



# The Global Initiative

*for* Economic, Social and Cultural Rights

**Parallel Report submitted by the  
Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)  
to the Human Rights Committee  
on the occasion of the consideration of the  
Fourth Periodic Report of Israel**

**Israel's continued violations of the International Covenant on  
Civil and Political Rights with regard to house demolitions,  
forced evictions and safe and accessible water and sanitation in  
occupied Palestine and Israel**

**Submitted July 2014**

## 1. INTRODUCTION

1. The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the GI-ESCR is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

2. The mission of the GI-ESCR is to strengthen the international human rights framework through creative standard setting, so that all people, and in particular marginalized groups, are able to fully enjoy their economic, social and cultural rights, and are able to do so without discrimination and on the basis of equality; provide innovative tools to policy makers, development actors and others on the practical implementation and realization of economic, social and cultural rights through international regional and national mechanisms and seek remedies for violations of these rights, with a focus on creating beneficial jurisprudence aimed at transformative change; engage networks of human rights, women's rights, environmental and development organizations and agencies to advance the sustainable enjoyment of economic, social and cultural rights at both national and international levels; and work with advocates, social movements and grassroots communities at national and local levels to more effectively claim and enforce economic, social and cultural rights, including by engaging international mechanisms for local impact.

## 2. FORCED EVICTIONS AND HOUSE DEMOLITIONS

### 2.1 *Punitive House Demolitions*

3. Since 2003, the Human Rights Committee (Committee) has urged Israel to cease its practice of punitive home demolitions.<sup>1</sup> Despite the Committee's concluding observations of 2003 and 2010, each condemning the practice of punitive demolitions, the Israeli judicial system has upheld this practice and the option remains legally available even though contrary to the State's human rights treaty obligations.<sup>2</sup> Indeed, in late June 2014 the Israeli authorities again began implementing the unlawful practice of punitive house demolitions, with two homes punitively demolished near Hebron in late June and the Israeli Supreme Court rejecting an appeal by HaMoked Centre (Center for the Defence of the Individual), an Israeli rights group, to an army decision to soon demolish a third home.

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<sup>1</sup> Human Rights Committee, *Concluding Observations of the Human Rights Committee: Israel*, UN Doc. CCPR/CO/78/ISR (21 August 2003), para. 16; Human Rights Committee, *Concluding Observations of the Human Rights Committee: Israel*, UN Doc. CCPR/C/ISR/CO/3 (29 July 2010), para. 17.

<sup>2</sup> See *Abu Dheim et al. v. GOC Homefront Commander*, Israeli High Court of Justice, HCJ 9353/08, 5 January 2009; *Abu Dheim v. GOC Homefront Commander*, Israeli Supreme Court, AHH CJ 181/09, 6 January 2009.

## 2.2 *Administrative Demolitions*

### 2.2.1 Increased Home Demolitions in the West Bank

4. Administrative demolition of homes continues to be a serious problem in occupied Palestine and the number of demolitions has risen significantly in the last several years. In her 2012 report to the Human Rights Council, the UN Special Rapporteur on adequate housing noted the continued demolition of homes, a marked increase in demolitions of Palestinian structures in Area C in particular, and discriminatory municipal planning resulting in disproportionate numbers of Palestinians subject to eviction and demolition.<sup>3</sup> Though ostensibly carried out in the course of normal town planning and development, administrative demolitions are carried out in a discriminatory manner as part of Israel's policy of marginalizing the Palestinian population.<sup>4</sup>

5. Although administrative house demolitions occur throughout occupied Palestine, they are particularly prevalent in Area C and East Jerusalem. Approximately 33 per cent of Palestinian homes in East Jerusalem lack State-issued building permits, leaving more than 93,000 residents at risk of eviction, demolition and displacement.<sup>5</sup> Palestinians are routinely denied building permits in a manner that disproportionately discriminates against them vis-à-vis Israeli citizens.

6. This discriminatory planning regime, which prioritizes illegal Israeli settlement expansion while severely restricting or preventing Palestinian construction, is one of the major factors leading to the demolition of homes.<sup>6</sup> Seventy per cent of Area C is designated for Israeli settlements or Israeli military use and an additional 29 per cent is heavily restricted. Only one per cent of Area C has been planned for Palestinian development.<sup>7</sup> The process for applying for building permits is expensive, time-consuming and complex and rarely leads to granting of permits for Palestinian applicants, with a nearly 94 per cent rejection rate in Area C.<sup>8</sup> With respect to discriminatory practices within Israel, the Special Rapporteur on adequate housing has also noted that since 1948, planning by the State has led to the creation of more than 700 Jewish communities and not a single minority community with the exception of those meant to facilitate the forced urbanization of the Bedouin.<sup>9</sup>

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<sup>3</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, UN Doc. A/HRC/22/46/Add.1 (24 December 2012), paras 50, 55, 69, 96.

<sup>4</sup> See Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HR/7/17 (21 January 2008) para. 41.

<sup>5</sup> Report by the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, UN Doc. A/HRC/24/30 (22 August 2013), para. 36.

<sup>6</sup> OCHA, *Occupied Palestinian Territory Consolidated Appeal 2013*, page 25, available at [https://docs.unocha.org/sites/dms/CAP/CAP\\_2013\\_oPt.pdf](https://docs.unocha.org/sites/dms/CAP/CAP_2013_oPt.pdf) (accessed June 7, 2014).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* footnote 3 at para. 26.

