggression, destruction of property, attacks with toxic substances, which results in significant psychological distress and a perpetual state of unsafety for Palestinians. Israeli settlers' violent actions go unpunished and their perpetrators are left free and often under the protection of Israeli security forces.

(c) Settler attacks cause enormous psychological, physical, and economic damage. Palestinian women living close to settlements report constant fear of the repeated settler harassment and intimidation campaigns, especially knowing that these attacks are mostly carried out in total impunity affecting women and girls disproportionately.

(d) OCHA indicates that during September 2021, twenty-nine Palestinians, including a young child, were injured by settlers or by Israeli forces who intervened following the settler attack in Umm Fagarah village (Hebron). One of those injured, a three-year-old boy was hit by a stone in his head while in his bed. Settlers also killed five sheep and damaged ten homes, 14 vehicles and several solar panels and water tanks. During the incident, Palestinians threw stones and Israeli forces fired teargas canisters and arrested three Palestinians who were released later that night. Israeli police have arrested six settlers in connection with the incident, two of whom remain in detention. [42]

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[41] OHCHR, UN experts alarmed by rise in settler violence in occupied Palestinian territory, retrieved from: https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27792&LangID=E

[42] OCHA, Response to the escalation in the oPt | Situation Report No. 10 (September 2021), retrieved from: https://www.ochaopt.org/content/response-escalation-opt-situation-report-no-10-september-2021

(e) In 2021, Women's Centre for Legal Aid and Counseling has documented evidence-based instances of settler violence against Palestinian women and girls that resulted in violations of their rights to access healthcare, education, water, and other fundamental human rights.
(f) In Qusra village, women are terrorized by the massive settler violence, which includes vandalizing houses, breaking windows and burning cars, throwing tear gas bombs, verbal harassment and abuse in front of children while threatening people with weapons. Hajar Khalaf a 22 year- old girl testified that on May 15, a group of 50-armed settlers vandalized her house and burned her husband's car, since then her children cannot sleep at night and her daughter developed urinary incontinence. Hajar cannot stand being alone in her house for one minute.
(g) Settlers continue to have the support and complicity of Israeli occupying forces. The nature of the violence and failure to enable appropriate medical and other care is again a breach of IHL and international human rights law.
(h) The Settlement regime, being dependent on the acquisition of land by force, displacing Palestinians and replacing them with settlers, is violent by its nature. The violence is not only committed by the occupation forces, as such regime is accompanied by campaigns of harassment, intimidation, hate crimes and terrorist attacks committed by the settlers themselves.
(i) Several Human rights organizations have documented hundreds of such terrorist crimes over the past years, including arson attacks against Palestinian homes, mosques, businesses, and other property, resulting in the death and injury of several civilians. "The impacts of settler violence on communities, families and individuals include physical injuries and insecurity; psychosocial distress; impeded access to education and services; loss of land, resources, assets and livelihoods; and risk of displacement". [43]

Recommendations:

- Ensure, without hindrance, access for Palestinians in the OPTs to their land and homes which have been labeled as "no-go-zones" due to the presence of settler violence and proximity to settlements.
- Support the resolution presented during the Special Session of the Human Rights Council to establish a Commission of Inquiry addressing the root causes of the situation, including Israel's settler colonialism and apartheid over Palestinians on both sides of the Green Line.
- Enforce criminal prosecution of Israeli settlers for their harmful and violent acts against Palestinian people as a whole.

[43] Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem

11. Minors under house arrest and arbitrary detention

(a) Detention without trial: It is often the case that, prior to Palestinian children being placed under house arrest, they are detained, without trial, for a period ranging from a few hours to weeks or even months. Following this period of detention, they are then placed on house arrest while charges are determined or while they await trial.[44]

(b) The ICCPR Article 10(2) also makes specific reference to accused juveniles, requiring that they are "…brought as speedily as possible for adjudication." In its General Comment no.35, the HRC recommends that accused children be brought before a judge within 24 hours.[45]

(c) Access to Justice: many Palestinian children detained awaiting trial – either under house arrest or in detention- are denied access to lawyers, or required to sign documents, including confessions, in Hebrew – a language that many Palestinian children do not understand.

(d) According to WCLAC's findings, such house arrests tend to disproportionately affect women. This is because mothers usually bear the traditional role of greater responsibility for childcare and housework. Hence, they are more likely to have to stay indoors with the minors under house arrest, in order to monitor them and ensure that they do not break the terms of the sentence, while their husbands leave for work. Also, if minors are allowed to attend school, the mothers must accompany them during the entire duration of school hours. Hence, their ability to work is highly restricted. As a result, these mothers are also socially isolated from their community. Another example of isolation discovered through the testimonies collected by WCLAC is that women fear society's judgment that they were not able to prevent their sons from being put under house arrest. The burden is even greater for women who are single parents or whose husbands are disabled or otherwise unable to work. These restrictions lead to indirect discrimination against women, in violation of Article 3 of the ICESCR, and undermine these women's possibilities to improve their own standard of living including living conditions as elaborated below and their families'.

