Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
Part III		
Article 2		
A. Measures to eliminate racial discrimination		
1. Measures preventing discrimination by all public authorities and institutions		
[*See Article 4 for a discussion on the judicial, legislative and penal measures taken by the State to eliminate discrimination]* **Favoured Status for Jewish ("national") Institutions** Under the World Zionist Organization/Jewish Agency Status Law (1952), major Zionist organizations have special parastatal status. They manage land, housing and services exclusively for the Jewish population. As no non-Jewish organizations enjoy similar status, this yields a vastly inferior quality of life for the indigenous Palestinian Arab community. (More on these mechanisms of material discrimination below under the specific rights affected). The State party has taken no measures to address the charters or the operations of these parastatal institutions, which form the most fundamental and pervasive institutional discrimination in the country, disadvantaging the entire class of indigenous Palestinian Arab citizens. The State party's inaction to address this breach of its human rights treaty obligations persists despite the strong recommendations that CESR already has issued in 1998 and re-emphasized in 2003: > The Committee urges the State party to review the status of its relationship with the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, with a view to remedying the problems identified...[108]		Nonetheless, both Israel's state and parastatal institutions exclusively proscribe Palestinians from enjoying the rights and freedoms guaranteed to them by international law, and ratified by Israel. It is impossible for Palestinians to have fair appeals in Israeli courts to uphold their rights. A dual system of law discriminates between Jewish Israelis and indigenous Palestinians based on a constructed status of "Jewish nationality." This prejudicial application of law is apparent in all processes of the legal system, from the rights to information and fair trial to detention and prison treatment. State policies compound judicial failures by contracting parastatal institutions (WZO, JNF, etc.) to annex and manage the properties confiscated from indigenous Palestinians by developing and transferring them to possession by "Jewish nationals" in perpetuity. Moreover, despite a 2000 ruling of the Israeli High Court that discrimination on the basis of nationality is impermissible and despite the 1998 CESCR urging that the State party "review the status of its relationship with the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund,"[109] the State continues to protect these entities as parastatal institutions.

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2. Not sponsoring or defending discrimination by persons or organizations		
Removing the nationality clause from identity cards The State party report indicates one positive legislative measure to correct policies that create or perpetuate racial discrimination, namely removing the nationality clause from Israel's identity cards (para. 30). What the report does not reveal is that this cosmetic change falls far short of nullifying or even discouraging discrimination, but only masks it. Since the distinctions on the basis of "nationality" remained well entrenched in other laws and institutions (as pointed out throughout this parallel report). What the identity card change accomplished, rather, was not a removal of the nationality distinction, but its transformation into coded system of symbols, rather than a verbal clause. For instance, "Jewish nationality" is indicated in the new cards with three yellow stars, instead of the word "*yahudi*." Law enforcement officials and Israeli functionaries are instructed in the method of interpreting these coded nationality distinctions and discriminating on that basis, whether they are presented in verbal or symbolic form in official forms and documents. **Judicial measures: Amending discriminatory land-allocation policies.** The State party report confuses the issues and minimizes the judicial shortcomings in the *Qa`adan v. The Israel Lands Authority* case.[110] Most particularly, the State party misprepresents the essential distinction between citizenship and nationality in Israel, using the two terms interchangeably and conveying the impression that the two statuses are equal. This deception lies at the core of the *Qa`adan* case. In its report, the State party omits to mention that the Jewish Agency is the standard parastatal body partnered with the State (in this case,		**Dual Systems of Law** *[See Article 5 A for detailed discussion on discriminatory legal and judicial treatment]* The cause of the arbitrary and contradicting applications of law stems from the dual legal system applied in the OPT. Though I Israel illegal settles the OPT, settlers are offered every conceivable form of service and protection, which is denied to their Palestinian counterparts. Under the July 1967 Emergency Regulations: Offenses in the Occupied Territories - Jurisdiction and Legal Assistance, (1967), Israeli civilians who commit illegal acts in the OPT are prosecuted under Israeli civilian law. Effectively, settlers enjoy the freedoms and liberties guaranteed by the Israeli judicial system, while illegally occupying the land. By contrast, Palestinians who commit the same offences as their Israeli counterparts are treated under military law in Israeli military courts and have their basic rights, including due process, limited, if not entirely eliminated. *[See parallel report submitted by the Israeli Public Committee against Torture (PCaTI).]*

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Israel Lands Administration) to develop the country precisely because it is chartered to discriminate against non-Jews and, particularly, against the indigenous Palestinians, as citizens, refugees or occupied civilians. The report also fails to point out that, in this 7-year-long litigation it was the Jewish Agency's typical involvement in the Katzir development in Wadi `Ara that precluded the Qa`adan family from the right to reside there. It is true that the Court ruled that the State may not discriminate on the basis of "nationality." Then, the government report confuses the issue in the same paragraph (para. 40), stating that: "The Jewish character of the State does not permit Israel to discriminate between its *citizens*" (emphasis added). In reality, the State not only permits, but *requires* discrimination—not on the criteria of "citizen," but on the basis of qualification as a unique "national" (Jewish national/*le'om yahudi*). Then the State report puts forth a patent falsehood with the statement: "In Israel, Jews and non-Jews are citizens with equal rights and responsibilities." What the State report does not say is notable as well. The land that the Jewish Agency distributed was property that the State confiscated from indigenous Arab owners for transfer to the possession of Jewish nationals. The dispute was over a right to live on land of which the plaintiff's community were rightful owners, but for the historic dispossession and discrimination carried out under Israel law and its national institutions. Similarly to other settler states, Israel initiated a comprehensive land and settlement policy.[111] This policy rested on new, powerful legislation that transferred land use, control and ownership into Jewish-Israeli hands. It is important to highlight here two major aspects: (1) Nationalization of public and Arab land; (2) Selective allocation of possessory land rights within the Jewish population.		

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This distinction is important, since *Qa`adan* addressed only the latter component.  Despite the historic pattern and the obvious need for redress, the Court elected to limit the ruling exclusive to the individuals in the Qa`dan case, and cautioned other courts "to proceed slowly, so that we do not stumble and fall and, instead, we will proceed cautiously at every stage, according to the circumstances of each case."[112] In other words, this is a ruling to thwart affirmative action. Even in this single case, the Court did not have the integrity to require implementation of its ruling, but instead ordered the parties to negotiate the resolution of the dispute and report back to the Court. The State party also does not inform the Committee that, to date, there is no implementation of the Qa`adan judgment, after five years (six years at the time of CERD's 66th session). Further, the State report's para. 44 appears to be a nonsequitur, as it remains unstated how the new ILA/JA admission criteria address, supplant or in any way reduce the historic discrimination criteria for access to housing. The ILA claims to control over 93% of the land in Israel. Since 1948, large tracts of Arab-owned land have been confiscated or otherwise appropriated by the state or Zionist "national" institutions such as the JNF, for the exclusive use of Jewish citizens. The JNF acquired approximately 78% of its land from the state in 1949 and 1953, the majority of which belonged to Palestinian refugees. The policy of the Israel Lands Administration (ILA), a state agency, still prohibits Palestinian citizens of Israel from leasing Jewish National Fund (JNF) lands, which amount to a further 13% of the State's landed territory. *This policy, under which Palestinian citizens of Israel have no access to 13% of "Israel's lands," encourages apartheid-like settlements patterns and segregation along racial or ethnic lines, as define in Israel under "nationality" criteria.*		

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As referred to in the State report (para. 47), Ibrahim and Hilda Dwiri, an Arab couple from Nazareth who failed to acquire land in the "enlargement" [*harhava]* of Kibbutz Hassollelim neighbourhood petitioned the Court. While the neighbourhood adjoins Hassollelim, its future dwellers will not become members of the Kibbutz. Yet, the Kibbutz retains the power of selection, not only as to its members, but also as to the identity of the residents of this locality. Unlike the *Qaadan* case, this is a new neighbourhood, and thought it is located near the Kibbutz, it is not part of it. The very fact of the *Ibrahim Dwiri v. Israel Land Administration et al.* case confirms that the problem of institutionalised discrimination against Palestinian Arab citizens remains to preclude access to land and housing. This is a test case for assessing the future trends of the Court. A narrow reading which will uphold the Kibbutz' refusal will practically nullify the significance of *Qa`adan*. *Legislative measures:* *Increasing proportional representation in Israel's Civil Service and within governmental corporations*: As discussed below in Article 5, Arab representation in the civil service has improved, with a growing increase of minority employees every year. Indeed, the Government established fixed target figures for the number of employees from the minority population, as discussed in Article 5 below.		
3. Measures to review, amend, rescind, or nullify governmental, national and local policies that create or perpetuate racial discrimination		
[See discussion of the Multiyear Plan for the Arab Israeli Sector in Part II above.] [See also *Article 4 for a discussion on the judicial, legislative and*		

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penal measures taken by the State to eliminate discrimination.]		
4. Measures to end discrimination by individuals and organizations		
[*See Article 4 for a discussion on the judicial, legislative and penal measures taken by the State to eliminate discrimination.]*		
5. Measures to encourage integrationalist multiracial *organizations*		
The State party report mentions some organizations promoting cross-cultural understanding, such as Givat Haviva. For the purposes of combating racism and racial discrimination, the review period has seen a variety of human rights, development and social organizations involving close cooperation between both Palestinian Arab and Jewish Israeli citizens. Some of those important initiatives are represented in the preparation and endorsement of this parallel report. [*See Article 4 for a discussion on the judicial, legislative and penal measures taken by the State to eliminate discrimination.]*		
B. Social, economic, and cultural measures to ensure development and protection of racial groups		
Enhancing infrastructure within Israel's Arab sector The GoI report indicates that the government has spent 88% of the NIS 3.9 Multiyear Plan for the Arab Sector, approved in October 2002. In July 2003, the Ministry of Finance already reported that 88% of the Multiyear Fund was invested on infrastructure, employment, education, law enforcement and other services for 73 Arab communities (excluding the mixed towns, Druze and Bedouin communities, for which the government maintains separate budgets).[113] By January 2005, a joint ministerial committee revealed official intentions for developing the Galilee and Naqab as a function of the		