7. The number of administrative demolitions of Palestinian structures and numbers of persons displaced has actually increased since the State's last periodic review before the Committee. The figures for the interim period are as follows:

Demolitions of Palestinian structures in the West Bank, including East Jerusalem:

- 622 Palestinian structures in 2011, 222 of which were residential.<sup>10</sup>
- 690 Palestinian structures in 2012,<sup>11</sup> at least 189 of which were residential.<sup>12</sup>
- 663 Palestinian structures in 2013<sup>13</sup>
- 333 structures in 2014 as of June 16<sup>14</sup>

Displacement of people as a result of demolitions in the West Bank, including East Jerusalem:

- 1,094 in 2011
- 886 in 2012
- 1103 in 2013
- 629 already this year.<sup>15</sup>

8. Moreover, the number of demolitions ordered for the period from 2010-2012 for Palestinian structures was more than double for Israeli structures.<sup>16</sup> These administrative demolitions affect Palestinians disproportionately and are discriminatory in both intent and effect.

### 2.2.2 Forced Evictions from Agricultural Lands

9. The process of dispossession and displacement includes denying Palestinians access to agricultural land.<sup>17</sup> This is accomplished in several ways. For example, the Secretary-General noted earlier this year that settlers in the area surrounding Adei Ad outpost had engaged in illegal fencing, cultivating, trespassing upon, and vandalism of Palestinian agricultural lands as well actively evicting Palestinians or denying them

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<sup>10</sup> ICAHD, *Demolishing Homes, Demolishing Peace: Political and Normative Analysis of Israel's Displacement Policy in the OPT*, page 3, available at [http://www.icahd.org/sites/default/files/Demolishing%20Homes%20Demolishing%20Peace\\_1.pdf](http://www.icahd.org/sites/default/files/Demolishing%20Homes%20Demolishing%20Peace_1.pdf) (accessed June 7, 2014).

<sup>11</sup> *Id.* footnote 6 at page 3.

<sup>12</sup> *Id.* footnote 10.

<sup>13</sup> OCHA, Protection of Civilians Weekly Report 10-16 June 2014, page 2, available at [http://www.ochaopt.org/documents/ocha\\_opt\\_protection\\_of\\_civilians\\_weekly\\_report\\_2014\\_6\\_19\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2014_6_19_english.pdf) (accessed June 21, 2014).

<sup>14</sup> *Id.*

<sup>15</sup> OCHA Protection of Civilians Weekly Reports 21 December 2011-3 January 2012; 19 December 2012-January 1 2013, available at <http://www.ochaopt.org/reports.aspx?id=104&page=1> (accessed June 10, 2014); *Id.* footnote 13.

<sup>16</sup> Report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the Syrian Golan, UN Doc. A/HRC/25/38 (12 February 2014), para 12.

<sup>17</sup> 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. *Advanced Unedited Version* UNHRC 22nd session (January 2013) para. 67.

access to their plots though harassment and violence.<sup>18</sup> Further, the IDF has imposed an extensive non-entry zone for Palestinians who are often forced to coordinate with the IDF to gain access to agricultural plots in the area around the outpost.<sup>19</sup> As a result of the acts of both settlers and the IDF, Palestinians often have no access to the agricultural lands they cultivated before the construction of the outpost.<sup>20</sup> Land is also expropriated by the State through an administrative procedure whereby title to land is assessed and if private ownership is not demonstrated, property becomes "State land." Palestinians are also effectively cut off from agricultural lands on which they depend by the construction of the Annexation Wall.

### 2.2.3 Effects of Demolitions and Evictions on the Bedouin Minority

10. Both OCHA and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 report Bedouin and herder communities in Area C are at particular risk of displacement due to the demolition of their homes and livelihood structures and that some of these communities have suffered multiple demolitions.<sup>21</sup> Though Israel has stated that planning for new urban centers will accommodate traditional agricultural livelihood and family structures,<sup>22</sup> the Secretary-General noted in his 2013 report on the human rights situation in the Occupied Palestinian Territory the ongoing planning of a new urban center into which Bedouin of the Jerusalem periphery and Jordan Valley would be forcibly transferred, stating it would "likely lead to the disintegration of the social fabric of the affected communities."<sup>23</sup>

11. Bedouin communities within Israel also continue to face denial of security of tenure and face a program of coerced urbanization. Despite the State's claim that "a large majority of those [Bedouin] currently residing in areas that are not regularized will be able to continue residing there in the future within regularized localities," those who do not move to planned urban centers currently face eviction and repeated demolition of homes and livelihood structures.<sup>24</sup> For example, several media outlets recently reported that the Village of Al-Araqib in the Negev was demolished for the 70th time.<sup>25</sup> Those Bedouin communities living in "unrecognized villages" are not provided with basic services or infrastructure, even when located at the periphery of major urban centers.<sup>26</sup>

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<sup>18</sup> *Id.* footnote 16 at para. 18.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* footnote 6 at 24; Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, UN Doc. A/HRC/25/67 (13 January 2014) para. 29.

<sup>22</sup> *Id.* footnote 22 at para. 84.

<sup>23</sup> Report by the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, UN Doc. A/HRC/24/30 (22 August 2013), para. 27.

