

April 27, 2021

A Threshold Crossed

Israeli Authorities and the Crimes of Apartheid and Persecution

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A Palestinian boy runs near Israel's separation barrier in the city of Qalqilya in the Israeli-occupied West Bank. The barrier entirely encircles the city, which is home to more than 55,000 Palestinians. © 2018 AFP/Getty Images

[Video](#) [Map](#)

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Palestinian Territory (OPT), the latter made up of the West Bank, including East Jerusalem, and the Gaza Strip. Throughout most of this area, Israel is the sole governing power; in the remainder, it exercises primary authority alongside limited Palestinian self-rule. Across these areas and in most aspects of life, Israeli authorities methodically privilege Jewish Israelis and discriminate against Palestinians. Laws, policies, and statements by leading Israeli officials make plain that the objective of maintaining Jewish Israeli control over demographics, political power, and land has long guided government policy. In pursuit of this goal, authorities have dispossessed, confined, forcibly separated, and subjugated Palestinians by virtue of their identity to varying degrees of intensity. In certain areas, as described in this report, these deprivations are so severe that they amount to the crimes against humanity of apartheid and persecution.



Several widely held assumptions, including that the occupation is temporary, that the “peace process” will soon bring an end to Israeli abuses, that Palestinians have meaningful control over their lives in the West Bank and Gaza, and that Israel is an egalitarian democracy inside its borders, have obscured the reality of Israel’s entrenched discriminatory rule over Palestinians. Israel has maintained military rule over some portion of the Palestinian population for all but six months of its 73-year history. It did so

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Israel and the Israeli-occupied Palestinian Territory, made up of the West Bank, including East Jerusalem, and the Gaza Strip, as well as the Israeli-occupied Golan Heights © 2021 Human Rights Watch

For the past 54 years, Israeli authorities have facilitated the transfer of Jewish Israelis to the OPT and granted them a superior status under the law as compared to Palestinians living in the same territory when it comes to civil rights, access to land, and freedom to move, build, and confer residency rights to close relatives. While Palestinians have a limited degree of self-rule in parts of the OPT, Israel retains primary control over borders, airspace, the movement of people and goods, security, and the registry of the entire population, which in turn dictates such matters as legal status and eligibility to receive identity cards.

A number of Israeli officials have stated clearly their intent to maintain this control in perpetuity and backed it up through their actions, including continued settlement expansion over the course of the decades-long “peace process.” Unilateral annexation of additional parts of the West Bank, which the government of Prime Minister Benjamin Netanyahu has vowed to carry out, would formalize the reality of systematic Israeli domination and oppression that has long prevailed without changing the reality that the entire West Bank is occupied territory under the international law of occupation,

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and recognized it as a crime against humanity with definitions provided in the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid (“Apartheid Convention”) and the 1998 Rome Statute of the International Criminal Court (ICC).

The crime against humanity of persecution, also set out in the Rome Statute, the intentional and severe deprivation of fundamental rights on racial, ethnic, and other grounds, grew out of the post-World War II trials and constitutes one of the most serious international crimes, of the same gravity as apartheid.

The State of Palestine is a state party to both the Rome Statute and the Apartheid Convention. In February 2021, the ICC ruled that it has jurisdiction over serious international crimes committed in the entirety of the OPT, including East Jerusalem, which would include the crimes against humanity of apartheid or persecution committed in that territory. In March 2021, the ICC Office of Prosecutor announced the opening of a formal investigation into the situation in Palestine.

The term apartheid has increasingly been used in relation to Israel and the OPT, but usually in a descriptive or comparative, non-legal sense, and often to warn that the situation is heading in the wrong direction. In particular, Israeli, Palestinian, US, and European officials, prominent media commentators, and others have asserted that, if Israel’s policies and practices towards Palestinians continued along the same trajectory, the situation, at least in the West Bank, would become tantamount to apartheid.^[1] Some have claimed that the current reality amounts to apartheid.^[2] Few, however, have conducted a detailed legal analysis based on the international crimes of apartheid or persecution.^[3]

In this report, Human Rights Watch examines the extent to which that threshold has already been crossed in certain of the areas where Israeli authorities exercise control.

Definitions of Apartheid and Persecution

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against a civilian population.

The Apartheid Convention defines the crime against humanity of apartheid as “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them.” The Rome Statute of the ICC adopts a similar definition: “inhumane acts... committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.” The Rome Statute does not further define what constitutes an “institutionalized regime.”

The crime of apartheid under the Apartheid Convention and Rome Statute consists of three primary elements: an intent to maintain a system of domination by one racial group over another; systematic oppression by one racial group over another; and one or more *inhumane acts*, as defined, carried out on a widespread or systematic basis pursuant to those policies.

Among the inhumane acts identified in either the Convention or the Rome Statute are “forcible transfer,” “expropriation of landed property,” “creation of separate reserves and ghettos,” and denial of the “the right to leave and to return to their country, [and] the right to a nationality.”

The Rome Statute identifies the crime against humanity of persecution as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity,” including on racial, national, or ethnic grounds. Customary international law identifies the crime of persecution as consisting of two primary elements: (1) severe abuses of fundamental rights committed on a widespread or systematic basis, and (2) with discriminatory intent.

Few courts have heard cases involving the crime of persecution and none the crime of apartheid, resulting in a lack of case law around the meanings of key terms in their definitions. As described in the report, international criminal courts have over the last two decades evaluated group identity based on the context and construction by local actors, as

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Two primary groups live today in Israel and the OPT: Jewish Israelis and Palestinians. One primary sovereign, the Israeli government, rules over them.

Intent to Maintain Domination

A stated aim of the Israeli government is to ensure that Jewish Israelis maintain domination across Israel and the OPT. The Knesset in 2018 passed a law with constitutional status affirming Israel as the “nation-state of the Jewish people,” declaring that within that territory, the right to self-determination “is unique to the Jewish people,” and establishing “Jewish settlement” as a national value. To sustain Jewish Israeli control, Israeli authorities have adopted policies aimed at mitigating what they have openly described as a demographic “threat” that Palestinians pose. Those policies include limiting the population and political power of Palestinians, granting the right to vote only to Palestinians who live within the borders of Israel as they existed from 1948 to June 1967, and limiting the ability of Palestinians to move to Israel from the OPT and from anywhere else to Israel or the OPT. Other steps are taken to ensure Jewish domination, including a state policy of “separation” of Palestinians between the West Bank and Gaza, which prevents the movement of people and goods within the OPT, and “Judaization” of areas with significant Palestinian populations, including Jerusalem as well as the Galilee and the Negev in Israel. This policy, which aims to maximize Jewish Israeli control over land, concentrates the majority of Palestinians who live outside Israel’s major, predominantly Jewish cities into dense, under-served enclaves and restricts their access to land and housing, while nurturing the growth of nearby Jewish communities.

Systematic Oppression and Institutional Discrimination

To implement the goal of domination, the Israeli government institutionally discriminates against Palestinians. The intensity of that discrimination varies according to different rules established by the Israeli government in Israel, on the one hand, and different parts of the OPT, on the other, where the most severe form takes place.

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considers part of its sovereign territory but remains occupied territory under international law, Israel provides the vast majority of the hundreds of thousands of Palestinians living there with a legal status that weakens their residency rights by conditioning them on the individual's connections to the city, among other factors. This level of discrimination amounts to systematic oppression.

In Israel, which the vast majority of nations consider being the area defined by its pre-1967 borders, the two tiered-citizenship structure and bifurcation of nationality and citizenship result in Palestinian citizens having a status inferior to Jewish citizens by law. While Palestinians in Israel, unlike those in the OPT, have the right to vote and stand for Israeli elections, these rights do not empower them to overcome the institutional discrimination they face from the same Israeli government, including widespread restrictions on accessing land confiscated from them, home demolitions, and effective prohibitions on family reunification.

The fragmentation of the Palestinian population, in part deliberately engineered through Israeli restrictions on movement and residency, furthers the goal of domination and helps obscure the reality of the same Israeli government repressing the same Palestinian population group, to varying degrees in different areas, for the benefit of the same Jewish Israeli dominant group.

Inhumane Acts and Other Abuses of Fundamental Rights

Pursuant to these policies, Israeli authorities have carried out a range of inhumane acts in the OPT. Those include sweeping restrictions on the movement of 4.7 million Palestinians there; the confiscation of much of their land; the imposition of harsh conditions, including categorical denial of building permits in large parts of the West Bank, which has led thousands of Palestinians to leave their homes under conditions that amount to forcible transfer; the denial of residency rights to hundreds of thousands of Palestinians and their relatives, largely for being abroad when the occupation began in 1967, or for long periods during the first few decades of the occupation, or as a result of the effective freeze on family reunification over the last two decades; and the suspension of basic civil rights

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Since the founding of the state of Israel, the government also has systematically discriminated against and violated the rights of Palestinians inside the state's pre-1967 borders, including by refusing to allow Palestinians access to the millions of dunams of land (1000 dunams equals 100 hectares, about 250 acres or 1 square kilometer) that were confiscated from them. In one region—the Negev—these policies make it virtually impossible for tens of thousands of Palestinians to live lawfully in the communities they have lived in for decades. In addition, Israeli authorities refuse to permit the more than 700,000 Palestinians who fled or were expelled in 1948, and their descendants, to return to Israel or the OPT, and impose blanket restrictions on legal residency, which block many Palestinian spouses and families from living together in Israel.

Report Findings

This report examines Israeli policies and practices towards Palestinians in the OPT and Israel and compares them to the treatment of Jewish Israelis living in the same territories. It is not an exhaustive evaluation of all types of international human rights and humanitarian law violations. Rather, it surveys consequential Israeli government practices and policies that violate the basic rights of Palestinians and whose purpose is to ensure the domination of Jewish Israelis, and assesses them against the definitions of the crimes against humanity of apartheid and persecution.

The report draws on years of research and documentation by Human Rights Watch and other rights organizations, including fieldwork conducted for this report. Human Rights Watch also reviewed Israeli laws, government planning documents, statements by officials, and land records. This evidentiary record was then analyzed under the legal standards for the crimes of apartheid and persecution. Human Rights Watch also wrote in July 2020 to Israeli Prime Minister Benjamin Netanyahu, soliciting the government's perspectives on the issues covered, but, as of publication, had not received a response.

The report does not set out to compare Israel with South Africa under apartheid or to determine whether Israel is an “apartheid state”—a concept that is not defined in

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OPT, the particular rights abuses that it commits there, and some of the objectives that motivate these policies. It does so in terms of the primary elements of the crimes of apartheid and persecution, as outlined above. Human Rights Watch evaluates the dynamics of Israeli rule in each of these areas, keeping in mind the different legal frameworks that apply in the OPT and Israel, which are the two legally recognized territorial entities, each with a different status under international law. While noting significant factual differences among subregions in each of these two territories, the report does not make separate subregional determinations.