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2005 Gaza Disengagement. A 19 June 2005 government decision offered a 40% discount to displaced Jewish settlers for purchasing lands in the Galilee. This is complemented by the plan to construct a new university in the settlement town of Karmiel (Galilee) and to transfer some Israeli army bases to the Naqab. Vice Premier Shimon Peres further clarified the intentions during his visit to Washington in April 2005, with U.S. President George Bush's approval. It is now apparent that $250 million of the U.S. grant for the disengagement will be spent for Jewish-only development in these areas of concentrated Arab population.[114] The main goal is to increase the population (with Jews) to a total of 1.5 million by 2010. The plan will cost NIS16.8 billion, with most of the budget coming from government ministries, a portion from the Finance Ministry (about NIS2 billion), a portion from U.S. public funds and the remainder from JA and other donors.[115] The Committee's guidelines question, like the government response, is not sufficient to indicate implementation of programs or budgets to eliminate discrimination. That would require a more proactive approach by all parties to monitor the results of otherwise theoretical measures. To illustrate, in 2003, the Investment Centre approved funds for establishing new plants and expanding existing factories throughout the country with NIS 3,328,796,000. Of this total, only 1.4% was invested in Arab communities.[116] *Bedouins in the Negev/Naqab* *The State report misrepresents the government policies and objectives in implementing development plans for the Bedouin citizens.* Particularly, the report carries the statement that "the key goals of the plans are to allow for sustainable integration of the Bedouin population into the State, while maintaining their traditional practices and lifestyle." The most obvious contradiction to that		

statement is the dispossession of the Bedouins and their abandonment of traditional practices and lifestyle as a prerequisite to a range of basic services. Their refusal to forfeit their lands and homes results in State retribution. *[For further details on the treatment of the Bedouins of the Naqab/Negev in "The Naqab/Negev 'Development' Plan" under Article 5 below.]*

The Naqab and the Galilee comprise about 66% of Israel's territory. There live some 2.05 million people, of whom 701,000 are Palestinian Arabs, or 34% of the region's population. While this region holds 62% of the indigenous population, current government policies directly effect the entire community.[117]

The Naqab/Negev "Development" Plan[118]

While the Separation Wall crossing the West Bank exemplifies Israeli intentions to dispossess further the indigenous Palestinians there. Parallel and coincident is a program of continuing population transfer and dispossession focused on the Palestinian citizens in Israel of Bedouin origin. The "Sharon Plan for Development in the Negev" is the euphemism for the latest phase in the process currently underway inside the Green Line, in the south of Israel. While several government and civil society programs provide services to the needy Bedouin community, notably in the establishment of "service centres" in the Naqab/Negev, these efforts seek to permit social development for the Bedouin as dispossessed individual members of an indigenous community without land and without land tenure or freehold tenure of adequate housing.

Prior to 1948, approximately 90% of the Bedouins in the Negev earned their living from a mixture of agriculture and pastoralism, and 10% subsisted solely on raising livestock.[119] Today, over 90% are wage labourers. The state's policy since 1948 has been to prevent the Bedouins from maintaining their ties to the land by making their

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traditional lifestyle untenable. Today the approximately 140,000[120] Arab Bedouin living in the Negev represent approximately 12% of the Palestinian Arab minority in Israel. Like all other Palestinian citizens of the State, the Bedouin of the Negev (in Arabic, *Naqab*) experienced land confiscation and dispossession of their property by the State of Israel steadily since 1948. At present, the Negev Arabs combined hold only 240,000 dunums (24,000 hectares) of their approximately 13 million-dunum (1.3 million-hectare) original holdings. Of that, 180,000 dunums are held by the residents of the unrecognized villages, which the State party report refers to as "illegal." That is to say that the residents of the villages remain on 1.3% of the land in the Negev, while they constitute 14.2% of the Negev citizens.[121] Meanwhile, this same 1.3% of the Negev land is currently zoned for Jewish-only industrial areas, settlements and other purposes. In 2020, the 76,000 residents of the unrecognized villages will number a minimum of 200,000 persons. According to Israel law, a community of this size requires an area of 1,153,143 dunums.[122] The current "Development for the Negev" initiative seeks to accelerate long-standing plans to transfer Negev Bedouin Arabs into seven planned townships (which Israeli planners unfortunately have termed "concentrations," *rekuzim* in Hebrew). When completed, the *rekuzim* will house some 120,000 Bedouin citizens into an exceptionally confined space. In 2003, the Sharon government adopted a comprehensive NIS 1.175 billion ($200 million) 6-year plan to accelerate the elimination of indigenous Bedouin villages and their land holdings in the Negev/Naqab in two stages.		

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First, authorities are applying an "Eviction of Trespassers" amendment to the Law on Public Land (1981) that criminalizes 70,000 Negev Bedouin living in 45 villages as “trespassers.” The plan's second thrust creates three new concentration townships on the site of recognized Bedouin villages: Bir Hadaj, Dariyat and al-Madbach. It also calls for imposing on them alien Hebrew names: Bir Heim, Mari'at and Beit Felet, respectively. To accomplish these objectives, the Plan sets out specific measures and benchmarks: **1.** Establishing a special police stations and forces; **2.** Empowering the Green Patrol[123] with more funding and personnel for land confiscations; **3.** Justice Ministry, Land Authority, and The Bedouin Authority (the Civil Administration acknowledged by the community) will collaborate more closely to identify and claim Bedouin lands as State property; **4.** The landowner bears the burden of proof of tenure[124]; **5.** Any money or land compensation will be according to the Israeli Law, Governmental decisions, and Land Authority; **6.** Jewish Regional Councils of Ramat Hovav and Bani Shimoun will allot farms (to Jews only), outside their jurisdiction where unrecognized villages currently lie; **7.** Israeli Government will implement their decision of 4 August 2002 to enforce the *Planning and Building Law* toward destroying all houses in “unrecognized villages”; **8.** Local municipalities will be established for planned concentration townships. Resident’s addresses will be registered[125] according to those recognized villages and the seven planned *rekuzim*). The Knesset approved the "public lands" government bill, stipulating removal of squatters. The legislation has given the government and its institutions strong tools that facilitate the eviction and		

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dispossession the Negev Bedouin and make demolitions more difficult to fight. The law enables the Israel Lands Administration and the local authorities to request the help of the police to destroy homes of "squatters" without any need to turn to the Bailiff's Office. This amendment denies the evictees a right to appeal to the head of that office, as previously was possible. Another amendment also defines the new criminal offence of entering public lands and holding them illegally; the punishment for this is one year in prison or a fine of NIS 31,000, and proposes giving the supervisors of the local authorities' powers of interrogation like those of police officers in case of allegation of squatting on State lands. The Knesset's new law also reverses the burden of proof; whereas, previously the ILA had to prove that it owned the land. Now anyone who wants to appeal to the courts against evacuation order will have to prove that he is the owner of the land.[126] While hundreds of indigenous "unrecognized villages" dot the countryside, mostly in rural areas and all predating the State of Israel, these remain without municipal services such as water, electricity, access roads, health and education facilities, and suffer an ever-shrinking land base due to state-sponsored dispossession. Meanwhile, Israeli and Jewish "national institutions" have meticulously planned, built and fully serviced 180 settlements to accommodate 28,000 Jewish inhabitants in the Negev. Israel's purpose for implementing the current Bedouin policy and Sharon Plan is not "development" as the State party report claims. Neither is it for the purpose of settling the nomads. The objective, rather, is to dismantle Arab Bedouin communities and their economy, preventing their use of land and animals, and to maintain them into a surplus labor pool. The Bedouin's efforts are currently diverted to survival strategies to maintain their pasture and		

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agricultural lands and livestock, while the government uses legal instruments, coercion and force to deprive them of their means of subsistence in the name of development.[127] *[See Annex 3: "Naqab Development Plan" for more detail, and information on specific rights affected in the sections below.]*		
Article 3		
The State party refuses entry and return of the Palestinian refugees whom it expelled in 1948 and subsequent years, transferring their homes and properties to the exclusive benefit of Jewish immigrants and settlers. As provided in the foregoing discussion of the charter, policies and practices of the WZO/JA and JNF, these institutions discriminate constitutionally and practice effective segregation by banning Palestinian Arab citizens' access to land and housing reserved for others. As demonstrated in judicial patterns, the State has not shown due diligence in outlawing or redressing these long-standing practices or the deprivation arising from them.		Israel has essentially "created extraterritorial personal status for Israeli civilians" in OPT,[128] a status that the Knesset has extended since 1967. Moreover, it is nationality, based on a discriminatory classification that determines whether a person shall be treated justly or not. This not only creates disparity in legal treatment, "but violates the principle of territoriality, commonly accepted in modern legal theory, according to which persons living in the same territory must be subject to the same system of laws,"[129] As well as violates humanitarian norms of The Hague Regulations (Article 43), as noted above. *[See Article 5B below for details on Settler Violence.]*
Article 4[130]		
The State has only *partially* met its obligations under the ICERD by taking judicial measures and instituting laws that render dissemination of racist ideas, incitement to racism and violent acts against any race illegal and punishable by law. Collectively *Article 133 of the Penal Code, 5737-1977*, *Article 134 of the Penal Code, Article 4 of the Prohibition of Defamation Law, 5725-1965, the Basic Law: The Knesset (Amendment No. 12), and the Penal Code (Amendment No. 24, Item A1 of Section H),5745-1985* represent a forceful approach toward racist incitement, specifically prohibiting and criminalizing numerous racist actions, including: the possession of a racist publication for the purpose of dissemination; offences		*[See Article 5 B violence against Palestinians.]*

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committed on racist grounds; incitement to violence or terror; and incitement to revolt, whether or not these offences are committed as part of permanent associations. Further, on 19 June 2005 the Knesset Ministerial Committee for Legislation approved a proposed law seeking to define, within the Penal Code, "racist association" as a "prohibited association," thus filling a lacuna in Israeli legislation, providing for the addition to the list of "prohibited associations" a "company of persons, including organizations or political parties, through whose constitution or propaganda or activities it encourages or finances or advocates or incites to racism or racial discrimination." Although the State has taken necessary judicial measures to criminalize all and any forms of racism, the State has utterly failed to uphold the rest of its ICERD obligations in so far as efforts to take the necessary legal measures against offending public and government figures. In its ruling on CA 2831/95 *Rabbi Ido Elba v State of* Israel, *Piskei Din* 50(3), 221, the Supreme Court discussed at length the question of the interpretation of the offense of "the prohibition of the publication of incitement to racism" (Article 144B of the Penal Code). Specifically, the Court established parameters of "publication of incitement of racism" including maintaining that the publication of a racist statement need not require the "presence of a probable and concrete danger…[rather] the danger to society is inherent in the incitement to racism itself." Despite that clear ruling, State institutions fail to take the appropriate legal proceedings to protect the Palestinian minority from the both racist threats and subsequent actions that initiated by government officials, who enjoy State protection from the State against prosecution. The Attorney General never has filed an indictment against any person on account of such racist statements. Responding to the statements by MKs Zeev Baum[131] and Yechiel Hazan,[132] for example, Attorney General Menny Mazuz decided not to instigate a criminal investigation since, in his opinion, after "examining the		

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totality of pertinent considerations," he had concluded that this was a "borderline" case, and he doubted that criminal proceeding was the appropriate tool. Instead, he referred the case to the Knesset Ethics Committee, which he claimed was "the most appropriate framework for addressing these types of statements." *[See Annex 4: Analysis on Racism in the State of Israel]* There have been only two cases in which a decision has been made to investigate (and, in one case, to prosecute the alleged offender). Even in these cases, no statement of indictment has been served to date. The first case concerns Dr. Bukai:[133] Attorney Shai Nitzan forwarded an instruction to the Israel Police in March 2005 to investigate Dr. Bukai on suspicion of incitement to racism due to some of his statements. No decision has been made to date. The second case concerns Rabbi Shmuel Eliahu.[134] In reaction to his comments, the Israel Religious Action Center (IRAC) of the Israel Movement for Progressive Judaism contacted the Attorney General six times from 13 August 2002 to 17 September 2004, asking that the rabbi be questioned and prosecuted for his statements. In one reply from the Attorney General's Office (22 October 2003) relating to the rabbi's demand that Arab students be removed from the college in Safad, announced that "the Attorney General has decided to prosecute Rabbi Shmuel Eliahu subject to a hearing." Other letters from the Attorney General stated that he had decided to instigate an investigation relating to other statements. However, three years after the submission of the first complaint, and one year and nine months after it was decided to prosecute Rabbi Eliahu, the AG's office has filed no indictment. IRAC eventually decided (11 July 2005) to file a petition with the Supreme Court against the Attorney General for his failure to prosecute Rabbi Eliahu. The petition is currently pending.		

