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**The Palestinian Human Rights Monitoring Group (PHRMG)**  
**The Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH)**  
**The Palestine Red Crescent Society (PRCS)**  
**LAW, The Palestinian Society for the Protection of Human Rights and the Environment (LAW)**  
**Treatment and Rehabilitation Center for Victims of Torture (TRC)**  
**Women's Center for Legal Aid and Counseling (WCLAC)**

**Shadow Report to the United Nations Committee on  
Economic, Social and Cultural Rights (CESCR) Regarding  
the Report of Israel concerning the International Covenant  
on Economic, Social and Cultural Rights**

**Summary**

**April 2003**

*Coordinated and edited by the **Palestinian Independent Commission for Citizen's Right (PICCR)**, the National Human Rights Institution of Palestine.*

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## **Introduction:**

### **Applicability of the ICESCR to the West Bank and the Gaza Strip**

Israel argues that it has no obligation to ensure compliance with the ICESCR in the OPT. First, Israel argues that the majority of the Palestinians living in the OPT reside in the "A Areas," which under the Oslo process have ostensibly been transferred to the security control of the Palestinian Authority (PA). Secondly, Israel also argues that human rights law generally does not apply in the OPT and that only international humanitarian law applies.

But contrary to Israel's arguments, according to the general principles of interpretation of international human rights treaties the test or question of a State's "jurisdiction" over territories is not on the basis of its 'sovereignty' over that area but whether it exercises "territorial jurisdiction" or "effective control" over that area. This test was reflected in the House of Lords decision in *Ex Parte Schtraks*<sup>1</sup> concerning extradition. Under the Interim Agreement on the West Bank and the Gaza Strip 1995 between Israel and the PLO, and in various other agreements, only certain civil government and policing functions have been transferred over to the Palestinian Authority and only in relation to designated areas A. Even in areas A, the PA's authority and jurisdiction is limited to what is expressly provided for under the Interim Agreement, and all PA legislation must be communicated to the Israeli military government.<sup>2</sup>

The reality of the Israeli occupying power's maintenance of effective control over the entire occupied territories is also demonstrated by its actions and practices:

- Israel continues to issue military orders affecting all of the Occupied territories;
- Areas B and C of the occupied territories, with their strong Israeli military and settlers presence, encircle and close off areas A, so the areas within the occupied territories are not contiguous;
- The Israeli occupying power controls Palestinian exports, imports and foreign policy;
- Palestinian towns and villages, including within areas A, are subject to siege, closure and curfew policies as enforced by Israeli forces and settlers;
- The Israeli occupying power controls access to goods, services and facilities including humanitarian aid and assistance and water supplies in all areas A, B and C, including through controls on movement;
- The prolonged presence of Israeli troops in all areas of the West Bank and Gaza Strip.

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<sup>1</sup> *R v. Governor of Brixton Prison, Ex Parte Schtraks* (1964 AC 556).

<sup>2</sup> Article 1 of the Interim Agreement provides that "(1) Israel shall transfer powers and responsibilities *as specified in this Agreement* from the Israeli military government and its Civil Administration to the Council *in accordance with this Agreement. Israel shall continue to exercise powers and responsibilities not so transferred.* ... (5) After inauguration of the Council, the Civil Administration in the West Bank will be dissolved, and the Israeli military government shall be withdrawn. *The withdrawal of the military government shall not prevent it from exercising the powers and responsibilities not transferred to the Council.*" Under Article IX the powers and responsibilities of the Council were defined as "legislative powers *as set out in Article XVIII of this Agreement*" (Article IX(1)), and executive power to "extend to all matters *within its jurisdiction under this Agreement or any future agreement.*...". Parameters were established as regards executive decisions and acts which are required to be "*consistent with the provisions of this Agreement*" (Article IX(3)). Furthermore, Article IX(5) expressly states that the Council "will not have powers and responsibilities in the sphere of foreign relations" except as provided by the Agreement. Article XVIII provides that any legislation which "amends or abrogates existing laws or military orders, which exceeds the jurisdiction of the Council or which is otherwise inconsistent with the provisions of the DOP, this Agreement or any other agreement ... shall have no effect and shall be void ab initio.... All legislation shall be communicated to the Legal Committee" which is a joint Israeli-Palestinian committee.

Even if Israel was correct in its argument that it had no jurisdiction over Palestinians living in Area A, this does not explain why the Israeli report makes no mention of Palestinians living in Areas B or C. It must also be pointed out that Israel considers the ICESCR to be applicable to Israeli settlers living in the West Bank and Gaza Strip, despite the fact that the international community considers Israeli settlement illegal. Israel also considers Palestinian residents of East Jerusalem as being covered by the CESCR despite Israel's illegal annexation of the city.

The second argument of Israel is that since there is a situation of armed conflict 'short of war' then international humanitarian law applies to the exclusion of international human rights law. The curious conclusion Israel draws from this observation is that international humanitarian law and human rights law are "subject to separate international regimes" and therefore human rights law does not apply. This argument has also been rejected by major UN bodies, including treaty-monitoring bodies.<sup>3</sup> Individuals do not lose their human rights as a result of military occupation. Rather, they are afforded the extra protection of humanitarian law.

## **Article 1- Self Determination**

### **i. Lack of Access to Natural Wealth and Resources:**

Since the beginning of Israel's military occupation in 1967, and increasingly so in the context of the current uprising (since 29 September 2000), the Palestinian population has not been able to freely dispose of its natural wealth and resources in the West Bank and Gaza Strip. The Israeli military has bulldozed agricultural land; destroyed fruit-bearing and woodland trees; developed discriminatory policies on access to water; prevented farmers from accessing their land; and confiscated other private and public properties. Israel justifies all of these actions under the catch-all phrase of "security" and "military necessity", although in many cases the purpose is to establish Israeli Jewish settlements or roads to access them. According to the *Agricultural Development Association* (P.A.R.C), the agricultural losses from 29 September 2000 to 30 November 2002 reached US\$ 823.810.217.

### **ii. Israel's "Apartheid Wall" – Confiscation and Denial of Access:**

Israeli construction of an "Apartheid Wall" in some parts far to the east of the 1967 Green line is exacerbating these problems. Much of the land confiscated from Palestinians in the northern West Bank is in a region where fertile agricultural land is at a premium. Individuals will be unable to access lands split by the wall, and villages will be disconnected from cities where they access markets and production materials. In the northern West Bank, the first phase of the Apartheid Wall is to be approximately 115km long and is to include electric fences, trenches, cameras, sensors, and security patrols. The height of the Apartheid Wall will average 8 meters (25 feet) and, in its entirety, it will cover at least 350km, somewhat encircling the West Bank. In this first phase, which will see the confiscation of close to 2% of the West Bank (between 160,000-180,000 dunums<sup>4</sup>), at least 30 villages will lose parts or all of their lands.<sup>5</sup>

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<sup>3</sup> See for example paragraph 12 of the Concluding observations of the *Committee on Economic, Social and Cultural Rights: Israel, 31/08/2001, UN Doc. E/C.12/1/Add.69, p. 3*: "The Committee rejects the State party's assertion regarding the distinction between human rights and humanitarian law under international law to support its argument that the Committee's mandate "cannot relate to events in the Gaza Strip and West Bank". The Committee reminds the State party that even during armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights as part of the minimum standards of human rights are guaranteed under customary international law and are also prescribed by international humanitarian law."

<sup>4</sup> 1 dunum = 1000 m<sup>2</sup>.

iii. Denial of Adequate Access to Water:

It is estimated by different organizations that Israel uses between 79 and 87 percent of Palestinian groundwater. Israeli settlers consume more than 274 liters of water per day (584 liters in Gaza Strip), while Palestinians are allowed to consume about 65 liters.<sup>6</sup> In addition, in the West Bank alone, 200,000 people who depend on water supplied by tankers were left without adequate supplies due to closures and curfews in 2002.<sup>7</sup> Settlers and the Israeli army have repeatedly attacked Palestinian water sources. Curfews and closures make repair a practical nightmare (for complementary information, please refer to the Shadow report of the Center for Economic and Social Rights and articles 11 and 12 of the report).

iv. Continuation of Military Occupation and Denial of Return:

The Palestinian people, who hold the prior legal right to the land, remain unable to exercise their Covenant protected right to self-determination as a result of Israel's *de facto* sovereignty (i.e. military occupation) in the 1967 occupied West Bank and Gaza Strip. Moreover, this right to self-determination is violated by the fact that Israel continues to bloc the return of both the 1948 Palestinian refugees (UNGA Resolution 3236 of 1974) and the 1967 refugees to their homes and properties.

## **Article 2 - State Responsibility, Non-discrimination, International Cooperation**

i. Discriminatory "Permanent Resident" Status in East Jerusalem:

The Entrance Into Israel Law of 1952 classifies Palestinian residents of Jerusalem as "permanent residents" subject to special regulations restricting their rights to residency, family reunification and municipal services. Thus Palestinian residents are required to obtain ID cards, indicating their "permanent residence" status, in order to be allowed access to the city and the services offered by government institutions. This "permanent residency" status applies only to Palestinians – not to Israeli Jews living in Jerusalem and not to Jewish settlers living in the 1967 OPT.

ii. Special Vulnerability of Palestinian Children in East Jerusalem:

Palestinian children in Jerusalem also suffer from the discriminatory family reunification procedures for families where one spouse is a non-Jerusalem resident. If it is the male partner who lives outside of Jerusalem and is applying for reunification with his Jerusalemite wife, she must satisfy the discriminatory "Center of Life" requirement. It is often very difficult for a woman to prove that the center of her life is in Jerusalem because many of the documents that would prove this fact (phone, electricity bills for example) may not be in her name. It is possible for an Israeli clerk in the Ministry of Interior to reject such an application without being required to state the reason. Thus, many Palestinian children are forced to live in divided families, where one parent lives in Jerusalem and the other outside of the city. It should be stressed that family reunification for Jewish families is an automatic right.

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<sup>5</sup> The Apartheid Wall Campaign, *Report # 1*, November 2002, to be found at <http://www.pengon.org/wall/wall.html>

<sup>6</sup> See: B'Tselem, *Water for Ishmael just like for Israel*, 27 June 2000. MIFTAH has slightly different numbers in 2002 with 50-85 liters per day for Palestinians, and 280 to 300 liters for the Jewish settlements. For domestic use only, they consider that the average Palestinian is limited to 39-50 liters per capita per day, while Israelis receive more than 220 liters per capita per day. The Special Rapporteur on the right to housing in his last report proposed the following numbers: per capita water consumption by Palestinians of 82 cm<sup>3</sup>, as compared with 326.5 cm<sup>3</sup> for Israeli citizens and settlers. Figures for daily per capita water use; Israelis 350 liters and 70 liters for Palestinians.