<sup>24</sup> Consideration of reports submitted by States parties under article 40 of the Covenant pursuant to the optional reporting procedure: Israel, UN Doc. CCPR/C/ISR/4 (14 October 2013) para. 89.

<sup>25</sup> See Middle East Monitor, *Israel Razes Bedouin Village for 70th Time*, 12 June 2014, available at <https://www.middleeastmonitor.com/news/middle-east/12068-israel-razes-bedouin-village-for-70th-time> (accessed June 15, 2014).

<sup>26</sup> *Id.* footnote 3 at para. 36.

12. The Special Rapporteur on adequate housing noted the planned urban centers have reportedly devolved into pockets of deprivation, unemployment, dependency, crime and social tension and that the planned urban models were inadequate to maintain both traditional Bedouin family structures and rural economic vocation.<sup>27</sup>

### ***2.3 Violations of the Covenant Arising out of Demolitions and Evictions***

#### ***Article 7: Cruel, Inhuman or Degrading Treatment or Punishment***

13. As the Committee found in its Concluding Observations of Israel's third periodic review, demolitions and forced evictions carried out by the State may arise to violations of Article 7 of the Covenant.<sup>28</sup> This is true where, *inter alia*, evictions or demolitions are intentionally carried out for discriminatory, punitive or coercive purpose and which result in severe pain or suffering, whether mental or physical, arise to a violation of Article 7 of the Covenant.

#### ***Purpose***

14. As stated above, forced evictions, administrative demolitions, and the underlying permit regime Israel relies on to carry them out it is discriminatory. The tactic of repeated demolitions within Bedouin communities, both in the Negev and elsewhere, is discriminatory and coercive in that its purpose is to drive these minority communities off of their ancestral lands and into Israeli-built urban centers in which their cultural identity and traditional way of life is threatened.

#### ***Severe Pain and Suffering***

15. The UN Commission on Human Rights has condemned forced eviction as a gross violation of human rights on several occasions.<sup>29</sup> Forced evictions and demolitions cause both physical and mental suffering as the home is essential for living a life of dignity as well as security of the person and family.

#### ***By the State***

16. Demolitions, forced evictions and the underlying discriminatory legal regime that allow them are all features of official State policy. The severe pain and suffering caused by these official policies for coercive and discriminatory purposes constitute cruel, inhuman or degrading treatment or punishment in violation of Article 7 of the Covenant.

#### ***Article 17: Unlawful Interference with the Home***

#### ***Administrative and Other Demolitions***

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<sup>27</sup> *Id.* at para. 38

<sup>28</sup> Report by the Secretary-General on the human rights situation in the Occupied Palestinian Territory, including East Jerusalem, UN Doc. A/HRC/24/30 (22 August 2013), footnote 1 at para. 17 (As defined by the Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment.

<sup>29</sup> UN Commission on Human Rights resolution 1993/77, UN Doc. (adopted 10 March 1993); UN Commission on Human Rights resolution 2004/28, UN Doc. (adopted 16 April 2004).

17. Despite the Committee's recommendations in its concluding observations of 2010, in particular paragraphs 17 and 24, Israel continues to engage in a policy of forced evictions and home demolitions which disproportionately affects the Palestinian population living in occupied Palestine. The Secretary-General stated in 2012 in regard to evictions and demolitions in occupied Palestine that "forced evictions are prima facie incompatible with international law, in particular ... article 17 of the International Covenant on Civil and Political Rights" and that they are only permissible in the most exceptional circumstances, in pursuit of a legitimate purpose and when implemented in accordance with international law, including the prohibition against discrimination.<sup>30</sup>

18. As previously noted by the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, the administrative demolition of houses is carried out in a discriminatory manner.<sup>31</sup> For example, in the period from 2010-2012, a reported 2,418 demolition orders were issued for Palestinian buildings compared to only 1,143 Israeli settlement buildings.<sup>32</sup> Israel's policy of home demolitions and forced evictions continues to be discriminatory and thus arbitrary and unlawful, constituting a violation of Article 17 of the Covenant.

#### ***Evictions from Agricultural Lands***

19. The Committee has previously stated that the protections of Article 17 of the Covenant apply to "interferences and attacks whether they emanate from State authorities or from natural or legal persons."<sup>33</sup> Forced evictions, as noted above, are incompatible with Article 17 of the Covenant and are not limited merely to residential structures. The Committee has stated that the term "home," as used in Article 17 of the Covenant, "is to be understood to indicate the place where a person resides or carries out his usual occupation."<sup>34</sup> This includes, *inter alia*, agricultural land used as the primary means of livelihood, or occupation, of Palestinians.

20. This inclusive understanding of "home" and what constitutes arbitrary or unlawful interference with the home within the meaning of Article 17 is supported by findings of other human rights bodies. For example, the Committee on Economic, Social and Cultural Rights has stated that forced eviction "is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."<sup>35</sup> Rulings by the European Court of Human Rights on

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<sup>30</sup> Report by the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem, UN Doc. A/67/372 (14 September 2012), para. 31.

<sup>31</sup> *Id.* footnote 5.

<sup>32</sup> *Id.* footnote 16 at para. 13.

<sup>33</sup> Human Rights Committee, General Comment 16 (Twenty-third session, 1988), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HR1/GEN/Rev.1 at 21 (1994) para. 3.