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Elsewhere, the former AG clarified that, as a general rule, the prosecution's policy is extremely restrained in this type of offence, due to recognition of the importance of the principle of freedom of expression. However, the Attorney General's approach is inconsonant with Article 4 of ICERD and with the goals behind the provisions in the Penal Code relating to racist incitement. According to international law, the right to freedom of expression is relative, not absolute, and it may be infringed, to a certain extent, in order to defend other, no less important rights, such as the right to reputation and the right of individuals or groups not to be exposed to racist statements or incitement. It is also in the purpose and spirit of Article 4 that freedom of expression and freedom of association should not over-ride the right to reputation and the right not to be exposed to racial discrimination or incitement. Even in Israeli law, freedom of expression, despite its elevated status, is a relative rather than an absolute right. In the ruling in *Elba v State of Israel*, the President of the Supreme Court, Justice Aharon Barak, clarified that it is possible to impair freedom of expression in the context of a racist statement, since the infringement of freedom of expression for the purpose of preventing racism constitutes a proper purpose. Justice Eliahu Matza wrote in the same ruling that racist statement is not included in the forms of expression to which a free society is obliged to reconcile itself, and, accordingly, the gates of freedom of expression are closed to it.[105] In the ruling in *Lerner v State of Israel*,106 the Jerusalem District Court writes (p. 434): "We concur with the Appellant that freedom of expression is indeed a supreme value, and, as such, patience and tolerance must be shown even toward comments that are outrageous and uncomfortable to hear and absorb. This freedom is not, however, without limit. Freedom of expression, notwithstanding its lofty status,		

is not absolute liberty to say anything a person wishes, and it is not infrequently restricted, albeit only in the minimum measure required, in order to protect other vital interests. One of these interests is the public interest in preventing incitement to racism, and it was for this purpose that Article 144B of the Penal Code was enacted. The restriction on freedom of expression included in this article seeks to create a proper balance between freedom of expression and protection of society and the members of society from the dissemination of the virus of racism, whose cost was seen by humanity, and particularly by the Jewish people, not so long ago. The considerations of balance should include, *inter alia*, the evil and danger of the publication inciting to racism as opposed to the danger of the infringement of freedom of expression. This balance is performed by a court that sits among its people, weighing factors, facts and considerations of different types."

In enacting the provisions in the Penal Code relating to incitement to racism, the Israeli legislature expressed its clear opinion that the interest of preventing racial incitement outweighs the interest of protecting freedom of expression. Accordingly, in adopting a position that mandates restraint in offences of incitement to racism, in preferring the consideration of freedom of expression over other considerations, and in refraining from prosecuting Jewish public figures who have made racist statements against the Palestinian Arab minority, the Attorney General is not only contravening Israel's undertaking in accordance with ICERD, and hence infringing international law, but is also promoting policy that contradicts the intention of the Israeli legislature, and hence also infringing domestic Israeli law.

Moreover, the AG, in adopting such policy, has failed to consider the established norms and rulings of the Supreme Court relating to the subject of racist statements against the Palestinian Arab minority in

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Israel. The State has met an obligation to protect subject persons and groups from certain overt forms of racial discrimination and incitement, as in the case of *The State of Israel v. Benjamin Kahane.*[135] It must be noted, however, that the resulting ban did not extend to those others advocating similar racist policies *[as noted in the "Access to the Political System" below]*. Moreover, members of the GoI who have incited, conspired to, abetted, encouraged or cooperated to commit acts of racial discrimination, including advocacy of population transfer against the indigenous Palestinian Arab citizens of the State, have remained unaffected by any State action. Notable examples include the former Minister of Tourism Rehavam Ze'evi, the advocate of ethnic cleansing against Arab citizens whom Palestinian militants assassinated in 2001. Israeli political leaders[136] and well as private groups call for racist and ethnic-cleansing "solutions" to the ongoing conflict without repercussions. When challenged, the State has responded to racist incitement in the case of some political activities. The State report cites, for example, the case of *Attorney General v. The Central Elections Committee*,[137] resulting in the Supreme Court's prohibition of racist party candidates in the 1999 Upper Nazareth municipal elections. However, this challenge did not result in a prohibition of anti-Arab racist parties, while Arab parties promoting democratization and "a State for all its citizens" are threatened with prosecution and banning under the State party's Basic Law: Knesset Law (as cited above). Moreover, it is therefore unclear why the Attorney General chooses to ignore this ruling and to refrain from prosecuting public figures who make statements and express opinions explicitly and clearly calling for a policy of transfer against the Palestinian Arab minority. In addition to the provisions of the Penal Code relating to incitement to racism, the Israeli legislature has provided the Attorney General with an addition tool for combating racist incitement: Article 4 of the		

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Prohibition of Defamation Law. This article grants protection against the defamation of groups and permits the Attorney General to prosecute and penalize a person who makes racist statements against a particular group in society. The use of Article 4 of this law is, indeed, easier than the use of Article 144B of the Penal Code, due to the stricter demand in Article 144B to prove the "goal" of inciting to racism. However, the consistent policy of the AG has rendered Article 4 a dead letter; since the enactment of the Prohibition of Defamation Law, this article has never been used, despite the fact that it is an appropriate tool to prosecute those employing racist incitement against disempowered minorities. The failure of the State to take the necessary actions to implement the law not only renders the positive steps by the Israeli legal system superfluous, but results in both a violation of ICERD by omission and a perpetuation of racial segregation and violence.		
Article 5		
A. The right to equal treatment before the national law enforcement agencies		
The Orr Commission and the Lapid Committee[138] In October 2000, demonstration of solidarity with Palestinians in the OPT resulted in the death of 13 Palestinian citizens of Israel as well as attacks by Jewish demonstrators on Palestinians citizens, causing property losses, injuries and at least one death. The GoI appointed a State commission of inquiry, headed by Supreme Court Justice Theodore Or. The *Orr Commission* published its conclusions in September 2003. The Commission determined that although discrimination on the basis of national, religious, or ethnic identity is strictly forbidden under Israeli law, Israel's "Arab citizens live in a reality in which they are discriminated against as Arabs."[139] The party guilty of discrimination is the State itself. The report then "proceeded to present how gross discrimination had been practiced		The State's personnel and institutions practice discrimination at all levels of contact between Israeli law enforcement officials and the Palestinians, including daily tribulations with security personnel at crossing checkpoints, disparities in the legal treatment of Palestinians, harassment during detainment, and torture at detention centres and prisons. Incarceration is particularly harsh against Palestinian women and children. [*See prison conditions below.]* *Administrative Detention*: is a practice restricted under international law. Specifically, the individual's threat to State or society must be so grave as to require the infringement of basic rights. Israel has applied administrative detention regularly against Palestinians, increasing its use throughout al-Aqsa Intifada, and during and after

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in the areas of land possession and use, treatment of the "present absentees," budgetary allocations, employment, socioeconomic conditions, education, religion, language rights, political participation, police protection, social status and social relation, and racist incitement." The Commission mentioned the demand of Palestinian citizens for making Israel a State of all its citizens as a sign of "radicalization."[140] "Given its undeclared commitment to ethnic democracy, the Commission's recommendations for improving the conditions of the Palestinian citizens occupy one page only, and do not go beyond the solemn articulation of principles that should guide government policy toward the Palestinian citizens, chief among them the principle of equality.[141] This creates the impression that in the Commission's view the main problem of Israel's Palestinian citizens is that GoI so far has been ignorant of these principles. Moreover, the Commission balances its recommendations with an exhortation directed at the Palestinian citizens themselves, calling upon them to internalize the rules of legitimate civil protest.[142] According to the logic of the committee, since Israel is a liberal democracy, its Palestinian citizens should express their grievances only through legitimate "democratic" channels. In other words, the Commission asserts a premise that Israel is a democracy, effectively claiming for the State a moral high ground from which overlook the logical culmination of the Commission's own findings of the States' obstacles to democratic options, and to stifle the Palestinian citizens' ability to protest those conditions.

After the Orr Commission Report's submission, the cabinet established an interministerial committee, headed by then Justice Minister Yosef Lapid, to study its recommendations. "The Lapid Committee's primary recommendation was that a new government authority be established with the goal of promoting the "non-Jewish sectors," and ensuring that related GoI decisions are implemented. This is tantamount to a revival of the old office of the Prime Minister's

its *Operation Defensive Shield* (2002). For example, as of 1 August 2005, Israeli security forces have held 596 Palestinians in administrative detention, compared with 16 in August 2001.

In Israeli, the use of administrative detention is unlawful both within the OPT and inside the Green Line. Within the OPT, Israel uses administrative detentions under the 1988 *Military Order 1229*, which allows detentions for 6 months with the possibility to extend this period for additional periods without a cumulative maximum. As of early 31 October 2005, the Mandela Institute numbers Palestinian prisoners at 8, 279, including 335 juveniles, 118 women, and 870 in administrative detention.[143]

Discrimination between Palestinians and Israelis is particularly egregious in criminal justice procedures. As an illustration, the following table compares certain key rules relating to the rights of the defence, as applicable to different population groups in the OPT.