<sup>7</sup> *Information from the United Nations Technical Assessment Mission-October 2002*, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2000*.

iii. Discrimination in Access and Use of Natural Resources:

As mentioned in Article 1, there is blatant discrimination between the large Palestinian population and Jewish settlers in the OPT concerning the use of natural resources, in particular land and water.

iv. Discriminatory Closure and Curfew Policies :

The Israeli policy of curfews and closures, which only applies to Palestinian residents of the OPT and not to Israeli settlers, does not comply with the principles of non-discrimination stipulated in this article of the ICESCR. This policy has a negative impact on the exercise of the right to work, the right to health, and the right to education of the Palestinians in the OPT.

v. Discriminatory Entry, Residency and Citizenship Laws and Policies :

Current Israeli law (1950 Law of Return ; 1952 Nationality Law), military orders and policies blatantly discriminate between Palestinian refugees whose right of return is denied and Jewish immigrants who are granted automatic residency and citizenship rights. The right to hold citizenship in the “country of one’s birth” is grounded in article 2(2) of the Covenant. Because the Palestinian refugee’s right of return is grounded in customary international law,<sup>8</sup> articles 4 and 5(2) of the present Covenant therefore require that Israel implements the refugee’s right of return.

vi. Discriminatory Land Confiscation Laws and Policies :

The vast majority of Palestinian properties in Israel were seized by the Israeli government by means of discriminatory legislation crafted during the 1950s-1960s. In addition, approximately half the land mass of the 1967 occupied territories has been confiscated by Israeli authorities. Legally these seizures in the 1967 OPT are temporary, but in practice they are permanent. Israel's land confiscation laws as implemented – i.e., selectively applied against Palestinian landowners only to deprive them of their land without being equally applied to deprive similarly situated Jewish landowners of their land - discriminate on the basis of racial, ethnic, religious or political criteria (to work exclusively in favor of Jews and exclusively against the interests of Palestinian Arabs).

vii. Lack of Remedy for Illegal Land Confiscation :

The negative impact of Israel’s discriminatory land confiscation laws and policies is exacerbated by the absence of adequate remedies for Palestinian owners of private property. The right of restitution (or fair compensation) is the appropriate legal remedy for violation of the right to own property free from illegal governmental interference. The right to own property free from illegal governmental interference is grounded in articles 1(2), 2(2) and 25 of the Covenant. While Israel has established a restitution mechanism for Jews (especially heirs of Jewish victims of the holocaust) whose properties in Israel were confiscated by means of similar laws, no such mechanism exists for Palestinian owners of confiscated properties.

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<sup>8</sup> The International Law Commission has quite clearly articulated the binding, customary nature of the right of displaced persons to return to their homes of origin in its report titled “Nationality in Relation to the Succession of States” (UN Doc. A/54/10 and Corr. 1 & 2). The Palestinian refugees’ right of return to their “homes of origin” inside Israel was unambiguously reaffirmed in General Assembly Resolution 194(III) of 11 December 1948. See also previous submissions of Badil to the Committee: *November 2000 Submission to the Committee on Economic, Social & Cultural Rights*, April 2001 *Follow-up Submission to the Committee on Economic, Social & Cultural Rights*, available at [http://www.badil.org/Publications/Legal\\_Papers/L\\_Papers.htm](http://www.badil.org/Publications/Legal_Papers/L_Papers.htm).

viii. Insufficient International Instruments to Guarantee Non-discrimination based on Gender:

Article 2.2 of ICESCR states a guarantee of non-discrimination on the basis of gender among other grounds. We can see in several of the General Comments of the CESCR that there is mention of the elements that negatively affect the equal right of women to the enjoyment of ESCR. Latest efforts to make a joint General Comment between the CEDAW Committee and the Committee of ESCR are trying to close the gap. However, the psychological effects of these violations, the experiences and knowledge of women are still not reflected enough in international instruments.

## **Article 7 - Just and Favorable Conditions of Work**

i. General situation of Palestinian workers:

According to the International Labor Conference's 1998 Report on the Situation of Workers of the Occupied Arab Territories, "well over one-third of the Palestinian labour force depended for their livelihood on jobs in Israel. From Gaza and all over the West Bank, by some accounts as many as 160,000 workers...would commute across the green line on 'normal' days in 1992." Workers from the Gaza Strip were and continue to be particularly dependent on employment in Israel; at the beginning of the Intifada, 60% of the Gazan Gross National Product came from work in Israel.<sup>9</sup> However, the State of Israel failed to respect the right to work and make a living of Palestinians in the occupied Palestinian territories by imposing closures and curfews which prevented Palestinian workers from reaching their workplaces inside the occupied territories as well as in Israel for those granted permits to work there (see also article 12 for more details on curfews and closure). A clear correlation can be established between days of closure and curfews and increase of the unemployment rate in the Palestinian territories. Between the third quarter and the fourth quarters of 2000, with the beginning of the second Intifada on 29 September 2000 and ensuing tight closure of the OPT, the unemployment rate jumped from 10 to 28.3%.

ii. Closure and restrictions on issuances of permits to Palestinian workers from the 1967 OPT working in the Israeli labor market

As part of its closure policy, Israel requires that Palestinian workers possess a special permit allowing them to work in Israel, or in Israeli settlements and industrial zones inside the occupied territories. Moreover, Palestinian workers are denied entry into Israel if they do not possess a magnetic identification card issued by the Israeli DCO office, which must be presented at border crossings. These magnetic cards, which have to be periodically renewed, are refused for the smallest contravention registered by the Israeli authorities in the workers' file and many times no reason at all is given for the refusal of issuing the card. Work permits are obtained only where an Israeli employer specifically requests one be given to a particular worker. Hence Palestinian workers depend entirely on the sponsorship of an Israeli employer, a power dynamic that leads to abuses of workers' rights, as the employer can at any time demand that the permit be canceled or refuse to renew it if the Palestinian worker challenges the working conditions imposed on him by the employer.

If the worker wants to work for another employer than the one for which he was issued a work permit, he has to obtain a written statement by the potential new employer and the procedure for

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<sup>9</sup> Palestinian National Authority Official Website, Palestinian Labor and Employment, "An Introduction," [http://pna.net/facts/pal\\_labor\\_employ.htm](http://pna.net/facts/pal_labor_employ.htm).

the issuance of a work permit is started all over again. One should note also that permits are not automatically delivered to workers who possess a magnetic card and are officially recognized as not presenting a security threat to Israel, even if potential employers apply for it. As a result of these procedures, many workers pushed by their need to work and provide income to their families continue to try to enter Israel and to work illegally, despite the risks involved such as arrests, detention and fines.

During the Intifada, due to a declared Israeli policy to crackdown on illegal Palestinian labor in Israel, the number of Palestinian workers arrested inside Israel because they have no work permits significantly increased and reached 3761 workers in 2001 and 9772 workers in 2002. Of those arrested, 149 were tried in 2001 and 358 were tried in 2002 and sentenced to three – six months of incarceration with fines exceeding 5,000 NIS in some cases. Workers arrested for working in Israel without permits are also obliged to sign a paper in which they pledge not to try to enter Israel and work there anymore.<sup>10</sup> The number of permits has been significantly reduced in the past two years (for more information, see report and especially Annex A).

iii. Israeli measures affecting employment in the Palestinian areas

Closure and siege enforced by the Israeli military forces on Palestinian localities, military attacks and invasions, and curfews imposed on the Palestinian population have prohibited thousands of workers from reaching their workplaces within the Palestinian areas causing important loss of wages and loss of employment due to the impossibility of enterprises to maintain former production levels and sales. In 2001, for 76.6 % of the unemployed Palestinian workers, the reason for unemployment was their inability to reach their workplace because the roads are risky, for 50.7 % because the roads are long and 35.1 % because the cost of transportation is high<sup>11</sup>. In the second and third quarters of 2002, the unemployment rate increased to 33.6% and 35.6% respectively while Israeli invasions and military attacks were on-going in the West Bank.

Attacks against sources of livelihood of Palestinians have also taken place, first directed at the agricultural sector by the massive bulldozing of agricultural lands and uprooting of fruit and olive trees (see article 1), and increasingly at other sectors such as the industrial sector with the deliberate destruction of small workshops and factories under the pretext that they are used to produce weapons, as well as willful destruction and damaging of commercial shops during invasions of Israeli troops in Palestinian areas. According to the Palestinian Minister of Industry, between 28 September 2000 and 28 March 2002, Israeli forces destroyed 84 factories, and during the period 29 March to 30 April 2002, 37 factories were destroyed. In total, from the beginning of the Intifada until the end of April 2002, 121 factories were totally destroyed and 240 damaged<sup>12</sup>.

iv. Lack of effective control over application of minimum wage law to Palestinian workers working in the Israeli labor market

In point 11 of its list of issues E/C.12/Q/ISR/1, the UN Committee requested that the State of Israel explain the steps the Government has taken to ensure strict enforcement of the minimum

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<sup>10</sup> Palestinian National Authority, Ministry of Labor, General Planning and Information Administration, *Israeli Siege and Measures Against Palestinian Workers during the Year 2002*, March 2003, (Arabic).

<sup>11</sup> PCBS, *Impacts of the Israeli Measures on the Palestinian Labor Market* (March 2001), April 2001.

<sup>12</sup> Palestinian National Authority, Ministry of Labor, General Planning and Information Administration, *Israeli Siege and Measures Against Palestinian Workers during the Year 2002*, March 2003, (Arabic).



wage law, especially for the most vulnerable groups in the labor sector including Palestinian workers. In its 1998 report, Israel failed to answer to the committee's request. The Committee mentioned in point 242 of its report from the eighteen and nineteen sessions that it was alarmed by the situation regarding application of the minimum wage law in Israel.

In the hundreds of complaints received by the Democracy and Workers' Rights Center from Palestinian workers, there appears a recurrent pattern in respect to the fact that their Israeli employer did not register the real number of working days per month to avoid paying taxes as for fully employed workers and to avoid paying them the minimum wage. Therefore, the salary they receive as stated by the official payment slips emitted by the Israeli Employment Office does not correspond to their real salary.

Although the Israeli Employment Office imposed on Israeli employers to register at least 15 workdays per month for Palestinian workers, when there are no officially documented absences of the worker, employers continue to register only 10 to 12 days of work. The Israeli employment Office has failed to this day to take effective measures against Israeli employers using such practices and to monitor the implementation of the minimum wage law, as it should have done considering the importance of the phenomena. It is important that all working days be mentioned on the payment slip of workers to ensure that their indemnities, in case their work is terminated, are fully paid and to avoid lengthy and costly court procedures against employers to prove the actual number of working days and hours.

v. Unemployment indemnities not paid to Palestinian workers

Every Palestinian worker who worked in the Israeli labor market through the Israeli Employment Office had a certain amount deducted from his/her monthly salary for the unemployment fund as is the case for Israeli workers. However, other than Israeli workers who are paid indemnities from the unemployment fund during the first six months of unemployment, no Palestinian worker has received any unemployment indemnities after the loss of his/her work.<sup>13</sup>

vi. Excessive delays in repaying income-tax deductions

The Israeli Income Tax Department failed to ensure that Palestinian workers who had income tax deductions on their monthly salaries exceeding the amount to be deducted are refunded in a reasonable time and treated on an equal footing with Israeli citizens. Israeli citizens get refunded within 40 to 60 days whereas some requests submitted by Palestinian workers have not been satisfied after more than a year and 9 months.

vii. The imposition of court guarantees

Israeli labor courts fail to guarantee equal access to labor courts to Palestinian workers who seek to obtain respect of their rights stated by the law from their Israeli employers. Israeli labor courts discriminate against Palestinian workers by allowing employers to request that a certain amount of money be paid by them as court guarantees when they file a complaint whereas such requests are not made for Israeli citizens or other foreign workers. Many workers, especially in the current situation of increased poverty and unemployment, are not in possession of the required sum, which is arbitrarily determined by the court according to the sum demanded in the lawsuit and other considerations, therefore they cannot regain their rights.