<sup>34</sup> *Id.* at para. 5.

<sup>35</sup> Committee on Economic, Social and Cultural Rights, General Comment 7, *Forced evictions and the right adequate housing* (Sixteenth session, 1997), UN Doc. E/1998/22, annex IV at 113 (1997), reprinted in *Compilation of General Comments and General Recommendations of Human Rights Treaty Bodies*, UN Doc. HR1/GEN/1/Rev.6 at 45 (2003) para. 4.

Article 8, the Article in the European Convention analogous to Article 17 of the Covenant, have also held that land used for traditional livelihood purposes was part of a particular way of life and was within the scope of "private life" and "home" for the purposes of the European Convention.<sup>36</sup>

21. The State has both a duty not to interfere with the home, including agricultural land on which persons carry out their usual occupation, and to prohibit such acts by natural or legal persons.<sup>37</sup> Currently, Israel is actively involved in forced evictions of Palestinians from their agricultural lands through its administrative processes, construction of Israeli settlements, construction of the Annexation Wall, and creation of military non-entry zones. The State has further failed in its obligation to protect Palestinians from forced evictions by settlers. These acts and omissions arise to violations of Article 17 of the Covenant.

### ***Article 26: Right to Equal Protection of the Law***

22. The policy of discriminatory demolitions which disproportionately affects Palestinians while new Israeli settlements continue to be constructed also demonstrates a lack of equal protection before the law, a violation of Article 26 of the Covenant. The State does not enforce demolition laws against settlements at nearly the same rate as it does Palestinian structures.<sup>38</sup> Further, both OCHA and the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories have noted that it is essentially impossible for Palestinians to acquire building permits.<sup>39</sup> Though permits, the only legal safeguard against demolition of structures, are *de facto* unavailable to Palestinians, Israeli authorities have continued to approve Israeli housing. During the nine-month period of Israeli-Palestinian peace talks which ended in April 2014, a reported 13,851 new Israeli housing units were approved, even though construction of Israeli settlements is in violation of international human rights and humanitarian law.<sup>40</sup> Israel has also provided settlements with detailed planning and established preferential policies such as granting incentives, allocating settlement land for expansion and connecting settlements to public services and infrastructure.<sup>41</sup> As noted by the Secretary-General, this stark contrast in treatment demonstrates the planning and zoning regime itself is discriminatory,<sup>42</sup> and does not offer equal protection before the law, a violation of Article 26 of the Covenant.

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<sup>36</sup> See Eur. Comm. H. R., *G and E v. Norway* (Appl. Nos. 9278/81 & 9415/81), 3 October 1983, D.R. 35, 30; Eur Ct. H.R. (4th Section) *Noak and others v. Germany*, (Appl. No. 46346/99), 25 May 2000 (admissibility decision), Rep. 2000-VI.

<sup>37</sup> *Id.* footnote 33 at para. 9.

<sup>38</sup> *Id.* footnote 16 at para 13.

<sup>39</sup> *Id.* footnote 6 page 25; *Id.* footnote 24 at para 35.

<sup>40</sup> See Americans for Peace Now, Summary of the 9-Months Talks: Unprecedented Settlement Development, available at <https://peacenow.org/entry.php?id=4997#.U6YdRi8wJQg> (accessed June 10, 2014); see also *Id.* footnote 16 at paras 6-7 stating an additional 8,943 were promoted between March and October 2013 and Israel announced 5,000 more in October.

<sup>41</sup> *Id.* footnote 16 at para. 13.

<sup>42</sup> *Id.* footnote 16 at para. 14.



## ***Article 27: Minority Rights***

23. In its concluding observations of Israel's third periodic review, the Committee urged the State to respect the Bedouin population's right to ancestral lands and traditional livelihood.<sup>43</sup> The Bedouin constitute a minority within Israel who share a common and distinct culture, including a particular way of life linked to the use of land and resources. The program of forced urbanization destroys the Bedouin minority's distinct cultural identity, particularly family structure and traditional livelihood.<sup>44</sup> Those Bedouin who remain outside the planned urban centers face forced eviction from ancestral lands and repeated demolitions, also interfering with their ability to sustain traditional livelihood. The State's policies of forced urbanization, forced evictions from ancestral lands and demolitions of homes and livelihood structures all deny the Bedouin minority the right to sustain their own culture in contravention of Article 27 of the Covenant.

### **3. WATER AND SANITATION**

#### ***3.1 The Ongoing Affects on Civilians of the Gaza Blockade***

24. In its concluding observations on the State Party's third periodic report, the Committee urged Israel to "lift its military blockade of the Gaza Strip insofar as it affects the civilian population."<sup>45</sup> The illegal blockade of Gaza continues to affect the lives of civilian residents of Gaza, including, *inter alia*, through prevention of movement of equipment and supplies necessary for the construction and maintenance of water and sanitation facilities.<sup>46</sup> The blockade, which illegally imposes collective punishment on the civilian population, intentionally hinders the repair and upgrade of existing water and sewage infrastructure, much of which is old, has been damaged by the Israeli Defense Forces (IDF) or both.<sup>47</sup>

25. The humanitarian situation in Gaza has in fact worsened since the State Party's last review and particularly since June 2013 with the closure or destruction of underground tunnels to Egypt.<sup>48</sup> The residents of Gaza are no longer able to use the tunnels to bring in fuel and the results have been devastating. For example, due to the lack of fuel, power stations are unable to provide sufficient output to water and sanitation facilities and as of November 2013 none of the 291 facilities in Gaza were functioning adequately.<sup>49</sup> The fuel shortage caused by the blockade led to the November 2013 shutdown of the Gaza Power Plant, which caused the failure of several sewage and water facilities.<sup>50</sup> On November 13 an underpowered sewage pumping station released over

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<sup>43</sup> *Id.* footnote 1 (2010) at para. 24.

