

IMPLEMENTATION OF OBLIGATIONS UNDER ICERD ARTICLE 5(E)(III) THE RIGHT TO HOUSING

**INSTITUTIONALIZED DISCRIMINATION AFFECTING NON-JEWISH
PERSONS, IN PARTICULAR THE INDIGENOUS PALESTINIAN PEOPLE
UNDER ISRAEL'S STATE JURISDICTION AND EFFECTIVE CONTROL**

Parallel Report submitted to the
UN Committee on Elimination of Racial Discrimination
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III. Introduction

HIC-HLRN submits this parallel report on Israel's implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, (ICERD) to complement other submissions before the Committee by addressing the State party's systematic discrimination on the basis of "Jewish nationality" status, thus materially disadvantaging the indigenous Palestinian people and other Arab and non-Jewish persons and populations under the jurisdiction or effective control of the State party, Israel. The result of this material discrimination violates a range of ESC rights, particularly the human right to adequate housing (Article 5(e)(iii)), and breaches the Convention, as well as related obligations under other human rights treaties, International Humanitarian Law (IHL) and international criminal law prohibitions.

The present parallel report and its accompaniment, [The Goldberg Opportunity: A Chance at Human Rights Statecraft in Israel](#), respectively, address the State party's practice and consequences of violating the human right to adequate housing and related human rights within the Convention's definition of racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

For historic reasons, the criterion of discrimination on the basis of "religion" is not included in the ICERD definition. While the Jewish/non-Jewish basis of discrimination is generally understood as a category relating to membership in a particular religion (Jewish faith), the particular Israeli system of discrimination ensures that discrimination on that basis falls under ICERD by constructing affiliation in the Jewish faith as both a "race" and, for domestic legal purposes, a distinct "nationality." Belonging to a "Jewish nationality" constitutes a civil status distinct—and superior to—citizenship.

ICERD does not apply to "distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens." However, it does apply to distinctions in the respect, protection and fulfillment of rights created between and among "citizens," and explicitly prohibits provisions that "discriminate against any particular *nationality*" (Article 1.3, emphasis added).

ICERD commits each State Party "to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation (Article 2(a)), and "not to sponsor, defend or support racial discrimination by any persons or organizations..." (Article 2(b)).

The same article obliges each State Party to "take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists." However, despite clear and repeated observations of CERD¹ and

the Committee on Economic, Social and Cultural Rights (CESCR),² the State party has declined to address these breaches.

Recent legal studies and forensic determinations³ have corroborated CERD's findings, cited in its 2007 Concluding Observations,⁴ that Israel has contravened its Article 3 obligation of "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."

While the institutionalization and practice of discrimination on the basis of "Jewish nationality" has many moral and material consequences for all under the State party's jurisdiction and effective control, this report addresses specifically those practices and consequences that relate to the enjoyment of the human right to adequate housing, as enshrined in ICERD, Article 5(e)(iii).

The jurisprudence and General Comments of all of the Human Rights treaty bodies clarify the nature of State parties' obligations to "respect, protect and fulfill" all human rights. HIC-HLRN refers here also to the implementation methodology provided in the first three articles of the Human Rights Covenants, which set forth the over-riding principles of implementation, namely: (1) self-determination, (2) nondiscrimination, (3) gender equality and (4) rule of law. Moreover, States are obliged, in particular, to uphold economic/social/cultural rights (ESCR) by way of (5) progressive realization/nonregressivity, (6) applying the maximum of available resources and (7) international cooperation.

Inherent in the obligations to uphold each of the rights is the extraterritorial dimension of those obligations to respect and protect—as well as, where possible, to fulfill—all rights. The last of the over-riding implementation principles—international cooperation—embodies an important reciprocal dimension of extraterritorial human rights obligations.

In this submission to the Committee, HIC-HLRN also refers to the right of gross-violation victims to reparations, in all of its elements.⁵ Reparation rights arising from gross violations of habitat rights (i.e., to adequate housing, land, water and property related to livelihood) remain unfulfilled in the long-standing and continuous violations of Palestinian refugees, who now number 5.5 million rights holders.

In the particular case of the Bedouin Arab citizens within Israel, reparations also would have to include the restoration of the affected community's good name, following a long government campaign to portray them as outlaws and trespassers in their own lands and villages. Their dispossession, subjection to discrimination, forced eviction, poor socioeconomic indicators, loss of livelihood and, in some cases, statelessness, is a lingering function of a process marked by the depopulation of 108 of their villages and habitations within the current State of Israel between 1951 and 1953.⁶

With its updates on the State party's implementation of the Convention in the various territories under its jurisdiction or effective control, this report also serves as a guide to

the more-detailed reference that HIC-HLRN previously submitted to the Committee (March 2011) in the form of the International Fact-finding Mission report: *The Goldberg Opportunity: A Change for Human Rights Based Statecraft in Israel* (Cairo: HIC-HLRN, 2010). Where relevant, this shorter report refers the Committee members to the passages of that publication that further explain the ICERD human rights issues involved.

The following information also updates the Members of the Committee on Article 5(e)(iii) implementation issues within the occupied Palestinian territories (oPt) of Jerusalem, West Bank and the Gaza Strip. Special focus here is on the occupied Palestinians' housing rights in Jerusalem and "Area C" of the West Bank.

I.A The Context of this 14th–16th Periodic Review

As illustrated below, Israel has disregarded the Committee's Concluding Observations since the State party's initial review. This HIC-HLRN report also highlights those outstanding issues in the context of continued ESCR violations and breaches of Article 5(e)(iii) of the Convention.

In the case of Israel, addressing the principal violations of the right to housing and a bundle of ESCR requires understanding of the causal discrimination institutionalized in Israeli laws and "national organizations." Those laws apply and the corresponding organizations operate to deprive persons not classified as "Jewish nationals" both inside the State party's jurisdiction (citizens of the State of Israel) and in areas of effective control (Jerusalem, West Bank and Gaza Strip). It is essential to understand the systematic features that give rise to the specific symptoms cataloged in this and the other parallel reports before the Committee.

III. General Situation

II.A Nationality v. Citizenship, and Israel's "National" Organizations

The State of Israel maintains a unique system of dual-tiered civil status. It provides "Israeli citizenship" (*ezrahūt*, in Hebrew) based on four criteria (birth, residency, marriage and immigration), as long as claimants of residency and citizenship are not members of a legally defined class of Arab and other neighboring nationalities categorized as "enemies of the State."⁷ However, as restricted as access to Israeli citizenship may be, that status alone does not ensure equal treatment with all other citizens and, in fact, holding only "citizenship" status actually forecloses a bundle of the economic, social and cultural rights.

Meanwhile, Israeli law, policies and institutions establish and maintain a civil status superior to Israeli citizenship, classified as "Jewish nationality." That status, available by way of descent from a Jewish mother, or highly restricted conversion to the Jewish faith, entitles eligible persons to claim "Jewish nationality" and enter areas controlled by Israel to claim rights and privileges explicitly denied to non-Jewish citizens, especially Palestinian IDPs inside Israel and refugees forced outside—indeed, the entire indigenous people—of historic Palestine.