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<sup>13</sup> Information from the Democracy and Workers Rights Center.

viii. Impossibility for Palestinian workers to attend court sessions

Since 29 September 2000, it has been increasingly difficult for Palestinian workers on behalf of whom lawsuits have been filed to Israeli labor courts to attend court sessions, because they are denied entrance to Israel at checkpoints even when they show the court summons. Therefore, in an important number of cases, lawyers have to request the postponing of the court sessions, sometimes several times for the same case, at the risk of losing their case.

ix. Violations of Palestinian workers' rights in Israeli settlements and industrial zones

The Israeli Supreme Labor Court issued on 20 March 2003 decision 300050/98<sup>14</sup> in favor of Israeli employers who employ Palestinian workers in Israeli settlements and industrial zones in the West Bank according to which the law applicable to these workers is the Jordanian labor law of 1965 and not the Israeli labor law. Considering the fact that the Israeli labor law is more progressive than the Jordanian labor law, and that Israeli workers in the settlements and industrial zones in the West Bank are protected by the regulations of the Israeli labor law, this court decision is, despite the court's argument, a clear discrimination against Palestinian workers and results in the confiscation of many of their rights, among them:

- The right to a minimum wage not guaranteed by the Jordanian law
- The right to health insurance not guaranteed by the Jordanian law
- The right to end of service compensations, as according to the Jordanian law the worker receives one month for every year of service only in case of arbitrary dismissal or after 15 years of work for the same employer, whereas the Israeli labor law guarantees this right in case of dismissal, illness, death, deterioration of work conditions, etc.

This policy of double standards legalized by the Israeli Supreme labor court allows Israeli employers to exploit Palestinian workers and increase their profits at the workers' expense. It will also encourage more Israeli employers to move their enterprises to illegal settlements and industrial zones in the OPT in order to benefit from lower production costs.

x. Abuse of Workers:

***Attacks against Palestinian workers inside Israel***

Palestinian workers working in the Israeli labor market have been victims of physical attacks and abuses on part of their employers, Israeli citizens or law enforcement officials, and many of these attacks remained unpunished.

***Attacks against Palestinian workers at Israeli checkpoints or on their way to work***

Even before the start of the second Intifada, the passage of Israeli military checkpoints or encounter with Israeli forces (soldiers, border guards, police) represented a danger to the lives of Palestinian workers. Practices including harassment, insults, beatings, assaults have been widely documented and denounced without the Israeli authorities taking appropriate measures to prevent abuse.

With the beginning of the second Intifada on 29 September 2002, the frequency of abuses has increased. Daily, workers are detained at checkpoints, sometimes for hours, forced to wait in painful positions, shackled, blindfolded, sometimes ordered to take off their clothes, beaten and

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<sup>14</sup> The decision is available in Hebrew at <http://www.court.gov.il>

shot at. There has been a series of incidents in which Israeli soldiers opened fire on cars or buses transporting male and female workers to or from their workplaces. In none of these cases was the use of lethal weapons justified because the targeted Palestinians were not representing any threat to the soldiers, neither did they contravene orders given to them (for testimonies, look at the report).

In 2002, according to the Palestinian Ministry of Labor, 13 workers were killed at checkpoints or on their way to their workplaces inside Israel, and 220 were injured by bullet wounds or by beatings at military checkpoints<sup>15</sup> (see also article 12).

## **Article 9 - The Right to Social Security**

### **i. Discriminatory Israeli Procedures, National Insurance:**

The ‘Center of Life policy’ instituted by the Israeli Interior Ministry in 1995 requires Palestinian residents of Jerusalem wanting to renew their ID's or register a child, or any Palestinian placing a claim with the National Insurance Institute (NII), to prove by means of extensive documentation, that the city is his or her center of life. As a consequence, the NII investigates almost every case of a Palestinian applying for health insurance. B'Tselem argues that, “The investigations are superficial, deny the individual's right to due process and privacy, and are motivated by pre-conceived notions of behavior in Palestinian society. The investigation takes months, during which the claimant does not receive the applied-for allotment or health insurance.”<sup>16</sup>

### **ii. Discriminatory Israeli Procedures, Health Fund:**

The NII also investigates cases where the individual is already insured but wants to register his or her children with a Health Fund. According to law, children whose parents are recognized as residents are also recognized as residents. The additional investigation in these cases leads to children remaining without health insurance until completion of the investigation. Thus children and new-born infants may be denied health insurance for extended periods of time even in cases of urgent necessity. Physicians for Human Rights estimate that there are currently some 10,000 Palestinian children residing in East Jerusalem who are not covered by medical insurance.<sup>17</sup>

These laws and procedures do not apply to Israeli residents of Jerusalem nor to Jewish settlers living in the 1967 OPT.

## **Article 10- Familial rights**

### **i. Discrimination for reasons of parentage or other conditions (children and youth persons):**

As mentioned under Articles 2 and 9, Palestinian residents of Jerusalem are required to obtain ID cards, indicating their “permanent residence” status, in order to be allowed access to the city and the services offered by government institutions. Therefore Palestinian children suffer under the discriminatory family reunification procedures for families where one spouse is a non-Jerusalem

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<sup>15</sup> Palestinian National Authority, Ministry of Labor, General Planning and Information Administration, *Israeli Siege and Measures Against Palestinian Workers during the Year 2002*, March 2003, (Arabic).

<sup>16</sup> B'Tselem, *Revocation of Social Rights and Health Insurance*.

<sup>17</sup> B'Tselem, *Revocation of Social Rights and Health Insurance*.

resident. Thus many children are forced to live in divided families where one parent lives in Jerusalem and the other outside of the city. If a Palestinian child is born abroad to a Palestinian resident of Jerusalem they are not automatically granted residency. They must apply for family reunification, a long and often fruitless procedure. It should be noted that if a child does not acquire an ID number by the time s/he reaches the age of 16, s/he might face expulsion from Jerusalem.

ii. Palestinian Child Labor:

Available statistics and widespread anecdotal evidence indicates that illegal child labor is a significant problem for Palestinian children from the West Bank and Gaza Strip working for Israeli employers. Israeli employers prefer to employ Palestinian children from these areas because of the cheap cost of labor and their high exploitability.

Many studies indicate that Palestinian children are paid wages significantly below the average wage for their work inside Israel. A Defense for Children International/Palestine Section research paper from 2001 found that the 59% of children interviewed were paid between 50-80 NIS daily. This corresponds to half the minimum wage in 2001 (130 NIS/daily).<sup>18</sup> This study also indicated that 17.6% of the child laborers were exposed to beating or physical threats by the employer and more than half did not receive their wages on time. More than 35% of the children questioned worked more than 14 hours per day. In some cases, children are forced to work long hours and prevented from returning to their homes.

The Palestinian Central Bureau of statistics in its Revised Main Findings According to the Relaxed Definition of Unemployment (July - September 2002) Round<sup>19</sup> found 3,241 children (10-14) employed at these dates in the Occupied Palestinian Territories.

**Article 11-Adequate standard of living**

i. Adequate Housing:

***Damage and Destruction of Palestinian Housing***

Palestinian home demolition continues to be one of the most brutal Israeli occupation policies. There are, broadly-speaking, two different pretexts for Israel's demolition of Palestinian homes; 1) lack of building permit (this is particularly significant in East Jerusalem), and 2) "security" needs (or as punitive a measure to deter "terrorism"). In both cases, the IDF carry out a premeditated act of demolition, in which entire families are robbed of a most basic human right, the right to shelter.

In 2001, 111 Palestinian homes were demolished in the West Bank and 37 in East Jerusalem under the pretext of having "no Permit", and 18 in the WB and 75 in Gaza under the pretext of "security". In 2002, 5 in the WB and 29 in East Jerusalem were demolished under the pretext of having "no Permit". In 2002, there were 344 in the WB and 135 in Gaza Palestinian homes demolished under the pretext of "security".<sup>20</sup>

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<sup>18</sup> Based on a study by DCI/ PS in 2001 that consisted of 50 questionnaires and tens of interviews with Palestinian workers who have worked or are still working in Israeli settlements.

<sup>19</sup> Available at [http://www.pcbs.org/english/press\\_r/press26/result26.htm](http://www.pcbs.org/english/press_r/press26/result26.htm)

<sup>20</sup> These figures are according to MIFTAH researches, with sources from various organizations: the Israeli Information Centre for Human Rights in the Occupied Territories Btselem [www.btselem.org](http://www.btselem.org); the Israeli Committee

By the end of 2001, Israeli shelling had caused various degrees of damage to approximately 3,750 civilian sites, 3,000 of which were civilian homes. Of these homes, 1,013 were completely destroyed<sup>21</sup>. The IDF justified this shelling by claiming that Israeli soldiers had been shot at from those locations. However, in fact, most of the shellings were reprisals. The Palestinian Ministry of Housing reports that approximately 720 homes were destroyed by the IDF and another 11,553 damaged from September 2000 – February 2002. 73,600 people were affected. The March – April 2002 incursions destroyed another 881 homes and damaged some 2,883 houses in refugee camps. An estimated 22,500 people were residents of these homes.<sup>22</sup>

House demolitions specifically affect women, as there is vital role of women inside the house in Palestine. They face the main difficulties when the Israeli forces demolish houses.

### ***Forced Internal Migration and Displacement in the OPT***

Israeli shelling of civilian Palestinian neighborhoods caused in 2000 and 2001 a wave of internal migration and displacement in 2000 and 2001. Even prior to the Israeli invasions of West Bank localities in March 2002, many households living in areas close to Israeli settlements or military outposts preferred to leave their houses and move to the heart of localities because they feared for their personal security. The findings of a PCBS survey showed that during that period, some 65 thousand persons or 1.7% of the estimated population in the Palestinian territories in mid 2001 evacuated their original houses. 60% of this migration was due to the location of people's houses near Israeli controlled areas. Children were most affected by this phenomenon as they constitute 71% (29,600) of the total number of such migrants during the Intifada period<sup>23</sup>.

### ***Poverty and Lack of Access to Adequate Housing***

Due to the sharp and continuous deterioration of economic conditions in the Palestinian territories during the Intifada, the drop in income and labor indicators, unprecedented rise in poverty rates and drop in living standards food, housing became unaffordable for many Palestinian households. It is expected that housing indicators will witness a significant decline over the next years. This will cause an increase of housing problems in general, such as crowdedness, housing density and housing inadequacy. Due to the low incomes of some households and absence of incomes for many others, many Palestinian households will not be able to build or purchase a housing unit, even inadequate houses, which will force those households to remain in their deteriorated housing circumstances or move to live with their relatives. In both cases, their housing conditions will degrade and indicators of the right to adequate housing will deteriorate.

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Against House Demolitions [www.icahd.org/eng](http://www.icahd.org/eng); Al-Haq [www.alhaq.org](http://www.alhaq.org); LAW [www.lawsociety.org](http://www.lawsociety.org); the Palestine Monitor [www.palestinemonitor.org](http://www.palestinemonitor.org); Human Rights Watch [www.hrw.org](http://www.hrw.org).

<sup>21</sup> According to the *Report of the Palestinian Bureau of Information*, and until 30 September 2001.

<sup>22</sup> PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights During 29 March – 31 May 2002*, p. 11.

Other sources report even larger numbers. Al-Mezan Center, for example, reports 2,249 house demolitions effecting 21,590 individuals (3,092 families) between 2000 – 2002.