(e) Because minors' house arrests and of women's role as guardians to their children, women have experienced financial distress due to loss of their source of income. Women are also sometimes left in precarious financial situations, after the period of house arrest, as they are forced to return to low skilled or low paid employment. This leaves them exposed to poverty and maltreatment, but also violates their prospects of autonomy and independence, which are often restricted in a patriarchal society.

(f) Being forced to give up employment can also have long-lasting effects on women's mental health and confidence and creates further tension in the household, which also has a knock-on effect on girls in the sense that girls growing up in family

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[44] Defense for Children International *"Child house arrests rise in Jerusalem clampdown"* (2014) Available at: http://www.dci-palestine.org/child_house_arrests_rise_in_jerusalem_clampdown

[45] UN Human Rights Committee (HRC), General comment no. 35, Article 9 (Liberty and security of person), 16 December 2014, CCPR/C/GC/35, Para.33

settings. In return, this reinforce conservative gender norms will be given the responsibility of household work and childcare, thereby preventing them from enjoying their childhood. WCLAC's professionals also noticed that women who are effectively forced to become like prison guards for their children, expressed psychological pressure placing an emotional strain on their relationships, which endangers the right to the highest attainable standard of physical and mental health. The measures and practices associated with house arrests against minors restrict women's enjoyment of the right to work and to health in line with obligations of States to respect Article 3, which requires refraining from actions that directly or indirectly result in discrimination against women.

(g) Israel's practice of detaining children who are awaiting trial, either in detention or under house arrest, fails to conform with international standards. Such practices against Palestinian children violate their fundamental rights to a fair trial and seriously undermines access to justice.

(h) Right to Liberty: House arrests are a form of deprivation of liberty. As such, house arrests are governed by Article 9 of the International Covenant on Civil and Political Rights, which enshrines the right to liberty and security of persons. This has been confirmed by the UN Human Rights Committee (HRC), which emphasizes that Article 9 applies to all types of deprivation of liberty. [46]

(i) Article 9(1) prohibits arbitrary deprivations of liberty. The HRC has explained that arbitrariness "...is not to be equated with "against the law" but also includes "...elements of inappropriateness, injustice, lack of predictability and due process of law...this includes the principles of reasonableness and necessity."[47] It follows that deprivations of liberty that are unnecessary, unreasonable or inappropriate may amount to a breach of Article 9(1).

(j) Right to Freedom of Movement: the HRC also highlights that the right to liberty of movement protected by Article 12 ICCPR complements Article 9, and "…in some circumstances both articles may come into play together." [48] Such circumstances include in cases of house arrest. In Gorji-Dinka v. Cameroon, the HRC found that the complainant's house arrest was both an arbitrary deprivation of liberty under Article 9(1) ICCPR, as well as an unjustified restriction of the right to freedom of movement under Article 12.

(k) Children's Rights: the UN Convention on the Rights of the Child (UNCRC) [49]requires Israel to promote the best interests of the child in all spheres of life. Yet, Israel consistently ignores this principle in its treatment of Palestinian children, particularly those in the juvenile justice system.

(l) Depriving a child's liberty: the UNCRC provides that the CRC stipulates that the deprivation of liberty of a minor must always be a measure of last resort and for the

[46] General Comment No. 8 [16] on article 9, para. 1
[47] Fongum Gorji-Dinka v Cameroon Communication no.1134/2002 (17 Mar.2005) [5.1]
[48] HRC "General CommentNo.27: Freedom of Movement (Article 12)" (1999) CCPR/C/21/Rev.1/Add.9 para.7
[49] UN General Assembly, Convention on the Rights of the Child (UNCRC), 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3

shortest possible period of time.[50] This has been recently echoed by the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967.[51] Yet, Israel routinely places Palestinian children under house arrest, often for months on end, in the majority of cases for throwing stones at heavily armed Israeli officials to whom they pose no real threat. It is likely that in such cases, house arrests, especially of children, can be considered a disproportionate and unnecessary measure that certainly does not account for the best interests of the child.

(m) If it is considered necessary to deprive a minor of their liberty, the UNCRC provides that their other rights must be protected, including their right to be protected from physical and mental violence ,[52] right to education,[53] right to health,[54] right to private and family life, [55] including to maintain contact with their families, right to be free from torture and inhuman treatment and be treated with dignity and right to access legal assistance.[56]

(n) However, many children placed on house arrest are denied these fundamental rights. For example, children placed on house arrest are often prevented from going to school, or can only leave the house for medical treatment after seeking prior approval from Israeli authorities.

Recommendations:

- Immediately stop the house arrest of minors' policy, which forces women to become prison guards of their own children and hinders them from enjoying their economic, social and cultural rights.
- Immediately launch an independent inquiry into all alleged cases of torture and ill-treatment of Palestinian children, which must encompass bringing to justice anyone who has been ordering, condoning or facilitating these at all levels of the chain of command.[57]

[50] UNCRC, Article 37(b)

[51] OHCHR, "UN rights experts alarmed by detention of Palestinian girl for slapping Israeli soldier" (2017) http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22654&LangID=E

[52] UNCRC, Article 19

[53] UNCRC, Article 28

[54] UNCRC, Article 24(1)

[55] UNCRC, Article 8(1), Article 9(1), Article 16

[56] UNCRC, Article 37(b)

[57] Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session (27 May –14 June 2013), para. 36