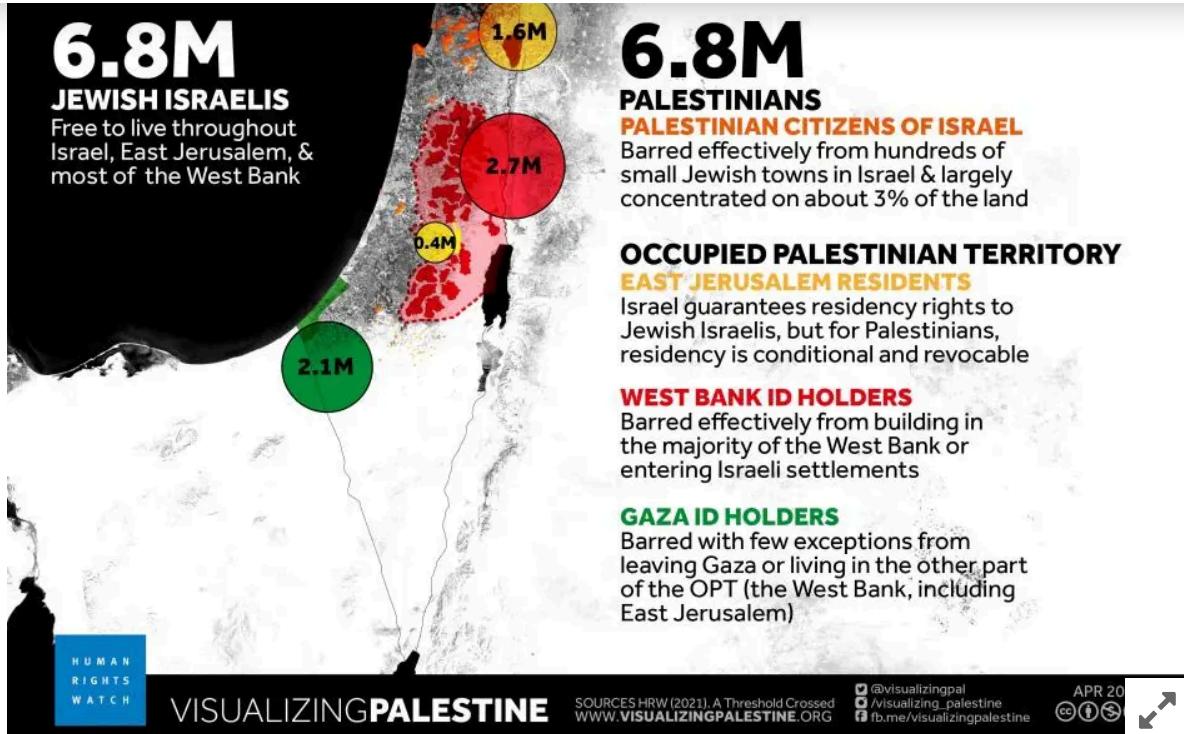
On the basis of its research, Human Rights Watch concludes that the Israeli government has demonstrated an intent to maintain the domination of Jewish Israelis over Palestinians across Israel and the OPT. In the OPT, including East Jerusalem, that intent has been coupled with systematic oppression of Palestinians and inhumane acts committed against them. When these three elements occur together, they amount to the crime of apartheid.

Israeli officials have also committed the crime against humanity of persecution. This finding is based on the discriminatory intent behind Israel's treatment of Palestinians and the grave abuses carried out in the OPT that include the widespread confiscation of privately owned land, the effective prohibition on building or living in many areas, the mass denial of residency rights, and sweeping, decades-long restrictions on the freedom of movement and basic civil rights. Such policies and practices intentionally and severely deprive millions of Palestinians of key fundamental rights, including to residency, private property, and access to land, services, and resources, on a widespread and systematic basis by virtue of their identity as Palestinians.

Seeking Maximal Land with Minimal Palestinians

Israeli policy has sought to engineer and maximize the number of Jews, as well as the land available to them, in Israel and the portions of the OPT coveted by the Israeli government for Jewish settlement. At the same time, by restricting the residency rights of Palestinians, Israeli policy seeks to minimize the number of Palestinians and the land available to them.

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In the West Bank, authorities have confiscated more than 2 million dunams of land from Palestinians, making up more than one-third of the West Bank, including tens of thousands of dunams that they acknowledge are privately owned by Palestinians. One common tactic they have used is to declare territory, including privately-owned Palestinian land, as “state land.” The Israeli group Peace Now estimates that the Israeli government has designated about 1.4 million dunams of land, or about a quarter of the West Bank, as state land. The group has also found that more than 30 percent of the land used for settlements is acknowledged by the Israeli government as having been privately owned by Palestinians. Of the more than 675,000 dunams of state land that Israeli authorities have allocated for use by third parties in the West Bank, they have earmarked more than 99 percent for use by Israeli civilians, according to government data. Land grabs for settlements and the infrastructure that primarily serves settlers effectively concentrate Palestinians in the West Bank, according to B’Tselem, into “165 non-contiguous ‘territorial islands.’”

Israeli authorities have also made it virtually impossible in practice for Palestinians in Area C, the roughly 60 percent of the West Bank that the Oslo Accords placed under full

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and 2020 in Israeli settlements in Area C. Transfer of an occupying power's civilian population to an occupied territory violates the Fourth Geneva Convention.

These policies grow out of longstanding Israeli government plans. For example, the 1980 Drobles Plan, which guided the government's settlement policy in the West Bank at the time and built on prior plans, called for authorities to "settle the land between the [Arab] minority population centers and their surroundings," noting that doing so would make it "hard for Palestinians to create territorial contiguity and political unity" and "remove any trace of doubt about our intention to control Judea and Samaria forever."

In Jerusalem, the government's plan for the municipality, including both the west and occupied east of the city, sets the goal of "maintaining a solid Jewish majority in the city" and a target demographic "ratio of 70% Jews and 30% Arabs"—later adjusted to a 60:40 ratio after authorities acknowledged that "this goal is not attainable" in light of "the demographic trend."

The Israeli government has also carried out discriminatory seizures of land inside Israel. Authorities have seized through different mechanisms at least 4.5 million dunams of land from Palestinians, according to historians, constituting 65 to 75 percent of all land owned by Palestinians before 1948 and 40 to 60 percent of the land that belonged to Palestinians who remained after 1948 and became citizens of Israel. Authorities in the early years of the state declared land belonging to displaced Palestinians as "absentee property" or "closed military zones," then took it over, converted it to state land, and built Jewish communities there. Authorities continue to block Palestinian citizen landowners from accessing land that was confiscated from them. A 2003 government-commissioned report found that "the expropriation activities were clearly and explicitly harnessed to the interests of the Jewish majority" and that state lands, which constitute 93 percent of all land in Israel, effectively serve the objective of "Jewish settlement." Since 1948, the government has authorized the creation of more than 900 "Jewish localities" in Israel, but it has allowed only a handful of government-planned townships and villages for Palestinians, created largely to concentrate previously displaced Bedouin communities living in the Negev.

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incompatibility with the town's "social-cultural fabric." According to a study by a professor at Technion-Israel Institute of Technology in Haifa, there are more than 900 small Jewish towns, including *kibbutzim*, across Israel that can restrict who lives there. None of them have any Palestinians living among them.

In the Negev in Israel, Israeli authorities have refused to legally recognize 35 Palestinian Bedouin communities, making it impossible for their 90,000 or so residents to live lawfully in the communities they have lived in for decades. Instead, authorities have sought to concentrate Bedouin communities in larger recognized townships in order, as expressed in governmental plans and statements by officials, to maximize the land available for Jewish communities. Israeli law considers all buildings in these unrecognized villages to be illegal, and authorities have refused to connect most to the national electricity or water grids or to provide even basic infrastructure such as paved roads or sewage systems. The communities do not appear on official maps, most have no educational facilities, and residents live under constant threat of having their homes demolished. Israeli authorities demolished more than 10,000 Bedouin homes in the Negev between 2013 and 2019, according to government data. They razed one unrecognized village that challenged the expropriation of its lands, al-Araqib, 185 times.

Authorities have implemented these policies pursuant to government plans since the early years of the state that called for restricting Bedouin communities in order to secure land suitable for settling Jews. Several months before becoming prime minister in December 2000, Ariel Sharon declared that Bedouins in the Negev "are gnawing at the country's land reserves," which he described as "a demographic phenomenon." As prime minister, Sharon went on to pursue a multi-billion-dollar plan that transparently sought to boost the Jewish population in the Negev and Galilee regions of Israel, areas that have significant Palestinian populations. His deputy prime minister, Shimon Peres, later described the plan as a "battle for the future for the Jewish people."

Sharon's push to Judaize the Negev, as well as the Galilee, developed against the backdrop of the government's decision to withdraw Jewish settlers from Gaza. After ending Jewish settlement there, Israel began to treat Gaza effectively as a territorial jurisdiction whose population it could consider as outside the demographic calculus of Jews and Palestinians.

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Despite withdrawing its settlers and ground troops, Israel has remained in critical ways the supreme power in Gaza, dominating through other means and hence maintaining its legal obligations as an occupying power, as the International Committee of the Red Cross (ICRC) and the United Nations (UN), among others, have determined. Most significantly, Israel bans Palestinians living there (with only narrow exceptions) from leaving through the Erez Passenger Crossing it controls and instituted a formal “policy of separation” between Gaza and the West Bank, despite Israel having recognized within the framework of the Oslo Accords these two parts of the OPT as collectively forming a “single territorial unit.” The generalized travel ban, which has remained in place since 2007 and reduced travel out of Gaza to a fraction of what it was two decades ago, is not based on an individualized security assessment and fails any reasonable test of balancing security concerns against the right to freedom of movement for over two million people.

Authorities have also sharply restricted the entry and exit of goods to and from Gaza, which, alongside Egypt often shutting its border, effectively seals it off from the outside world. These restrictions have contributed to limiting access to basic services, devastating the economy, and making 80 percent of the population reliant on humanitarian aid. Families in Gaza in recent years have had to make do without centrally provided electricity for between 12 and 20 hours per day, depending on the period. Water is also critically scarce; the UN considers more than 96 percent of the water supply in Gaza “unfit for human consumption.”

Within the West Bank as well, Israeli authorities prohibit Palestinian ID holders from entering areas such as East Jerusalem, lands beyond the separation barrier, and areas controlled by settlements and the army, unless they secure difficult-to-obtain permits. They have also erected nearly 600 permanent obstacles, many between Palestinian communities, that disrupt daily life for Palestinians. In sharp contrast, Israeli authorities allow Jewish settlers in the West Bank to move freely within the majority of the West Bank under its exclusive control, as well as to and from Israel, on roads built to facilitate their commutes and integrate them into every facet of Israeli life.

Demographic considerations factor centrally in Israel’s separation policy between Gaza

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these cases, authorities are mandated to aim to resettle the couple in Gaza. Official data shows that Israel did not approve a single Gaza resident to resettle in the West Bank, outside of a handful who filed Supreme Court petitions between 2009 and March 2017, while permitting several dozen West Bank residents to relocate to Gaza on the condition that they sign a pledge not to return to the West Bank.

Beyond the closure policy, Israeli authorities have often used oppressive and indiscriminate means during hostilities and protests in Gaza. Since 2008, the Israeli army has launched three large-scale military offensives in Gaza in the context of hostilities with armed Palestinian groups. As described in the report, those offensives have included apparently deliberate attacks on civilians and civilian infrastructure and killed well over 2,000 civilians. In addition, Israeli forces have regularly fired on Palestinian demonstrators and others who have approached fences separating Gaza and Israel in circumstances when they did not pose an imminent threat to life, killing 214 demonstrators in 2018 and 2019 alone and maiming thousands. These practices stem from a decades-long pattern of using excessive and vastly disproportionate force to quell protests and disturbances, at great cost to civilians. Despite the frequency of such incidents over the years, Israeli authorities have failed to develop law enforcement tactics that comport with international human rights norms.

Discriminatory Restrictions on Residency and Nationality

Palestinians face discriminatory restrictions on their rights to residency and nationality to varying degrees in the OPT and Israel. Israeli authorities have used their control over the population registry in the West Bank and Gaza—the list of Palestinians they consider lawful residents for purposes of issuing legal status and identity cards—to deny residency to hundreds of thousands of Palestinians. Israeli authorities refused to register at least 270,000 Palestinians who were outside the West Bank and Gaza when the occupation began in 1967 and revoked the residency of nearly 250,000, mostly for being abroad for too long between 1967 and 1994. Since 2000, Israeli authorities have largely refused to process family reunification applications or requests for address changes by Palestinians

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Authorities regularly deny entry into the West Bank to non-registered Palestinians who had lived in the West Bank but left temporarily (to study, work, marry, or for other reasons) and to their non-registered spouses and other family members.

When Israel annexed East Jerusalem in 1967, it applied its 1952 Law of Entry to Palestinians who lived there and designated them as “permanent residents,” the same status afforded to a non-Jewish foreigner who moves to Israel. The Interior Ministry has revoked this status from at least 14,701 Palestinians since 1967, mostly for failing to prove a “center of life” in the city. A path to Israeli citizenship exists, but few apply and most who did in recent years were not granted citizenship. By contrast, Jewish Israelis in Jerusalem, including settlers in East Jerusalem, are citizens who do not have to prove connections to the city to maintain their status.