<sup>23</sup> Palestinian Central Bureau of Statistics (2001), *Impact of the Israeli Measures on the Reality of Children, Women and Households*. Press Release for Announcement of the Basic Findings.

ii. Adequate food (and water):<sup>24</sup>

There are four primary ways in which the Palestinians' right to food and water is being violated:

- 1.) **Overall economic losses and unemployment leading to increased poverty levels, resulting in decreased ability to purchase food and water**
- 2.) **The closures and curfews: Direct denial and impediment of access to food and/or water, through**
  - Blockage of UNRWA and other emergency food ration distribution
  - Blockage of other food and water supplies
- 3.) **Impeded access to water:**
  - Destruction of water sources, pumps, wells and distribution infrastructure;
  - Non provision of water infrastructure, including networks and facilities for local solutions;
  - Lack of proper maintenance of existing infrastructure to prevent leakage and water loss;
  - Outright prevention of Palestinians from drilling, constructing water-delivery facilities;
  - Discriminatory distribution and insufficient water supply to Palestinians in areas that the Israeli water utility (Mekorot) controls;
  - Pollution and contamination of Palestinian aquifers through combined dumping of lethal waste, hazardous use of chemical fertilizers, and over dumping of lethal waste, hazardous use of chemical fertilizers, and over pumping leading to salinization.
- 4.) **Denial of access to agricultural land for harvesting and destruction of agricultural land, crops, and livestock**

### ***Poverty***

Poverty and unemployment in the OPT have sharply increased. The World Bank ('WB') estimated in October 2002 that for 2002 approximately 60% of Palestinians in the West Bank and Gaza live below the poverty line of \$2 per day as compared with 21% in 2000. Using alternative poverty determination factors, the Palestinian Central Bureau of Statistics ('PCBS') estimated in February 2002<sup>25</sup> as a result of its surveys that about 66.5% (374,811 households) of Palestinian households are living below the poverty line (about 2,248,864 people), amounting to about 57.8% in the West Bank and 84.6% in the Gaza Strip.

The World Bank states that largely as a result of the closures, it estimates that for 2000 as a whole, real Gross Domestic Product ('GDP') declined by 6-7 %, and in 2001, GDP declined by an additional 12%. The estimated decline in Gross National Income (GNI) was even larger reaching 15% in 2001.<sup>26</sup> In August 2002, the World Bank calculated that per capita GDP declined by 24% between 1999 and 2001, whilst GNI per capita declined by 29% in the same period.<sup>27</sup>

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<sup>24</sup> All the information in this section has been provided by the Palestinian Society for the Protection of Human Rights and the Environment (LAW). It is based on a Report Update to the UN Special Rapporteur on the Right to Food sent on 1 November 2002.

<sup>25</sup> Refer to the PCBS report: *Impact of the Israeli measures on the economic conditions of Palestinian households on the Eve of Israeli Incursion*, 4<sup>th</sup> Round, January-February 2002, page 5; available at [www.pcbs.org](http://www.pcbs.org). Refer as well to WFP, *Emergency food assistance to the victims of conflict in the Palestinian Territory*, Project Document, Emergency Operation, available at the WFO website: [www.wfp.org](http://www.wfp.org), page 31, for the World Bank analysis of the different methodology for determining poverty rates.

<sup>26</sup> See World Bank report: *Fifteen Months – Intifada, Closures and Palestinians Economic Crisis – An Assessment*, March 2002.

<sup>27</sup> See the WFP, *Emergency food assistance to the victims of conflict in the Palestinian Territory*, Project Document, Emergency Operation, available at the WFO website: [www.wfp.org](http://www.wfp.org), page 1.

And unemployment levels have sharply increased. According to the WFP, from September 2000 to May 2002, some 180,000 persons lost their jobs.<sup>28</sup> PCBS also found that 56.5% (318,448 households) of Palestinian households have lost more than 50% of their usual income during the Intifada, or about 58% of households in the West Bank and 53.8% in the Gaza Strip.

### ***Increased Assistance From Humanitarian Agencies***

The UN Office for the Co-ordination of Humanitarian Affairs (OCHA) reports that close to two million Palestinians, or about 62% of the population are considered “vulnerable” because they have inadequate access to food, shelter or health services.<sup>29</sup> There are an estimated 85,000 poor households classified as special hardship cases requiring emergency assistance registered with the Palestinian Authority’s Ministry of Social Affairs.<sup>30</sup> An interagency assessment carried out in collaboration between the WFP, and other organizations, estimated in May 2002 that 620,000 people in Gaza and the West Bank are in need of relief assistance.<sup>31</sup>

More than 30% of the 3.5 million Palestinians in the West Bank and Gaza are dependant upon food handouts from the World Food Program and the ICRC or other NGOs. The number of Palestinians requiring food assistance is increasing daily. According to USAID analysis, approximately 50% of all Palestinians (refugee and non-refugee) require external food assistance to help meet their minimum daily caloric intake. Of 320 households surveyed, 50% stated their need to borrow money to purchase basic foodstuffs, with 16% selling assets for the same purpose.<sup>32</sup>

According to the PCBS in August 2002, 63.7% of households surveyed were facing difficulties in obtaining necessary food items during the Intifada (61.7% in the West Bank, 65.9% in Gaza Strip), of which 85.2% stated difficulties were due to siege, 31.1% due to curfew, and 56% due to loss of income. 61.9% of households surveyed were borrowing money to adapt to the decrease in food consumption, 43.2% were using their savings or forced to see valuables to obtain food for their families, and 32.1% were totally dependent upon food aid (42.1 % in Gaza and 20.8% in the West Bank).

### ***Closures and Curfews***

From September 2000, first, there was the closure of international borders and the sealing off of Gaza from the rest of the OPT. Secondly, the erection of more than 120-150 checkpoints on roads in the West Bank. Methods have included in addition to the permanent checkpoints, mobile checkpoints, unstaffed roadblocks, dirt walls, earth mounds, concrete blocks, iron gates and trenches dug around villages and towns (see also article 12).

One of the consequence was the denial and impediment of access to food and/or water, through blockage of UNRWA emergency food ration distribution and other humanitarian agencies. According to Peter Hansen, Commissioner-General of UNRWA, in a 25 September 2002 press

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<sup>28</sup> *Ibid.*

<sup>29</sup> Refer to UNRWA Emergency Appeal press release August 2002, available at <http://www.un.org/unrwa/emergency/index.htm>.

<sup>30</sup> See the World Food Program’s *Emergency Assistance to Victims of Civil Strife in the Palestinian Territory* Project Document, Emergency Operation, (1 May- 31 December 2002), p. 5, available at the WFO website: [www.wfp.org](http://www.wfp.org).

<sup>31</sup> *Ibid*, p. 3.

<sup>32</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35-36.

release<sup>33</sup>: “[Staff at UNRWA] are facing very difficult problems of access because of the many checkpoints and curfews imposed by Israelis. We cannot do our job fully unless the Israelis give us better access and unless they facilitate our work in other ways.” In June 2002, like UNRWA, WFP reported that the restoration of curfews and the tightening of security checkpoints are making food aid deliveries increasingly slow and unpredictable.<sup>34</sup> Other agencies providing emergency food assistance are facing similar difficulties.

Every aspect of the Palestinian economy has suffered since the start of the second Intifada in September 2000. The policies of closure and curfews have impacted economic output, foreign trade, fiscal accounts, labor markets and prices. As seen in the section above, curfews and closure affected greatly the poverty, the need for humanitarian support, the gross income, the consumer prices, the employment and the health of the Palestinians (see also articles 7 and 12).

### ***Destruction and hindrance of water supplies (see also article 1)***

The UN Special Rapporteur on adequate housing, in his June 2002 report<sup>35</sup> stated that he had observed: “six [principal] methods of institutionalized Israeli violations of the Palestinian people’s right to water affecting housing and habitat in the [OPT]:

- a) Destruction by military and paramilitary (settlers) of Palestinian water sources, pumps, wells and distribution infrastructure;
- b) Non provision of water infrastructure, including networks and facilities for local solutions;
- c) Lack of proper maintenance for existing infrastructure so as to prevent leakage and water loss;
- d) Outright prevention of Palestinians from drilling and constructing water delivery facilities, most notably in areas of Jewish settler colonies;
- e) Discriminatory distribution and insufficient water supply to Palestinians in areas that the Israeli water utility (Mekorot) controls; and
- f) Pollution and contamination of Palestinian aquifers through the combined dumping of lethal waste, hazardous use of chemical fertilizers, and overpumping, leading to salinisation.”

### ***Losses and Destruction to the agricultural sector: lands, crops, livestock***

See article 1.

### ***Consequences: the nutritional status of Palestinians***

Care International’s Nutritional Assessment, based on 1000 households in the West Bank and Gaza Strip, indicates an increase in the number of malnourished children with 22.5% of children under 5 suffering from acute (9.3%) or chronic (13.2%) malnutrition. The preliminary rates are particularly high in Gaza with the survey showing 13.2% of children suffering from acute malnutrition putting them on par with children in countries such as Nigeria and Chad, and 18%

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<sup>33</sup> Refer to Transcript of Press Conference Following the Major Donors and Host Governments Meeting, Amman, Jordan, 25 September 2002, available at <http://www.un.org/unrwa/news/briefing/md-sep02.html>.

<sup>34</sup> See the World Food Program’s *Emergency Assistance to Victims of Civil Strife in the Palestinian Territory* Project Document, Emergency Operation, p.8, available at the WFO website: [www.wfp.org](http://www.wfp.org).

<sup>35</sup> Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, Mr. Miloon Kothari, on his visit to the occupied Palestinian territories, E/CN.4/2003/5, 10 June 2002, pages 16-17.



exhibiting chronic malnutrition.<sup>36</sup> This compares to 2000, when OCHA found that 7.5% and 2.5% of Palestinian children suffered from chronic and acute malnutrition.<sup>37</sup>

According to a Johns Hopkins University report prepared jointly with Al Quds University in August 2002<sup>38</sup>, 16% of non-pregnant women of childbearing age and 19.7% of children are suffering from moderate to severe anemia. Further results of a Nutrition Survey carried out by the PCBS in collaboration with the PA Ministry of Health, UNICEF, Institute of Public Health at Bir Zeit University, in 2002 on 5,228 households indicates, that 274,600 children (49.5% of children) aged 6-59 months in the Palestinian Territory suffer from anemia while 252,400 children (45.5%) of them suffer from chronic malnutrition, and 36.3% (201,000) suffer from mild chronic malnutrition. The prevalence of anemia among women aged 15-49 years was found to be 48.0% (about 361,600 women), with 45.5% in the West Bank and 50.1% in the Gaza Strip.<sup>39</sup>

iii. Decline of Standard of Living of Palestinian Children in the OPT:<sup>40</sup>

More than half of Palestinian society is children. 53% of the Palestinian population is below the age of 18 years. Moreover, fifty percent of Palestinians live in households of 9 members or more while the mean household size is about 7.0 persons. Mean household size is slightly higher in Gaza (7.8) than in the West Bank (6.6) persons. For this reason, high poverty rates in the Gaza Strip indicate that a greater proportion of children are living in poverty. The areas most affected by Israeli closure also have the highest number of children. In Gaza City for example, more than half of the population is aged between 0-14 years old. In Khan Younis refugee camp in the south of the Gaza Strip, 49.9% of the population is aged 14 years or younger. These areas are also the most severely affected by Israeli closure policies.