Discriminatory Detention Procedures

	Israelis (and East Jerusalemites)[144]	Gaza Palestinians[145]	West Bank Palestinians (except East Jerusalemites)[146]
Maximum period of detention before appearing before a judge	24 hours, extendable once by 24 hours	48 hours, extendable up to 96 hours	8 days since August 2003 (18 days in April-August 2002, then 12 days until August 2003)
Maximum period of	10 days, extendable up	10 days, extendable up	30 days, extendable up

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories

Adviser on Arab Affairs, a hallmark of discriminatory policy that was dismantled in the period of liberalization. The Lapid Committee also recommended that implementation of the Orr Commission's cardinal (and unconditional) recommendation—equality between Jewish and Palestinian citizens—be conditional on the establishment of national service for the Palestinian citizens. The Committee also called for drawing up a master plan for urban renewal in all of Israel's Arab villages and towns, but evaded the Orr Commission recommendation of just allocation of land resources to the Palestinian citizens.

The Committee also found that the police are better prepared today for such events as those of October 2000, ignoring the fact that the police still suffers from the main problems it had in October 2000: racist attitudes and violent behaviour toward non-Jews. *(See Annex 5: Mahash Conclusions on October 2000 Massacre for more details)*

In sum, while the Orr Commission attempted to restore the ethnic-theocratic character of the State, the Lapid Committee was a reactionary response to it, seeking to reinforce an anti-democratization process that accelerated in October 2000. The demonstrations of October 2000 and the State's handling of them have eroded significantly the line separating the "Jewish nationals" from the Palestinian citizens deprived of equal status. The Orr Commission sought to restore a notion of "ethnocentric democracy" by reinforcing the line separating Jewish from Palestinian citizens. Further developments, including the conclusions of the Lapid Committee, have widened that line even further.

In our view, Israel's Palestinian citizens still possess meaningful citizenship that distinguishes their status from that of their conationals in the occupied territories. However, the various laws

detention without having access to a lawyer	to 21 days	to 50 days	to 90 days.
Maximum period of detention before official charges	15 days, extendable once by 15 days	20 days, extendable once by 20 days	up to 180 days.

Under the military orders applicable to the West Bank excluding East Jerusalem, after the period of up to 180 days of detention and interrogation, a detainee may face charges and trial or be placed in administrative detention, without charge or trial.

In case of administrative detention, the evidence usually remains secret. Consequently, the detainee cannot rebut the evidence, which renders hollow the formal right to appeal the detention order. Indeed, such appeals are rarely upheld. There is no legal requirement to provide an interpreter, even though confessions to be signed by Arabic-speaking detainees are written in Hebrew. Administrative detention orders are valid for up to six months, and indefinitely renewable.[147] Unlike the law on administrative detention applicable to Israelis, the military orders lack a number of safeguards such as the requirements that the detainee be brought before a judge within 48 hours and that the president of a District Court review the case every three months.[148]

During Israel's military offensives in the West Bank from March to June 2002, this legal framework allowed mass arrests and arbitrary detention of approximately 15,000 Palestinians. The manner and scale of these arrests indicate that most of them were done on the basis of nationality (Palestinian), gender (male) and age (16-50)

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
that have been enacted since October 2000, and the adoption of Lapid Committee's report by the government, have considerably narrowed the political space available to the Palestinian citizens of Israel for working to enhance their citizenship. Ironically, the claim that Israel is a democratic state and that the Palestinians citizens enjoy democratic citizenship, is being used to delegitimise their political struggle for liberal democracy and equal citizenship." **Refugees** Israel's ratification of the Refugee Convention, like the Convention itself, does not address the principal refugee issue arising from the State party: the 58-year Palestinian refugee displacement and the State party's refusal to implement UNGA resolution 194, conditioning Israel's UN membership on its return of the 1948 Palestine refugees.		without substantial evidence pertaining to specific individuals.[149] This amounts to arrests that "are in reality based solely on the physical appearance of a person, that person's colour or features or membership of a racial or ethnic group, or any profiling [that] exposes him or her to greater suspicion."[150] Palestinians also face discrimination when brought to trial in Israeli military courts. Israeli military orders provide for offences that find no equivalent in the Israeli judicial system. The maximum allowable sentences that can be handed down by military courts are more severe than for the civilian courts. For instance, the maximum allowable sentence for manslaughter under the military orders is life imprisonment; whereas it is 20 years in Israeli law. Unlike in Israeli law, military orders do not allow for early release for any reasons at all. The Israeli High Court of Justice is competent to hear petitions challenging Israeli military practices in the OPT, but an overview of the Court's rulings since the outbreak of the second Intifada in September 2000 suggests that the Court has repeatedly twisted the law in ways that reveal an underlying tendency to discriminate against Palestinians in the OPT.[151] Moreover, a series of lenient sentences passed on settlers suggest further discrimination in practice.[152] In addition, Israel's *Civil Wrongs (Liability of the State) Law (please refer to Part II: B)*, as amended in July 2005 with retroactive effect to September 2000, makes it all but impossible for Palestinians to obtain compensation for harm sustained at the hands of Israeli forces. In essence, the law excludes State tort liability for damage sustained by any Palestinian as a result of the actions of the Israeli occupying forces. There are only three very limited exceptions concerning harm caused in custody, in traffic accidents, or by a member of the security forces convicted thereof.[153] This amounts to discrimination in the enjoyment of the right to just and adequate

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		reparation.*Investigation and punishment of criminal acts* Discrimination is widespread in the investigation of criminal acts perpetrated by members of the Israeli occupying forces against Palestinians. The situation is particularly alarming with regard to the use of lethal force.[154] The IOF has refused to investigate killings of Palestinians that take place in a context of armed conflict and, by construing the notion of "armed conflict" very broadly, have investigated only approximately 2% of the more than three thousand such cases since the outbreak of the second Intifada on 29 September 2000.[155] There are cases in which the Judge Advocate General's office has refused to investigate cases involving a clear breach of international humanitarian law, where the event had just taken place and witnesses were available.[156] Often, investigations are only opened under strong outside pressure, as reflected in the high ratio of investigations in cases of lethal use of force against foreigners.[157] When investigations are opened, they are not "pursued without delay and in an effective, independent and impartial manner."[158] The practical difficulties of investigating inside the OPT are not sufficient to explain all the shortcomings, which include the IOF gathering evidence from sources within the IOF without checking them against the victims' version of the facts.[159] In general, the IOF does not contact non-IOF witnesses on its own initiative.[160] From the outbreak of the second Intifada (29 September 2000) until June 2005, out of at least 1,722 Palestinians whom IOF killed while not taking part in hostilities, Military Police investigated only 108 cases, authorities issued only 19 indictments, and only two convictions.[161] In short, Israel has failed to "prevent and most severely punish violence" against Palestinians "committed by State officials."[162] (Discrimination is also present in the investigation of incidences of private violence, as noted under Article 5(b) above.)

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Discriminatory treatment of Palestinian women by law enforcement officials: Palestinian women are routinely harassed, intimidated, and abused by Israeli soldiers and Border Police occupying their homes, and monitoring checkpoints and gates. These women are subject to threats of sexual violence in public spaces and humiliated in front of their families. One graffittied wall in Hebron reads, "Watch out Fatima, we will rape all Arab women."[163] The consequences of a woman's refusal of sexual advances can be far-reaching. In one case, a Palestinian woman attempting to cross a gate in the Wall in Zeita (Tulkarem District) when a Border policeman stopped her. When she refused his advances, he punished her whole family, preventing them from passing through a gate in the Wall separating them from their greenhouse and their livelihood.[164] The use of, or threats of violence against women is also used against Palestinian men who are prisoners or are administratively detained as punishment for not giving information.[165] *Palestinian women detainees:* There are approximately 129 Palestinian women prisoners. 11 women are being administratively detained (without charge or trial);[166] 74 are being held pending a trial, and 44 have been sentenced. Twelve of these women prisoners are under the age of 18.[167] Israeli law enforcement officers commit double the discrimination with Palestinian women in that they are mistreated on the basis of both ethnicity and gender. Israeli officials habitually resort to using tactics of cultural aggression against Palestinian women in their custody. Specifically, their tactics involve the manipulation of Palestinian beliefs on issues related to women's' honour[168] so as to both degrade the women in their custody and to ensure that their personal security is further compromised by their own populations.

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Further, Israel has continually undermined the abilities of Palestinian law enforcement officials to deal with "honour" femicides. *Prison Conditions for Women*[169] Palestinian women prisoners suffer from poor conditions of detention, inadequate access to health care and food, severe shortage of clothing, and lack of on-site medical doctors or social workers. Furthermore, private needs, such as their sanitary needs particularly during menstruation, are neither respected nor taken into consideration. Prisoners are deprived of family visits, and are subject to verbal abuse as well as invasive inspections. Lawyers are forced to interview the detainees through three layers of metal netting and a plastic barrier. Such conditions continue to have grave repercussions on their physical and mental integrity, and reflect a systematic breach of the right to health of Palestinian women in Israeli custody. Moreover, some newborns continue to live with their mothers in the prison amid unbearable conditions. The prison administration fails to respond to their psychological and physical needs, including clothing and food, and denies their husbands contact with their children during visits. *Harassment, Torture, and Ill-treatment of Palestinian Women Prisoners*[170] Israeli prison officials subject Palestinian female prisoners to various forms of torture and ill-treatment during investigation and detention periods, including beating and solitary confinement. Israeli investigators continue systematically to threaten Palestinian female prisoners in a manner that perpetuates gender-based violence that is founded on the perception of women as inferior to men.