Inside Israel, Israel’s Proclamation of Independence affirms the “complete equality” of all residents, but a two-track citizenship structure contradicts that vow and effectively regards Jews and Palestinians separately and unequally. Israel’s 1952 Citizenship Law contains a separate track exclusively for Jews to obtain automatic citizenship. That law grows out of the 1950 Law of Return which guarantees Jewish citizens of other countries the right to settle in Israel. By contrast, the track for Palestinians conditions citizenship on proving residency before 1948 in the territory that became Israel, inclusion in the population registry as of 1952, and a continuous presence in Israel or legal entry in the period between 1948 and 1952. Authorities have used this language to deny residency rights to the more than 700,000 Palestinians who fled or were expelled in 1948 and their descendants, who today number more than 5.7 million. This law creates a reality where a Jewish citizen of any other country who has never been to Israel can move there and automatically gain citizenship, while a Palestinian expelled from his home and languishing for more than 70 years in a refugee camp in a nearby country, cannot.

The 1952 Citizenship Law also authorizes granting citizenship based on naturalization. However, in 2003, the Knesset passed the Citizenship and Entry into Israel Law (Temporary Order), which bars granting Israeli citizenship or long-term legal status to ~~Palestinians from the West Bank and Gaza who marry Israeli citizens or residents. With~~

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Commenting on a 2005 renewal of the law, the prime minister at the time, Ariel Sharon, said: “There’s no need to hide behind security arguments. There’s a need for the existence of a Jewish state.” Benjamin Netanyahu, who was then the finance minister, said during discussions at the time: “Instead of making it easier for Palestinians who want to get citizenship, we should make the process much more difficult, in order to guarantee Israel’s security and a Jewish majority in Israel.” In March 2019, this time as prime minister, Netanyahu declared, “Israel is not a state of all its citizens,” but rather “the nation-state of the Jewish people and only them.”

International human rights law gives broad latitude to governments in setting their immigration policies. There is nothing in international law to bar Israel from promoting Jewish immigration. Jewish Israelis, many of whom historically migrated to Mandatory Palestine or later to Israel to escape anti-Semitic persecution in different parts of the world, are entitled to protection of their safety and fundamental rights. However, that latitude does not give a state the prerogative to discriminate against people who already live in that country, including with respect to rights concerning family reunification, and against people who have a right to return to the country. Palestinians are also entitled to protection of their safety and fundamental rights.

Israeli Justifications of Policies and Practices

Israeli authorities justify many of the policies documented in this report as responses to Palestinian anti-Israeli violence. Many policies, though, like the denial of building permits in Area C, East Jerusalem, and the Negev in Israel, residency revocations for Jerusalemites, or expropriation of privately owned land and discriminatory allocation of state lands, have no legitimate security justification. Others, including the Citizenship and Entry into Israel Law and freeze of the OPT population registry, use security as a pretext to advance demographic objectives.

Israeli authorities do face legitimate security challenges in Israel and the OPT. However, restrictions that do not seek to balance human rights such as freedom of movement

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Officials sometimes claim that measures taken in the OPT are temporary and would be rescinded in the context of a peace agreement. From former Prime Minister Levi Eshkol, of the Labor Party, declaring in July 1967 that “I see only a quasi-independent region [for Palestinians], because the security and land are in Israeli hands,” to Netanyahu of the Likud in July 2019 stating that “Israeli military and security forces will continue to rule the entire territory, up to the Jordan [River],” a range of officials have made clear their intent to maintain overriding control over the West Bank in perpetuity, regardless of what arrangements are in place to govern Palestinians. Their actions and policies further dispel the notion that Israeli authorities consider the occupation temporary, including the continuing of land confiscation, the building of the separation barrier in a way that accommodated anticipated growth of settlements, the seamless integration of the settlements’ sewage system, communication networks, electrical grids, water infrastructure and a matrix of roads with Israel proper, as well as a growing body of laws applicable to West Bank Israeli settlers but not Palestinians. The possibility that a future Israeli leader might forge a deal with Palestinians that dismantles the discriminatory system and ends systematic repression does not negate the intent of current officials to maintain the current system, nor the current reality of apartheid and persecution.

Recommendations

The Israeli government should dismantle all forms of systematic domination and oppression that privilege Jewish Israelis and systematically repress Palestinians, and end the persecution of Palestinians. In particular, authorities should end discriminatory policies and practices with regards to citizenship and residency rights, civil rights, freedom of movement, allocation of land and resources, access to water, electricity, and other services, and granting of building permits.

The findings that the crimes of apartheid and persecution are being committed do not deny the reality of Israeli occupation or erase Israel’s obligations under the law of occupation, any more than would a finding that other crimes against humanity or war crimes have been carried out. As such, Israeli authorities should cease building

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persecution.

The finding of crimes against humanity should prompt the international community to reevaluate its approach to Israel and Palestine. The US, which for decades has largely failed to press the Israeli government to end its systematic repression of Palestinians, has in some instances in recent years signaled its support for serious abuses such as the building of settlements in the occupied West Bank. Many European and other states have built close ties with Israel, while supporting the “peace process,” building the capacity of the PA, and distancing themselves from and sometimes criticizing specific abusive Israeli practices in the OPT. This approach, which overlooks the deeply entrenched nature of Israeli discrimination and repression of Palestinians there, minimizes serious human rights abuses by treating them as temporary symptoms of the occupation that the “peace process” will soon cure. It has enabled states to resist the sort of accountability that a situation of this gravity warrants, allowing apartheid to metastasize and consolidate. After 54 years, states should stop assessing the situation through the prism of what might happen should the languishing peace process one day be revived and focus instead on the longstanding reality on the ground that shows no signs of abating.

Crimes against humanity can serve as the basis for individual criminal liability in international fora, as well as in domestic courts outside of Israel and the OPT under the principle of universal jurisdiction.

In light of the decades-long failure by Israeli authorities to rein in serious abuses, the International Criminal Court’s Office of the Prosecutor should investigate and prosecute individuals credibly implicated in the crimes against humanity of apartheid or persecution. The ICC has jurisdiction over, and the prosecutor has opened an investigation into, serious crimes committed in the OPT. In addition, all governments should investigate and prosecute those credibly implicated in these crimes, under the principle of universal jurisdiction and in accordance with national laws.

Beyond criminality, Human Rights Watch calls on states to establish through the UN an international commission of inquiry to investigate systematic discrimination and repression based on group identity in the OPT and Israel. The inquiry should be mandated

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persecution and apartheid worldwide.

States should issue statements expressing concern about Israel's practice of apartheid and persecution. They should vet agreements, cooperation schemes, and all forms of trade and dealing with Israel to screen for those directly contributing to the commission of the crimes of apartheid and persecution against Palestinians, mitigate the human rights impacts, and, where not possible, end the activities and funding found to facilitate these serious crimes.

The implications of the findings of this report for businesses are complex and beyond the scope of this report. At a minimum, businesses should cease activities that directly contribute to the commission of the crimes of apartheid and persecution. Companies should assess whether their goods or services contribute to the commission of the crimes of apartheid and persecution, such as equipment used in the unlawful demolition of Palestinian homes, and cease providing goods and services that will likely be used for such purposes, in accordance with the UN Guiding Principles on Business and Human Rights.

States should impose individual sanctions, including travel bans and asset freezes, against officials and individuals responsible for the continued commission of these serious crimes and condition arms sales and military and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution.

The international community has for too long explained away and turned a blind eye to the increasingly transparent reality on the ground. Every day a person is born in Gaza into an open-air prison, in the West Bank without civil rights, in Israel with an inferior status by law, and in neighboring countries effectively condemned to lifelong refugee status, like their parents and grandparents before them, solely because they are Palestinian and not Jewish. A future rooted in the freedom, equality, and dignity of all people living in Israel and the OPT will remain elusive so long as Israel's abusive practices against Palestinians persist.

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Abusive Israeli Policies Constitute Crimes of Apartheid, Persecution



Crossed

Israeli Authorities and the Crimes of Apartheid and Persecution

Crimes Against Humanity Should Trigger Action to End Repression of Palestinians



April 30, 2021 |
Commentary

Apartheid and Persecution: The Forgotten Crimes Against Humanity



May 19, 2021 |
Commentary

How the UN Can Help End Israeli Apartheid and Persecution

Methodology

This report focuses on Israel's treatment of Palestinians in the Occupied Palestinian Territory (OPT) and in Israel. It is not a comprehensive examination of all repressive policies, practices, and other facets of institutional discrimination. It also does not account for all human rights abuses in these areas, including rights abuses committed by Palestinian authorities or armed groups, which Human Rights Watch has covered extensively elsewhere.^[4] Rather, it examines discriminatory policies, laws, and regulations

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Rights Watch also reviewed Israeli laws, government planning documents, statements by officials, land records, and legal standards governing the crimes of apartheid and persecution. The report includes several case studies, based on 40 interviews with affected persons, current and former officials, lawyers, and NGO representatives, as well as on-site visits, all conducted by Human Rights Watch in 2019 and 2020. Some interviews took place at locations in the OPT and Israel, but, in part due to movement restrictions imposed during the COVID-19 pandemic, many were conducted by phone.

Human Rights Watch conducted most of the interviews that are included in this report individually, in Arabic or English. We conducted them with the consent of those being interviewed and told each of the interviewees how Human Rights Watch would use the information provided.

Human Rights Watch is withholding names of some interviewees for their security, giving them instead pseudonyms, which are noted at first mention between quotation marks.

Human Rights Watch also wrote to Israeli Prime Minister Benjamin Netanyahu on July 20, 2020, soliciting the government's perspectives generally on the issues covered. A copy of the letter is included in the appendix of this report. The Prime Minister's Office confirmed receipt by phone on August 6 and by email on August 12, but, as of publication, had not responded.

I. Background

More than 700,000 Palestinians fled or were expelled from their homes and more than 400 Palestinian villages were destroyed in events around the establishment of the Israeli state in 1948.^[5] Between 1949 and 1966, Israeli authorities placed most of the Palestinians who remained within the borders of the new state under military rule, confining them to

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Israeli authorities have since retained control over the OPT. In the occupied West Bank, the Israeli army has militarily ruled over Palestinians living there, except in East Jerusalem, which Israel unilaterally annexed in 1967. Annexation does not change East Jerusalem's status as occupied territory under international law. Throughout the West Bank, Israel has facilitated the building of Israeli-only settlements. The Fourth Geneva Convention, which applies to military occupations, prohibits the transfer of an occupying power's civilian population to an occupied territory.^[7] In the occupied Gaza Strip, Israel withdrew its ground troops in 2005, but continues to exert substantial control through other means.

Israel also unilaterally annexed the Golan Heights in 1981, though it also remains an occupied territory under international law. Israel ended its occupation of the Sinai Peninsula as a result of the 1978 Camp David Accords with Egypt.

In 1993 and 1995, the Israeli government and the Palestine Liberation Organization (PLO) signed the Oslo Accords, which created the Palestinian Authority (PA) to manage some Palestinian affairs in parts of the OPT for a transitional period, not exceeding five years, until the parties forged a permanent status agreement.^[8] The Oslo Accords, supplemented by later agreements, divided the West Bank largely into three distinct regions: Area A, where the PA would manage full security and civil affairs, Area B, where the PA would manage civil affairs and Israel would have security control, and Area C, under the exclusive control of Israel. Area A largely incorporates the major Palestinian city centers, Area B the majority of towns and many villages, and Area C the remaining 60 percent of the West Bank.^[9] The Oslo Accords, though, did not end the occupation in any part of the OPT.