## **Article 12- The Right to the Highest Attainable Standard of Health**

i. Negative Impact of Israeli Military Closures and Curfews on Palestinian Health in the OPT:

Since the beginning of the second *Intifada*, and until the end of 2002, 65 Palestinians have lost their lives after they were prevented access to life saving medical treatment or shot by the IDF at checkpoints. The victims include newborn babies, diabetics, people needing kidney dialysis and old people suffering from heart problems.<sup>41</sup> Many others were injured at checkpoints.

Since September 2000 Israel has imposed a tightened and comprehensive regime of **external** closure on the OPT. During such closures, Israel cancels all travel permits to Israel and prevents Palestinians - even those with valid work permits - from entering Israel or Jerusalem. Israel

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<sup>36</sup> *Preliminary Finding of the Nutritional Assessment and Sentinel Surveillance System For West Bank and Gaza*, 5 August 2002, is available on the USAID website: [www.usaid.gov/wbg/report\\_1.htm](http://www.usaid.gov/wbg/report_1.htm).

<sup>37</sup> *Ibid*; See also OCHA Weekly Humanitarian Update on the Occupied Palestinian Territories, (13 – 19 July 2002); available at [www.reliefweb.int/hic-opt/](http://www.reliefweb.int/hic-opt/).

<sup>38</sup> *Nutritional Assessment and Sentinel Surveillance System for West Bank and Gaza*. Johns Hopkins University, Al Quds University. August 5, 2002

<sup>39</sup> The full report on PCBS Nutrition Survey –2002 is available on their website: [www.pcbs.org/nutirt/nut\\_2002.htm](http://www.pcbs.org/nutirt/nut_2002.htm).

<sup>40</sup> Information from Defense for Children International, Palestine section.

<sup>41</sup> This information is based on the four PICCR's *Report on the Israeli Violations of Palestinian Citizens' Rights* published in 2002.

imposed 210 days of such total external closure and 155 days of partial external closure in 2001, compared with 88 days in 2000 and 15 days in 1999.<sup>42</sup>

Most travel between cities, towns, and villages within the West Bank and Gaza Strip has been prevented by **internal** closure. Internal closures may be “severe”, prohibiting Palestinians from using primary roads and closing off many secondary roads with physical barricades, or “limited”, allowing access to Palestinians on most secondary roads (but only some main roads) with roadblocks and checkpoints dispersed along open roads. In 2001 the Government of Israel imposed approximately 87 days of “limited” internal closure and 278 days of “severe” internal closure in the West Bank, compared with 81 days in 2000 and no days in 1999. In the Gaza Strip the Israeli Government imposed roughly 361 days of “limited” internal closure and 4 days of “severe” internal closure in 2001.<sup>43</sup>

There are currently 70-80 permanent checkpoints manned by IDF troops in the West Bank, and a new permit system for movement between Palestinian areas effectively prevents most Palestinians from moving on most roads. Moreover, Israel recently issued a policy denying permits for movement between West Bank towns to Palestinian males under the age of 35.

**Curfews** are even more disruptive. It is worth stressing that curfews are imposed around the clock for weeks at a time, only to be lifted for several hours from time to time to allow Palestinians to go shopping. They are not a nighttime phenomena. It is especially worth noting, that policies of curfew and closure do not apply to Jewish settlers.

**Total Number of Hours of Curfew, 18 June 2002 – 20 January 2003<sup>44</sup>**

Tulkarem: 3,524; Bethlehem: 2,156; Qalqilia: 1,870; Hebron: 2,478; Jenin: 2,622; Nablus: 3,776; Ramallah: 2,386

**Total Number of Curfew Days: 784**

ii. Lack of Safety and Security of Humanitarian Workers:

Checkpoints, closure and curfews endanger the safety and security of humanitarian workers. Personnel have been subjected to abuse, both physically and verbally. Several were arrested while carrying out their official duties. Ambulances and other vehicles transporting emergency medical supplies have been targeted.

**Attacks by Type Humanitarian Service, 29 September 2002 – January 2003**

Total Attacks on Ambulances	<b>221</b>
Total Ambulances Damaged (some vehicles attacked more than once)	<b>107</b>
Number of Attacks on Emergency Teams	<b>245</b>
Total EMT Personnel Injured	<b>186</b>

<sup>42</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35.

<sup>43</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 35.

<sup>44</sup> From the Palestinian Red Cross website:

[http://www.palestinercs.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002\\_files/frame.htm](http://www.palestinercs.org/Presentation%20PowerPoint%20Curfew%20Tracking%20July%202002_files/frame.htm)

EMT Personnel Killed	<b>3</b>
Violations & Restrictions of Ambulance Access	<b>679</b>
Number of Ambulances damaged beyond repair (out of service)	<b>27</b>
Number of EMS Personnel & Volunteers arrested since the invasion of Gaza & West Bank began on Mar 29 2002	<b>80 (2 remain in detention)</b>

***Deliberate Attacks against Medical Institutions:***

Israeli forces (IDF and settlers) have deliberately attacked hospitals and primary health care centers. In May 2001, the Palestinian Higher Health Council/Palestinian Ministry of Health reported that the hospitals of Beit Jala and Al-Dibs, the French hospital, and Al-Yamama Hospital in the province of Bethlehem were bombarded with 500 mm caliber ammunition. Settlers have attacked the Matla'a (Augusta Victoria) Hospital in Jerusalem with automatic weapons; the guard was wounded. The IDF and settlers have launched three separate attacks with light and heavy weapons on the Alia Hospital in Hebron, wounding several patients and causing a power failure. Repeated attacks with light and heavy arms have been launched against Al-Maqased, Al-Matla'a, Jericho, Ramallah, and Alia hospital in Hebron, as well as Nasser Hospital in Khan Younes. Numerous primary health care centers in various parts of the country, including UNRWA clinics were attacked and shelled.<sup>45</sup>

iii. Threats to Safety and Security of Civilians:

**Palestinians killed and injured<sup>46</sup>**

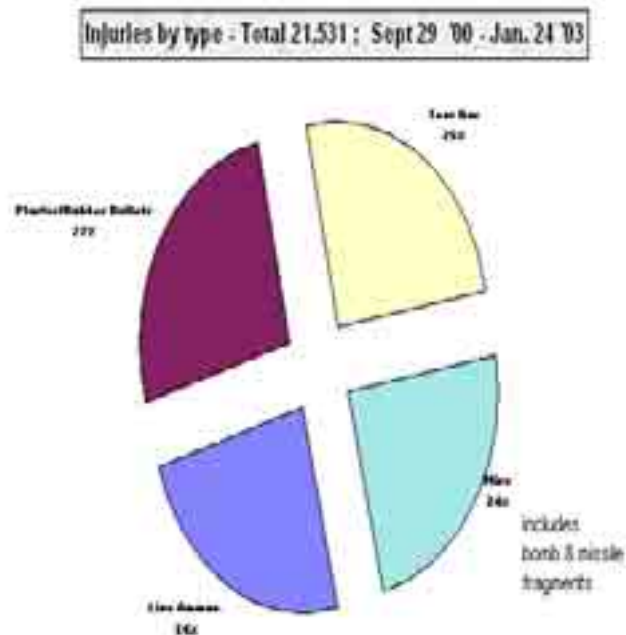
<b>Palestinian killed and Injured, 29 September 2000 - 28 January 2003 (Palestine Red Crescent Society)</b>			
<i>Date</i>	<b>Deaths</b>	<b>Injuries by Live Ammunition</b>	<b>Injuries by Rubber/ Plastic Bullets</b>
Sept 29 – 31 Dec 2000	327	2,168	4,067
1 Jan – 31 Dec 2001	577	1,442	1,237
1 Jan – 31 Dec 2002	1,068	1,392	244
1 Jan – 28 Jan 2003	61	92	19
<b>TOTAL</b>	<b>2,033</b>	<b>5,094</b>	<b>5,567</b>

<sup>45</sup> Information from the United Nations Technical Assessment Mission-October 2002, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2003.*

<sup>46</sup> Statistics vary widely according to source. The Palestinian Ministry of Health, for example, reports 2,804 Palestinian deaths between 28 September 2000 – 29 January 2003. For more information, see <http://www.moh.gov.ps/>.

According to the Palestine Red Crescent Society, by the end of 2002, over 20,000 Palestinians have been injured since the beginning of the current Intifada, with at least a third of these children under the age of 18.

The pie below shows distribution of total injuries by type as recorded by PRCS for the period Sep.29, 2000 to Jan.12, 2003.<sup>47</sup>



### ***Excessive Use of Force***

The IDF uses explosive bullets, heavy artillery and rockets, and shoots from war planes and war boats. Live bullets are used to disperse demonstrations. Physicians report many injuries due to fragmenting bullets fired from M-16 rifles. The injury types caused by these bullets, 5.66mm in diameter, resemble those of the internationally banned dum-dum bullets. They are designed to splinter on impact – tearing tissue and muscles and causing multiple internal injuries. In addition, the “rubber ammunition” permitted by IDF rule of engagement for crowd dispersal includes rubber-coated metal bullets.<sup>48</sup>

### ***Denial of Medical Treatment:***

The Israeli military has wounded Palestinians and then shot them to ensure their death. These citizens did not present any danger to Israeli soldiers after they were wounded, and it would have been possible to save their lives if the soldiers had allowed medical teams to reach them.<sup>49</sup> In

<sup>47</sup> Information from the United Nations Technical Assessment Mission-October 2002, cited in *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2003.*

<sup>48</sup> Information from DCI/PS.

<sup>49</sup> See the main report for details.

many cases, soldiers prevented ambulances and medical teams from reaching the locations of wounded Palestinians, resulting in unnecessary deaths.

### ***Indiscriminate Shooting at Palestinian Children***

The Palestinian Red Crescent estimates that between 6000-7000 children were injured during the year 2001.<sup>50</sup> In the year 2001, Defence for Children International/Palestine Section (DCI/PS) collected information on 3750 child injuries. Of those 3750 injuries, more than 1/5 were to the upper part of the body (head, chest, eye, neck and back). A large proportion of injuries (14%) were a direct result of the use of heavy artillery (rockets, shells, missiles) fired by helicopters and warplanes.

According to DCI/PS documentation, in the year 2001, twenty-seven Palestinian children lost a body part as a result of their injury (limbs or internal organs). Of these, nine children lost an eye. Twenty-four percent (24%) of children who were injured were shot by live ammunition. Over 20% of child injuries from live ammunition in 2001 were to the upper part of the body. Nearly 40% of children injured were 12 years old or younger (39.73%). Doctors report many injuries due to fragmenting bullets fired from M-16 rifles. The injury types caused by these bullets, 5.66mm in diameter, resemble those of the internationally banned dum-dum bullets. They are designed to splinter on impact – tearing tissue and muscles and causing multiple internal injuries.

### ***Use of Indiscriminate Weapons:***

Israel has also planted many land mine fields under the pretext of security since the beginning of its occupation of the West Bank and Gaza Strip, particularly around the Jordan Valley, the Gaza Strip, and the settlements. Children were also killed by booby-trapped explosives the Israeli military planted in the Occupied Territories.

### ***Psychological Impact of Violence on Children:***

The repeated shelling of Palestinian residential areas has caused a state of terror and panic among children and caused anxiety, involuntary urination, fear of the dark, inability to sleep far from their parents, waking at night, and fear of leaving their home. Statistics issued by the Development Studies Program of Birzeit University on 19 February 2001 indicate that approximately 69% of Palestinian children between the ages of 4 and 14 suffer negative psychological effects from oppressive Israeli measures.<sup>51</sup>

### ***Use of Torture***

Based on human rights organizations field visits to Israeli detention facilities and interrogation centers and on numerous testimonies from detainees who had been tortured during their interrogation after the High Court ruling, it is evident that the use of torture is still common practice amongst Israeli interrogators, albeit somewhat reduced.