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Palestinian women prisoners are threatened, especially younger ones, with rape during investigation to force them to provide information or to plead guilty. In cases where prisoners have refused to comply with orders to take off their clothes, prison officials often tie them and strip them, a policy directed solely against Palestinian women prisoners, and not used with Israeli women detainees. In addition, prison authorities allow male jailers to enter and search female prisoners' rooms any time and without prior notice. *Treatment of Palestinian children before legal institutions* *Definition of a child under Israeli Military Law:* As is the case for Palestinian adults, the legal regime applicable to Palestinian children is different than that which applies to Israeli children. Palestinian children living in the OPT are dealt with under Israeli military orders, while Israeli children, including those residing in illegal settlements in the OPT, are treated under Israeli civil law. In compliance with the CRC, Israeli civil law states that "an individual who has not reached the age of 18 is a minor."[171] By contrast, Israeli Military Order #132, applicable only to Palestinian children in the West Bank and Gaza Strip, introduces a tier system for categorizing children, each with unique legal implications. Thus, anyone 11 years of age and under is a "child," anyone between the ages of 12–13 is an "adolescent" and those aged between 14 and 15 are "teenagers." Children who are 16 or 17 years old are not explicitly mentioned in the military order, thereby implicitly defining them as adults. Thus, Israel defines "a child" of one national group differently from other children under the jurisdiction of the state. *Children in the Israeli Military Criminal Justice System*The treatment of Palestinian children under the discriminatory regime of military orders, from the moment of their arrest—the moment when

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		the comprehensive regime of fair trial rights should be activated—falls far short of international human rights standards for the treatment of children in conflict with the law. The phenomenon of arresting and trying Palestinian children has been a systematic practice since the beginning of the Israeli occupation. The number of children entering the Israeli military criminal justice system, has however, increased dramatically since September 2000. Since that time, there have been an estimated 3,500 children arrested, and at the end of 2005, there were 320 Palestinian children in Israeli prisons or detention centres, including 7 administrative detainees and 5 girls. *Arrest* Cases of Israeli juvenile offenders are dealt with by specifically trained authorities and personnel, and follow explicit child-specific procedures, including eventual prosecution in juvenile courts.[172] Palestinian children in the West Bank and Gaza Strip, however, are arrested mostly by the Israeli military and are then tried in Military Courts by the same authorities and under the same official framework as Palestinian adults. Moreover, unlike the fairness protection provided to Israeli children under section 14 of the Youth (Trial, Punishment and Modes of Treatment) Law 1971, wherein "a minor may not be tried for an offence if a year has passed since the offence was committed, except with the consent of the attorney general", there is no statue of limitations on the prosecution of Palestinian children. On the contrary, lawyers have recently noticed an upsurge in cases of Palestinian children being arrested for offences they had allegedly committed several years previously. Palestinian children from East Jerusalem are treated differently to

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		those from the West Bank and Gaza Strip due to Israel's illegal annexation of East Jerusalem and the imposition of Israeli domestic law on the Palestinian population residing there. East Jerusalemite children arrested for activities outside of the West Bank or Gaza can be detained for a maximum of 24 hours and are brought before a specialized juvenile court[173], rather than before a military court. If they are arrested for activities in the West Bank or Gaza Strip, they are dealt with under the Israeli military law in effect in those areas. However, an Israeli juvenile settler will always be tried according to Israeli civil court legal proceedings regardless of whether he/she commits an offence inside or outside the occupied territories. He/she will not be prosecuted under Military law. *Detention* The Israeli Supreme Court held that there is no obligation to keep a minor under arrest until the termination of legal proceedings, even in the case of murder.[174] Under Israeli law minors aged 14 and upwards may be detained for up to 24 hours before seeing a judge; in special cases, this period can be extended by an additional 24 hours. The juvenile court is authorized to order the detention of an Israeli minor prior to indictment for a maximum period of 90 days.[175] Palestinian children are held in one of at least 16 Israeli prisons or detention centres spread throughout Israel and the West Bank, (including some located in illegal West Bank settlements), which take children, although none of them are specialized juvenile facilities. Before being brought in front of a judge, a Palestinian child can be held in detention for an initial period of up to eight days. If the judge deems it necessary, the detention period before indictment can be extended to up to six months, with the detention extension periods not exceeding one month. Palestinian children from West Bank and

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Gaza Strip are almost always held in pretrial detention, with only 5–10% of children being released on bail while awaiting trial. The right to access a lawyer can be denied to a Palestinian child, with court approval, for up to 90 days.[176] No efforts are made by the arresting authorities to inform the child of his/her right to legal counselling and, therefore, in most cases, children do not meet their lawyer until they are taken to court.[177] It should be noted that court proceedings can take place in the absence of a defence lawyer. The military court, or the military commander of the area, can hand down administrative detention orders to Palestinian child detainees according to the procedures described under Articles 2(A)(3) and 5(A) above for Palestinian adult detainees.(See Annex __ for a case study on child administrative detainees). *Trial* According to the Israeli Youth law,[178] it is possible to impose a punishment of imprisonment on an Israeli child who is age 14 at the time of his sentencing. However, "in sentencing a minor, the Juvenile Court must consider, *inter alia*, the age of the minor when he committed the offence. For minors, the tendency of the court is to prefer methods of treatment that are not imprisonment."[179] Palestinian children can be imprisoned from the age of 12. Moreover, lawyers for Defence for Children International–Palestine Section (DCI/PS) have observed that military prosecutors sometimes attempt to postpone legal proceedings for 12 and 13 year old children until the child reaches 14 years of age whereupon harsher penalties apply. The Israeli record shows that incarceration of Palestinian children is a "first resort," which is clearly not in the "best interests of the

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		child."[180] Even children who are arrested having thrown stones and objects which have caused no harm to people or property have been given custodial sentences. Over the past five years, only 5% of the Palestinian children arrested have been released without charge**.** Furthermore, only 1% of children aged 14–17 years found guilty of committing an offence by an Israeli military court received anything other than a custodial sentence. In addition, recent experience indicates that instead of adhering to the CRC principle that a child should only be imprisoned for the "shortest appropriate period of time," the length of prison sentences issued to Palestinian children is actually increasing. While in 2000, only 9.7% of cases handled by DCI/PS resulted in a sentence of one year or more, by 2005, 51.7% of sentenced children represented by DCI/PS received one year or more. *Imprisonment* Under Israeli law it is forbidden to imprison a minor (anyone below the age of 18) with adults.[181] Palestinian children up to the age of 16 who have been sentenced to prison are held in separate compounds to those holding adults. However, 16 and 17-year-old Palestinian children are imprisoned together with adults, being regarded as such under Military Order 132. From the moment of arrest, through to imprisonment, virtually every detained child is exposed to violent physical and/or psychological mistreatment, such as beating, isolation, sleep deprivation, threats, exposure to humiliation and degrading situations, deprivation from food and drink, prevented from using the bathroom, deprivation of family and attorney visits, and forced signing of confessions. Children are also subjected to pressure to collaborate with the

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Israeli security services, position abuse *(shabeh)* being doused with cold and hot water and violent shaking.) Israeli parents or other authorized adults must be informed immediately when the detention or arrest of their child occurs and must be invited to be present during interrogation, unless there are specific reasons not to do so.[182] By contrast, Palestinian families are rarely told where their child has been imprisoned and the family might not be able to track them down for some time. During extended prison sentences, prisoners are often relocated to new prisons and their families are not notified. Only once the child has been transferred to one of the main prisons within Israel, can families apply for permissions to visit. Due to Israeli-imposed restrictions of movement and permit policy, it is unlikely that parents, whose children have been sentenced to six months and less will be able to visit their children. Israeli juveniles in detention are offered various educational facilities at different levels. At the end of each term, grades are submitted to the Ministry of Education and Culture for accreditation and the issuing of certificates.[183] In 1997 the Tel Aviv Central Court established that Palestinian child prisoners have the right to continue their Palestinian education curriculum in eight subjects.[184] However, this ruling only applies to Telmond Prison (which is within that Court's jurisdiction), and the Israeli Prison Service-administered facility failed to implement it. Palestinian child prisoners detained in the Hasharon section of Telmond receive 3–3.5 hours of classes, five days a week, in only three subjects which follow the Israeli curriculum. Subjects such as history, geography, religion and literature are not taught under any circumstances on the grounds that they represent a security threat.

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Prison officials make no distinction as to levels and age, and only one teacher is available for all imprisoned Palestinian children. The classes taken are not accredited by the Palestinian Ministry of Education. Palestinian children held in Ofek section of Telmond along with Israeli juvenile offenders receive lessons, though in Hebrew, which they often do not speak, and according to the Israeli curriculum. Palestinian children aged 16 and 17 are not provided with any education, due to their classification as adults. They can, however, sit for final high school exams (*tawjihi*), only if they have been sentenced and only if the prison authorities permit.
B. Security of the person		
		Of particular concern is the violence committed both by Israeli occupation forces (IOF) and Israeli settlers under IOF protection. Settler colonies not only maintain large numbers of security personnel, per Israeli settler, for their personal security, but the Israeli laws discriminate in condoning violations by settlers. [*See details below*.] Settler violence committed against the indigenous Palestinian population is often overlooked or encouraged, while acts of aggression committed by the Palestinians against the settlers are met with swift retribution. The IOF instigate, perpetrate, and encourage aggression against the Palestinian population regularly **Settler Violence** Every year, Israeli settlers—who freely bear arms—perpetrate numerous violent acts such as beatings and shootings of Palestinians and destruction of their crops and trees. Since

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		September 2000, settlers in the OPT have killed at least 54 Palestinian civilians, including a 14-year-old girl in Hebron. Settler abuse forms four patterns: ▪ Property damage, including destruction of crops and theft of sheep and goats in particular (21%); ▪ Blocking of roads and preventing access to fields (51% of cases); ▪ Physical violence (11%); and ▪ Intimidation (17%).[185] The Israeli security forces generally fail to prevent, stop or redress such instances of settler violence. When they do, the punishment is usually lenient. Many Palestinian victims have provided numerous sworn witness statements detailing how Israeli soldiers stood by idly during the incidents, or how the victims filed repeated complaints to no avail. Sometimes the Israeli occupying forces intervene only against the Palestinians attempting to protect themselves, or impose curfews on them, close their shops, deny them access to their lands, or expel them from their homes in order to appease the attackers.[186] In East Jerusalem, reports of Israeli settler harassment include use of tear gas against Palestinian women and their children, as well as psychological violence and pressure by shouting profanities and vandalism. In one case, settlers threw an iron door and hit a Palestinian child. A woman in Aqabat al-Khaladiyyah has reported how settlers threw garbage at her home, slaughtered cats at her door and gratuitously raided her house. Settlers subsequently attacked her and her child with tear gas and threatened them further when she attempted to make public the settlers' aggression on her home. She ultimately withdrew the complaint after further settler threats.[187] Also in East Jerusalem, Israeli police response to instances of settler violence is negative. Israeli police, as well as the municipality, do not consider Arab East Jerusalem a priority.

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		These facts stand in stark contrast to the determination, resources and harsh means employed by the Israeli authorities to prevent, stop and punish Palestinian violence against settlers. The Israeli security forces generally fail to prevent, stop or redress such instances of settler violence. When they do, the punishment is usually lenient. Many Palestinian victims have provided numerous sworn witness statements detailing how Israeli soldiers stood by idly during the incidents, or how the victims filed repeated complaints to no avail. Sometimes the Israeli occupying forces intervene only against the Palestinians attempting to protect themselves, or impose curfews on them, close their shops, deny them access to their lands, or expel them from their homes in order to appease the attackers.[188] A 2001 study comparing the handling of cases of Palestinians killing settlers with those of settlers killing Palestinians illustrates the discriminatory practices. In the first hypothesis, investigations were always opened, only 9% of the files were closed, and the murder conviction rate was 26%. In the second hypothesis, in 5% of the cases no investigation was opened; in 42% of the cases, the file was closed and the murder conviction rate was 7%.[189] To this should be added that when Palestinians kill settlers, the IOF typically responds by imposing more closures and/or curfews, and it can even go as far as sealing or demolishing the homes of the suspects or simply extrajudicially killing them. When settlers kill Palestinians, the IOF sometimes imposes curfews and closures, but on Palestinians, not on violent Jewish settlers.[190] **Military force** *Open-fire Regulations and Discrimination:* At the beginning of the current Intifada, Israeli authorities developed and implemented new open-fire regulations in the OPT, but kept them from public knowledge.