The parties did not reach a final status agreement by 2000 and have not in the two decades since, despite off and on negotiations primarily mediated by the US. The West Bank remains primarily divided between Areas A, B, and C, with Israel retaining overall principal control and the PA managing some affairs in Areas A and B. In Gaza, Hamas has effectively governed since seizing control in June 2007 following months of clashes between the Palestinian political parties Fatah and Hamas and more than a year of

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the OPT. Instead, the peace process is regularly cited to oppose efforts for rights-based international action or accountability,^[12] and as cover for Israel's entrenched discriminatory rule over Palestinians in the OPT.^[13]

In recent years, Israeli officials have vowed to unilaterally annex additional parts of the West Bank,^[14] and the coalition agreement that led to the formation of an Israeli government in May 2020 established a process to bring annexation for governmental approval.^[15] In August, Prime Minister Netanyahu said that Israel would delay the move following an agreement with the United Arab Emirates, but noted that "there is no change to my plan to extend sovereignty" over the West Bank.^[16] Annexation would not change the reality of Israeli occupation or the protections due to Palestinians as an occupied population under international humanitarian law.

Although the mechanics and intensity of the abuses differ between the OPT and Israel, the same power, the government of the state of Israel, has primary control across both. That authority governs all Jewish Israelis in Israel and the OPT under a single body of laws (Israeli civil law) and, to ensure their domination, structurally discriminates against Palestinians and represses them to varying degrees across different areas on issues such as security of legal status and access to land and resources, as the report documents. Across Israel and the OPT, Israel grants Jewish Israelis privileges denied to Palestinians and deprives Palestinians of fundamental rights on account of their being Palestinian.

While the role of different Israeli state entities varies in different parts of the OPT—with the army, for example, primarily administering the West Bank and exerting control from outside the territory in Gaza, whereas the same civil authorities that govern in Israel also rule over East Jerusalem—they all operate under the direction of the Israeli government headed by the prime minister. Every Israeli government since 1967 has pursued or maintained abusive policies in the OPT. In the West Bank, at least ten government ministries directly fund projects to serve settlements, and a Settlement Affairs Ministry was formed in May 2020.^[17] The Knesset has also passed laws and formed committees that apply exclusively there.^[18] The Israeli Supreme Court serves as the court of last resort for Israeli actions in both Israel and the OPT and has ruled on major cases that have determined policies in both territories.^[19] Quasi-state bodies, such as the World Zionist

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II. The Crimes Against Humanity of Apartheid and Persecution

The prohibition of crimes against humanity is among the most fundamental in international criminal law. The concept, which dates back more than one hundred years and became clearly part of international criminal law in the 1945 Charter of the International Military Tribunal that created the court that prosecuted members of the leadership of Nazi Germany in Nuremberg, refers to a small number of the most serious crimes under international law.^[21]

The 1998 Rome Statute of the International Criminal Court, which came into force in 2002, sets out 11 crimes that can amount to a crime against humanity when “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.”^[22] The statute defines “attack” as a “course of action involving the multiple commission of acts... pursuant to or in furtherance of a State or organizational policy.” “Widespread” refers to the scale of the acts or number of victims,^[23] whereas “systematic” indicates a “pattern or methodological plan.”^[24] Crimes against humanity can be committed during peace or armed conflict.

The Explanatory Memorandum of the Rome Statute explains that crimes against humanity “are particularly odious offenses in that they constitute a serious attack on human dignity or grave humiliation or a degradation of one or more human beings. They are not isolated or sporadic events but are part either of a government policy (although the perpetrators need not identify themselves with this policy) or of a wide practice of atrocities tolerated or condoned by a government or a de facto authority.”^[25]

Among the 11 distinct crimes against humanity are the crimes of apartheid and persecution. There is no hierarchy among crimes against humanity; they are of the same gravity and lead to the same consequences under the Rome Statute.

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General Prohibition

Apartheid, a term originally coined in relation to specific practices in South Africa, has developed over the past half-century into a universal legal term incorporated in international treaties, numerous UN resolutions, and the domestic law of many countries to refer to a particularly severe system of institutional discrimination and systematic oppression.^[28] Apartheid is prohibited as a matter of customary international law.^[29]

According to the International Law Commission (ILC), the prohibition against apartheid represents a peremptory norm of international law.^[30] The ILC describes apartheid as “a serious breach on a widespread scale of an international obligation of essential importance for safeguarding the human being,” noting its prohibition in a range of legal instruments within states and “general agreement among Governments as to the peremptory character” of the prohibition.^[31] The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which has 182 states parties,^[32] including Israel and Palestine, declares that “States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.”^[33]

International Criminal Law

Beyond its mere prohibition, apartheid has also been recognized as a crime against humanity for more than 50 years. The 1968 Convention on the Non-Applicability of Statutory Limitations to War Crimes declared that crimes against humanity included “inhuman acts resulting from the policy of apartheid.”^[34]

In 1973, the UN General Assembly adopted a specific convention on apartheid, the Convention on the Suppression and Punishment of the Crime of Apartheid (“Apartheid Convention”), declaring it to constitute a crime against humanity.^[35] The Apartheid Convention, which came into force in 1976 and has 109 states parties, including the state of Palestine but not Israel, states:

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The Apartheid Convention then identifies a number of “inhuman acts” that, when committed for the purpose of domination and systematic oppression, make up the crime of apartheid, including:

- (b) Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;
- (c) Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognised trade unions, the right to education, **the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association**;
- (d) Any measures including legislative measures, designed to divide the population along racial lines by the **creation of separate reserves and ghettos for the members of a racial group or groups**, the prohibition of mixed marriages among members of various racial groups, **the expropriation of landed property belonging to a racial group or groups or to members thereof.**^[37]

The 1977 Additional Protocol I to the Geneva Conventions, with 174 states parties, identifies “practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity based on racial discrimination” as a grave breach of the

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systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.^[39]

In setting out what constitutes inhumane acts, the statute lists a series of crimes against humanity, including “deportation or forcible transfer,” “persecution,” and “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”^[40] To amount to apartheid, these acts must take place in the context of an institutionalized regime of systematic domination and oppression and committed with the intention of maintaining that regime.^[41]

The International Law Commission also included the crime of apartheid in its draft proposed treaty on Crimes Against Humanity, incorporating the Rome Statute definition of the crime.^[42]

THE CRIME OF APARTHEID

The 1998 Rome Statute to the International Criminal Court and 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid define apartheid as a **crime against humanity** consisting of three main elements:

- 1 AN INTENT TO MAINTAIN DOMINATION BY ONE RACIAL GROUP OVER ANOTHER**
- 2 A CONTEXT OF SYSTEMATIC OPPRESSION BY ONE RACIAL GROUP OVER ANOTHER**
- 3 INHUMANE ACTS**

HUMAN RIGHTS WATCH

VISUALIZING PALESTINE

SOURCES: HRW (2021). A Threshold Crossed. WWW.VISUALIZINGPALESTINE.ORG

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Racial Group: Both the Apartheid Convention and Rome Statute use the term “racial group,” but neither defines it.^[43] The development of the Apartheid Convention against the backdrop of events in southern Africa in the 1970s, as referenced in the text of the Convention, as well as the non-inclusion of other categories beyond race, and the rejection of proposals by some states to expand the treaty’s scope, could lead to a narrower interpretation focused on divisions based on skin color.^[44] While discussion of the meaning of “racial group” during the drafting of the Rome Statute appears to have been minimal,^[45] its inclusion in the definition of apartheid, after the end of apartheid in South Africa and when international human rights law had clearly defined racial discrimination to include differences of ethnicity, descent, and national origin, indicates that “racial group” within the Rome Statute reflects, and would likely be interpreted by courts to reflect, a broader conception of race.

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which was adopted in 1965 and came into legal force in 1969, defines “racial discrimination” as “any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.”^[46] The Committee on the Elimination of All Forms of Racial Discrimination (CERD), the UN body charged with monitoring the implementation of the ICERD, has consistently found that members of racial and ethnic groups, as well as groups defined based on descent or their national origin, face racial discrimination.^[47] Rather than treat race as constituting only genetic traits, Human Rights Watch uses this broader definition.

No international criminal case has ruled on the definition of “racial group” in the context of the crime against humanity of apartheid. But international criminal courts, in the context of more recent genocide cases, have addressed the meaning of “national, ethnical, racial or religious group” in the definition of that crime in part by evaluating group identity based on context and the construction of local actors, in particular the perpetrators, as opposed to earlier approaches that focused on hereditary physical traits. The International Criminal Tribunal for Rwanda (ICTR) held that the assessment of whether a particular group may be considered as protected from the crime of genocide

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1999 case that “to attempt to define a national, ethnical or racial group today using objective and scientifically irreproachable criteria would be a perilous exercise.”^[50]

An understanding of “racial group” in line with ICERD’s conception of “racial discrimination” and international criminal courts’ “subjective approach” to determining racial and other groups mirrors the evolution in how the social sciences understand race and gives coherence to the meaning of race across international law.^[51]

Israeli law has also interpreted race broadly, not limiting it to skin color. The Israeli Penal Code defines racism, in the context of the crime of “incitement to racism,” as “persecution, humiliation, degradation, a display of enmity, hostility or violence, or causing violence against a public or parts of the population, all because of their color, racial affiliation or national ethnic origin.”^[52] Under Article 7A of Israel’s Basic Law: The Knesset—1958, which bars candidates from running for office if they engage in “incitement,”^[53] Israel’s Supreme Court has barred candidates, such as from the Jewish Power (Otzma Yehudit) party, from running for office based on vitriolic comments made about Palestinians.^[54]

While it is beyond the scope of this report to analyze the group identities of Jewish Israelis or Palestinians, it is clear that in the local context, Jewish Israelis and Palestinians are regarded as separate identity groups that fall within the broad understanding of “racial group” under international human rights law. The 1950 Law of Return, which guarantees Jews the right to immigrate to Israel and gain citizenship, defines “Jew” to include “a person who was born of a Jewish mother,” embracing a descent-based, as opposed to a purely religious, classification.^[55] Many in Israel characterize the virulently anti-Palestinian positions of the Jewish Power party, and before that the Kach Party, as “racist.”^[56] Prominent Israelis also labeled as “racist” or “race-baiting” a warning that Netanyahu issued to his supporters on election day 2015 that “Arab voters are coming out in droves to the polls.”^[57]

Meanwhile, on account of their identity, Palestinians face discrimination and repression, as this report makes clear. Palestinians have deep cultural, political, economic, social, and family ties across Israel, the West Bank, including East Jerusalem, and the Gaza Strip. For

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CERD found in its latest review of Israel's record under ICERD in December 2019 that Palestinians in Israel and the OPT constitute a minority group deserving of protection against "all policies and practices of racial segregation and apartheid" in comparison to Jewish communities.^[60]

Institutionalized Regime: This term, incorporated into the Rome Statute but not the Apartheid Convention, appears to have originated in a proposal from the US delegation during the drafting to limit the application of the crime of apartheid to states and exclude non-state groups.^[61] Alongside the term "systematic," which appears in both the Apartheid Convention and Rome Statute, the term "regime" underscores the existence of formal organization and structure, and more than isolated discriminatory policies or acts.^[62] The system can cover entire states or more limited geographic areas, depending on the allocation of power, unity of authority, or differing oppressive laws, policies, and institutions, among other factors.

Domination: This term, which lacks a clear definition in law, appears in context to refer to an intent by one group to maintain heightened control over another, which can involve control over key levers of political power, land, and resources. The reference is found in both the Rome Statute and Apartheid Convention.