Use of torture is not restricted to Israeli interrogation and detention centers and prisons. The Israeli military uses cruel and degrading treatment against Palestinian civilians, particularly at military checkpoints and during their detention and prosecution. This is a policy that is implemented methodically, on a daily basis, making it so routine action that it is difficult to

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<sup>50</sup> See <http://www.palestinercs.org>, the website of the Palestinian Red Crescent for more information.

<sup>51</sup> On the psychological damage to Palestinian children, see: Maisoon Atawneh al-Weheidi, *Israeli Violations to the Rights of Palestinian Children*, Ramallah, Ministry of Social Affairs, 2001, pp. 35-39.

quantify. Soldiers and settlers frequently engage in violent beatings and shootings of Palestinian civilians, particularly during curfews. Israeli soldiers also attack Palestinian workers, with beating and humiliating them as they come and go from their areas of residence.<sup>52</sup>

### ***Mistreatment of Children and Juvenile Detainees***<sup>53</sup>

Mandela notes that during their transfer to prisons and detention centre, juveniles are often victims of degrading treatment. Often child detainees are blindfolded and cuffed. Accompanying soldiers beat them savagely either with rifle butts and punch or kick them with heavy military boots while hurling vulgar insults at them. Virtually every child arrested undergoes a terrifying and abusive process that constitutes torture. Attorneys assert that many children arrested endure even more severe forms of torture, such as beating and shackling in unbearable positions (shabeh). Isolation and the use of psychological pressure from collaborators<sup>54</sup> have become mainstays of Israeli tactics against child detainees.

The Ramallah based Center, the Treatment and Rehabilitation Center for Victims of Torture (TRC) reports that most ex-detainees suffer from a certain degree of posttraumatic stress disorder, including other coexisting diagnoses such as epilepsy.<sup>55</sup> The Gaza Community Mental Health Programme reported the same analysis and conclusions.<sup>56</sup> Specialists also report that juveniles find it extremely difficult to re-integrate into society due to long absence from family life, school or neighborhood. Many ex-detainees affirmed their academic absorption was greatly affected. Leading a normal life for female ex-prisoners is next to impossible, as the conservative Palestinian society looks down them.

### ***Violations against Prisoners' and Detainees Right to Health***

In 2002, Palestinian detainees in the Ansar III detention facility suffered from the fact that tents did not provide adequate protection from the extreme climate in the Negev desert, flack of adequate drinking water and food, both in terms of quantity and quality, and from the lack of adequate sanitation facilities and clothing. They are also faced with infestation by insects and reptiles. Medical care was also inadequate. Treatment in most cases was limited to painkillers. There was no proper clinic in Ansar III; a small tent with a cupboard for medicine and two apparatuses make up the clinic.<sup>57</sup>

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<sup>52</sup> See report by B'Tselem (Israeli Information Center for Human Rights in the Occupied Territories), *Routine Acts: Beating and Abuse of Palestinians by the Israeli Security Forces during the Al-Aqsa Intifada*, May 2001, and *In the Daylight: Israeli Armed Forces' Abuse of Palestinians*, July 2002. These reports are available on B'Tselem's website at: <http://www.btselem.org>

<sup>53</sup> According to Mandela Institute.

<sup>54</sup> Israeli occupation authorities regularly pressure Palestinians to collaborate with Israeli security. In many cases these collaborators are used to attempt to extract confessions from Palestinian children.

<sup>55</sup> Based on ten case studies (ten ex-prisoners treated in 2001). The same conclusion was reached among ten other case studies carried out in 2002.

<sup>56</sup> Based also on 20 cases of ex-prisoners studied in 2001 and 2002.

<sup>57</sup> Information from Mandela international.

iv. Non-Enforcement of Israeli Environmental Protection Standards in the OPT:

Environmental laws applied inside Israel are not applied in the West Bank and Gaza Strip. For this reason, many Israeli companies use the occupied territories as a dumping ground for toxic materials and hazardous manufacturing processes. This phenomenon has serious consequences for the environmental health of Palestinian residents in the surrounding areas. This is particularly problematic for Palestinian children, because the danger posed by toxic materials is much greater than for adults due to children's smaller frame and body size.

The transfer of environmentally hazardous factories to the West Bank was particularly marked from 1995 onwards, particularly in the northern regions of Tulkarem, Jenin and Nablus. It has consequences on the percentage of children suffering cancer in the Salfeet area in particular. The entire Nablus area is affected by hazardous waste from Israeli industries, particularly by aluminum, leather tanning, chemical detergents, plastics, and fiberglass industries, which contaminate local springs whose waters are used for agriculture. Many Palestinian children from the Jenin area near the settlement of Homesh have suffered in recent years from sudden dehydration accompanied by vomiting and diarrhea. Other children in the same area report respiratory problems. Factories in nearby settlements produce aluminum, chemical detergents, batteries and car accessories. Medical experts report that these factories emit heavy metal residues such as cadmium that are known to be extremely poisonous and possible cause of severe vomiting, diarrhea and dehydration in addition to damage of lung tissue. Children are particularly susceptible to this type of poisoning.<sup>58</sup>

Moreover, the rise in the percentage of lead, nitrogen and carbon oxides, and sulfur carried by the western winds from Israel into the West Bank are additional factors causing an increase in respiratory system diseases, lung infections, breathing difficulties, eye infections and sight disorders among children. Respiratory disorders (including lung cancer) are considered common among Palestinian children under five years of age in the West Bank taking into account that these diseases are mainly caused by air pollution. These diseases are the main cause of child mortality. The percentage of children under five years old who died as a result of respiratory system infections in the West Bank had increased to 19.7%<sup>59</sup> in the year 1999 compared to 18.3% in 1996.<sup>60</sup>

v. Wastewater Dumping from Jewish Settlements:

Most Israeli settlements are located on hills and mountaintops of Palestinian lands occupied in 1967. Because of this elevated position, partly processed or unprocessed wastewater from these settlements flows towards homes, valleys, low lying agricultural lands, and water sources of nearby Palestinian towns and villages. Chemicals carried by wastewater leaking from Israeli factories often seeps into groundwater in the vicinity. Children are the most severely affected by toxic heavy metals contained in this wastewater such as lead, mercury, cadmium, and chromium in addition to inorganic material such as phosphate, nitrate, and fluoride.<sup>61</sup>

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<sup>58</sup> Information from Defense for Children International/Palestine section.

<sup>59</sup> The Palestinian Central Bureau of Statistics, 2001. *Children of Palestine – Issues and Statistics. The annual report. 2001. Executive Summary.* Ramallah – Palestine, p. 10.

<sup>60</sup> The Palestinian Central Bureau of Statistics, 1998. *Children of Palestine – Issues and Statistics. Children Statistical Series.* Ramallah – Palestine, p.10.

<sup>61</sup> Ibid. pp. 22-23.

It has been observed that hundreds of children living in villages and towns of Nablus, Salfet, and Qalqilya, which are particularly affected by the pouring of wastewater from the settlement of Burkan, suffer diseases caused by certain bacteria such as gastro-intestinal infections in addition to viral infections such as bronchitis, hepatitis and polio, and parasitic diseases like bilharzias (Schistosomiasis) and amoebic dysentery.<sup>62</sup> These diseases are usually transmitted through using contaminated water for drinking, bathing, cooking and dishwashing in addition to eating fruits and vegetables that were irrigated with contaminated water.<sup>63</sup> Tens of children are also infected with meningitis on a yearly basis. It is known that meningitis<sup>64</sup> is contagious and its primary cause is contamination especially of food, water and sewage.<sup>65</sup>

Palestinian children suffer from a lack of clean drinking due to the fact that Israel controls water resources and allows only a limited amount to Palestinians (see article 1). The gap between water demand and the permitted supply broadens over time since the latter is not consistent with the natural growth of Palestinians.<sup>66</sup>

vi. Psychological Consequences of the Israeli Policies on the Palestinian Right to Health

A Birzeit University study surveyed 764 households and found widespread psychological illness. 87% of households reported psychological difficulties in one or more family members.<sup>67</sup> The ongoing violence, closures and curfews and the continuing occupation of Palestinian self-rule areas are among the main causes of acute psychological distress among many Palestinian children and adults. One year after September 2000, 75 percent of Palestinian adults believed their children were experiencing greater emotional problems. Problems include sleeping difficulties, anxiety, psychosomatic problems, regression, withdrawal, risk-taking behaviour, rejection of authority, inability to concentrate, and aggression. Other behavioural changes in children have been noted, including: increasing violence among children and between children and parents; decreased levels of activity; decreasing hope in the future; increasing attachment to their community, but decreasing closeness in the family and trust in adults; increasing focus on political issues; the hardening of political attitudes; and an undermining of fundamental beliefs.

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<sup>62</sup> Alhayek, Nuha and others. *Environment, Health and Life*, Jerusalem: Education for Awareness and Participation Program, (the Anglican Lutheran Schools), 1992, p.27.

<sup>63</sup> Ibid.

<sup>64</sup> Meningitis is a disease caused by bacteria that attacks the brain's membrane causing its inflammation. In many cases it affects the brain through by means of the blood. Its symptoms are very high fever, severe headache, nausea, hallucination, and concussions.

<sup>65</sup> Alhayek, Nuha, *Ibid*, p. 67.

<sup>66</sup> Kurzum, George. *Dehydration of the Palestinian People*, Albeidar, (Al-Ayyam Newspaper supplement published by the Development Studies Program at Bir Zeit University), 6/3/2000.

<sup>67</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 4.



The Treatment and Rehabilitation Center for Victims of Torture (TRC) conducted a study on 37 members of recently bereaved families in 2001.<sup>68</sup> Dominance of somatic complaints was remarkable, such as fatigue, agitation, and depersonalization. But also the center noted cognitive complaints: anger against society, shock, extreme feelings of sadness, feelings of helplessness, confusion, disbelief, preoccupation, and hallucinatory experience.

### **Article 13- Right to Education**

i. Combined Impact of Discrimination of the Right to Education in East Jerusalem:

Palestinian children in Jerusalem face their own specific obstacles to education resulting from discriminatory Israeli municipal procedures in place in the city.

#### ***Lack of Adequate Schools***

Palestinian children in East Jerusalem are also victims of discriminatory taxation and funding policies. Since 1967, only one school was built for Palestinian residents of East Jerusalem. This is despite a yearly population growth of over 6% for the Palestinian student population. The Israeli government spent less per Palestinian Arab child than per Jewish child, and Arab schools were inferior to Jewish schools in virtually every respect. Arab schools offered fewer facilities and educational opportunities than were offered other Israeli children, and some lacked basic learning facilities like libraries, computers, science laboratories, and recreation space. Palestinian Arab children attended schools with larger classes and fewer teachers than those in the Jewish school system, with some children having to travel long distances to reach the nearest school. Palestinian Arab children with disabilities were particularly marginalized. Many Palestinian Arab communities lacked kindergartens for three- and four-year-old students, despite legislation making such schools--and attendance--obligatory. Jewish three-year-olds attended kindergarten at four times the rate of their Palestinian Arab counterparts; Jewish four-year-olds at three times the rate.