<sup>44</sup> *Id.* footnote 3 at para. 38.

<sup>45</sup> *Id.* footnote 1 at para. 8.

<sup>46</sup> *Id.* footnote 30 at para. 5.

<sup>47</sup> See COHRE and Al-Haq, *Joint Alternative Report to the Human Rights Committee on the Occasion of the Third Periodic Report of Israel* (June 2010), para 85.

<sup>48</sup> *Id.* footnote 21 at paras. 8, 49.

<sup>49</sup> OCHA, Humanitarian Bulletin November 2013, 3, available at <http://www.ochaopt.org/reports.aspx?id=118> (accessed June 7, 2014).

<sup>50</sup> *Id.* at 3-4.

35,000 cubic meters of raw sewage, flooding the streets of Al-Zaytoun.<sup>51</sup> Approximately 3,000 people were affected by the spill and exposed to public health risks.<sup>52</sup>

26. The energy crisis caused by the blockade has also severely affected the quality and quantity of water available to Gaza's residents. While the consumption of water early in 2013 was between 70 and 90 liters per person per day (l/p/d), much closer to the World Health Organization's recommended 100 l/p/d for domestic use, water consumption was reduced to only 40 l/p/d by November 2013.<sup>53</sup> Approximately 90 to 95 per cent of the aquifer on which Gaza's residents rely for water is not potable due to overuse and contamination by sewage, which results from the inability to repair, build, maintain and power sewage treatment facilities because of lack of material and fuel caused by the blockade. At the current rate, the aquifer itself may be unusable by 2016 and irreparably damaged by 2020.<sup>54</sup> Many households are required to purchase desalinated water for cooking and consumption purposes but power shortages to municipal desalination facilities reduced their capacity by 75 per cent after the tunnel closures.<sup>55</sup> The drastic reduction in municipal capacities has forced many residents to obtain water from private, unregulated sources.<sup>56</sup> The UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories stated in June 2014 that the current water supply crisis is a direct result of Israel's land and maritime blockade.<sup>57</sup>

27. The blockade has drastically reduced the amount of construction material allowed into Gaza as well. Karem Shalom is the only remaining crossing point for imports and exports in and out of Gaza. In October 2013, entry of basic construction materials was halted for both the commercial sector and international projects. The ban on materials for international projects was partially lifted in December, but the commercial ban remained in place as of April 2014.<sup>58</sup> Much of the deliberate and systematic destruction of water and sanitation networks carried out by the IDF during Operation Cast Lead remains unrepaired due to lack of access to material and spare parts.<sup>59</sup>

## 3.2 West Bank

### 4.2.1 Discriminatory Allocation of Water, Services and Development

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<sup>51</sup> *Id.* at 4.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> UN Country Team in the occupied Palestinian territories, *Gaza in 2020 a Liveable Place?* (August 2012), 11 (relying on reports by the United Nations Environmental Programme (2009) and United Nations Development Programme (2010)).

<sup>55</sup> *Id.* 4

<sup>56</sup> *Id.*

<sup>57</sup> *UN Special Committee Concerned Over Deteriorating Health of Palestinian Detainees on Mass Hunger Strike* (5 June 2014), available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14665&LangID=E> (accessed June 7, 2014).

<sup>58</sup> OCHA, Humanitarian Bulletin April 2014, 4, available at <http://www.ochaopt.org/reports.aspx?id=118> (accessed June 12, 2014).

<sup>59</sup> See EWASH info on the Gaza Strip, <http://www.ewash.org/en/?view=79YOcy0nNs3D76djuvAnkDDT>

28. Israel continues to control underground and surface water sources in the West Bank, enforce discriminatory restrictions on Palestinian use of land and water resources, and hinder the development of necessary water infrastructure. Israel's policy and practice in the West Bank since the occupation began in 1967 has been to expropriate and assert control over Palestinian water resources, maintain an unequal and discriminatory allocation of water resources to benefit both Israeli citizens living in Israel and those living in illegal West Bank settlements, and prevent the Palestinians from developing their own resources. One of the primary methods of control by the State Party over Palestinian water resources is through the Joint Water Committee (JWC) established under Oslo II, which holds an effective veto over development of any water or wastewater infrastructure. The JWC's mandate includes granting permits for well drilling and rehabilitation, increasing extraction from existing wells, and settling sewage and water system disputes. Despite the JWC's composition of equal numbers of Palestinians and Israelis, the veto power belongs unilaterally to Israel. A study published in 2013 of the first 13 years of the JWC's approval rates demonstrates that Israeli wastewater projects, wells and water networks were all approved at significantly higher rates than the same projects proposed by Palestinians.<sup>60</sup> Even those projects which are approved by the JWC must be granted a construction permit by the Israeli Civil Administration (ICA), effectively creating a double veto for Israel on any proposed Palestinian water or sanitation project in the West Bank. Such projects built without a permit are subject to demolition.