The focus on domination, as opposed to formal sovereignty, also indicates that the crime of apartheid can be carried out by authorities outside its own territory and with respect to non-citizens.^[63] A finding that authorities of one state have committed the crime of apartheid in an external territory would no more undermine the formal sovereignty the other state enjoys or detract from the factual reality of occupation than would a finding that other crimes against humanity or war crimes had been carried out there.^[64]

Systematic Oppression: This term, also without a clear definition in law, appears to refer to the methods used to carry out an intent to maintain domination. The reference in the Apartheid Convention to "policies and practices of racial discrimination as practiced in southern Africa" indicates that oppression must reach a high degree of intensity to meet the requisite threshold for the crime.^[65]

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religious grounds” as crimes against humanity.^[66]

The Rome Statute also identifies persecution as a crime against humanity, defining it as “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity.”^[67] The statute broadened the scope of the crime to encompass “any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law.”^[68] The statute limits the crime to applying only “in connection with” other crimes identified under it.^[69] The customary international law definition of persecution, though, includes no such limitation.^[70]

International criminal lawyer Antonio Cassese, who served as a judge in the leading ICTY case that examined persecution within international criminal law (Prosecutor v. Kupreskic), identified the crime against humanity of persecution as a crime under customary international law.^[71] He defined persecution under customary international law as referring to acts that a) result in egregious or grave violations of fundamental human rights, b) are part of a widespread or systematic practice, and c) are committed with discriminatory intent.^[72]

Neither the Rome Statute nor customary international law clearly set the threshold of what constitutes a violation that is sufficiently “severe” or “egregious.” Human Rights Watch recognizes that many human rights violations cause serious harm. However, for the determination of whether the crime against humanity of persecution has been committed, Human Rights Watch requires the most serious forms of violations before the requirements of “severe” or “egregious” can be met.

Legal Consequences of Finding Crimes Against Humanity

The commission of crimes against humanity can serve as the basis for individual criminal liability not only in the domestic courts of the perpetrator country but also in

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punish those responsible.

In December 2019, ICC Prosecutor Fatou Bensouda concluded a nearly five-year preliminary inquiry into the Palestine situation and determined that “all the statutory criteria” to proceed with a formal investigation of alleged serious crimes by Israelis and Palestinians had been met. The prosecutor found a “reasonable basis” to believe that war crimes had been committed by Israeli and Palestinian authorities but did not reference any crimes against humanity.^[73] Although the prosecutor did not require formal judicial authorization to move forward with a formal investigation, she nonetheless sought a ruling from the court’s judges on the ICC’s territorial jurisdiction before proceeding.^[74]

In February 2021, the court ruled that it had jurisdiction over crimes committed in the OPT, including East Jerusalem, confirming Palestine’s status as a state party to the Rome Statute able to confer that jurisdiction.^[75] This jurisdiction would include the ability to prosecute the crimes against humanity of apartheid and persecution. In March 2021, the Office of the Prosecutor announced the opening of a formal investigation into the situation in Palestine.^[76]

Israel signed the Rome Statute in 2000, but did not ratify it and said in August 2002 that it did not intend to do so.^[77] However, the ICC has jurisdiction to investigate and prosecute any person, including those of Israeli nationality, where there is evidence that they are criminally responsible for the commission of the crimes against humanity of persecution or apartheid within any state that has ratified the Rome Statute, where the relevant criteria are met. That includes Palestine, allowing for the prosecution of crimes that Israeli nationals commit in the OPT.

The Apartheid Convention also calls on states parties to prosecute those who commit the crime and over whom they have jurisdiction, as well as to take other measures aimed at “prevention, suppression and punishment” of the crime of apartheid.^[78]

Israeli law criminalizes crimes against humanity, including persecution but not apartheid.

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III. Intent to Maintain Domination

Israeli government policy has long sought to engineer and maintain a Jewish majority in Israel and maximize Jewish Israeli control over land in Israel and the OPT. Laws, planning documents, and statements by officials demonstrate that the pursuit of domination by Jewish Israelis over Palestinians, in particular over demographics and land, guides government policy, and actions to this day.

This chapter will show that this objective amounts to an intent to maintain domination by one group over another. When inhumane acts are carried out in the context of systematic oppression pursuant to that intent to maintain domination, the crime against humanity of apartheid is committed.

Discriminatory intent, when it gives rise to severe abuses of fundamental rights, also makes up the crime against humanity of persecution.

To analyze the motivations behind Israeli policies towards Palestinians today, which developed over many years with much of the architecture established in the early years of the state and the occupation, this chapter considers materials that in some cases date back decades. This does not implicate every official cited in seeking to dominate Palestinians. In fact, some Israeli officials and parties advocated positions that, if implemented, could have avoided such policies.

Israeli authorities justify some of these policies in the name of security, but, as this chapter shows, they often use security as a justification to advance demographic objectives. In other cases, officials advocate for policies to safeguard Israel's identity as a Jewish state. Israel can, like any other state, seek to promote a particular identity, but that does not include a license to violate fundamental rights. Not all policies designed to promote Judaization constitute rights abuses. Particular policies can, though, provide evidence of a discriminatory intent or purpose to maintain domination by Jewish Israelis.

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Demographic considerations, in particular the quest for a strong Jewish majority, have long underlined Israeli government policy. The key declarative line of Israel's Proclamation of Independence proclaims the "establishment of a Jewish state in Eretz-Israel."^[80] The proclamation largely narrates the history of the Jewish people and twice in the short document underscores the centrality of Jewish immigration. While the proclamation does commit itself to "complete equality of social and political rights to all its inhabitants," it presents the newly established state as belonging to the Jewish people, describing Israel as "their state."

Israel's Basic Laws, which have constitutional status in the absence of a full constitution, re-enforce that the state is Jewish, rather than belonging to all its citizens. The Basic Law: The Knesset—1958, for example, declares that no candidate can run for the Knesset if they expressly or implicitly endorse "negation of the existence of the State of Israel as a Jewish and democratic state."^[81] The Basic Law: Human Dignity and Liberty sets out its purpose as to "establish... the values of the state of Israel as a Jewish and democratic state."

The Basic Law: Israel—The Nation-State of the Jewish People ('Nation-State Law') passed in 2018, in effect affirms the supremacy of the "Jewish" over the "democratic" character of the state. The Nation-State Law sets out amid its "basic principles" that Israel is "the nation state of the Jewish people" and that the "exercise of the right to national self-determination in the state of Israel is unique to the Jewish people." Article 7 further states that "the State views the development of Jewish settlement as a national value and shall act to encourage and promote its establishment and strengthening."^[82] Unlike Israel's Proclamation of Independence, the Nation-State Law contains no language about equality. A Knesset legal advisor said he sought to include "mention of the issue of equality and the issue of the state belonging to all citizens, [but] the committee chose not to make this into a law."^[83] In June 2018, several Knesset members sought to introduce a bill to define Israel as a state of all its citizens, but the Knesset presidium disqualified it before it could be discussed since it "seeks to deny Israel's existence as the state of the Jewish people," the Knesset legal advisor said.^[84]

Israel's occupation of the OPT in 1967 amplified Israeli concerns about demographics.

Within Israel's pre-1967 borders, Jews currently represent about 81 percent of the

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Palestinians to the land it controls, in addition to the 1.6 million who reside in Israel.^[86]

Statements by Israeli prime ministers and other senior officials highlight the extent to which the intent to maintain demographic control has guided policymaking. Prime Minister Benjamin Netanyahu, in a March 10, 2019, post on the social media platform Instagram, stated, “Israel is not a state of all its citizens,” but rather “the nation-state of the Jewish people and only them.”^[87] In December 2003, in between terms as prime minister, Netanyahu said at a conference that “if there is a demographic problem, and there is, it is with the Israeli Arabs who will remain Israeli citizens,” noting the need to balance policies that strive to integrate “Israel’s Arabs” with ensuring they do not reach 35-40 percent of the population.^[88] He warned that “if their numbers will reach 35-40 percent of the country, then the Jewish state will be annulled.”^[89] He also stated that the separation barrier, ostensibly erected to enhance Israel’s security, would also help to prevent a “demographic spillover” of Palestinians from the West Bank.^[90]

Demographic-driven policymaking extends beyond Prime Minister Netanyahu. Even Israeli leaders who supported Israel’s withdrawal from a greater portion of the West Bank than others did often make demographics—the need for Israel to preserve a Jewish majority—one of their central arguments. Netanyahu’s predecessor, Ehud Olmert, said in 2003, three years before he became prime minister, that “the demographic issue” would “dictate the solution we must adopt” and that the “formula for the parameters of a unilateral solution are: to maximize the number of Jews; to minimize the number of Palestinians.”^[91] His predecessor, Ariel Sharon, as prime minister, said in a 2002 Knesset debate that while Palestinian citizens had “rights in the land,” “all rights over the land of Israel are Jewish rights.”^[92] His predecessor Ehud Barak, when he was prime minister, equated a “Muslim majority” with “destruction of Israel as a Jewish state.”^[93] His predecessor as prime minister, Shimon Peres, while serving as president in 2012 said that “Israeli settlements in [parts of the West Bank] densely populated with Arabs...can lead to a threatening demographic change” and “places a Jewish majority in the state of Israel at risk.”^[94] His predecessor as prime minister, Yitzhak Rabin, said that “the red line for Arabs is 20% of the population, that must not be gone over,” explaining that “I want to preserve the Jewish character of the state of Israel.”^[95]

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citizenship.^[96] The same Citizenship Law, by contrast, denies Palestinian refugees and their descendants, 5.7 million of whom were registered as of February 2021 with the United Nations Relief and Works Agency (UNRWA),^[97] the ability to enter and live in areas where they or their families once lived and have maintained links to. The right to live in Israel or the OPT is guaranteed to them under international human rights law, alongside the options of integration in place or resettlement elsewhere.^[98] These policies create a reality where a Jewish citizen of any other country who has never been to Israel can move there or to a West Bank settlement and automatically gain citizenship, while a Palestinian refugee expelled from his home and languishing for more than 70 years in a refugee camp in a nearby country cannot move to either Israel or the OPT.

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HANNAH



**JEWISH AMERICAN
BORN IN THE U.S.**

LEILA



**PALESTINIAN REFUGEE
BORN IN LEBANON**

CAN I VISIT ISRAEL & THE OCCUPIED PALESTINIAN TERRITORY?

YES

You can visit Israel and most of the West Bank, and you'll find programs that may help fund your trip

NO

You are barred from entry to Israel, the West Bank or Gaza

CAN I MOVE THERE?

YES

Because you're Jewish, the 1950 Law of Return guarantees your right to live in Israel. Plus, you'll get a free flight and a bunch of perks if you do so

NO

As a Palestinian refugee, you're barred from returning and denied residency rights, even if you have family living there

CAN I BECOME AN ISRAELI CITIZEN?

YES

The 1952 Citizenship Law entitles you to automatic citizenship, even if you've never set foot in Israel before

NO

You are ineligible if your family became refugees between 1947 and 1949, even if they had lived there for generations before

CAN I PASS ON MY LEGAL STATUS TO MY SPOUSE IN ISRAEL OR THE OPT?