#### ***High Drop-out Rates***

This situation, coupled with the generally poor economic situation of Palestinian Jerusalemites (28.6% of Palestinians living below the poverty line in 1998)<sup>69</sup> contributes to a very high drop-out rate for Palestinian school-age children. A 1999 report by the Israeli Ministry of Education determined that the dropout rate for Palestinian children in East Jerusalem was a staggering 40%.<sup>70</sup> In general, Palestinian Arab students dropped out of school at three times the rate of Jewish students and were less likely to pass the national exams common to the two systems for a high school diploma. Only a handful made it to university. Among Palestinian Arabs, the Negev Bedouin and children in villages not recognized as legal by the Israeli government fared the worst in every respect.<sup>71</sup> In its 2001 report to the Committee on the Rights of the Child, Israel

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<sup>68</sup> TRC, *Complicated Grief reaction*, paper presented at the WHO meeting, 8-10 June 2001, Athens, Greece.

<sup>69</sup> Palestinian National Authority, 1998. *Palestinian Poverty Report. National Commission for Poverty Alleviation*, PNA, Ramallah. pps 86-87

<sup>70</sup> Azra Khan, *The Right to Education in East Jerusalem*, p. 19.

<sup>71</sup> Ibid.

acknowledged the gaps between Arab and Jewish education, but as of October 2001 it had failed to take necessary steps to equalize the two systems.

### ***Substandard Schools and Education***

In East Jerusalem schools are significantly substandard, especially in comparison to their neighboring West Jerusalem schools. Most students do not receive the academic or vocational education required to participate in modern technological society. There was no budget funding for East Jerusalem schools to offer after-school activities in 1998. Bathrooms and drinking fountains are extremely unsanitary and in disrepair. This has reached a point so as to cause a strike amongst parents from Ahmed Sameh al-Khaldy Boys School and Abu Tur Girls' School where children were kept at home in protest of the unsanitary conditions. Ventilation is also a grave problem in many of these schools, with small windows, and lack of heating and cooling systems in all of these schools.<sup>72</sup>

### ***Crowded Class-rooms***

The average class size for Arab schools in East Jerusalem was 30.6 students in 1998. In comparison, the average size of an Israeli (West) Jerusalem classroom was 24.6 students per class.<sup>73</sup>

### ***Absence of Public Funding for Private Education***

The State of Israel and the Jerusalem Municipality fund both secular Hebrew education and Ultra-Orthodox education. 91% of Israeli students in Jerusalem are enrolled in these schools that are publicly funded. In contrast, Muslim schools are not publicly funded.

A 2001 Human Rights Watch investigation confirmed these statements and found pervasive and systematic discrimination against nearly one-fourth of Israel's 1.6 million schoolchildren - Palestinian Arab citizens- who were educated in a public school system that was wholly separate from the schools of the Jewish majority.<sup>74</sup>

### ***Imposed and Deficient Curriculum***

Palestinian Arab students studied from a government-prescribed Arabic curriculum that was derived from the Hebrew curriculum: common subjects were developed with little or no Palestinian Arab participation, and they were translated years after the Hebrew language material was published. The government devoted inadequate resources to developing the subjects unique to Arab education, and Palestinian Arab teachers had significantly less choice in textbooks and teaching materials than did Jewish teachers. The curricula's content often alienated students and teachers alike, particularly the study of Jewish religious texts, which was required in secondary-level Hebrew language classes.<sup>75</sup>

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<sup>72</sup> According to the Palestinian Human Rights Monitoring Group.

<sup>73</sup> According to the Palestinian Human Rights Monitoring Group.

<sup>74</sup> View the full report at: <http://www.hrw.org/reports/2001/israel2/ISRAEL0901-11.htm>.

<sup>75</sup> Ibid.

ii. Violations of the Right to Education in the OPT:

***Closure of Schools by Military Orders***

Since the renewal of violent clashes in the Israeli-occupied West Bank and Gaza Strip on 29 September 2000, Palestinian children have been frequently prevented from attending school by school closures based on Military Order 845 (1981). This law remains in effect and allows the Israeli military to order a school closed. As a result, the education system is beholden to the decisions of the Israeli military overriding the provision of compulsory education as a right.<sup>76</sup> In the year 2000, four schools in the Al Khader region (Bethlehem) were closed by Israeli military orders. These four schools serve approximately 2500 students and were closed for a total of 45 days.<sup>77</sup> In 2001, eight schools were closed by Israeli military orders and five schools were taken over by the Israeli army and turned into military bases.<sup>78</sup> The Israeli military claims that these schools were closed for security reasons. However, the fact that children aged 6 and 7 years old who hardly present a “security risk” were effected suggests that the measure rather constitutes collective punishment targeting the entire Palestinian community.

***Lack of Access to Schools due to Curfews and Closure***

Palestinian children are denied the right to education also as a result of periodic curfews. This has been particularly prevalent in the Old City of Hebron, home to 35 000 Palestinians but controlled by 300 Israeli settlers. At least 27 schools in the Old City were forced to close during the 84-day long curfew at the end of 2000. Included in this figure are three schools, which were taken over by the Israeli military and transformed into military installations: Ossamma bin Munqith, (584 students, 13 teachers), Al Maa’ref Boys (871 students, 30 teachers), and Jawhar Girls (380 students 13 teachers). A total of 2386 students and around 80 teachers attended these schools.<sup>79</sup>

The November 2001 PCBS report,<sup>80</sup> which covered only the first year of the Intifada, reported that of those children attending schools, 14 percent said their schools were closed, bombed, became a military base or had been entered by Israeli occupation forces. 36 percent said their time at school had been reduced due to the Israeli measures; 60 percent had been absent for at least one day due to these measures, with an average of 10 absent days; and 2.4 percent had had to change their schools. UNICEF estimates that more than 600,000 (61 percent) of 986,000 children in the West Bank and Gaza Strip were unable to attend school on a regular bases.<sup>81</sup>

***Obstruction of High School Graduation Exams***

Preparations towards these exams (Tawjihi) were severely interrupted by military curfews and closures, especially in 2002. For example, villages to the west of Ramallah were unable to hold

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<sup>76</sup> Kuttab, Attallah. Military Order 854 and Other Orders. Al-Haq.

<sup>77</sup> According to Defence for Children International /Palestine Section.

<sup>78</sup> According to DCI/PS.

<sup>79</sup> *Ibid.*

<sup>80</sup> PCBS 2001. *Impact of the Israeli Measures: Survey on the Well Being of the Palestinian Children, Women and Palestinian Households*, 2001, Main Findings. Ramallah, Palestine.

<sup>81</sup> UNICEF Status Report 2002.

classes for more than two months due to the complete closure placed on that area. The exam, taken in the month of June, was completely disrupted in 2002.<sup>82</sup>

### ***Lack of Access to Special Education***

Curfews also prevented disabled children from reaching their special education centres. In 2002, about 678 handicapped children were unable to reach the PRCS special education centres. In addition the teachers and rehabilitation workers were also unable to reach their education centres in Khan Younis, Ramallah, Jericho and Nablus for varying periods of time. For example, the average number of absent days for Ramallah staff working in the PRCS-Ramallah education centre was estimated as 17.7 days/month in the first 6 months of 2002.<sup>83</sup>

### ***Attacks on Schools***

One of the most serious examples of collective punishment implemented by the Israeli government is the ongoing attacks carried out on schools by the Israeli military and settlers. These attacks involve shooting at school buildings, raids of schools carried out by Israeli soldiers and settlers, and most worrying of all – systematic shelling of schools using heavy artillery. DCI/PS research documented 49 cases of schools hit by Israeli ammunition or raided by Israeli settlers or soldiers in the year 2000. [ ] A large number of these attacks took place while students were in class. In 2001, 98 schools were fired at by Israeli soldiers with live ammunition, rubber-coated steel bullets or tear gas. 71 Palestinian schools came under Israeli attack either through tank shelling or rockets fired from helicopters. In some cases, school students were present during these attacks.<sup>84</sup> Thirty-seven school students were killed by the Israeli military or settlers during the year 2001. Six of these were killed on their way to school or inside their classroom.

### ***Israeli's Military Incursions of March-April 2002***

Violations of Palestinian children's right to education have drastically increased in 2002, particularly since the 29 March onset of daily Israeli military attacks on, and invasions into Palestinian communities. According to the Palestinian Ministry of Education's initial assessment of damage to schools during the first 3 weeks of the siege that began on 29 March 2002, 11 schools were completely destroyed, 9 vandalized, 15 schools used as military installations, and 15 schools used as a detention/holding facility. The Ministry estimates that 54,730 teaching sessions per day were lost in the siege period alone as a result of the Israeli curfew and the ensuing complete cessation of classes in the Ramallah, Nablus, Jenin, Tulkarem, Bethlehem, Qalqilya, Salfit, and Qabatia district schools. Moreover, the widespread destruction or confiscation of vital Ministry files, such as documents necessary for certifying student enrollment, make rebuilding this sector an extremely difficult task.

Human Rights Watch investigations during March-April 2002 found that in the Israeli-controlled H-2 section of Hebron, Palestinian schools serving some 12,000 children were closed for almost five months during almost continuous curfews imposed on Palestinians. Children living in the H-2 area who transferred to schools in Palestinian-controlled areas were still subject to the curfew,

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<sup>82</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 19.

<sup>83</sup> *Israeli Army violations to human rights to the highest attainable standards of health, a report compiled by the Palestine Red Crescent Society, September 2000- January 28, 2003*, p. 15.

<sup>84</sup> According to DCI/PS.

and Israeli soldiers often prevented them from returning home at night if a curfew was re-imposed. Palestinian primary school students in Hebron told Human Rights Watch that they were frequently cursed, stoned, or beaten by armed settlers while on their way to or from school. Israeli soldiers or police rarely intervened, they said, except to beat or arrest Palestinian children who struck back.<sup>85</sup>

The Palestinian Ministry of Education has formed committees in all districts to prepare a preliminary estimation of the scope and cost of damage occurred in the period between 28 March – 1 May 2002 by means of a standardized inspection process. As result of the assessment, the total cost of the physical damage to the Ministry and schools has been estimated at 2.5 million USD categorized into four domains:<sup>86</sup>

Damage to Buildings: this includes the damage in MoE building; three district offices, and 102 schools, from which 8 schools are need of major repair. The total cost of the damage is estimated by 1,620,000 USD, resulting from the shelling and bombing of buildings and changing several schools into a military posts.

Damage in labs equipment and appliances: this includes the damage in computer, phone, and electricity, photocopiers, printers, in the MoE building, district offices and schools, in addition to the equipments of the industrial schools (equipment of all workshops of Tulkarem industrial school has been totally damaged). The damage has been estimated by 674.00 USD.

Damage in furniture and educational tools: This includes vandalism of desks, tables, cupboards and educational tools. The estimated cost of the damage in this domain is 135.000 USD of which 98% is the cost of the damage to school furniture.

Damage of cars and vehicles: This includes 12 cars of the Ministry and district offices. The estimated cost is 47.700 USD.

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<sup>85</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 19.

<sup>86</sup> MIFTAH, *A Humanitarian Disaster in the Occupied Territories*, p. 21.