The Israeli High Court has affirmed the fact of institutionalized discrimination on grounds of both legal judgment and state ideology. In the case of *Tamarin v. Ministry of Interior* (1970), a Jewish Israeli petitioner sought to register his nationality as “Israeli,” rather than “Jewish.” However, the Court ruled that “there is no Israeli nation separate from the Jewish nation...composed not only of those residing in Israel, but also of Diaspora Jewry.” The President of the Court Justice Shimon Agranat explained that acknowledging a uniform Israeli nationality “would negate the very foundation upon which the State of Israel was formed.”⁸ A more-recent legal challenge involving 38 petitioners (all Israeli “citizens”) has remained before the courts since 2004, and lengthy procedures have deferred and delayed a ruling on that petition for recognition of a common “Israeli nationality.”⁹

It must be emphasized that, since the 1970 *Tamarin* ruling, the Government of Israel (Ministry of Interior) has acknowledged the existence of some 107 “nationalities” within the State party. That recognition constitutes no progression toward the respect, protection and fulfillment of human rights without discrimination. The common civil status of “citizens” within the State does not form the common basis for the enjoyment of rights. Rather, despite citizenship, the breach of ICERD and its enshrined rights arises from the coexistence of that civil status with multiple nationalities that forms the basis for differentiated status and corresponding rights. And only a single nationality status enables the enjoyment of many rights, as such, in particular, ESCR.

The criterion of “Jewish nationality”—that is, belonging to a Jewish “nation” (*le’om yahūdi*, in Hebrew)—is established in the charters of key Israeli State agencies, World Zionist Organization/Jewish Agency for the Land of Israel (WZO/JA), Jewish National Fund (JNF) and their subsidiaries, which were founded before the Proclamation of the State of Israel for the purpose of colonizing Palestine. As agencies for development of land, housing and economic activity, those organizations continue to serve only “Jewish” beneficiaries on the principle of supporting “Jewish labor.” The JNF charter also enshrines the concept of “Jewish religion, race or origin/descendency.”¹⁰

These parastatal institutions are organically part of the State of Israel today, as affirmed in its *Status Law* (1952) and *Covenant with the Zionist Executive* [World Zionist Organization/Jewish Agency and Jewish National Fund] (1953, amended 1976) and the *Penal Code*.¹¹ They claim to possess and manage 93% of all lands in Israel and Jerusalem (not counting direct and indirect holdings in the other occupied Palestinian territories).¹² Significantly, their parochial charters provide the fundamental principles referenced—and deferred to—in much of Israeli legislation related to land use, housing, immigration and development. In addition, *Basic Law: Law of Return* (1950), for example, establishes immigration for Jews as a “nationality” right not provided in the 1952 *Law of Citizenship* (*ezrahūt*), and effectively excludes the indigenous refugees of Palestine dispossessed since 1947, as well as all non-Jews.

The *Israel Lands (“The People’s Land”) Law* (1960) establishes that lands will be managed, distributed and developed in accord with the principles of the JNF and its

discriminatory charter. The Israel Land Administration (ILA), also established in 1960, has rested on four legal “cornerstones”: *Basic Law: Israel Lands* (1960), *Lands Law* (1960), the *Israel Land Administration Law* (1960), and the *Covenant between the State of Israel and the Zionist Executive* (1953). The Israel Land Council (ILC) determines ILA policy, with Israel’s Vice Prime Minister, the Minister of Industry, Trade, Labor and Communications, as the ILC chairman, while the 22-member Council is comprised of 12 government ministry representatives and ten representing the JNF and its conditions of Jewish-only beneficiaries. This composition and the standard reference to the “principles” of the JNF, WZO and/or JA ensure institutionalized discrimination practiced by the State party on behalf of these parastatal institutions.

In its nineteenth session, CESCR reviewed Israel’s implementation of the Covenant on Economic, Social and Cultural Rights (ICESCR) and noted in 1998:

“...with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are chartered under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel’s obligations under the Covenant.”¹³

In a strong recommendation, that Committee urged “the State party to review the status of its relationship with the World Zionist Organization/Jewish Agency (WZO/JA) and its subsidiaries, including the Jewish National Fund (JNF), with a view to remedying the problems identified...above.”¹⁴ No such review has taken place.

Despite the long assertion of the WZO/JA and JNF as entities to be recognized as subjects of public international law,¹⁵ the State party has more recently also asserted that these parastatal institutions are (1) merely symbolic institutions and (2) operate in the private domain and, thus, presumably beyond the purview of public international law and human rights, as these organizations have registered in Israel under “private law.” However, CESCR has concluded, nonetheless, that;

“...the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel’s obligations under the Covenant.”¹⁶

This finding relates also to the CERD criteria for reporting under Article 5 of the Convention, such that:

The rights and freedoms referred to in article 5 of the Convention and any similar rights shall be protected by a State Party. Such protection may be achieved in different ways, be it by the use of public institutions or through the activities of private institutions. In any case, it is the obligation of the State Party concerned to ensure the effective implementation of the Convention and to report thereon under article 9 of the Convention. To the extent that private institutions influence the exercise of rights or the availability of opportunities, the State Party must ensure that the result has neither the purpose nor the effect of creating or perpetuating racial discrimination.¹⁷

Having observed the consequent pattern of discrimination on the basis of a distinct, constructed “nationality” status separate from citizenship where such institutions operate in the public domain and on behalf of the State party, by 2003, CESCR had noted that it was

“...particularly concerned about the status of "Jewish nationality," which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees. The Committee is also concerned about the practice of restrictive family reunification with regard to Palestinians, which has been adopted for reasons of national security. The Committee reiterates its concern in this regard.”¹⁸

That observation reiterated CESCR’s concern about the special status provided in law to a distinct category of persons obtaining citizenship. That Committee noted five years earlier

“...with concern that the Law of Return, which allows any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements which make it almost impossible to return to their land of birth.”¹⁹

Thus, at that time CESCR “strongly recommended that”:

“In order to ensure respect of article 1 (2) of the Covenant and to ensure equality of treatment and non-discrimination, the Committee strongly recommends a review of re-entry policies for Palestinians who wish to re-establish their domicile in their homeland, with a view to bringing such policies level with the Law of Return as applied to Jews.”²⁰

Nonetheless, as noted again in 2001, CESCR “continues to be concerned that the State party’s Law of Return denies indigenous Palestinian refugees the right to return to their homes and properties.”²¹

II.B Extraterritorial Dimensions

From bases in some 50 other countries, the same Israeli State agencies that are the sources of the concept and administrative expression of “Jewish nationality” have recruited Jewish citizens of other State Parties and their financial contributions to carry out population transfer of Jewish settlers to replace the indigenous Palestinian people in

Israel and to colonize the oPt.²² The WZO/JA, JNF and their affiliates coincidentally are the same organizations currently concentrating development efforts on the ethnically Palestinian Arab areas of Galilee, the Naqab region, West Bank and East Jerusalem for exclusive Jewish settlement to ensure an “ethnic” Jewish demographic domination of the region. Much of the external contributions to such projects are solicited in the form of tax-exempt donations solicited from those countries—including ICESCR State Parties—in which WZO/JA, JNF and affiliated organizations have registered to operate tax exempt as “charitable associations.”²³

IIII. Recent Legislative Developments Affecting Housing Rights

Since the Committee’s last review of the State party, legislation in the form of the *Israel Lands Authority Law, Amendment 7* (2009) and a 2010 amendment of the *British Mandate-era Land (Acquisition for Public Purposes) Ordinance* (1943) introduced tactical adjustments to the land-tenure system in Israel. The 2009 amendment authorizes more powers to the JNF in its special status and role in land management. It also establishes the Israel Lands Authority (ILA) (no longer “Israel Lands Administration”) with increased powers, provides for the granting of private ownership of lands, and sets approval criteria for the transfer of State lands and Development Authority lands to the JNF. The 2010 amendment “makes sure” that lands expropriated for “public use” do not “revert” to their original owners, and now can be transferred to a third party (likely the JNF). The 2010 legislation also circumvents the Israeli Supreme Court’s precedent-setting judgment in the 2001 *Karsik* case,²⁴ which obliged authorities to return confiscated land in the event that it has not been used for the purpose for which it was confiscated.