YES

Upon becoming a citizen, you can pass along legal status and even citizenship to your spouse (except if they're Palestinian from the OPT or from several Arab countries)

NO

You have no legal status and cannot gain one, even by marrying a citizen or resident of Israel

The Citizenship and Entry into Israel Law (Temporary Order)—2003, which prohibits

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served on a committee in 2005 examining immigration policies, conceded that “the Citizenship Law is the way to overcome the demographic demon.”^[102] Then-finance minister Benjamin Netanyahu put it more directly during discussions over renewing the law: “Instead of making it easier for Palestinians who want to get citizenship, we should make the process much more difficult, in order to guarantee Israel’s security and a Jewish majority in Israel.”^[103] Eli Yishai, while serving as minister of interior affairs, said in 2012 that approving a larger number of family unification applications from the West Bank would constitute “national suicide.”^[104]

In practice, the Interior Ministry’s policies and practices have long aimed at ensuring Jewish Israeli demographic control. In 2004, The Association for Civil Rights in Israel (ACRI) released a report finding that the Israeli Interior Ministry’s population registry systematically denies applications by Palestinians and other non-Jews for residency, family reunification, or granting status to children “only because they are non-Jews.” The registry, which ACRI charges “views itself as defender of the Jewish character of the state,” subjects applicants to “organized and methodical bureaucratic harassment” in order to “wear down applicants whose requests the Ministry of Interior does not want to grant,” a policy that particularly harms Palestinians.^[105] The Interior Ministry continues to erect bureaucratic hurdles, in particular for Palestinians in East Jerusalem.^[106] At the same time, authorities and quasi-state institutions have for years actively sought to boost Jewish immigration to Israel.^[107]

Israeli authorities have also since 1967 effectively controlled the population registry in the West Bank and Gaza Strip, recording every Palestinian birth, marriage, divorce, address change, and death. Between 1967 and 1994, they struck from it hundreds of thousands of Palestinians, as Human Rights Watch has documented.^[108] The Israeli army has used residency status to control the ability of Palestinians to reside in, move within, and travel abroad from the West Bank, as well as to travel from Gaza to Israel and the West Bank.^[109] These restrictions are implemented in so sweeping a fashion that it is difficult to see them as motivated primarily by security – rather than demographic – considerations.^[110]

Some Israeli laws provide benefits on the basis of criteria other than nationality, but the purpose remains privileging Jews over Palestinians. These laws often are not

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Statements by Israeli officials at the time make clear the discriminatory intent behind this move. Reporting on 2003 and 2004 statistics that showed a drop in the Israeli birthrate, primarily driven by a decline among Palestinian citizens of Israel, *Haaretz* in January 2005 attributed to the Finance Ministry the view that “the drop of birthrate is a clear result of the cutbacks in child support allocations over the past two years.” *Haaretz* quotes a senior Finance Ministry official, who asked to be unnamed, citing the “internal demographic threat” and expressing concern over “the high birthrate of the Arabs, and especially the Negev Bedouin.” The official said that “we are reversing the graph, to defend the Jewish majority in the country,” and warned, according to *Haaretz*, that reinstating the allowance would lead to the state having to support large families in places like the Negev, which would have the effect of undermining the Jewish majority.^[113]

While at times striking down discriminatory state policies, the Israeli Supreme Court has endorsed demographics-driven decision-making. For example, in a prominent 2000 case declaring that the state could not discriminate directly on the basis of religion and nationality in allocating state land, Supreme Court President Aharon Barak highlighted the favored legal status of Jewish Israelis when it came to acquiring residency. He wrote that “it is true, members of the Jewish nation were granted a special key to enter (see the Law of Return-5710-1950), but once a person has lawfully entered the home, he enjoys equal rights with all other household members.”^[114] Israel has long used its control over the “house” to maintain a solid Jewish majority, at the expense of Palestinians. Citing another well-known opinion by Barak, Asher Grunis, then deputy president of the Supreme Court and later president, rejected in 2012 a constitutional challenge to the discriminatory aspects of the 2003 Israel Citizenship and Entry Law, writing, “Human rights are not a prescription for national suicide.”^[115]

Control Over Land

Alongside demographic control, Israeli authorities have sought to ensure Jewish control over the land and natural resources in Israel and the OPT. Israeli authorities have largely pursued the goals of demographic and land domination in parallel, seeking to maximize

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When you enter the city through Lifta and Romema, through Mahaneh Yehuda, King George Street and Me'ah She'arim –there are no Arabs. One hundred percent Jews... What happened in Jerusalem and in Haifa —can happen in large parts of the country. If we persist it is quite possible that in the next six or eight months there will be considerable changes in the country, very considerable and to our advantage. There will certainly be considerable changes in the demographic composition of the country.^[117]

Israel's seizure of thousands of dunams of land from Palestinians in 1948 and in subsequent decades in Israel and the OPT have aimed to serve the exclusive interest of Jewish Israelis. Reflecting just on the situation inside Israel, a 2003 Israeli government-commissioned report found that "the expropriation activities were clearly and explicitly harnessed to the interests of the Jewish majority, and the land was transferred to entities such as the Jewish National Fund (JNF), which according to its own definition serves Jewish settlement, or the Israel Land Administration, which, judging from its administration patterns, served a similar objective."^[118] The Israel Land Administration manages and allocates 93 percent of the land in Israel,^[119] meaning this government-commission report found that the state uses the overwhelming majority of land in Israel to serve only one community, Jewish Israelis.

Semi-governmental bodies like the JNF, Jewish Agency, and WZO that serve the Jewish community and no other constituency, play central roles in this effort. A 1953 Knesset law endows JNF, or Keren Kayemeth LeIsrael in Hebrew, with governmental authorities,^[120] and Israel's Basic Law: Israel Lands (1960) notes that ownership over its land "shall not be transferred either by sale or in any other manner."^[121] JNF owns 13 percent of Israeli land, which the Israel Land Authority (ILA) manages. JNF makes up nearly half the governing board of the ILA, which controls 93 percent of the land in Israel.^[122]

The explicit mandate of the JNF is to develop and lease land for Jews and not any other segment of the population. Under the terms of its Memorandum and Articles of Association, the JNF acquires property "for the purpose of settling Jews on such lands and

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registration by years or more.^[127]

JNF leaders have also said they have pursued similar policies in the West Bank since 1967.

^[128] The Israeli group Peace Now has documented at least 65,000 dunams of land in the West Bank that the JNF has purchased since 1967 for settlements.^[129] In February 2021, JNF's leadership and board approved changing its policies to allow it to expand its purchase of land in the West Bank for settlements.^[130]

Israeli law also affords semi-governmental status to the World Zionist Organization (WZO) and the Jewish Agency. A 1952 law establishes the organizations, then a single entity, as “the authorised agent” of the state “for the development and settlement of the country” and “absorption of immigrants from the Diaspora.”^[131] The Jewish Agency, whose self-described “historic mandate is to bring Jews home to Israel,” says it helped more than 30,000 Jews in 2018 and more than 250,000 in the last decade immigrate to Israel.^[132] The WZO, founded in 1897 with a mission that includes “[p]romoting the settlement of Jewish farmers, artisans and tradesmen in Palestine,”^[133] has played a central role in the settlement enterprise since the early days of the occupation.^[134] Israeli authorities authorize the WZO to establish settlements and settlers who purchase homes in settlements often sign contracts with the WZO instead of obtaining full title to the property.^[135] Authorities have directly allocated nearly a third of all “state land,” which often includes lands unlawfully seized from Palestinians, in the West Bank, excluding East Jerusalem, to the WZO, primarily for use in settlements.^[136]

The WZO’s Settlement Division, operating under the direct control of the Israeli government, established most settlements and manages the allocation of land for settlements with the stated purpose to “establish and strengthen Jewish settlement in the country’s periphery through strengthening the hold on state lands given to it by the government.”^[137] The government provides the division with its entire budget, which amounted to 441.6 million Israeli New Shekel (NIS) (US\$132.60 million) between 2009-18.^[138]

^[138] Since the early 2000s, the WZO has played a more active role as well in the Negev and the Galilee; the Israeli newspaper *Haaretz* has described them as “the government’s executive arm for construction in the West Bank, as well as in the Negev and the Galilee.”^[139]

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contributes to generally diluting the Palestinian population in some areas and pushing them into crowded population centers.

Israel (Galilee and Negev)

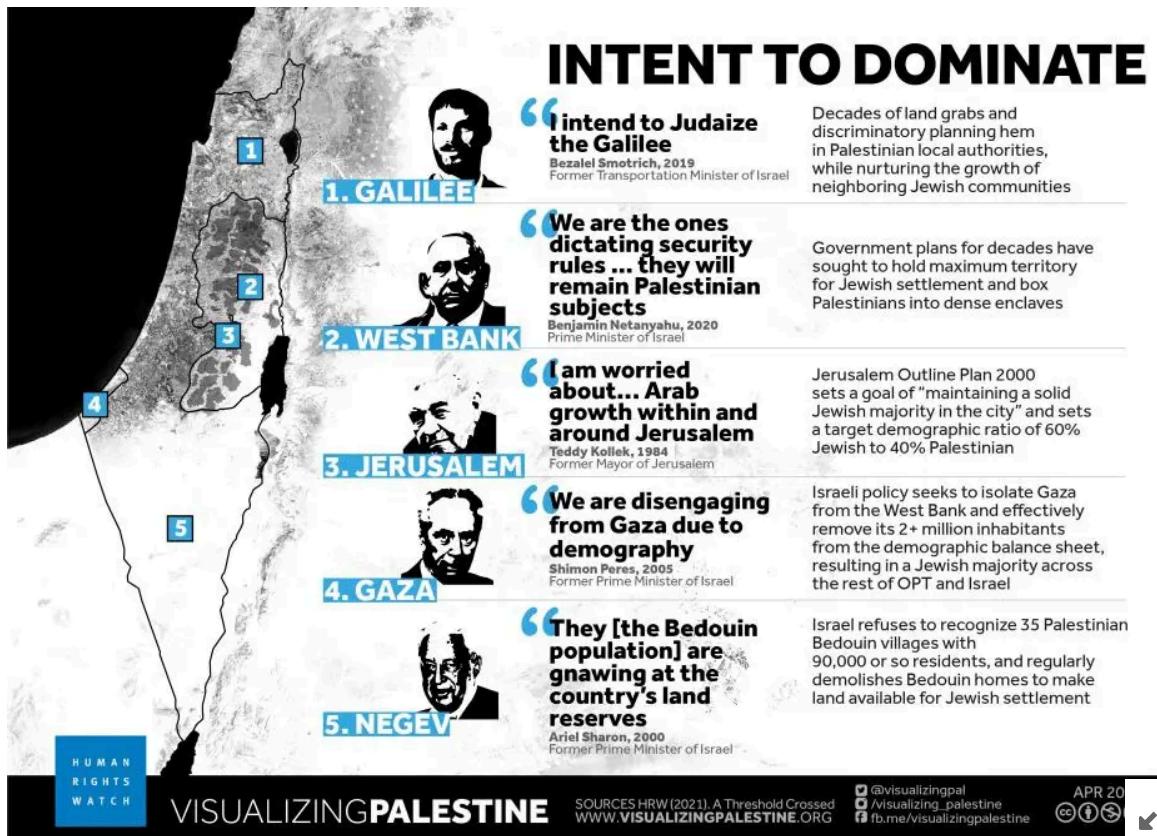
In Israel, authorities maintain a policy to Judaize the Galilee and Negev regions, one pursued in coordination with the JNF, the Jewish Agency, and the WZO. These areas account for nearly two-thirds of the land in Israel,^[140] and encompass much of the Palestinian population.^[141] The Israeli government has a ministry focused on the “development” of the Galilee and the Negev, has invested significantly in these areas, and has considered it a major government priority for much of the past two decades.^[142] In 2004, the Sharon government unveiled a cross-sectional plan estimated to cost 16.8 NIS billion (\$5 billion) that aimed to “increase the number of residents in the Negev to 1.5 million and in the Galilee to 1.1 million by 2010.”^[143] *Haaretz* described efforts to develop these areas as possibly the “largest settlement effort inside the Green Line in the last 25 years.”^[144]

While Israeli authorities use non-discriminatory language of seeking to “develop” or “populate” these regions, the Israeli rights group Sikkuy wrote in 2005 that “it is clear to everyone that the plan is intended for Jewish residents.”^[145] The Negev plan, for example, defined the ideal new residents as a “strong population,” including “families with high income” who work in central Israel, an area that has a much higher proportion of Jews to Palestinians and who will continue to commute to their old jobs.^[146] Authorities also offered a 90 percent discount on the leasing fees for Negev properties to soldiers who had served for at least one year, an offer that would attract mainly Jews since Bedouins are exempt from military service and only a small percentage volunteer to serve in the army.^[147] Shimon Peres, then deputy prime minister, described the development of the Negev and the Galilee as a “battle for the future of the Jewish people.”^[148] The Jewish Agency has said that it sought to guarantee a “Zionist majority” in the Negev and the Galilee, launching its own programs in these areas “to get around the problem that the government must act on behalf of all citizens of the state of Israel while the WZO is entitled to act for the sake of the Jewish people.”^[149] The government approved the WZO

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social life of the community” or for incompatibility with the “social-cultural fabric.”^[152]

The law’s sponsors openly spoke about how the law would facilitate the creation and maintenance of Jewish-only communities.^[153] In June 2019, then Transportation Minister Bezalel Smotrich said that “I intend to Judaize the Galilee” and “lay down a network of roads, to complete a revolution, so that hundreds of thousands of Jews will come to live in the Galilee.”^[154] The month before, the JNF announced its aim to bring 1.5 million residents to the Negev and Galilee by 2040.^[155]