## Recommendations to the Committee

We request that the Committee consider the following recommendations in its Concluding Observations on Israel:

1. We urge the Committee to reaffirm the applicability of the ICESCR to the OPT and to request from the State of Israel information regarding measures taken towards implementation of the ICESCR in those areas;
2. In addition, the following questions and suggestions, according to the relevant articles of the Covenant, may be put before Israel in order to clarify practices in violation of the ICESCR in all areas under Israel's control (i.e. 1967 OPT and Israel/1949 armistice line):

### Article 1: Self-determination:

We urge the Committee to ask:

- a. Israel to take measures to prevent and take action against the Israeli settlers and the Israeli military who prevent Palestinian farmers from accessing their farms and their fields;
- b. Israel to stop effectively illegally annexing thousands of dunums<sup>87</sup> of Palestinian land through confiscation and destruction of such land for reasons such as allocation of military areas, state land, or green areas, expanding settlements, constructing by-pass roads to connect settlements to each other and to Israel, building the infrastructure necessary to provide services to the settlements and their residents and erecting the so-called 'security' wall, which acts as an Apartheid wall;
- c. Israel to give to Palestinians free access to water without discrimination;
- d. The Committee should conclude that as Israel can never obtain *de jure* sovereignty in the 1967 OPT under international law, it must accordingly relinquish *de facto* sovereignty (i.e., its military occupation) there to the Palestinian people, who hold the priority legal right to that area by virtue of their collective right of self-determination. Accordingly, the Committee should conclude that Israel's military presence in the OPT violates international law as codified in Article 1 of the ICESCR;
- e. The Committee should conclude that Israel's denial of the right of return of Palestinian refugees is in violation with the Palestinian people's right of self-determination, which requires State parties to the Covenant to respect each and every human right enumerated in the "International Bill of Human Rights." The Palestinian refugees cannot exercise these rights so long as they are exiled from their families' homes of origin and their property remains illegally confiscated from them in its entirety;
- f. Israel to stop building the Apartheid Wall.

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<sup>87</sup> 1 dunum = 1000 m2.

## Article 2: State responsibility, non discrimination, international cooperation

- a. The Committee should clearly identify the Covenant violation noted in Observation 13 (1998)<sup>88</sup> regarding Israel's discriminatory return laws and policies (1950 Law of Return; 1952 Nationality Law) as a "breach" of the Covenant, rather than using the milder "notes with concern" language. The Committee should recommend a specific remedy, i.e. cancellation/amendment of discriminatory Israeli laws and recognition by Israel of Palestinian refugees' right of return.
- b. Concerning the ongoing control of land in Israel by the World Zionist Organization/Jewish Agencies and its subsidiaries, the Committee should reaffirm that the Covenant "breach" identified in Observation 11 (1998)<sup>89</sup> has not been corrected. The Committee should make specific reference to the illegality (under international law) of the underlying confiscations through which Israel has "acquired" these lands from Palestinians and recommend a specific remedy, i.e. the right to restitution.
- c. The Committee should identify the Covenant violation noted in Observation 25 (1998)<sup>90</sup> regarding Israel's denial of return and restitution to the internally displaced Palestinians ("present absentees") as a "breach" of the Covenant, rather than using the milder "notes with concern" language. The Committee should recommend a specific remedy, i.e. Israel's recognition and implementation of the right of return and restitution of all internally displaced persons in Israel.
- d. The Committee should also recommend that the official land records and archives of both Israel and the United Nations Conciliation Commission for Palestine (UNCCP) be opened to the public –particularly to potential Palestinian claimants seeking to reclaim their property - for inspection and duplication.

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<sup>88</sup> **Observation 13** (1998) reads as follows: "The Committee *notes with concern* that the Law of Return, which permits any Jew from anywhere in the World to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements that make it impossible to return to their land of birth."

<sup>89</sup> **Observation 11** (1998) reads as follows: "The Committee notes with grave concern that the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries including the Jewish National Fund to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively. Despite the fact that the institutions are charters under private law, the State of Israel nevertheless has a decisive influence on their policies and thus remains responsible for their activities. A State Party cannot divest itself of its obligations under the Covenant by privatizing governmental functions. The Committee takes the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies, constitute an institutionalized form of discrimination because these agencies by definition would deny the use of these properties by non-Jews. Thus, these practices constitute a *breach* of Israel's obligations under the Covenant."

<sup>90</sup> **Observation 25** (1998) reads as follows (addressing both the right of restitution and the right of return of the "internally displaced"): "The Committee *expresses its concern* over the plight of an estimated 200,000 uprooted "present absentees" who are Palestinian Arab citizens of Israel, most of whom were forced to leave their villages during the 1948 war on the understanding that they would be allowed to return after the war by the Government of Israel. Although a few have been given back their property, the vast majority continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them." [NB: Use of the term "present absentees" in the preceding passage is slightly inaccurate. This is so because the term "present absentees" is not synonymous with the term "internally displaced." The term "internally displaced" is preferable because it describes the entire group of Palestinian citizens who Israel has barred from returning to their lands and properties. The term "present absentees" only describes one (albeit large) *subset* of the "internally displaced," i.e., those whose lands were confiscated under Israel's so-called "Absentees' Property" Law (and related amendments). Israel has, however, employed many other of its land confiscation laws to confiscate land from the "internally displaced."]

Article 7: Just and favorable conditions of work:

We request the Committee to ask Israel:

- a. To justify its closure policy requiring that Palestinian workers possess a special permit allowing them to work in Israel and to give information on the impact of the closure and curfew policies on unemployment rates in the OPT;
- b. To ensure proper monitoring by the Israeli Employment Office of the implementation of the minimum wage law by Israeli employers as regards their Palestinian employees;
- c. To pay unemployment indemnities to Palestinian workers who used to work in Israel and had money deducted from their salaries for the unemployment fund;
- d. To issue entry permits to Palestinian workers who are required to attend court hearings in Israeli labor courts;
- e. To end curfew policies and closure between Palestinian localities which prevent workers from reaching their workplaces and earning a living;
- f. To ensure the security of Palestinian workers working in the Israeli labor market against attacks from Israeli citizens and police forces, to end the daily harassment and mistreatment of workers at Israeli checkpoints and to prosecute Israeli soldiers, law enforcement officials and civilians who assaulted or killed Palestinian workers.

Article 9: Right to social security:

We also recommend that the Committee ask Israel why:

- a. Palestinian residents of Jerusalem placing a claim with the National Insurance Institute (NII) should prove that the city was his or her center of life;
- b. Why this procedure does not apply to the Israeli Jews of Jerusalem.

Article 10: Familial rights:

We also recommend that the Committee ask for information concerning:

- a. How Israel justifies the procedures for family separation and failure for reunification that apply only to Palestinian residents of Jerusalem, when these policies clearly have a negative impact on the ability of Palestinian children and adults in the city to access social insurance, or educational and health services? (having as a consequence the separation of families within Jerusalem with their family members within the WB and Gaza and the revocation of residence permits for East Jerusalem residents);
- b. Why Palestinian residents of East Jerusalem are required to obtain ID cards, indicating their “permanent residence” status, in order to be allowed access to the city and the services offered by government institutions and why this status does not apply to Israeli Jews living in Jerusalem;
- c. Why Palestinian children are paid wages significantly below the average wage for their work inside Israel, and some of them work more than 14 hours per day;
- d. To provide information on the current policies in the OPT including closures and curfews which have an impact on the family unit.



## Article 11: Right to adequate standards of living:

We also recommend that the Committee ask for information concerning:

- a. How the current regime of closures and curfews and other movement restrictions can affect the adequate standard of living of Palestinians;
- b. The number of houses and other civilian property destroyed in the OPT and East-Jerusalem and the reasons for these destructions;
- c. Why it engages in massive shelling and bombardment of civilian targets including residential areas in the OPT;
- d. Why the Israeli military blocks emergency food and water supplies;
- e. Why the Israeli military destroy water sources, pumps, wells and distribution infrastructure;
- f. Why there is a discriminatory distribution and insufficient water supply to Palestinians in areas that the Israeli water utility (Mekorot) controls;
- g. Why Palestinians are denied the right of access to agricultural land for harvesting and the Israeli military destroys agricultural land, crops, and livestock.

## Article 12: Right to the highest standard of health:

We request the Committee to ask Israel:

- a. Why Israel deprives many patients of access to health facilities and primary and secondary health services outside their living areas;
- b. Why Israel imposes a closure and curfew policy which prevents large numbers of civilians injured by the weapons of the Israeli military or ill from being transferred to health centers and hospitals, leading to death or serious complications as a result of delays in proper hospital treatment, and the the Israeli military often prevents ambulances and medical teams from reaching wounded or seriously ill Palestinians;
- c. Why especially Israel prevent pregnant women to cross checkpoints to give birth at hospital, as obviously they are not a risk for the security of Israel;
- d. Why many health workers face difficulties in terms of restricted movement from homes to workplaces in hospitals and health centers;
- e. Why ambulances and other vehicles transporting emergency medical supplies and medical staff have been deliberately targeted in attacks by the Israeli military;
- f. Why numerous primary health care centers in various parts of the OPT have been attacked and shelled;
- g. Why the Israeli military deliberately targets Palestinian children, as documented by numerous human rights organisations, government bodies and UN agencies;
- h. Why the Israeli military uses heavy artillery against Palestinian civilians and in densely populated civilian areas (including rockets, shells, missiles) fired by helicopters and warplanes, high velocity live ammunition and rubber-coated steel bullets, as well as land mines;
- i. Why torture and other cruel, inhuman and degrading treatment or punishment are a practice used by the Israeli Intelligence Service, by the Israeli Military, and the Israeli Police against detained and imprisoned Palestinians, including women and children;
- j. Why the detainees are provided with inadequate food, both in terms of quantity and quality, inadequate sanitation facilities, inadequate housing (tents, and often infested with cockroaches, scorpions, snakes, etc), inadequate clothing, and inadequate access to communication with their lawyers, families and any judicial processes and why

- they are subjected to other forms of ill treatment such as extremes of hot or cold weather;
- k. Why many Israeli companies still continue to use the occupied territories as a dumping ground for toxic materials and hazardous manufacturing processes in certain areas (see the text of the report for details);
  - l. Why the Israeli government allows the wastewater from the Israeli settlements in the OPT to continue to contaminate the groundwater, resulting in serious consequences for the Palestinian civilians living in the area;
  - m. Why Israel controls water resources and allows a significantly disproportionate, limited and insufficient amount to Palestinians as compared with amounts diverted to Israeli settlers and within Israel.

We also recommend that the Committee ask for information concerning the high number of Palestinian children and other civilians killed and wounded by the Israeli military, nature of injuries (high number of upper body injuries), type of weaponry and ammunition leading to injuries sustained, including the number of official investigations that have been opened into these deaths, the number of violations of their Rules of Engagement discovered and any subsequent changes made, and the number of cases in which punitive measures were taken against those found responsible. Why in cases of unlawful killings have the Israeli military taken no action, or inadequate action?

Article 13: Right to education:

We also recommend that the Committee ask for information concerning:

- a. Why Palestinian children in East Jerusalem are victims of discriminatory taxation and funding policies;
- b. Why East Jerusalem public schools are significantly substandard, especially in comparison to their neighboring West Jerusalem public schools;
- c. Why Palestinian Arab children attended schools with larger classes and fewer teachers than those in the Jewish school system;
- d. Why in the OPT, the Israeli military perpetuate killing and maiming of school-age children;
- e. Why in the OPT there is widespread destruction of schools sometimes whilst children and teachers are still present;
- f. Why in the OPT the Israeli military implement a forced closure of most of the schools;
- g. Why there is ever-present danger faced by staff and students while attempting to fulfill their right to education;
- h. Why the Israeli military uses schools as military posts, barracks and detention centers in violation of international law;
- i. Why the Israeli military arrests students and teachers in the OPT.