29. Actual water use by various communities is demonstrative of the discriminatory allocation of water resources in the West Bank:

- WHO recommended for domestic use-100 l/p/d
- WHO poverty threshold-50 l/p/d
- Average consumption by Palestinians villages-73 l/p/d
- Average use in Israel-300 l/p/d
- Average use by Israeli settlements-369 l/p/d<sup>61</sup>

30. These numbers are the average l/p/d used but in some cases the disparity is much more pronounced, particularly when water consumption for agricultural use is factored in. The Palestinian villages of Al-Hadidiyya and Al-Farisiyya use just 22 and 23 l/p/d respectively while the Israeli settlements of Mitzpe Shalem and Qalya use a reported 700 l/p/d inclusive of agricultural water.<sup>62</sup>

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<sup>60</sup> Jan Selby, *Cooperation, Domination and Colonization: The Israeli-Palestinian Joint Water Committee*, Water Alternatives Vol. 6, Issue 1, 12-14 (Selby's study indicates that Israeli projects were approved over Palestinian projects at rates as high as 2 to 1).

<sup>61</sup> Al-Haq, *Water for One People Only* (2012), 52 (relying on figures from BøTselem), available at <http://www.alhaq.org/publications/publications-index/item/water-for-one-people-only-discriminatory-access-and-water-apartheid-in-the-opt> (accessed June 12, 2014).

<sup>62</sup> *Id.* at 53.

31. As of September 2011, over 300,000 Palestinians in the West Bank were not connected to a water network and were at a high risk for water scarcity whereas all Israeli colonies in the West Bank, including East Jerusalem, are connected to such services.<sup>63</sup> In East Jerusalem, the same discriminatory permit regime which leads to forced evictions and home demolitions has also prevented nearly half the Palestinian population from legally connecting to water services since housing permits are required for connection.<sup>64</sup> The limited access to water networks forces Palestinian communities to purchase water by tankers at an average cost eight times or more what Israeli settlers pay.<sup>65</sup>

### 3.2.2 Destruction and Dispossession of Palestinian Water Resources

32. The shortages caused by discriminatory allocation of water resources, discriminatory approval rates for water projects and disproportionate numbers of connections to water networks, in some cases as a direct result of the discriminatory construction permit regime, has been exacerbated by Israeli forces targeting water and sanitation facilities. In 2011, Israeli authorities destroyed 46 rainwater cisterns and pools,<sup>66</sup> 33 water infrastructures and 16 sanitation infrastructures, affecting over 1,500 people, in 2012,<sup>67</sup> and 36 cisterns in 2013.<sup>68</sup> Destruction of water infrastructure, including cisterns, increased after 2010 and in 2012 such destructions were carried out at double the rate as in 2011.<sup>69</sup> OCHA has noted an increasing trend in the seizure of water and sanitation equipment such as plastic water tanks and mobile latrines.<sup>70</sup> The Israeli military also continues to support the takeover of freshwater springs by Israeli settlers, in some cases the sole source of water for Palestinian communities.<sup>71</sup>

### 3.2.3 The Annexation Wall

33. Restriction on the freedom of movement also continues to affect access to water and sanitation facilities.<sup>72</sup> July 2014 marks the ten-year anniversary of the advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory. The Annexation Wall and

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<sup>63</sup> *Id.* at 55-56 (based on information from OCHA, *How Dispossession Happens, The Humanitarian Impact of the Takeover of Palestinian Water Springs by Israeli Settlers* (2012)).

<sup>64</sup> *Id.* at 57.

<sup>65</sup> *Id.* at 49.

<sup>66</sup> *Id.* footnote 10 at 13.

<sup>67</sup> *Id.* footnote 6 at 40.

<sup>68</sup> Amnesty International Annual Report 2013 on Israel and the OPT, available at <http://www.amnesty.org/en/region/israel-and-occupied-palestinian-territories/report-2013#section-14-4> (accessed June 20, 2014).

<sup>69</sup> 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. *Advanced Unedited Version* UNHRC 22nd session (January 2013) para. 88.

<sup>70</sup> *Id.* footnote 6 at 40.

<sup>71</sup> OCHA, *How Dispossession Happens* (March 2012), 5. Of 56 springs surveyed, 30 were under total settler control with no access to Palestinians while 26 were at risk of takeover due to the rise of the settler tourist industry.

<sup>72</sup> *Id.* footnote 30 at para. 42.

the seam zone it has created effectively cut Palestinian residents living on the eastern side of the Wall off from 28 agricultural groundwater wells with an annual yield of more than 30 per cent of the Palestinian allocation from the Western Aquifer Basin under Oslo II.<sup>73</sup> Upon completion of the Wall, Israel will have annexed an estimated 70 per cent of the West Bank's share of Western Aquifer Basin's recharge area, which has significant potential for future extraction and well development.<sup>74</sup>