The government’s historic policies towards these areas provide further context for determining the intent behind its current policies. The plan to Judaize the Galilee, a region largely slated to fall within the “Arab State” in the 1947 UN Partition Plan, dates back to the 1950s when it emerged as part of a strategy to consolidate Israeli control of the area.^[156] A senior Israeli official at the time wrote that the Palestinian presence in these areas threatened Israeli control, worrying that Palestinians would “invade all areas we neglect, strike footholds and establish new roots.”^[157] Ben Gurion told the Knesset that

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The memo, entitled “Top Secret: Memorandum-Proposal Handling the Arabs of Israel,” lays out the demographic situation in the area, showing that Jews maintain a slight demographic majority but will be overtaken in a few years if birthrates continue at current rates. It then recommends that authorities “expand and deepen Jewish settlement in areas where the contiguity of the Arab population is prominent, and where they number considerably more than the Jewish population; [and] examine the possibility of diluting existing Arab population concentrations.” While officials condemned the plan and said it had not been acted on,^[161] Koenig remained in his role for more than a decade after the memo’s publication, a leaked 1995 map by a regional planning committee echoed similar objectives, and elements of the strategy bear resemblance to policies that have been carried out since.^[162]

In the Negev region, some officials immediately after 1948 called for forcibly relocating the 11,000 of the original 65,000–95,000 Palestinian Bedouins who had not been forced to flee to surrounding areas.^[163] The government, though, adopted a plan supported by Yigal Allon, commander of the southern front and military governor of the Negev, that allowed Bedouin communities to remain, but concentrated them in a circumscribed area in order to remove them from key Negev routes and secure the land for settling Jews and building army bases.^[164] Concentrating Palestinian Bedouin communities on limited pieces of territory remains at the heart of Israeli government plans for the Negev.

The strategy of maximizing Jewish settlement alongside suppression of the Palestinian population continues. In the Negev, for example, Sharon in December 2000, just before becoming prime minister and pursuing the development of the Negev as a principal goal, wrote:

In the Negev, we face a serious problem: About 900,000 dunams of government land are not in our hands, but in the hands of the Bedouin population. I, as a resident of the Negev, see this problem every day. It is, essentially, a demographic phenomenon... Out of weakness, perhaps also lack of awareness about the issue, we, as a country, are doing nothing to confront this situation... The Bedouin are grabbing new

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Jerusalem

The Israeli government's formal policy for Jerusalem, including both west and the occupied east, is to pursue "maintaining a solid Jewish majority in the city," as stated in the government's plan for the municipality ("Jerusalem Outline Plan 2000"), and limiting the number of Palestinian residents. Concern with demographics in Jerusalem dates back to the early days of the state but accelerated with Israel's unilateral annexation of occupied East Jerusalem and parts of surrounding villages in 1967. Annexation expanded the boundaries of the city that Israeli authorities consider the country's capital, but also brought more Palestinians into an area that authorities treat as part of its sovereign territory. To mitigate the demographic effect of this move, authorities granted Palestinians from East Jerusalem permanent residency rather than an easy path to citizenship and instituted other policies aimed to foster and maintain a Jewish demographic majority in the city.

Following annexation, Israeli officials set a target "ratio of 70% Jews and 30% Arab," although planners later acknowledged that "this goal is not attainable" in light of "the demographic trend" and adjusted it to a 60-40 percent target.^[168] Within Palestinian communities, the plan, by its own terms, "enables a densification of the rural villages and densification and thickening of the existing urban neighborhoods."^[169]

When delineating Jerusalem's municipal boundaries in 1967, authorities primarily focused on, as the Israeli rights group B'Tselem puts it, "demographic concerns, chief among them to leave out densely populated Palestinian areas in order to ensure a Jewish majority in Jerusalem."^[170] Israel, in total, added 72 square kilometers, including land that belonged to 28 surrounding West Bank villages, to the Jerusalem municipality. Former Deputy Mayor of Jerusalem Meron Benvenisti wrote that Jerusalem's "absurd" borders "derived from the aspiration to include 'a maximum of land with a minimum of Arabs.'"^[171]

Israeli officials, soon after taking control of East Jerusalem in 1967, confiscated land and established several settlements, including Ramat Eshkol, Ma'alot Dafna, Givat HaMivtar,

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expansion of settlements in subsequent years, aimed at bolstering Israeli Jewish control over the city.^[174]

The newly-annexed area included 66,000 Palestinian residents, 24 percent of the new municipality's population. A government commission set up in late 1972 to evaluate Israeli policy in Jerusalem recommended the government strive to maintain the "ratio of Jews to Arabs that existed at the end of 1972," or 73.5 percent Jewish Israeli and 26.5 Palestinian.

^[175] The government adopted this recommendation and subsequent governments have reaffirmed it.^[176] When formulating Israel's first municipal plan for Jerusalem in 1975, Israel Kimhi, then director of planning policy at the Interior Ministry, said, "One of the cornerstones in the planning of Jerusalem is the demographic question," noting that governmental policy toward "the growth of the city and the preservation of the demographic balance" would serve as "one of the yardsticks for the success of the solidification of Jerusalem's status as the capital of Israel."^[177]

Teddy Kollek, the mayor of Jerusalem from 1965 to 1993, said in a January 1982 meeting of the Jerusalem municipality that "I am looking after the Jewish majority... that is why we are here, to take care of that" and in a June 1984 meeting that "like all of us here, it seems to me, I am worried about the balance of power and Arab growth within and around Jerusalem," according to minutes of the meetings reviewed by B'Tselem.^[178] In a 1990 interview with an Israeli newspaper, Kollek said:

For Jewish Jerusalem, I did something in the past twenty-five years.
 For East Jerusalem? Nothing! What did I do? Nothing. Sidewalks?
 Nothing. Cultural institutions? Not one. Yes, we installed a sewerage system for them and improved the water supply. Do you know why?
 Do you think it was for their good, for their welfare? Forget it! There were some cases of cholera there, and the Jews were afraid that they would catch it, so we installed sewerage and a water system against cholera.^[179]

The Israeli government's decision to apply the 1952 Law of Entry to Palestinians from East

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variables influencing the balance of immigration and gaps in birthrate, variables that ultimately determine the demographic balance.”^[181]

West Bank

The Israeli government has pursued the same formulation in the West Bank as in Israel and East Jerusalem: maximum control over the land, largely for the benefit of Jews. While governments have at times differed on what arrangements should govern Palestinians living in the West Bank, the objectives and reality on the ground have remained largely consistent over successive governments. On July 7, 1967, exactly one month after the Israeli army occupied the West Bank, Israel’s then-Prime Minister Levi Eshkol of the Labor Party said, “The security and the land are in Israeli hands.”^[182] In a party meeting that year, Eshkol clarified that authorities “covet the dowry, not the bride,”^[183] an apparent reference to wanting the West Bank without the Palestinians who live there. Fifty-two years later, on July 10, 2019, Prime Minister Netanyahu of the Likud said, “Israeli military and security forces will continue to rule the entire territory, up to the Jordan [River].”^[184] He added on May 28, 2020, that “we are the ones dictating security rules over the entire territory,” describing West Bank Palestinians as “subjects.”^[185]

The current map of the West Bank reflects decades of shifting Israeli governmental plans for the territory. Israel’s earliest plans for the West Bank, including an unofficial plan initially drafted in July 1967 by then-Labor Minister Yigal Allon, envisioned Israeli control over the Jordan Valley and other parts of the West Bank. In an essay he published in 1976 in *Foreign Affairs* explaining the plan, Allon insisted on the necessity of “absolute Israeli control over the strategic zone to the east of the dense Arab population, concentrated as it is on the crest of the hills and westward.”^[186] The plan, retaining Israel’s control over the Jordan Valley and of the corridor around Jerusalem, effectively divided Palestinians in the West Bank into three enclaves: one in the north from Jenin to Ramallah, one in the south including Hebron and Bethlehem, and one in the east around Jericho.^[187]

Allon’s logic focused on the strategic and security importance of Israeli control of the West Bank but in justifying the need for control without formally annexing territory with

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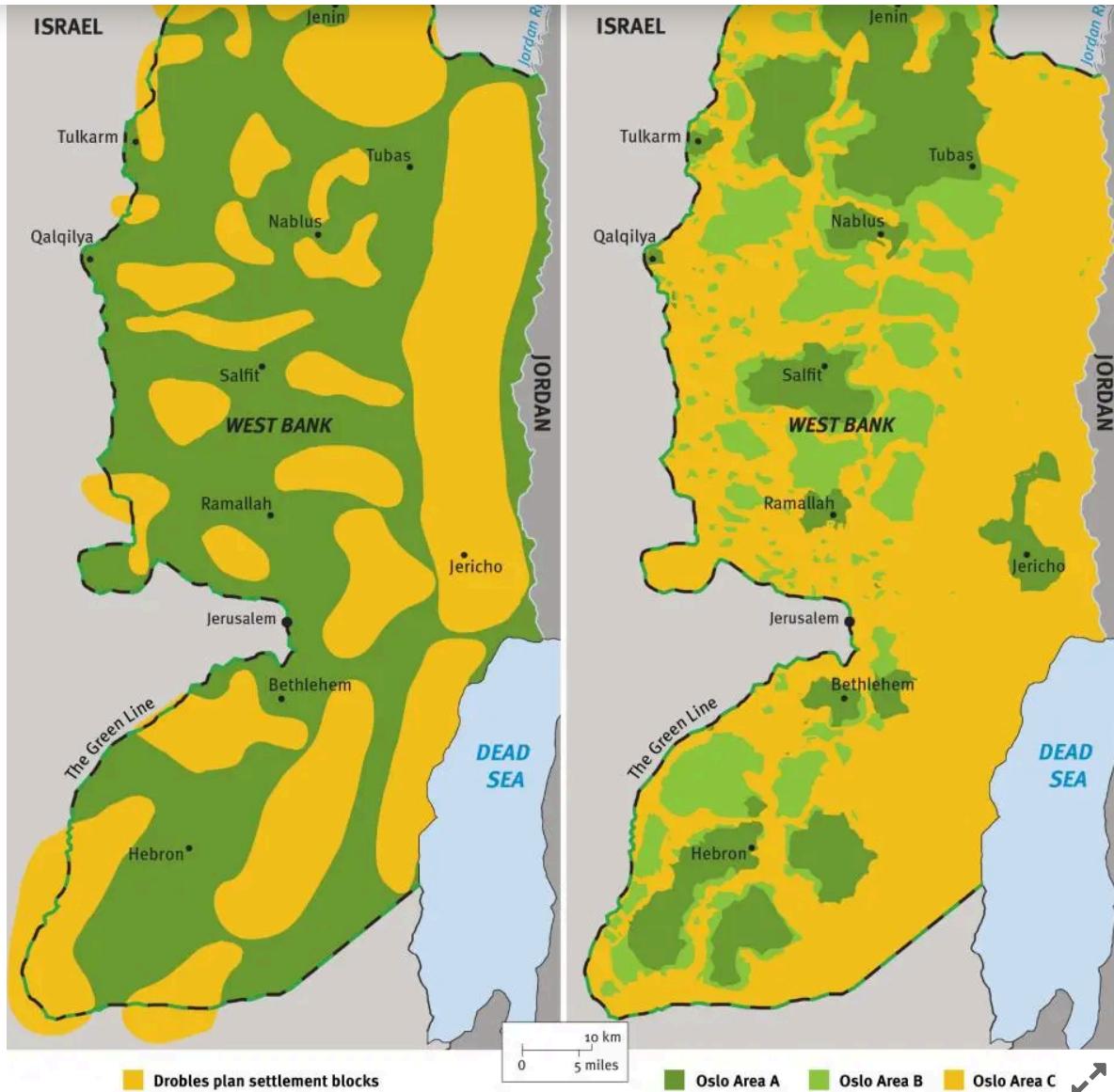


dominate, nor grants a carte blanche to undertake policies that go beyond what international law permits. While security grounds can justify a range of restrictive measures under international humanitarian and human rights law, a strategy that seeks to promote security by ensuring the demographic advantage of one group of people through discrimination or oppression has no basis under international law.