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		The inadequacy of these Israeli open-fire regulations is further compounded by the lack of clarity with which they are transmitted to officers. In the absence of codified regulations, commanding officers, basing themselves on guidance from senior military officials, determine the rules of engagement at their discretion. This has lead to confusion between permissible and prohibited use of force and firearms, and inevitably has created confusion among Israeli soldiers and subjected Palestinians to acts of violence by the Israeli authorities on the basis of the victims' national origin. The new regulations range from firing at the legs of stone throwers, to sniper fire and ambush tactics.[191] In some areas, any professional ethics for apprehending suspects is nullified, and soldiers are allowed to fire without warning at Palestinian suspects.[192] In 2002, a company deputy commander quit his reserve duty at Qalandia checkpoint outside Ramallah in protest over the lack of clear directives provided to the soldiers operating the checkpoint, stating: "We sat there as the company's commanders and made up the procedures…we decided what constituted the red line, when to fire and when not."[193] A consistent feature of the second Intifada has been Israeli forces opening fire on stone-throwing Palestinian youths, in many instances resulting in serious injury or death, even when the soldiers were in no immediate danger.[194] Israeli forces regularly resort to immediate lethal force in attempting to apprehend wanted Palestinians, which often amounts to extrajudicial executions.[195] Israeli forces in the OPT never resort to such extreme measures in confrontations with the Israeli settler population. During the first four years of the current Intifada (28 September 2005–25 September 2004), Israeli occupying forces killed 3,044 Palestinians,[196] including 689 children and 179 women.[197] Over the

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		same period, the Palestine Red Crescent Society (PRCS) estimates that Israeli forces wounded some 27,770 Palestinians.[198] Most of the killings and injuries resulted from Israeli occupying forces using excessive and illegal uses of force in explicit violation of international human rights and humanitarian law. The high number of unjustifiable injuries and deaths among the Palestinian population indicates a pervasive disregard by the Israeli authorities of the right to life and to security of the person, guaranteed to Palestinians under international law. *[See Article 5 E under "Destruction of Housing and Land" for Military destruction of Palestinian property.]* *Discrimination and Violence at Checkpoints:* Checkpoints, which dominate the physical, social and economic landscape of the OPT, are also locations where Israeli occupying forces regularly subject Palestinians to physical and psychological abuse. Intimidation and acts of violence such as beatings, being restrained in painful positions or through painful methods, and being threatened with physical injury form an intrinsic part of the system. As the Special Rapporteur on the OPT has noted, "accounts of rudeness, humiliation and brutality at the checkpoints are legion."[199] Since Israeli citizens present in the OPT do not have to use these checkpoints, or when they do, their passage is facilitated and they go through with minimal or no security checks, they are *de facto* exempted from the abuse meted out to Palestinians. Palestinian women are amongst the most disadvantaged and most adversely affected by the existent discrimination at checkpoints. Between September 2000 and December 2002, 52 women gave birth at checkpoints, and 19 women and 29 newborn infants have died at checkpoints.
C. Political rights		
1. Access to the political system		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
In Israel, the right to vote arises from "citizenship," which is an *inferior* civil status in Israel. The full complement of rights—in particular, economic/social/cultural rights—arise rather from "Jewish nationality." In the light of the other structural forms of "nationality" discrimination, an Israeli citizen's voting rights are not a sufficient indicator of nondiscrimination in Israel. In fact, the larger civil/political rights "to take part in the conduct of public affairs, directly or through freely chosen representatives; and to vote and to be elected at genuine periodic elections (ICCPR, Article 25 [a] and [b]); and the right to freedom of expression (ICCPR, Article 19.2) are severely impeded under the Basic Law governing elections in Israel. In Israel, all citizens 18 years of age or older are entitled to vote, without distinction as to gender, race, color, ethnicity, wealth, property, or any other status (*Basic Law: The Knesset*, 5718/1958 ["*Basic Law*: the Knesset"], Article 5). A person may be denied the right to vote only by judgment of a competent court pursuant to valid legislation (Basic Law: The Knesset, Article 5); however, no statutory provisions have been enacted to permit the denial of the right to vote, only the range of voting options. During this review period, Israel's Central Elections Committee—with the public backing of the Attorney General—banned two Arab citizens from participating in 2003 Knesset elections because they did no "uphold the Jewish character of the State." In a split decision, the Supreme Court upheld the candidacy of Azmi Bishara and Ahmad Tibi, of the Balad Party, whose slogan is "A State for All Its Citizens."[200] (Amendment No. 7 to the Basic Law: Knesset Law (1985), restricts electoral participation to those parties and candidates accepting the Zionist definition of the State as a "Jewish State.") On the same day, the Court also upheld the candidacy of Baruch Marzel, a notorious anti-Arab racist, originally of the banned Kach Party.[201]		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
Two laws limit Knesset (parliament) election to political parties accepting the ideology of Israel as "a Jewish state." In practice, these laws disqualify any party calling for full and complete equality of citizens. In order to become a member of the Parliament, a Palestinian politician must negate or demure on his/her own identity and entitlement to equal rights.[202]		
2. Access to public service		
Although the Equal Opportunity Law prohibits discrimination based, *inter alia*, on national origin, the law is not effective in providing equal employment opportunity for Arab citizens of the State, resulting in severe under-representation of Arabs in all levels of government, the civil service and quasigovernmental companies. In addition, despite two new bills guaranteeing Arab representation in the boards of directors of government companies and the civil service, implementation of this affirmative action plan faces many obstacles.		
D. Civil rights		
1. The right to freedom of movement and residence within the border of the State		
		As of 2002, restrictions on movement and numerous road closures have prevented Palestinians from attaining their most basic rights, including the right to work and the right to an adequate standard of living. Citing security reasons, the IOF has barred Palestinian vehicles from use of the main roads in the West Bank. New regulations have made it mandatory that Palestinians apply for permits to have use of these roads. However, the legal basis, eligibility and procedure for application of this new system are unclear as Israeli authorities have failed to provide copies of the written rules and procedures.[203] When issued, permits are offered

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		only to limited number of people, without explanation, and restrict use to certain days and certain periods. Often IOF deny permit holders access, despite having the necessary legal papers. Another impediment to the right to work for Palestinians is the frequent and randomly placed roadblocks and checkpoints. Security forces at checkpoints are given broad parameters in which to take decision on the acceptance or denial of entry of Palestinians, which consequently undermine Israeli claims that internal closures are based on a rational system of control and based on security.[204] Curfews are also a common method of restriction on movement and, ultimately, restriction on the right to work.
2. The right to leave any country, including one's own, and to return to one's country		
The State party refuses entry and return of the more than Palestinian refugees whom it expelled in 1948 and subsequent years, denying also their descendants their shares right to return, transferring their homes and properties belonging to these 5.5 million right holders instead to the exclusive benefit of Jewish immigrants and settlers.		The UN Special Rapporteur on the OPT has found that "within the OPT there is no freedom of movement."[205] Movement restrictions on Palestinians have increased dramatically since the beginning of the Intifada in 2000. The right and ability of Palestinians to leave the West Bank, whether for another part of OPT (including East Jerusalem), Israel or another country is subject to a strict closure system implemented by the Israeli authorities. This includes such obstacles as permanently and temporarily manned checkpoints, road blocks, earth mounds or walls, trenches and metal gates. As of 1 August 2005, a total of 376 physical barriers to movement in the West Bank, including 52 permanent, seven partially manned checkpoints and 50 observation towers.[206] In addition, temporary"flying checkpoints," of which approximately 60 were recorded per month from May to August 2005,[207] are usually erected without warning and are inherently unpredictable. These closures are devised and constructed to avoid any impact on Israeli settlers moving within the OPT. *Gaza:* In 2004, the Erez Checkpoint north of Gaza was fully closed

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		to Palestinians for 179 days; Erez Industrial Zone for 190 days, al-Muntar (Karni) Checkpoint (the main commercial crossing between Gaza and Israel) for 47 full days and 188 partial days, Netzarim junction for 41 days and the Sofa Crossing south of Gaza for 56 full days. During the same period, the Rafah Terminal (the only border crossing between the Gaza Strip and Egypt) was closed for 71 full days and partially closed for 182 days (from 16 April to 21 October 2004 it was completely closed to males aged between 16–35). Gaza International Airport remained closed for the entire period. Within the Gaza Strip, the Gush Qatif checkpoint, on the main north-south road, was fully closed for 27 days and partially closed on all remaining days.[208] In 2004, exports from the Gaza Strip through Karni Crossing decreased by 30% from the previous year. Exported truckloads fell from 934 trucks per month in 2003 to 655 in 2004. Imported truckloads rose by five% from 3,429 per month in 2003 to 3,589 in 2004. In March, Israel imposed new restrictions on the volume of goods passing through Karni Crossing by reducing the height of goods placed on the conveyor belt at the security check from 1.7 metres to 70 centimetres. This has significantly slowed the passage of goods through the crossing.[209] Israeli constriction on Palestinian movement involve a variety of methods that not only ultimately work to limit Palestinian enjoyment of basic rights, but also effectively prohibit them from accessing daily essentials necessary to basic survival. Such restrictions include closures, road control, the permit system, the Separation Wall, and curfews. **Closure Policies** Israeli closure policies, often used simultaneously, consist of three types of systems[210]: 1. Internal closures within the West Bank and Gaza, reinforced by