### 3.2.4 Sewage and Wastewater Emanating from Israeli Settlements

34. Israel exercises full control over illegal settlements in the West Bank.<sup>75</sup> Despite the Committee urging the State to address the issue of sewage and wastewater emanating from these settlements, incidents of intentional release of sewage and industrial waste from Israeli settlements continue to be reported. The Secretary-General's 2014 report on Israeli settlements notes the settlement of Ariel dumps both sewage and industrial waste into a stream and on agricultural land, contaminating both.<sup>76</sup> The waste is then carried by the stream to agricultural lands and near a domestic well further west.<sup>77</sup> Media sources have also reported the release of sewage from Beitar Illit, Barqan, and Meirav.<sup>78</sup>

### 3.2.5 Bedouin Communities in Israel and Access to Services

35. Most of the Bedouin population in Israel that has not been displaced into one of the planned urban centers continues to live in villages that are not officially recognized by the State Party. Israel has not integrated these villages, even those that exist at the periphery of urban areas, and they continue to be left without sanitation and water.<sup>79</sup> Over 90 per cent of these Bedouin communities, communities consisting of Israeli citizens, face water scarcity.<sup>80</sup>

## 3.3 Violations of the Covenant Arising out of Israel's Water Policies and Practices

### *Article 6: Right to Life*

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<sup>73</sup> *Id.* footnote 61 at 44.

<sup>74</sup> *Id.*

<sup>75</sup> *See Id.* footnote 17 at para. 100. In its 2013 report, the independent international fact-finding mission to investigate Israeli settlements confirmed that Israel has had full control of the settlements in the occupied Palestinian territories since 1967.

<sup>76</sup> *Id.* footnote 16 at para. 32.

<sup>77</sup> *Id.*

<sup>78</sup> Wafa, *Israeli Settlers Pump Sewage into Palestinian Village near Jenin* (30 December 2013), available at <http://english.wafa.ps/index.php?action=detail&id=23932> (accessed June 15, 2014); Mondoweiss, *Palestinian Villages Struggle as Israeli Settlement Waste Contaminates the Environment* (7 August 2012), available at <http://mondoweiss.net/2012/08/palestinian-villages-struggle-as-israeli-settlement-waste-contaminates-the-environment.html> (accessed June 18, 2014); Middle East Monitor, *West Bank Settler Waste...A Disaster Ravaging Farms and Generations*, (20 July 2010), available at <https://www.middleeastmonitor.com/news/middle-east/1326-west-bank-settler-waste-a-disaster-ravaging-farms-and-generations> (accessed June 15, 2014).

<sup>79</sup> *Id.* footnote 3 at para. 36; *See also Id.* footnote 57 at para. 65

<sup>80</sup> *Id.* footnote 17 at para 66.

36. Article 6, the right to life, should not be defined in a restrictive manner and should be understood in light of Article 1(2) which states, "in no case may a people be deprived of its own means of subsistence."<sup>81</sup>

37. As the World Water Council stated, "the right to water is also an integral part of other human rights, such as the right to life, which is contained in the International Covenant on Civil and Political Rights."<sup>82</sup> Water as an essential component of the right to life has also been recognized by the UN Sub-Commission on the Promotion and Protection of Human Rights, which stated "the right to drinkable water is directly linked to the right to life."<sup>83</sup> The Sub-Commission went on to say that "negligence, omission or planning that results in an absence of water distribution services must be regarded as an action threatening human life" and that "the destruction of the means of supplying water, the sale of water rights and privatization or management of water resources that results in a lack of access to drinkable water for groups of the population must be regarded as an encroachment upon this right."

38. The Committee recognized in its concluding observations of the State Party's third periodic review that the prevention by the State of construction and maintenance of water and sanitation infrastructure, construction of wells, and contamination of water sources by wastewater and sewage emanating from Israel may threaten the right to life of Palestinians living in the West Bank.<sup>84</sup> Israel's policies of preventing homes without permits and Bedouin communities in unrecognized villages from connecting to services, assisting settlers in the takeover of Palestinian springs, and the active destruction of existing wells and water infrastructure also arise to violations of Article 6 of the Covenant.

39. The ongoing humanitarian crisis in Gaza resulting from the blockade has likewise severely limited the quality and quantity of water available to civilians living in Gaza. The blockade prevents adequate construction materials and replacement parts to repair the water infrastructure damaged by the IDF during Operation Cast Lead as well as fuel to power existing sanitation and water infrastructure. The lack of functioning sanitation facilities not only creates immediate health risks for those living in Gaza but also forces the release of thousands of gallons of untreated or partially treated sewage into the Mediterranean every day, polluting the coastal aquifer on which Gaza's residents rely.<sup>85</sup> For the foregoing reasons, the Gaza blockade also rises to a violation of Article 6 of the Covenant in that it directly impedes access to essential water and is causing the destruction of the population's primary water source.

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<sup>81</sup> See Human Rights Committee, General Comment 6, Article 6, (Sixteenth session, 1982) Compilation of General Comments and General Recommendations Adopted by the Human Rights Treaty Bodies, UN Doc. HR1/Gen/1/Rev.1 at 6 (1994); International Covenant on Civil and Political Rights, Art 1(2), G.A. res. 2200S (XXI), 21 U.N. GOAR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999U.N.T.S. 171 (entered into force 23 March 1976, ratified by Israel 3 January 1992).

<sup>82</sup> World Water Council, *The Right to Water: From Concept to Implementation*, Paris WWC 2006, 16.

<sup>83</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, Resolution 2006/9, UN Doc. E/CN.2.Sub.2/Res.9 (24 August 2006).