According to these recent amendments, the JNF will continue to hold large representation in the Israel Lands Authority with six of 13 members (which also may function with just ten members). That ensures JNF’s continued key role, ensuring discrimination against indigenous Palestinians in the development of policies and programs affecting 93% of lands in Israel.

These recent amendments allow the state and the JNF to exchange lands, in order to facilitate “development” through the privatization of lands owned by the JNF in urban areas. Such a swap would have the State receive JNF land in urban areas that could be privatized, while the JNF would receive 50–60,000 dunams²⁵ of land for “judaization” in the Galilee and the Naqab, where the indigenous population of Palestinian Arab citizens of Israel remain most concentrated.

As in the past, the JNF agrees that the new Israel Land Authority will manage its lands, whereas ILA is committed to do so consistent with “the principles of the JNF in regards to its lands” (Article 2); i.e., serve “Jewish nationals” exclusively. In addition, the JNF has committed to contribute NIS 100 million (€20.5 million) from its own sources to further development of the Naqab.

The amendments enable further circumvention of legal oversight and legislate against equality in land-use rights. As the JNF’s charter excludes non-Jews from benefiting from

its land or services, any such transfer of public land to the JNF prevents *citizens'* equal access to land. In other words, the State will be able more readily to “judaize” more land and discriminate against its non-Jewish citizens in the Naqab and Galilee—and elsewhere—by transferring these lands to the JNF.

The new 2010 law appears to prevent—or severely impede—Palestinian Arab citizens of Israel from ever reclaiming their confiscated land. It forecloses such citizens' right to demand the return of the appropriated land in the event that it has not been used for the public purpose for which it was originally taken, if that ownership has been transferred to a third party, or if more than 25 years have passed since its confiscation. Well over 25 years have passed since the confiscation of the vast majority of Palestinian land, including refugee lands taken in the 1947–49 population transfer, as well as in the 1951–53 depopulation of Naqab villages. Meanwhile, the ownership of large tracts of land has been transferred to third parties, including Zionist institutions such as the JNF.

III.A Legalistic Reasoning

The ILA rationalizes its policy of restricting bids for JNF-owned lands to Jews only by citing the Covenant between the state and the JNF (1961). Under that agreement, the ILA is obliged to respect the objectives of the JNF, which include the acquisition of land “for the purpose of settling Jews.”²⁶ Thus, JNF serves as the State’s subcontractor for discrimination based on a constructed “Jewish nationality,” and not Israeli citizenship.

This legal and institutional framework ensures that housing, land, immigration and development rights and values are exclusively for “Jewish nationals” to enjoy.²⁷ Most indigenous inhabitants of Israeli controlled areas are not Jewish, including the majority population of the Galilee and the “unrecognized” village residents and citizens in the Naqab inside the internationally recognized borders of the State of Israel.

Where these institutions and legal reasoning are applied also in the Israeli-occupied Palestinian and Syrian territories, they result in the implantation of settlers and settler colonies, while dispossessing the indigenous inhabitants of Jerusalem, West Bank and Golan Heights, respectively.

IV. The right to an adequate standard of living: Consequences for households below the national poverty line, including inside the State of Israel and in the occupied Palestinian territories.

<i>Inside the State of Israel</i>	<i>Under Israeli Occupation</i>
<p>The Palestinian citizens in Israel find themselves in a unique situation compared to fellow citizens in Israel. They are not entitled to the same rights as Jewish Israeli citizens and are not included or represented in the political negotiations.</p> <p>They mostly live in separate areas, with a separate education system, as a result of this pattern of separate development they find themselves subject to policies of "economic discrimination," because Israel's budgets are disproportionately distributed between the Palestinian and Jewish communities.</p> <p>As of 2010, the Arab and Ultraorthodox Jewish communities count as the poorest in Israel, with a poverty rate of 50% for Arabs and close to 60% for the Ultraorthodox. They are separate from the mainstream population and the core of economic activity. The econometric evidence comparing wages and employment rates points to discrimination against the indigenous Arab population.²⁸</p> <p>During 2009, in all, 15,000 families were added to the poor population; 14,300 of those were Arab households. The downward trend in the incidence of poverty among Arabs in the last few years has been more-recently reversed. Notably, poverty among Arab families increased from 49.4%, in 2008, to 53.5%, in 2009. The severity of poverty</p>	<p>In oPt, poverty and unemployment continue to worsen, as 22% of Palestinians throughout the oPt live below the poverty line (15.5% in the West Bank and 33.2% in Gaza). At 2009, the number of families living in deep poverty stood at 12% (7.5% in the West Bank and 20% in Gaza), subjecting 430,000 children to the vulnerabilities of poverty. In communities affected by the Separation Wall, poverty is higher than the oPt average. Years of damage to agricultural land and other natural resources, plus the impact of closures and restrictions on the movement of goods on the economy in Gaza Strip have resulted in widespread loss of income. Poor households in Gaza Strip are poorer than the households in the West Bank.³²</p> <p>Five UN experts recently issued a statement on the "Palmer Report" of the <i>Mavi Mara</i> flotilla incident, saying that "the Israeli blockade is the primary cause of the poverty and deprivation experienced by the people of Gaza. In order for Gazans to have access to the economic opportunities necessary to pull themselves out of poverty...all Gaza entry points must be opened to facilitate freedom of movement for individuals, the unhindered inflow of investment and industrial and agricultural inputs, and the export of products from Gaza."³³</p> <p>The UN experts emphasized that "there is also an urgent need to ensure that sufficient quantities of medicines, fuel, spare parts for damaged infrastructure, as well as cement,</p>

(FGT) increased by 19%, while the dimensions of poverty by districts indicated that the poverty among Arab families increased from 59% to 71.2%. The percentage of poor Arab persons in the Jerusalem District is 75.3%, and that of poor Arab children is 83.1%, as compared to 29.2% overall. The Jerusalem District continues to be the poorest urban district; and the Arabs and ultra-Orthodox in Jerusalem and south are the poorest populations in the country.²⁹

In the southern Naqab (Negev) region live more than 180,000 Bedouin Arab citizens. The Bedouins who are living in 45 “unrecognized” villages are suffering and affected more than those for whom Israel has created seven “townships” or the few officially recognized villages. The “unrecognized” villages are totally omitted from any Israeli statutory plans. The two sides—the State and these indigenous communities—are locked in opposition, faced off in an asymmetrical struggle marked by an aggressive development push by the Government of Israel (Gol) and State agencies to remove the “unrecognized” villages and expand contiguous Jewish settlements, “judaizing” the region and taking over the land of the indigenous citizens.³⁰

Consequently, in 2009, two out of three Bedouins lived below the poverty line, and their access to social services such as education, health care, water, electricity and housing is among the lowest in the country. They also endure the highest unemployment rate in Israel (over 50%), with 60% of the population living under the poverty line.