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		curfews 2. External closures of borders between Israel & the West Bank and Israel & Gaza. 3. External closures of international crossings between the West Bank and Jordan and Gaza and Egypt. Closures are used in the OPT to limit the access of Palestinians to both areas with settler populations and to Israel. Both Palestinian well-being and economy are severely disrupted as a result. While closures have fluctuated depending on the security threats perceived by the Israeli government, trends indicate an overall consistency in increasingly tightening measures against the Palestinians. In January 2004 the UN Office for Coordination of Humanitarian Affairs (OCHA) reported that in the West Bank alone there were 59 checkpoints, 10 partial checkpoints, 479 earth mounds, 75 trenches, 100 roadblocks, and 40 road gates[211]. By March 2004 the number had risen to a total of 695 closures: 57 checkpoints, 96 roadblocks, 420 earthen mounds, 17 walls, 38 gates, and 67 trenches.[212]. *Roads:* Prohibiting or limiting Palestinian use of certain roads in the OPT is an integral part of the closure system and separation policy. The regime has no clear legal basis. Rather it represents a culmination of military orders, informal processes, and the whim of the responsible Israeli Commanding Officer in the particular geographical area. Palestinian traffic has increasingly been redirected to longer and inferior routes, greatly adding to journey times. In the southern West Bank, for example, Route 356 has gradually replaced the more direct Route 60 to Jerusalem.[213] The only direct means of travel from one Palestinian area to another is through Israeli-controlled areas or roads. Where Palestinians are allowed to access these roads, either special permits are required

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		for Palestinian vehicles, or Palestinians must rely on special bus services that operate between one physical closure and another. In any event, in order to use these roads, Palestinians must pass through checkpoints or other physical barriers. Even when special permits are not required to pass a certain checkpoint, IOF officers thoroughly search Palestinian vehicles and verify IDs, entailing substantial delays. Passage through these checkpoints is decided at the discretion of the soldiers staffing them, with arbitrary results. Meanwhile, settlers have free use of well-maintained roads. The Special Rapporteur on the OPT noted that "a system of road apartheid has been introduced which keeps the highways for the exclusive use of settlers and relegates Palestinians to second-class roads…"[214] The Israeli Authorities issued a land confiscation order to confiscate large tracts of Beit Omar and Dayr Bzeh lands, instead of opening road No. 443, which they used for more than 40 years. Without the Israeli military government publishing the relevant military orders and without traffic signs indicating that Palestinians are banned from such roads, the only way he a Palestinian resident knows that he/she forbidden from using this road is after by the Israeli Military army imposing punishing fines. Palestinians are not clearly informed which road is forbidden and which is not. Meanwhile, any Israeli settler has free movement over any road throughout the West Bank. *Curfews* Curfews, during which the IOF prohibit inhabitants of an area from leaving their houses, have been frequently utilized as a direct means to control entire towns, villages or areas in the OPT. Also used arbitrarily as the closure system, curfews can be enforced for 24 hours and extend for weeks. During these periods, access to all vital services is completely prohibited. In June 2002, under

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Operation Defensive Shield, almost half the population of the West Bank, nearly 900,000 out of some 2.2 million Palestinians, were under curfew in 74 different localities. During this period 35 localities (or 547,000 people) were affected directly on a daily basis. At the beginning of June 2003 more than 350,000 Palestinians were under curfew and by early July the number was about 150,000."[215] In the first week of July 2004, around 850,000 Palestinians were living under curfew.[216] This number stood at some 550,000 by late September.[217] Curfews are almost never used against Israeli settlers. *Permit system* The convoluted closure policy within the West Bank is supplemented by a complex system of permits that restrict internal travel at the discretion of the Israeli authorities. The grant of permits, subject to the complete discretion of the Israeli District Coordination Office, is often arbitrary, not being guided by any clear publicly available or consistent regulations or procedures, making the process unpredictable. Officials decide applications on the basis of often conflicting interpretations of unwritten rules, and refuse permits without any explanation.[218] This situation is exacerbated and compounded by the absence of any meaningful appeal process. Jewish settlers do not need permits to move within the OPT. Although the duration of permits is variable, they are typically valid only for short periods of between two weeks to six months.[219] Palestinians requiring regular access to the seam zone over lengthy periods must repeatedly apply for permits. The precise requirements for these permits vary, making them extremely difficult to obtain. Citizens, residents, noncitizen immigrants of Israel and "Jewish nationals" are allowed free access to the seam zone. No comparable system of permits applies to settlers in the West Bank,

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		including East Jerusalem. As noted by the ICJ "the Court is of the opinion that the construction of the wall and its associated regime impede the liberty of movement of the inhabitants of the Occupied Palestinian Territory (with the exception of Israeli citizens and those assimilated thereto)."[220] At present, an arbitrary and draconian pass system curtails normal economic, social or cultural life uniquely for Palestinians.[221] The constant denial of freedom of movement carries severe material consequences. As land likely will contribute more to Palestinian economy and sustainable development than all other remaining assets combined, its proper use is key to the State of Palestine's viability.[222] The *de facto* land loss and restrictions of movement on the land undermines productivity as well as the territorial and social integrity of Palestine. *The affect of restrictions on movement on women*: According to the Palestinian Central Bureau of Statistics (PCBS), women's movement decreased to about 85.7% in the western part of the Separation Wall, and to 63.3% in the eastern part of the Wall.[223] In one survey conducted in October 2003, 78.1% of respondents stated that the Wall has restricted the movement of women. The consequences of the restriction on movement have affected all aspects of the daily lives of Palestinian women. **Separation Wall** Israeli occupation policies are manifest in an officially articulated "separation" policy that the Separation Wall and the "disengagement" from Gaza settler colonies characterize most dramatically. The former was the subject of the International Court of Justice 9 July 2004 Advisory Opinion.[224] The latter has involved the redeployment of Jewish settlers in population-transfer priority areas to consolidate Jewish population such that achieves Jewish demographic majorities in certain Arab-populated areas inside

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
		Israel, and continues segmentation of the occupied territories and their indigenous population. Justice Minister Tzipi Livni has publicly stated in a legal conference in Caesarea that the Wall will serve as "the future border of the state of Israel" and that, "the High Court of Justice, in its ruling over the fence, is drawing the country's borders."[225] The construction of the Separation Wall in the OPT has a severe detrimental and discriminatory effect on movement and, consequently, every aspect of life for Palestinians. In March 2005, the currently Wall route was projected to leave approximately 11.2% of the West Bank trapped in the ”seam zone” (between the Wall and the Green Line), denying access to this area from the rest of the West Bank and affecting about 93,000 people in the area.[226] Moreover, Israeli military builders have incorporated a discriminatory system of different gates into the Wall’s design to allow controlled passage, but only a small proportion of these are accessible to Palestinians. The use of these gates is often restricted to particular times of the day. In some cases, the gates are open for only one or two hours at a time or remain completely closed. As of February 2005, 63 gates had been installed in the Wall, of which only 25 are generally accessible by Palestinians with the correct permit.[227] This leads to lengthy delays and often hinders the ability of Palestinians to travel to their places of work, schools and universities, places of worship, healthcare facilities and family.
3. The right to nationality		
Citizenship and Nationality Rights The State party report is not forthcoming in the unique distinctions between citizenship and nationality in Israeli law, and which State and parastatal institutions practice. On the contrary, the report misrepresents the distinct rights, the discriminatory situation		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
resulting and the material consequences arising from that distinction. The report is correct in its general treatment (para. 263) of how "citizenship" is obtained under the Law of Citizenship (*ezrahut*); however, the following paragraph discusses a special right under the Law of Return that is not available through general citizenship acquisition, but constitutes a "nationality" right, according to the specific terms of Israeli civil status laws and institutions. Paragraph 265 contains an incorrect assertion that "Israeli is not different from other states that, upon attaining their statehood…grant preference to individuals." The terms of ICERD do not affect such preferences "provided that such provisions do not discriminate against any particular nationality."[228] The prime example of Israel's preferential treatment of Jews over Arabs is in the set of immigration provisions and restrictions complementing the "Law of Return (1950)." This set of laws provides for the immediate absorption of every Jew who wishes to immigrate to Israel. For many Arab citizens of Israel, this law demonstrates the fundamental discrimination that is intrinsic to a state that defines itself primarily as Jewish, rather than a State for all its citizens. As Israel's first PM David Ben Gurion stated when he presented the Law of Return to the Knesset, "The Law of Return is one of the fundamental laws of the State of Israel. It embodies a central purpose of our state, the purpose of ingathering of exiles. This law states that it is not this state which grants Jews from abroad the right to settle in it, but that this right is inherent in being a Jew."[229] By contrast, Arabs wishing to immigrate to Israel are faced with specific criteria outlined by Section 3 of the "Citizenship Law." The "Citizenship Law" was originally instated with the "Law of Return" in 1950, but was amended by Section 3A in 1980. Section 3A provides that: "A person born before the establishment of		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
the State is entitled to Israeli citizenship if the following five conditions are met: 1. He did not become an Israeli citizen under any other provision of the law. 2. He was a Palestinian citizen before the establishment of the state. 3. On 14 July 1952 he was a resident of Israel and registered in the Population Register. 4. On the day the amendment came into effect he was a resident of Israel and registered in the Population Register. 5. He is not a citizen of a country listed in the Prevention of Infiltration Law.[230] The Israeli Ministry of Interior lists 137 possible nationalities, but "Israeli" is not among them. The State of Israel does not recognize the existence of "Israeli" as a nationality. (Israeli can only be a citizenship—i.e., "shareholder" designation.[231]) However, Israel does recognize "Jewish nationality" as a civil status conferring special rights on both individuals and groups holding that status. "Jewish nationality" status in Israel is not linked to origin from, or residence in a territory, as is the norm in international law. Rather, the basic theocratic character of the Israeli legal system establishes ethnic criteria as the grounds for the enjoyment of full rights. The Israeli Law of Citizenship (*ezrahut*)—mistranslated in official English-language versions as "Nationality Law"—establishes a civil status distinct from "Jewish nationality." The Citizenship Law (art. 11) already authorizes the Interior Minister to revoke citizenship of one found to "act contrary to State security." This he has done, and seeks political support to further strip Palestinian citizens of their citizenship."[232] Under Israeli Law, anyone considered eligible for Jewish nationality can obtain this preferential status and full rights on the basis of (1) a		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
claim to Jewish religion and (2) arrival in the country. By contrast, a citizen of the State of Israel who does not hold this exclusive "nationality" status can never hold this first-class status of full rights and benefits, even if s/he is born there. Two important legal cases illustrate: In the High Court of Israel case *George Tamarin v. the State of Israel* (1971), a Jewish Israeli had petitioned to have the official registration of his nationality changed from "Jewish" to "Israeli." The HC denied his request as "there is no Israeli nation separate from the Jewish nation...composed not only of those residing in Israel but also of Diaspora Jewry." [233] Repeating the challenge that the State establish a nondiscriminatory civil status applied to all citizens, 38 prominent Israelis petitioned the High Court in December 2003. The group, represented by Attorney Yoela Har-Shefi, is headed by Professor Uzi Ornan, of the Hebrew University and the Technion. Other participating intellectuals, academics and scientists include Shulamit Aloni, Uri and Rahel Avneri, Yehoshua Sobol, Gavriel Solomon, Yigal Eilam, Meron Benvenisti, Yehoshua Porat and Oren Yiftachel. Also in the group is singer Alon Olearchik, formerly of the army Nahal entertainment group and the Israeli rock band Caveret. (His mother is Christian and father Jewish; therefore, he is not Jewish and cannot hold "Jewish nationality.") Adil Qa'adan also has joined this group to obtain a nationality status registered as "Israeli."[234] In September 2004, the High Court remanded the case to the district court, in an apparent move to buy time and exhaust the petitioners by bogging down the lower courts with this constitutional question. In Israel, while legislation pending before the Knesset deals with the legal subject of a current court case, the court is instructed to delay consideration. Because of the Law of Citizenship and Entry into		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
Israel (Temporary Order), currently in force until its possible renewal in August 2006, this "continuance" principle In favour if the State is applied in the *Uzi Ornan et al* case, effectively delaying the matters until a time when no relevant legislation is pending. The State response to *Ornan et al.* has been most revealing, claiming that the petitioners' appeal "undermines the very principles under which the State of Israel was created."[235] Thus, the State's position has validated the premise that Jewish and citizenship-based equality are logically incompatible criteria. This is unfortunate, particularly because it gives rise to a conclusion that the "Jewish" nature of the "nationality" discrimination is inherently antidemocratic, when it is rather the discriminatory and dispossessing function of an exclusive "nationality" that makes it so. Religion, language criteria, military-service prerequisites and security clearances are barriers that ensure discrimination such that certain labour markets and many government jobs are closed to Arab citizens. For instance, in January 2001, 30% of Palestinian citizens registered at employment service offices as unemployed professionals and academic job seekers, had advanced degrees.[236] Discrimination favouring "Jewish nationals" pervades nearly every level of Israeli society, in the private and public sphere, from the legislature to the judiciary. It is the structural discrimination of Israel's legal system that grounds the institutionalized bias against Palestinians in Israel enjoying full civil, political, economic, social and cultural rights. Over 20 discriminatory laws disadvantage Palestinian citizens. *[See Annex for an annotated "Inventory of Discriminatory Law."]* The discrimination on the basis of one status can pose difficulties for those citizens with more than one identity. For example**,** The 9th U.S. Circuit Court of Appeals (San Francisco CA) has granted		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
political asylum to an Israeli citizen after ruling he suffered economic persecution in his country. Ibrahim Baballah, a man from `Akka/Acre arrived in the United States 11 years ago, telling immigration authorities that he had suffered from harassment as the son of a mixed marriage (an Arab father, and Jewish mother) and that he was unable to find work in his profession as an accountant and later as a lifeguard. As a fisherman, the Israeli army prohibited him from working, and the navy struck his boat, spraying it with water and firing over his head. As a result, his crew quit and he was forced to give up his business.[237]		
4. Free choice of spouse		
Citizenship v. "nationality" The Israeli Law of Return grants "*oleh*" status (automatic citizenship and financial government benefits) to any "Jewish national" immigrant, to his/her spouse, children, grandchildren, and their respective spouses. Palestinian Arab refugees expelled from their land and homes (1947–48 and after) are denied enjoyment of their right of return and refused citizenship or residency. Even spouses of Palestinian Arab citizens can gain citizenship or residency only through complicated and exhausting procedures. However, for spouses originating from occupied Palestinian territories, the extended Temporary Order under Citizenship and Entry into Israel Law makes this impossible. In order to realize the ethnic exclusion of non-Jews (those not holding an authorized "nationality"), the Knesset has instituted further measures under Citizenship and Entry into Israel Law (Temporary Order) of 31 July 2003, to deny residency and citizenship to spouses of Israeli citizens who originate from the occupied territories.[238] *[Note: This is not a "nationality" law, but legislation governing "citizenship." See Annex for full English-*		The Israeli Citizenship and Entry into Israel Law of 2003 aims to stop family reunification when one spouse is a resident of the occupied Palestinian territory. The result of this law is that thousands of affected families live separately from each other with no legal means available to reunify the family. The only way to maintain the unity of the family is to reside illegally in Israel, in permanent fear of investigation and expulsion. This places an immense burden on the psychological state of Palestinian women. The law, which does not apply to Israeli settlers living in the occupied Palestinian territory or to Israeli Jews marrying aliens, institutes a discriminatory system based on national origin and is directed exclusively against Palestinians.[239]