<sup>84</sup> *Id.* footnote 1 at para. 18.

<sup>85</sup> *Id.* footnote 6 at 40.

***Article 7: Cruel, Inhuman or Degrading Treatment or Punishment and Torture***

40. Intentionally discriminatory, punitive or coercive acts inflicted by the State or with the consent or acquiescence of a public official arise to acts of torture or cruel, inhuman or degrading treatment or punishment when they cause severe pain or suffering, whether physical or mental.

***Discriminatory and Coercive Purpose***

41. Israel's policies regarding water are discriminatory both because of the disproportionate allocation of water resources and the State's failure to make water and sanitation services available to Palestinians while providing illegal Israeli settlements with such services. The purpose of the State's refusal to connect the unrecognized Bedouin villages to water and sanitation services is coercive in that it is meant to drive these minority communities off of their ancestral lands and into planned urban centers where they are unable to sustain their traditional livelihood.

***Severe Pain and Suffering***

42. Due to the necessity of water for health, wellbeing and survival, creation of conditions that result in a lack of drinking water, whether through act or omission, results in both mental and physical suffering of a severe nature.

***By the State***

43. Discriminatory allocation of water resources, discriminatory and coercive access to water and sanitation services, discriminatory approval of water development projects and destruction of water infrastructure are all carried out by State organs such as the Israeli Civil Authority and the IDF. The IDF has also assisted in the takeover of Palestinian springs by settlers. All of these acts are carried out with discriminatory or coercive intent and arise to violations of Article 7 of the Covenant, either as torture or cruel, inhuman or degrading treatment or punishment.

***Article 12: Freedom of Movement***

44. As recognized by the Committee in its concluding observations of the State Party's third periodic review, the construction of the Annexation Wall and creation of the seam zone restrict freedom of movement of the Palestinian population in violation of Article 12 of the Covenant. This impermissible restriction has the intended consequence of, *inter alia*, preventing Palestinians from accessing vital agricultural water sources and eventually annexing substantial portions of the West Bank's water resources.

***Article 17: Unlawful Interference with the Home***

45. Access to water and sanitation are integral components of housing. As such, denial of access to water and sanitation rises to a violation of the right not to have one's home interfered with in an arbitrary or unlawful manner as prohibited by Article 17 of the Covenant. For example, the right to water has been recognized by the Committee on

Economic, Social and Cultural Rights as inextricably related to the right to...adequate housing.<sup>86</sup>

### ***Article 26: Right to Equal Protection of the Law***

46. The current policies and practices regarding water in Israel and occupied Palestine are discriminatory as evidenced by the severely limited access Palestinians have to water. Those in Area C are forced to pay up to eight times as much for water as are Israeli settlers. Palestinians are also forced to survive off as little as 22 l/p/d at an average of 73 l/p/d for the West Bank while settlers have access to as much as 700 l/p/d at an average of 369 l/p/d. Residents of Gaza were drastically limited to 40 l/p/d after the tunnel closures last year. Palestinians living in East Jerusalem are also unable to connect to services when they lack permits because of the discriminatory housing permit regime. At the same time, the State continues to provide services to illegal settlements in the West Bank providing further evidence Israeli water policy and practices violate Article 26 of the Covenant.

### ***Article 27: Minority Rights***

47. The Bedouin are a minority within Israel who share a common culture, including a particular way of life associated with the use of land resources. Despite the Committee's recommendation in its concluding observations of the State Party's third periodic report, Israel still does not connect unrecognized villages in which Bedouin live to sanitation and water services. The ongoing failure of the State to provide water and sanitation to the Bedouin communities living in unrecognized villages, particularly in the Negev, is a feature of a coercive program meant to force Bedouin communities off of their ancestral lands and into planned urban centers, thus destroying their traditional livelihood and way of life. The lack of connection to services, violations of the right water and sanitation designed to destroy the common culture of the Bedouin, arise to violations of Article 27 of the Covenant.

## **4. RECOMMENDED CONCLUDING OBSERVATIONS**

48. GI-ESCR recommends the following Concluding Observations to the Human Rights Committee

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

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<sup>86</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 15 on the right to water, para. 3 (Twenty-ninth session, 2003), UN. Doc. E/C.12/2002/11 (2002), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, NU Doc. HR1/Gen/1/Rev.6 at 105 (2003).



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

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

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

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

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

4. Israel's policies or practices, including consent, assistance or acquiescence to settlers in the takeover of Palestinian water resources, resulting in denial of access to sufficient drinking water or adequate sanitation may, in certain instances, amount to violations of the obligation to refrain from cruel, inhuman or degrading treatment or punishment (Article 7 of the Covenant);

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

5. Israel's policies or practices that prohibit access of Palestinians to water and land resources, including the construction of Israeli settlements, the Separation Wall and creation of a seam zone, result in violations of the obligation to respect and to ensure the freedom of movement (Article 12 of the Covenant);

Consequently, the State party should repeal policies and desist from practices that prohibit free movement, including removing Israeli settlements and the Separation Wall where they violate Article 12 of the Covenant.

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

Consequently, the State party should repeal policies allowing for and desist from the practice of forced eviction, including from agricultural land, and house demolitions as

well as denial of access to water and sanitation where they violate Article 17 of the Covenant.

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

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

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

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

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

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

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