Among the female population, only 10% of Bedouin women participate in the workforce, compared with 20% of Arab Israeli women and 80% of Jewish Israeli women. The

sand and other construction materials, are able to reach the people of Gaza.” Israel still bears responsibility for implementing its covenanted human rights obligations in the occupied Palestinian territory; and the blockage of Gaza continues to violate international law.³⁴

The grinding poverty of Gaza is having an effect on indivisible rights, particularly those of children. Poverty is forcing more and more children out of school and into the cheap labor market, with long-term consequence for education and livelihoods.³⁵

Families forced from their homes in the West Bank are suffering from abject poverty, often lacking food, medicine and humanitarian assistance. In Area C—60% of the West Bank, under direct Israeli control—the poorest sections of society are suffering disproportionately because basic infrastructure is not being repaired due to Israel's refusal to approve the work. While the blockade of Gaza has dominated the headlines in recent months, the international community also risks neglecting the fate of the poorest communities in the West Bank.³⁶

economic conditions are exacerbated by the high population growth among the Bedouin, ranked as one of the highest in the world, with annual growth at 5%. Currently, 60% of the Bedouin population is under the age of 17, and only 1.5% is over the age of 65. Infant mortality among the Bedouins is 17/1000, as compared to 4/1000 among Jews and 7/1000 among Arab citizens of Israel generally.³¹

V. A Continuum of Home Demolitions and Displacement: *Although, the Concluding Observations of the Committee in 2007 emphasized its concern about the relocation of inhabitants of unrecognized Bedouin villages in the Negev/Naqab to planned towns, Israel continues in breaches its corresponding obligations.*

Inside the State of Israel	Under Israeli Occupation
<p>By the time of this writing, Israel authorities have destroyed the Bedouin village of al-`Araqīb, in the Naqab, for the 21st time, ostensibly in favor of a Jewish National Fund (JNF) forestry project: Ambassadors Forest. The village is home to Israeli citizens many of whom have served in the army. Through the selective enforcement of law and the denial of justice to the villagers, Israel has given itself the necessary permits to destroy the village time after time. In other words, had the residents of al-`Araqīb been Jewish citizens of Israel (“Jewish nationals”), the village would not have been destroyed, but fully legal and serviced.</p> <p>On 11 September 2011, Israel’s Cabinet authorized the “Praver Plan” to evict as many as 30,000 Bedouin citizens in the Naqab and concentrate them into planned townships such as Rahat, Khura and Ksayfe. There, they will be permanently denied land tenure and offered some financial</p>	<p>Israel has continued in breach the right to housing for Palestinian rights, also denying access to the land as an essential housing and livelihood resource, and affecting Palestinians’ right to self-determination. Most notably, the practices of State party in the West Bank during the review period include “Area C,” where Bedouin communities have been subjected to constant house demolition, forced eviction and displacement.</p> <p>During 2011, Israel authorities demolished 622 Palestinian structures and displaced 1,094 persons. Of these, 222 were family homes; and the remainder were livelihood-related, including water storage and agricultural structures.⁵¹</p> <p>The largest number of the demolitions were recorded in Jordan Valley (32% of total structures demolished, 40%</p>

compensation. Some have called this plan a “declaration of war on the Bedouin.”³⁷

The denial of “nationality” status is the source of the pattern of discrimination presented in this and the other parallel reports for the Committee’s 47th session. That proscription does not actually appear explicitly in the text of a single Israeli law, but in the implicit subordination to the discriminatory principles of the parastatal organizations carrying out essential functions of the state, managing natural resources and development. As explained further below, for example, Israeli urban planning criteria for official recognition of villages are not published, but many long-standing and populous Arab villages in the Naqab and Galilee remain “unrecognized,” while nearby Jewish settlements—notably smaller than the supposed minimum 50-household population criterion—are “recognized” with all services, rights and privileges. The operative criterion for recognizing and servicing Jewish settlements and denying the Arab villages their statutory status and corresponding access to rights, including public services, is their lack of “Jewish nationality.”³⁸ Those disadvantaged communities remain “unrecognized” in nationality and in planning criteria as a fundamental obstacle to their sustainability and development.

The present practice of State authorities incrementally demolishing the unrecognized villages has been ongoing for at least 25 years.³⁹ The ostensible premise has been, and continues to be the homeowner’s “lack of a permit.” Great numbers of demolitions in the eight years from 2001 to 2009 are shown in the table below. Over that period, the demolitions have averaged some 107 per year. The rate of

of residential structures demolished, 37% of people displaced), with 199 structures demolished and 401 people displaced.⁵² Since 2000, East Jerusalem has been a target for a large-scale Israeli campaign forcibly to displace as many Palestinians as possible. Families have not only been fined for “unlicensed building,” but also were forced to pay large amount of money for the demolition expenses. That has forced some of them to demolish their own houses, in order to spare themselves of any extra costs, since demolitions are inevitable.

Table 1: House Demolitions in the West Bank

Governorate	Year		
	2009	2010	2011
Jerusalem	77	39	13
Nablus	2	20	10
Tubas	17	50	20
Hebron	-	13	46
Bethlehem	-	7	1
Qalqiliyya	-	-	4
Salfit	-	2	-
Jenin	-	-	-
Jericho	-	3	19
Ramallah	-	6	10
Tulkarm	-	-	-
Annual totals	96	140	123
Grand Total	359		

Source: Land Research Center, Jerusalem (2011)

Data gathered from the Land Research Center’s field research across Jerusalem and the West Bank reveal that Israeli authorities have demolished over 1,000 in

demolition has risen alarmingly in the later years, to 400 in 2008. The total number of people rendered homeless by these demolitions has averaged 730 persons annually, with some 2,700 made homeless in 2008 alone.⁴⁰

Under such euphemisms as “Blueprint Negev,” the “Development Plan for the Negev” and “safe-guarding the land,” the State has accelerated demolitions of Bedouin citizens’ housing as HLRN carried out its 2009 field investigation. Since that time, the Gol demolished at least 356 homes and other structures in the Naqab, making at least 2,300 persons homeless.

Additionally, many more houses are demolished by owners themselves (to avoid a criminal charge and a hefty fine).

The number of these is estimated to be similar to the number demolished by the authorities, but those are not counted in the official figures. Therefore, the problem is far greater than these numbers imply.

No apparent pattern emerges from these demolitions. The fluctuations over time depend on political conditions,⁴² and the choice of houses to be demolished also may depend on

House Demolitions in Unrecognized Villages, 2001–08	
Year	Number ⁴¹
2001	8
2002	23
2003	63
2004	23
2005	15
2006	96
2007	227
2008	400
2009–10	356
Total	1,211

those areas since 2001.

Israeli authorities introduced the practice of self-demolitions (or “silent demolition”) in 2009, whereby nine families were forced to demolish their homes with their own hands. 25 houses in 2010, as well as 13 other in 2011, faced the same fate.⁵³

The Israelis have been using various laws to legitimize the demolishing of Palestinian houses and structures, while claiming that they are to be used for public purposes. However, the truth is that the Palestinian expropriated properties have been used for colonization projects.⁵⁴

Table 2: House Demolitions in East Jerusalem (1 January 2000–28 September 2011)

Year	Residences	Rooms	Area (m ²)	m
2000	37	109	2,358	
2001	72	373	11,333	
2002	69	315	8,554	
2003	145	568	18,830	
2004	183	518	16,532	
2005	120	441	13,322	
2006	78	326	8,092	
2007	94	355	9,535	
2008	95	232	8,754	
2009	77	228	6,572	
2010	39	114	3,020	
2011	13	38	805	
Total	1,022	3,077	10,7707	

Source: Land Research Center, Jerusalem (2011)

political or ideologically symbolic factors.

Data obtained by Israel's *Haaretz* newspaper actually puts the composite figures much higher. The daily has reported that Gol demolished 225 structures in 2008, 254 structures in 2009, and that Gol claims it will triple these numbers for 2010, with an expected 700 structures to be destroyed and 9,000 dunams of land to be deep plowed to prevent construction.⁴³

The number of houses with demolition orders (some with more than one) currently totals well over 10,000.⁴⁴ In several unrecognized villages such as al-Qrain, which HLRN's international investigative team visited in 2009, the Israeli authorities have served *all* the houses with demolition orders.