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
language text of the order.]		
The right to own property alone as well as in association with others / The right to inherit		
An explicit denial of the right to inherit accompanies Bedouin citizens' agreement to resettle in one of the GoI-planned townships [*referred to under Article 5, "The right to housing" below*]. By conceding to move to such a resettlement and concentration point, the citizen denounces his/her tenure to the original land and assumes a lease in the township, which cannot be bequeathed to heirs. Thus, participation in this government population transfer scheme degrades the rights to the enjoyment of property, including that held in association with others, for a tenure devoid of the entitlement to inheritance.		
5. The right to freedom of thought, conscience and religion		
Israel's Proclamation of Independence declares that Israel "shall promote the development of the country for the benefit of all its inhabitants;…shall maintain complete social and political equality for all of its citizens, without distinction of religion, race or sex; …and shall secure freedom of religion, conscience, language, education, and culture."[240] However, despite these claims of religious pluralism and tolerance, the State party systematically has marginalized non-Jewish religious observance and culture in Israeli society. Arab citizens of Israel are composed of three major religions: Muslim (81.3%), Christian (9.9%), and Druze (8.8%).[241] Each of these religions has its own holy days and observances, such as Ramadhan and Christmas. However, these significant holidays are not recognized as official holidays in the State. In accordance with the Law and Government Ordinance (1948), GoI recognizes only Jewish holidays, and correspondingly allows for vacations from work		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
and allocates tax money for public observances. This preferential treatment is also reflected in the annual spending of the Ministry of Religious Affairs. In 1998, the time of Israel's last CERD review, the Ministry disbursed 98% of its total support budget (NIS 1,512,670/ NIS 1,543,540) to Jewish religious institutions, disbursing only 2% (NIS 30,870) to the other religions' institutions.[242]		
The right to freedom of thought, conscience and religion		
Israel's Proclamation of Independence declares that Israel "shall promote the development of the country for the benefit of all its inhabitants; [and]…shall maintain complete social and political equality for all of its citizens, without distinction of religion, race or sex; …and shall secure freedom of religion, conscience, language, education, and culture."[243] However, despite these claims of religious pluralism and tolerance, the State party has marginalized non-Jewish religious observance and culture. Arab citizens of Israel are composed of three major religions: Muslim (81.3%), Christian (9.9%), and Druze (8.8%).[244] Each of these religions has its own holy days and observances, such as Ramadan and Christmas. However, these significant holidays are not recognized as official holidays of the State. In accordance with the Law and Government Ordinance (1948), the GoI only recognizes Jewish holidays, and correspondingly allows for vacations from work and allocates tax money for public observances of Jewish holidays only. This preferential treatment also is reflected in the annual spending of the Ministry of Religious Affairs. In 1998, the Ministry disbursed 98% of its total support budget (NIS 1,512,670/ NIS 1,543,540) to Jewish religious institutions, but disbursed only 2% (NIS 30,870/ NIS		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
1,543,540) of the budget to the other religions' institutions.[245] In paragraph 296 of its CERD report, the State claimed that The Protection of Holy Places Law (1967,) "expands on the guarantees contained in the Penal Law by mandating that holy places of all religions be protected from any "desecration or other violations," and prohibiting any act that might impair the free access of members of all religions to their holy places." The case of the Grand Mosque of Bi'r Saba` stands in total contradiction to this law. From 1906 to 1948, the building was used as a mosque. After the establishment of the State, the mosque was used as a court and prison, and later as a museum. Since 1991, it has stood empty and neglected. Approximately 5,000 Muslims live in Bi'r Saba` today, and thousands of Bedouins from all around the Negev come to the city from the neighbouring Bedouin localities every day. The Israeli Beer Sheva Municipality intends to renovate the mosque in order to convert it into a museum. In response, petitioners filed a motion for an injunction to the Supreme Court, requesting that it enjoin the municipality from making any changes that may alter the building's use as a mosque. At a hearing held on the motion in February 2004, the Court suggested that the petitioners and respondents reconsider their positions and reach an agreement involving the designation of the building as a cultural and social center for use by the Muslim community in Bi'r Saba`. However, the Court recommended that the mosque should not be used for the purpose of prayer. The Court asked the two parties to respond within 60 days. In February 2005, the Municipality filed its response to the Court, stating its rejection of the proposal to open the mosque as an Islamic cultural centre. The municipality insisted that the mosque should be opened as a museum.[246]		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
In the unrecognized villages the problem of access to holy places is even worse. Since no legal avenues for legal construction are available, the mosques are also being built without licenses and are subject to demolition procedures. On 5 February 2003, the government destroyed the mosque in the unrecognized village of Tel al-Milih. The local villagers built the mosque at a cost of US$22,000, raised by local donations. That was the only place of worship in the village, and was built after years of public pressure.[247] In March 2003, the regional court in Beer-Sheva issued a demolition order for the mosque in the unrecognized village of Um al-Hiran and sentenced Sheikh Musa Abu al-Kian to a fine of 6,000 USD or 210 days in prison. Paragraph 288 of the State's CERD report claims that, in April 2000, "...in a case before the Supreme Court concerning the unequal allocation of funds to Jewish and Arab Cemeteries, the Court stressed the importance of the principle of equality in the allocation of state funds, and ordered the Ministry of Religious Affairs to revise its cemetery budget so that the Arab sector receives a more equitable share." The case of the Arab-Bedouin cemetery in Bi'r Saba` stands in contradiction to that declaration. The neglected cemetery is located near the town centre. Beer Sheva Municipality does not maintain this cemetery and, from time to time, private persons and organizations clear the place of accumulating dirt and garbage. The place has become the hang-out of prostitutes and drug dealers. With no proper maintenance, the condition of the tombs has deteriorated and, in 2005, people passing by noticed a horrible sight of dogs playing with human bones they had dug out of the ground.		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories
The condition is not different in the unrecognized village cemeteries, some of which are 300–400 years old. GoI does not allocate any resources to preserve and maintain the cemeteries, and the villagers have to do it at their on expense. As a result many of these cemeteries face severe neglect.		
The right to freedom of opinion and expression, **The right to freedom of peaceful assembly and association**		
[See Part III.2. "Not sponsoring or defending discrimination by persons or organizations" and C. Political rights, 1. "Access to the political system" above.]		
7. Other civil rights		

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories

Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories

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Inside Israel (Armistice Line [Green Line] of 1948–49)		1967-occupied Arab Territories