Government sources indicate that 1,500⁴⁵ additional "illegal" structures are built each year, and that the total number of "illegal" structures is 50,000.⁴⁶ According to other government figures, 45,000 "illegal" Bedouin structures in the Naqab today are subject to demolition, whether or not they have standing demolition orders against them.⁴⁷ These figures may well include houses built before the planning law became operational, many of which have demolition orders nonetheless. With 10,000 reported Naqab demolition orders pending, the actual government demolition campaign is far outpaced by the indigenous people's residential stamp on their own territory, as well as other territories to which Israeli State agents have evicted them since 1951.

Besides the tremendous material damage, the demolition of

Construction in "Area C" has been undergoing a great deal of Israeli restrictions and limitations. The Israeli measures have resulted in the demolition of more than 350 Palestinian houses in the last three years, thousands other houses have already been served demolition orders due for execution. Thus, thousands of Palestinian houses and structures are facing day-to-day demolition threats.

Palestinian construction is effectively prohibited in some 70% of Area C, in areas that have been allocated for the use of Israeli settlements or the Israeli military. The remaining 30% there are under a range of other restrictions that greatly reduce the possibility of obtaining a building permit.

In the first six months of 2011, OCHA also recorded the Israeli authorities' demolition of 342 Palestinian-owned structures in Area C, including 125 residential structures and 20 rainwater-collection cisterns. Those demolitions displaced a total of 656 Palestinians, including 351 children. Moreover, at least 3,000 demolition orders remain outstanding, including 18 targeting schools.

This is almost five times as many structures demolished and people displaced as during the equivalent period in 2010.⁵⁵ OCHA affirmed that the demolitions in this year increased the affected families' dependency on humanitarian aid, and that they have suffered multiple waves of demolitions. Ten out of 13 communities visited by OCHA confirmed that families are leaving because of the ongoing violations by Israel authorities in Area C that made it impossible for residents to meet their basic

homes causes anguish, great financial loss and is a threat to health, particularly of children of the affected family. The deplorable standards of housing in the unrecognized villages are very substantially due to the threat of demolition: Houses are built and rebuilt furtively, using cheap materials and often avoiding the use of “permanent” materials (i.e., masonry and timber) that are more likely to be demolished. Houses are small, with high levels of overcrowding.

Much of the precarious nature of housing continues for communities from the 108 villages and habitations that the Israeli army and authorities depopulated in 1951–53. They were forcibly resettled into an area known as *al-siyāj* (the enclosure).⁴⁸

As early as the 1950’s, dispersed Bedouins began to reform communities (known as “*pzūra*,” in Hebrew, or “scatterings”) and today official sources count 62,500 people in such unrecognized villages. Their makeshift constructions built of stone, corrugated iron and tin, as well as tents, are considered as “illegal,” because they occur outside of established planning zone and mechanisms, and without building permits.

Israel’s Goldberg Commission for Regulating Bedouin Settlement in the Naqab reported the conditions there:

As the villages are unrecognized, they receive no municipal budget, they have no system of local government, and the residents do not pay municipal taxes. As they have no approved plan, they cannot receive planning permission, the State prohibits all building and all current structures are illegal. The population in these villages does not receive

needs or maintain their presence on the land.⁵⁶

In its emergency appeal at end-2010, UNRWA reported that, in West Bank, more than 600 people were displaced due to demolitions and evictions in 2010, and 368,000 persons in 182 communities were directly affected by the Separation Wall. Also, those communities continue to face social, political and other pressures from the Israeli authorities. Land expropriation, settlement building, home demolitions and discriminatory planning have left 13% of East Jerusalem and only 1% of Area C zoned for Palestinian construction.

Bedouins in Area C are the most-vulnerable and most-marginalized communities there, subject to gross violations as result of the “closure system” that was applied by the Israeli occupation. UNRWA has declared the Bedouins in West Bank to be an “endangered” ethnic group.⁵⁷

In Area C, especially through summer 2011, Bedouin Palestinians have been targeted by aggressive Israeli policies aimed at pushing them (among other Palestinian communities) out of Area C. Eleven of the 12 Bedouin communities received active demolition/displacement orders. Although injunctions have been obtained, temporarily freezing demolition orders, the orders may be reactivated at any time. They also face the possibility of additional orders being issued against the communities.

Families receiving a second demolition/displacement

orderly government services, and they do not have basic infrastructure (water, electricity, sewage, roads and so forth). The water situation is deplorable; water is of poor quality and inadequate availability, and only a portion of the inhabitants are connected through private piping to the mains supply on the main roads. The rest have to bring water over long distances in containers.⁴⁹

JNF Forestation against the Villages

The Jewish National Fund for the Land of Israel (JNF) manages land and other properties “redeemed” by Israel for persons of “Jewish race or descendance,” in the words of its charter. Among its methods, forestation ensures that the lands remain under Jewish possession.

Fulfilling part of the functions of State, the JNF is one of the most powerful parastatal institutions in Israel. Not only does JNF senior staff dominate the board of the ILA, the JNF’s claimed charitable status abroad has allowed it to collect tax-exempt contributions that fund its activities. The JNF forestation programs across historic Palestine have been central to ensuring that the indigenous inhabitants—including refugees of some 351 Palestinian villages that Israeli forces depopulated in 1947–49—are prevented from returning to their homes, villages and lands. JNF planting in the Naqab has intensified with time, especially affecting three unrecognized villages just outside the edge of the *siyāj*: Twail Abū Jarwal, al-`Araqīb, and Karkūr.

Forcefully removing residents in the early 1950s to allow for “army manoeuvres” with the promise of their return six months later, Israeli institutions and authorities have prevented the residents’ return ever since. After multiple

order are often only given three days to leave their house. Such is particularly problematic if the order is issued on a weekend (Thursday for example, while official departments are not open on Fridays and Saturdays), as then there is no opportunity for legal intervention. Social fragmentation is a consequence of Israeli policies aimed at limiting space for Bedouin communities to reside in. Due to limited space, the communities had to disperse into smaller groups and settle into separate areas, also creating rivalry on both tribal and personal levels.⁵⁸

In early 2010, the Israeli Civil Administration in the West Bank responded to a petition by Regavim (National Land Protection Trust) to continue Bedouin house demolition, pledging to prioritize the destruction of:

- a. Houses or agricultural facilities built on land classified as “State Land.”
- b. Houses or facilities in proximity to Jewish settler colonies, the Separation Wall, or security zones, as classified by the Israeli Civil Administration.
- c. Houses within Palestinian communities located in “Area C” as per the interim agreements.”

And that will affect the Bedouin communities and they will face eventual demolition and displacement by the Civil Administration across Areas C.⁵⁹

Israel controls approximately 90% of the Jordan Valley and has “Judaized” it: 119 km² (12%) is held by 37 illegal settler colonies, housing 9,500 settlers; 318 km² (20%) comprise 26 declared “nature reserves” (only four are open to the public); and 736 km² (46%) are closed

displacements, some families of the Talālqa tribe decided ten years ago to join the few families remaining on the land of their original village of Twail Abū Jarwal, three miles away. The Gol responded by razing the rebuilt village to the ground “more than thirty times in the past few years.” To impede the resurrection of the village, the JNF now is planting a forest on the village lands, as it has done over the ruins of many Palestinian villages depopulated in the course of the 1948 war. Israeli police threatened the people of Twail Abū Jarwal in March 2010 that more severe force will be used to evict them for good, without providing any housing solution for them.

Most of the al-`Uqbi tribe were forced off their traditional lands in al-`Araqīb and on to other Bedouin families' lands within the *siyāj*. Many now live in the unrecognized village of al-Qrain, where all houses remain under demolition orders. Meanwhile, the inhabitants possess Ottoman-period documents proving their ownership of the land and aerial photographs from the British Mandate period showing their cultivation of the same. To prevent the original residents from returning to their lands at al-`Araqīb, the JNF has been planting a forest since 1999. Its current project is to expand the “Ambassador’s Forest” to cover the original village

On 3 March 2010, Member of Knesset Dov Hanin (Hadash) asked the Minister of Agriculture and Rural Development Shalom Simhon why the JNF is planting trees in the area of al-`Araqīb when the land is not designated as forest land, but for agriculture. Mr. Simhon replied that, despite the land’s designation, the authorities have decided to plant a forest there, because wherever a forest has been planted, the “national” lands are “protected.”

military zones.⁶⁰

In Khirbet Yarza, located in the northern Jordan Valley, two Palestinian communities face a range of restrictions, including threats to physical safety by the Civil Administration as a result of the Israeli army’s declaring that the area in which they live as a closed area for military training. In addition, the community has faced repeated waves of demolitions, including of the community’s mosque due to the inability to obtain permission to build legally.⁶¹

In 2011, 60% of the total structures demolished were in pastoral communities. The affected residents represent over 80% of the total people displaced.⁶²

In the West Bank, such vulnerable Palestinian communities are at risk from the Israel authorities, while also at risk from Jewish settler attacks supported by Israeli police, border guards, and Special Forces. Such attacks have targeted the Bedouins especially, seeking to remove and demolish their dwellings, in order to build Jewish settler colonies in their place.

Many Bedouins have suffered related injuries due to settlers’ and police use of firearms, sound bombs, tear gas and beating with clubs, as well as carrying and dragging the Bedouins bodily to force them to abandon their dwellings, which are demolished and leveled immediately with Israeli bulldozers. Such incidents have occurred, for example, in Bi’r al-Maskūb and Wād Abū Hindī areas, where the victims were forced to move on the pretext of road construction. Other such attacks

Inhabitants of al-Qrain now risk a third dispossession as this village's land is planned to become another JNF forest as well.

On 27 July 2010, Israeli authorities demolished the entire village of al-`Araqīb, destroying about 40 homes and leaving approximately 300 Bedouin homeless. In the process, many of the residents' cattle, trees and belongings were lost. According to police spokesman Mickey Rosenfeld, the homes were considered "illegally built" and "were destroyed in line with a court ruling issued 11 years ago [that] was never implemented." At 05:00 AM on 10 August 2010, and for the third time in three weeks, the Israeli Land Authority (ILA) demolished the rebuilt homes of the residents of al-`Araqīb. The residents had built temporary shelters after each of the demolitions, but authorities, using overwhelming force, demolished all of these shelters. After all structures were destroyed in the village, Israeli authorities confiscated all building materials and removed them from the site.⁵⁰ By the time of this publication, this scenario has played itself out 21 times.

have taken place on al-`Azariyya (Bethany), `Anāta, Hizma, Jabā' and Mukhmās village lands, in order to establish or expand Jewish settler colonies.⁶³

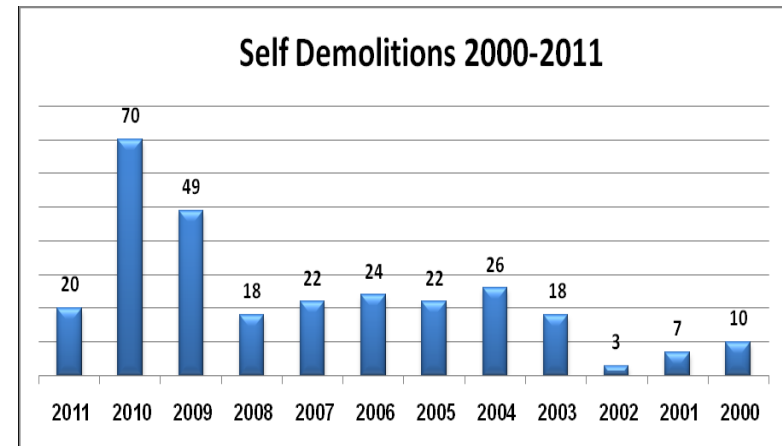
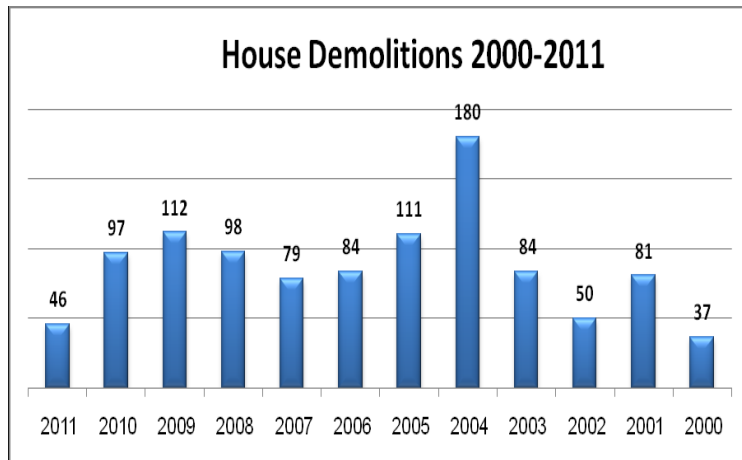
Many such violations also are related to the Separation Wall. One 2008 example affected the Ka'abnah community on the lands of Mukhmās village, northeast of Jerusalem, in the area known as Baqā'a. There Muhammad from the Ka'abnah clan reported that a large military force accompanied by a military bulldozer came on 2 January 2008 and started to break down 13–14 barracks, including five housing barracks and another one for keeping livestock. As a result, the dwellings of Omar `Arar and Sulaimān Salmān were demolished and they were not allowed to evacuate any piece of their furniture. The families and the sheep were left in the open air.⁶⁴

On other hand, in the olive-picking season 2011, more than 70 aggressions resulted in burning more than 3,408 olive trees.⁶⁵ In October 2011 alone, Jewish settlers burned 2,600 olive trees. 53% of the losses were sustained in Nablus Province, followed by Salfit Province at 24%, while most of the attacks were carried out by settlers in cooperation with Israeli occupation soldiers.⁶⁶

In Jerusalem during 2001–2011, the Israeli government has demolished 1,059 residential and nonresidential structures, displacing approximately 4,865 persons.⁶⁷

Since 2000, the forced self-demolition, increasing where Israeli authorities forced 289 persons to demolish their houses by their own hands, and 2010 has witnessed 70 self-demolitions, the highest rate for any year to date.⁶⁸

Demolitions of Palestinian Homes in Jerusalem. 2000–2011



Source: Al-Maqdese for Society Development (MSD), "Report of House Demolitions in East Jerusalem 2011," 4 January 2012, at: <http://home.al-maqdese.org/attachment/000000388.pdf>

VI. The Right to Water: “National”-izing the Source of Life

Inside the State of Israel	Under Israeli Occupation
<p>Water also is a strategic natural resource subject to discriminatory distribution within Israel and the areas of its effective control. The ultimate authority in water-resource planning and management rests in the hands of the Mekorot and Tahal Israeli water authorities. Those two “national” organizations have been founded and owned by other Jewish “national” institutions. The former was established by the Jewish Agency, Histradūt, and Jewish National Fund, the latter is majority owned by the Israeli Government, with minority shares divided between the Jewish National Fund and Jewish Agency. This report provides explanations below on the distribution policy and mechanisms of such “Jewish nationality”-based discrimination in practice.</p> <p>The JNF’s “Blueprint Negev”⁶⁹ looms as an example of such an Israeli parastatal program in the southern Naqab region with both private and Israeli government financing. It favors Jewish settlers’ implantation and development in the ancestral lands and properties of the indigenous Naqab population, which is still living marginally among them and holding mere citizenship in Israel, having no <i>bona fide</i> “nationality” in the Jewish state.</p> <p>In Concluding Observations Israel in its thirtieth session, the Committee expressed that it was:</p> <p>“...deeply concerned about the continuing difference in treatment between Jews and non-Jews, in particular Arab and Bedouin communities who reached to 170,000</p>	<p>The State party has continued to deny the occupied populations their right to control their own natural resources as a function of its denial of Palestinian self-determination. For 4½ decades of its military occupation, Israel has assumed near complete control over all Palestinian water sources. In 1967, the occupation authorities destroyed more than 140 Palestinian wells in the Jordan Valley, to divert water through Israel’s “National” Water Carrier (Mekorot). Israeli discrimination in the allocation of water is part of the structural oppression of the occupied people, perpetuating a system of institutionalized discrimination, an unsustainable economy and prohibiting any possibility of a viable Palestinian State.</p> <p>Israel has confiscated many of occupied Golan's water resources, preventing the local Arabs from using them. Local water was piped to settlements and into Israel proper. Israel also has dug wells adjacent to springs, thereby depleting the run-off available for local farmers. Maximizing the remaining water, farmers adopted new forms of irrigation, including transforming the old canal system into a modern pipe system.</p> <p>In Golan’s Arab villages are four main kinds of water resources: (1) underground springs that run year-round but that Mekorot has reduced by tapping into them; (2) wells and man-made pools that are privately owned, but that Israel subjects to licensing and taxation; (3) Ram Lake in the vicinity Masa`da (volcanic natural lake) containing 5mcm, but which Israel restricts to allow irrigation of only 180 dunums of Arab</p>

persons, with regard to their enjoyment of economic, social and cultural rights in the State party's territory. And its concern that the excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens."...This discriminatory attitude is apparent in the continuing lower standard of living of Israeli Arabs as a result, inter alia, of higher unemployment rates, restricted access to and participation in trade unions, lack of access to housing, water, electricity and health care and a lower level of education, despite the State party's efforts to close the gap. In this regard, the Committee expresses its concern that the State party's domestic legal order does not enshrine the general principles of equality and non-discrimination."⁷⁰

This observation reiterated the observation from the Committee's earlier nineteenth session, in which it noted:

"The Committee expresses concern that excessive emphasis upon the State as a "Jewish State" encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, inter alia, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice."⁷¹

However, the Committee's observations remain unheeded and unanswered for 13 years.

land, while the remaining water is piped to settlements in the Golan as far as 70 kilometers away; and (4) iron tanks that were built to collect rainwater.

Israel extended its civil law and administration to the Golan Heights in 1981, despite The Hague Regulations and Security Council prohibition.⁷⁶ Israel's Water Law (1959) appropriates all water resources to the State of Israel, and subjects all water use to Gol approval. Israel forbade Golani Arabs from drilling for water, metered and taxed the Arab-built rainwater collection tanks, then banned their construction since 1984. Ram Pool, is now closed to Arab use. Meanwhile, Israel allows its settlers to consume up to 17 times more water than Golani Arabs.

Israeli practices have depleted the availability of water for many communities in oPt. While 15% of the Palestinian population has no access to the water network, those who are access are subjected to the whims, cost, conditions and discriminatory premise of Mekorot.

The Israeli Army has damaged the water infrastructure in 202 communities and the water network in 255 communities. UNDP, the World Bank, UNESCO, and USAID estimate that the Israeli army has destroyed at least US\$7 million worth of West Bank water infrastructure in March–May 2002.⁷⁷ On 30 January 2003, the Israeli military destroyed two wells in Rafah, in the Gaza Strip, that provided nearly half of the city's drinking water supply. Furthermore, water tanker drivers and water maintenance personnel have been physically attacked and threatened by the Israeli army and illegal settlers.⁷⁸

The Separation Wall across also a "water wall." Some of the

With a double standard operating as criteria for official recognition of a settlement in Israel, it is clear that the operative criterion denying the Arab villages their statutory status and corresponding access to rights, including public services such as water, is their lack of Jewish nationality.⁷²

In 1982, Israel transferred the water infrastructure to the Mekorot Company, the “national” water carrier and affiliates, with a specific policy of denying clean and accessible water to the residents of the unrecognized villages. The Water Commissioner has refused applications of hundreds of families for Mekorot water company connections. Many are forced to buy their drinking water from a central location and pay for transport in unhygienic metal containers or improvise plastic hose connections from water access points located several kilometers away.

In the Naqab, even Israel’s Goldberg Commission on regularizing Bedouin villages reported the dire condition of access to water in “unrecognized” villages. Water is of poor quality and inadequate availability, and only a portion of the inhabitants are connected through private piping to the supply near the main roads. Some villages have paid collectively for a one-inch water pipe connection. The rest have to bring water over long distances in containers.⁷³

HLRN’s investigative team reported the testimony by the residents of Wādi al-Na`im suffering from unsafe water and unavailable sanitation, that lead to unusually high incidence of cancers and miscarriages among its fairly

largest Israeli settlements (such as Ariel and Qedumīn) are built over the Western Mountain Aquifer, directly in the middle of the northern West Bank agricultural districts. This is exactly where the Separation Wall cuts deepest into Palestinian territory to surround and annex this vital water source, which has caused the villages of Falamiyya, in Qalqīliya District, and nearby Jayyūs to lose its main source of water. There the Separation Wall construction has destroyed or isolated from their owners around 50 groundwater wells and over 200 cisterns.⁷⁹

184 localities in oPt do not have a public water network (31% of total localities, and 220,763 persons), which represent about 6.0% of the total population in the Palestinian Territory. The main source of water for the localities connected to the network was the Israeli source (Mekorot) (for 29% of the localities connected to a water network).⁸⁰

The situation in Gaza is worse than in West Bank. Gaza Strip depends on the coastal underground water reservoir that lies under the Mediterranean Sea between Rafah and Mount Carmel, this groundwater is largely dependent on the groundwater inside Israel, because of the flow of water in an east-west direction into the reservoir. The amount of water available to Palestinians in the Gaza Strip would be reasonable had Israel not confiscated more than 80% of the Palestinian groundwater to make up 20% of the Israelis’ total water consumption, which stands at 2 billion cubic meters per annum. Due to this overextraction, the underground fresh water source in Gaza will run dry within the next eight years.⁸¹

The number of agricultural wells that illegally withdraw water from the aquifer—many of them unregistered—has increased

young population, as well as infections and dehydration. Bedouin Arab citizens' water consumption is far below the national norm. Illustratively, in 2003–04 the annual water consumption (in cubic meters per person) in Israel was 82, while that of the “unrecognized” villages was 24m.⁷⁴

Numerous petitions and appeals submitted to the Supreme Court from some unrecognized villages to claim to access their rights to the water charged that the Israeli authorities and Mekorot, had maintained a policy of denying clean and accessible water to the residents of these villages.⁷⁵

to approximately 4,000 in the Gaza Strip.⁸² The supply of water from Israel meanwhile has declined by approximately half from 1998 to 2005, in breach of the Oslo Accords. Gaza's wastewater treatment facilities are still vastly inadequate, with 80% of sewage being discharged untreated into the environment.⁸³

In addition, Israeli missile strikes and ground incursions in Gaza over this review period have repeatedly damaged and destroyed pipelines, and Israeli forces have arrested, shot at, and even killed maintenance personnel trying to carry out infrastructure repairs. Inadequate sewage treatment infrastructure and damage to wastewater and drinking water pipelines have allowed sewage water to contaminate drinking water supplies, leading to sharp increases in water borne diseases in many areas.⁸⁴

This deprivation is coupled with Israel's military destruction of homes and infrastructure during its “Operation Cast Lead” in 2008–09. In that campaign, the Israeli air and ground actions partially or fully destroyed 11,135 homes, 209 industrial premises, 724 commercial establishments, 650 vehicles and 6,271 dunams (627.1 hectares) of agricultural land. However, those gross violations in the context of armed conflict within the State party's review period form part of a consistent pattern demonstrated by its practice consistently as a matter of policy and military doctrine since 10 March 1948.⁸⁵

This military component of the State party's practice has greatly reinforced the material discrimination carried out to the disadvantage of the indigenous Palestinian and other occupied populations by other “legal” and institutionalized means.

VII. Conclusion

The social indicators of persons in Israel living under the poverty line, the discriminatory practices carried out by Israeli authorities in Area C of the West Bank, East Jerusalem, the blockade of Gaza, as well as the Israeli practices generally throughout the Golan Heights and the oPt, deserve deep review and critical inquiry for the Committee's Concluding Observations. The relevant laws, institutions, policies and programs outlined in this parallel report demonstrate the pattern of institutionalized discrimination for the indigenous Palestinian and other Arab people under Israel's effective control, whether citizens of the State party or persons under occupation. In all areas under its jurisdiction and effective control, the State party breaches the Convention's Article 5(e)(iii) consistently through the practices of forced evictions, displacement, population transfer, demolishing homes, land grabbing and confiscation, as well as inequitable distribution of public goods and services that range from drinking water to urban planning.

The Housing and Land Rights Network of Habitat International Coalition (HIC-HLRN) and its constituent Member organizations compiling this parallel report urge the Committee to maintain the integrity of jurisprudence on the matter of this State party's implementation of the Covenant. Within the treaty obligations to respect, protect and fulfill the human right to adequate housing, the State party continues to fundamentally breach Article 5(e)(iii), as well as the entire spirit and essence of the Covenant by institutionalizing discrimination in the form of a constructed "Jewish nationality," distinct from citizenship. By violating one of the over-riding principles of the human rights implementation (nondiscrimination), the State party has derogated a bundle of ESC rights for distinct categories of persons within its jurisdiction and areas of effective control. Notably also, in its last review, CERD also has issued five observations finding the State party in breach of its obligations to combat *apartheid*.⁸⁶

Despite the Committee's consistent attention and firm recommendations on these matters over the past decade, the State party has failed to respond to any of the Committee's recommendations or related questions. Besides violating the rights of persons guaranteed their rights under ICERD, this impunity goes to the very heart of the conflict affecting the State party and the region, as well as poses a fundamental obstacle to its victims' rights to remedy and reparations as affirmed in international law.

Moreover, the ICERD's reference to the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960 (preamble and Article 15), evokes the importance of self-determination as an over-riding principle of State implementation of human rights obligations. It must also be observed that the pattern of violations—in particular of Article 5(e)(iii)—is so severe as to prevent the Palestinian peoples exercise of its inalienable right to self-determination.

HIC-HLRN seizes this opportunity to extend its gratitude to the Committee for maintaining the integrity of the Convention on the Elimination of All Forms of Racial Discrimination, and looks forward to providing any further information necessary to assist it in its task of upholding the covenanted rights of all.

VIII. Endnotes:

- ¹ “Concluding Observations of the Committee on the Elimination of Racial Discrimination: Israel,” CERD/C/ISR/CO/13, 9 March 2007, paras. 32 and 34.
- ² CESC, “Concluding Observations: Israel,” E/C.12/1/Add.27, 4 December 1998, para. 35, and repeated in E/C.12/1/Add.90, 26 June 2003, paras. 12 and 34.
- ³ See Virginia V. Tilley ed., *Occupation, colonialism, apartheid?: a re-assessment of Israel's practices in the occupied Palestinian territories under international law* (commissioned and coordinated by the Middle East Project (MEP) of the Democracy and Governance Programme, a research programme of the Human Sciences Research Council of South Africa), May 2009; and Findings of the Russell International Tribunal, Third international session – Cape Town, 5-7 November 2011, at: <http://www.russelltribunalonpalestine.com/en/wp-content/uploads/2011/11/RToP-Cape-Town-full-findings3.pdf>.
- ⁴ CERD (2007), op. cit., paras. 22, 23, 33, 34 and 35.
- ⁵ “Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law,” A/RES/60/147, 21 March 2006.
- ⁶ See Salman Abu Sitta, “Village Points Inside & Outside Siyag” [map], Palestine Land Society (2010), annexed to HIC-HLRN, *The Goldberg Opportunity: a Chance for Human Rights –Based Statecraft in Israel* [The International Fact-finding Mission] (Cairo: HIC-HLRN, Middle East/North Africa Program, 2010), at: <http://www.hlrn.org/img/documents/Naqab%20FFM%20report%202010.pdf>.
- ⁷ Law of Citizenship and Entry into Israel, amended by Section 3A in 1980, recognizing ineligible nationalities as Lebanese, Syrian, Palestinian, Jordanian and Iranian.
- ⁸ *Tamarin v. State of Israel* (1970) 26 P.D. I 197.
- ⁹ Moshe Gorali, “So this Jew, Arab, Georgian and Samaritan go to court...The state denies there is any such nationality as ‘Israeli,’” *Haaretz* (28 December 2003), at: <http://www.haaretz.com/hasen/objects/pages/PrintArticleEn.jhtml?itemNo=376724>; Uzi Ornan, “Apartheid Laws in Israel - The Art of The Obfusatory Formulation,” *Ha’aretz* [Hebrew] (17 may 1991), at: <http://cosmos.ucc.ie/cs1064/jabowen/IPSC/php/art.php?aid=1131>; and Jonathan Cook, “Lawsuit Challenges Israel's Discriminatory Citizenship Definition,” *The National* (Abu Dhabi) (06 April 2010), at: http://electronicintifada.net/v2/article11187.shtml?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+electronicintifadaPalestine+%28Electronic+Intifada+%3A+Palestine+News%29.
- ¹⁰ Jewish National Fund Articles of Incorporation, Article 3(C) [emphasis added].
- ¹¹ Penal Law of Israel (626/1996), article 13(c).
- ¹² HIC-HLRN, *The Goldberg Opportunity: a Chance for Human Rights –Based Statecraft in Israel* [The International Fact-finding Mission] (Cairo: HIC-HLRN, Middle East/North Africa Program, 2010), op. cit., p. 22, at: <http://www.hlrn.org/img/documents/Naqab%20FFM%20report%202010.pdf>.
- ¹³ “Concluding Observations of the Committee of Economic, Social and Cultural Rights: Israel,” E/C.12/1/Add.27, 4 December 1998, para. 11.
- ¹⁴ *Ibid.*, para. 35.
- ¹⁵ W. Thomas Mallison, Jr., “The Zionist-Israeli juridical claims to constitute the ‘Jewish people’ entity and to confer membership in it: appraisal in public international law,” *The George Washington Law Review*, Vol. 32, No. 5 (1964).
- ¹⁶ CESC (1998), op. cit., para. 11.
- ¹⁷ “General Recommendation No. 20: Non-discriminatory implementation of rights and freedoms (Art. 5),” 15 March 1996, para. 5.
- ¹⁸ “Concluding Observations of the Committee of Economic, Social and Cultural Rights: Israel,” E/C.12/1/Add.90, 23 May 2003, para. 18.
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²⁶ Jewish National Fund Articles of Incorporation, para. 3(1).

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