Subsequent Israeli policies built on the Allon plan. In October 1977, the Israeli government formally adopted a plan produced by Ariel Sharon, then both the chairperson of the Ministerial Committee for Settlement Affairs and agriculture minister, that expanded on the Allon Plan by strengthening Israeli control in the western West Bank, to the east of the Green Line.^[190] The plan called for creating rings of “security zones” in order to, as former Israeli official and analyst Shaul Arieli put it, “prevent the Palestinian population from seeping into Israel; to create a Jewish barrier between Israeli Arabs in the Wadi Ara and the ‘Small Triangle’ area [areas in central Israel near the Green Line]; and to control key hilltops overlooking the coastal plain.”^[191] In November 1978, Israel’s Coordinator of Government Activities in the Territories (COGAT), Avraham Orly, said in a statement to the Supreme Court that settlements “are used mostly [in times of calm] for a show of presence and control over essential areas, for observation and the like.”^[192]

The “Master Plan for the Development of Settlements in Judea and Samaria 1979-1983,” a 1980 plan formulated by the World Zionist Organization’s Settlement Division, the body charged with establishing settlements and fully funded by the government and operating directly under its control, built on the prior schemes. The “Drobles Plan” as it was known, named after its author and head of the Settlement Division, Matityahu Drobles, called for Israeli authorities “to settle the land between the [Arab] minority population centers and their surroundings,” noting that doing so would make it “hard for Palestinians to create territorial contiguity and political unity.” The plan further noted that any autonomy granted to Palestinians, as set out in the Camp David Accords between Egypt and Israel of the late 1970s, did “not apply to the territories but rather to the Arab population alone” and that “there cannot be any shadow of a doubt about our intention to maintain perpetual control over the territory of Judea and Samaria.”^[193] It adds that “the best and most effective way to remove any trace of doubt about our intention to control Judea and Samaria is to settle the land between the [Arab] minority population centers and their surroundings.”^[194]

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The maps compare the parts of the occupied West Bank that should be prioritized for settlement development under the 1980 Drobles Plan, which guided the Israeli government's settlement policy at the time, and the division of the territory under the Oslo Accords of the 1990s between areas where Israel maintains full control (Area C) and where Palestinian authorities manage some affairs (Areas A and B). © 2021 Mike King/New York Review of Books

In a July 1981 meeting of the Ministerial Committee for Settlement Affairs, Sharon justified designating additional land in the West Bank as firing zones by citing the “spreading of Arab villagers” in the South Hebron Hills, according to minutes of the meeting found in the Israeli State Archives by the Akevot Institute for Israeli-Palestinian Conflict Research.^[195] Sharon added that “we have an interest in expanding and enlarging

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“settlement zones” to include military sites, nature reserves, archaeological sites, and adjacent state land, joining them with “topographically high points overlooking settlements, traffic arteries, and infrastructure corridors” to establish “contiguous stretches of land” under Israel’s control. It highlighted several areas of strategic importance, including around Jerusalem, in the northwest West Bank, in the Jordan Valley, in the South Hebron Hills, and the northern edge of the West Bank, for which Israel should remain in control to “serve as buffer zones” and provide settlers “with a completely normal Israeli life in all ways.” It further designates “three strategic lateral corridors,” or strategic roads to run east-west across the West Bank, to serve as the “backbone” connecting the various settlements, “prevent uncontrolled Arab building,”^[198] and preserve “balance between the size of the Israeli and Arab populations.”^[199]

In 2001, shortly after his election as prime minister, Sharon said, “It’s not by accident that the settlements are located where they are,” so that “come what may, we have to hold the western security area, which is adjacent to the Green Line, and the eastern security area along the Jordan River and the roads linking the two. And Jerusalem, of course. And the hill aquifer.”^[199]

In 2014, Member of Knesset (MK) Yariv Levin, appointed the following year as Israel’s minister of *aliyah* (Jewish Immigration) and integration, said, “The correct policy, from the point of view of Israeli interests regarding our political ability at the moment, is to combine the attempt to hold the maximum amount of territory and apply sovereignty over the maximum amount of territory while keeping the Arab population within it to a minimum. The situation already exists in Area C, which is under our control – there are little more than fifty thousand Arabs.”^[200] In February 2021, Avi Naim, who served as director-general for Israel’s Ministry for Settlement Affairs between July and October 2020, underscored the government’s objective to “prevent Palestinian territorial continuity” and “keep control of land reserves in Judea and Samaria”.^[201]

Israeli authorities have taken a variety of steps to limit the numbers of Palestinians in the West Bank, including denying residency rights to Palestinians for being abroad when the occupation began in 1967, or for long periods during the first few decades of the occupation; imposing an effective freeze on family reunification over the past two

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make clear the intent to maintain their control over the West Bank in perpetuity. For example, while the Israeli government formally declared that it built the separation barrier in the early 2000s “to reduce the entry of terrorists from Judea and Samaria to carry out terror attacks in Israel,”^[204] senior Israeli officials have openly spoken about the barrier facilitating the takeover of land.^[205] B’Tselem and Bimkom– Planners for Planning Rights documented how the route largely aimed to incorporate settlement blocs, while minimizing the number of Palestinians included.^[206] The Israeli government itself conceded in court proceedings that the expansion plans of settlements factored into its considerations around the route of the barrier, which does not follow the Green Line but rather incorporates on the “Israeli side” thousands of dunams of land.^[207]

Beyond the land grabs, authorities have entirely integrated the settlements’ sewage system, communication and road networks, and electrical grids and water infrastructure with Israel proper. In December 2017, the attorney general issued guidelines requiring that all government-sponsored bills specify their application to settlers or otherwise justify why they do not.^[208] In recent years, the Knesset has passed a growing number of laws that apply specifically to the West Bank, including a law allowing authorities to retroactively expropriate private Palestinian land on which settlements have been built, a law that transfers petitions brought against state policy to an administrative court instead of the Supreme Court and a law that brings universities in settlements under Israel’s Council for Higher Education.^[209] Whether or not the Israeli government formally annexes additional parts of the West Bank, as Israel’s two largest parties for most of 2019 and 2020, Likud and Blue and White, both vowed to do during the three rounds of Israeli elections between April 2019 and March 2020,^[210] it has long dominated these areas.

Gaza Strip

From 1967 until the early 2000s, Israeli policy towards the occupied Gaza Strip mirrored its approach to the West Bank, maximizing control over the land, privileging the more than 7,500 settlers who lived there,^[211] and subjugating the Palestinians of Gaza.^[212] The Israeli government’s withdrawal of its settler population from Gaza in 2005 reflected not

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majority in their books across Israel and the remainder of the OPT that they intended to retain, while maintaining control of Gaza via other means.

Israeli officials at the time acknowledged the demographic objectives behind the move. On August 15, 2005, the day the Israeli government set as a deadline for settlers to voluntarily leave Gaza, Prime Minister Sharon said in an evening address to Israelis, “Gaza cannot be held onto forever. Over one million Palestinians live there, and they double their numbers with every generation.”^[213] The same month, then-Deputy Prime Minister Shimon Peres said, “We are disengaging from Gaza because of demography.”^[214]

Authorities, in fact, explicitly said that they wanted to redirect the resources that went into the settler community in Gaza to strengthening Jewish Israeli control over parts of Israel and the West Bank. The early 2000s push, for example, to Judaize the Galilee and the Negev came as Israeli authorities were putting in motion their plans to withdraw from Gaza. *Haaretz* quoted an advisor to Prime Minister Sharon at the time as saying that Sharon “reached the conclusion that following the enormous investment in settling the territories, it is now necessary to settle the Galilee and the Negev.”^[215]

Following Hamas’s wresting control of the Gaza Strip from the PA in 2007, the Israeli government, which had a practice of security cooperation with the PA but hostile relations with Hamas, announced restrictions on the movement of people and goods into and out of Gaza. It declared Gaza “hostile territory” and took a range of measures aimed at, among other things, weakening the economy.^[216] As a central part of their policy, Israeli authorities have enforced what they call “a policy of separation” between Gaza and the West Bank, which they say serves “both security and political goals.”^[217] In March 2019, the *Jerusalem Post* reported that Netanyahu justified allowing funding from Qatar to enter Gaza to support Hamas authorities in order to maintain the divide between Fatah and Hamas and thereby the separation between the West Bank and Gaza.^[218]

Demographics factor centrally in Israel’s separation policy. Israeli policy since 2000 has created what Israeli rights groups have called a “one-way permit” from the West Bank to Gaza, whereby, in the rare cases where authorities permit Palestinians to transit between Gaza and the West Bank, they permit it only exclusively in the direction of Gaza.^[219] The

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of Gaza residents in the Judea and Samaria Area is possible only in the rarest cases... the need to allow the family to be maintained in the Gaza Strip arises.”^[220]

Its guidelines for Gaza residents seeking to settle in the West Bank, published in a separate Israeli army document, re-enforce the same policy. It sets out that “for all practical purposes entry of residents of Gaza into the Judea and Samaria Area shall only be allowed in the most exceptional humanitarian cases.” It notes that the deputy defense minister “established that in every case involving the settlement of Gaza residents in the Judea and Samaria Area one should adopt the most restrictive policy” and “clarified that a family relationship, in and of itself, does not qualify as a humanitarian reason that would justify settlement by Gaza residents in the Judea and Samaria Area.”^[221]

Gisha found, based on information obtained from the Israeli army via Freedom of Information requests, that between 2009 and March 2017, the Israeli army had approved only six applications for Gaza residents to reside in the West Bank, in each case following the filing of a petition to Israel’s Supreme Court. Four of the six cases involved children who had no one to care for them in Gaza.^[222] By contrast, between January 2011 and August 2014, the army approved 58 applications for West Bank residents to relocate to Gaza on the condition they sign a pledge never to return to the West Bank.^[223] In addition, between 2004 and 2017, the Israeli army removed back to Gaza more than 130 Palestinians from Gaza living in the West Bank without a valid Israeli-issued permit, but apparently none in the other direction.^[224]

These policies pressure Palestinians to leave the part of the OPT that authorities covet for Jewish settlement—the West Bank—for the Gaza Strip, and join the more than 2 million Palestinians who are effectively off the demographic balance sheet in the lands where Jews reside. Without Gaza, the demographic ratio of Jews to Palestinians between the river and the sea shifts from about 50-50 to a 59-41 Jewish majority.

In addition, Israeli officials have at times encouraged the emigration of Palestinians from Gaza out of the OPT altogether.^[225] In August 2019, a senior official apparently close to Netanyahu told Israeli journalists that authorities were actively promoting the emigration of Palestinians from Gaza and would cover the emigration costs and even allow

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between East Jerusalem and the rest of the OPT, and the range of restrictions on residency rights, serves as another tool of ensuring domination. In particular, fragmentation divides populations and facilitates the demographic engineering that is key to preserving political control by Jewish Israelis, and further frays political and social ties among Palestinians, thereby weakening resistance to Israeli rule. ^[227]

Conclusion

The pursuit by Israeli authorities of the objective of maintaining Jewish Israeli control vis-a-vis Palestinians over demographics and land in Israel and the OPT amounts to a “purpose” or purposes “of establishing and maintaining domination by one racial group of persons over any other racial group of persons,” as set out in the Apartheid Convention. ^[228]

^[228] It also rises to an “intention” or intentions “of maintaining that regime [or regimes of systematic oppression and domination],” as set out in the Rome Statute definition of apartheid, ^[229] and a discriminatory intent or intents, as part of the customary international law definition of persecution. These policies, practices, and statements collectively establish a discriminatory intent by Israeli authorities to maintain systematic domination by Jewish Israelis over Palestinians.

IV. Systematic Oppression and Institutional Discrimination

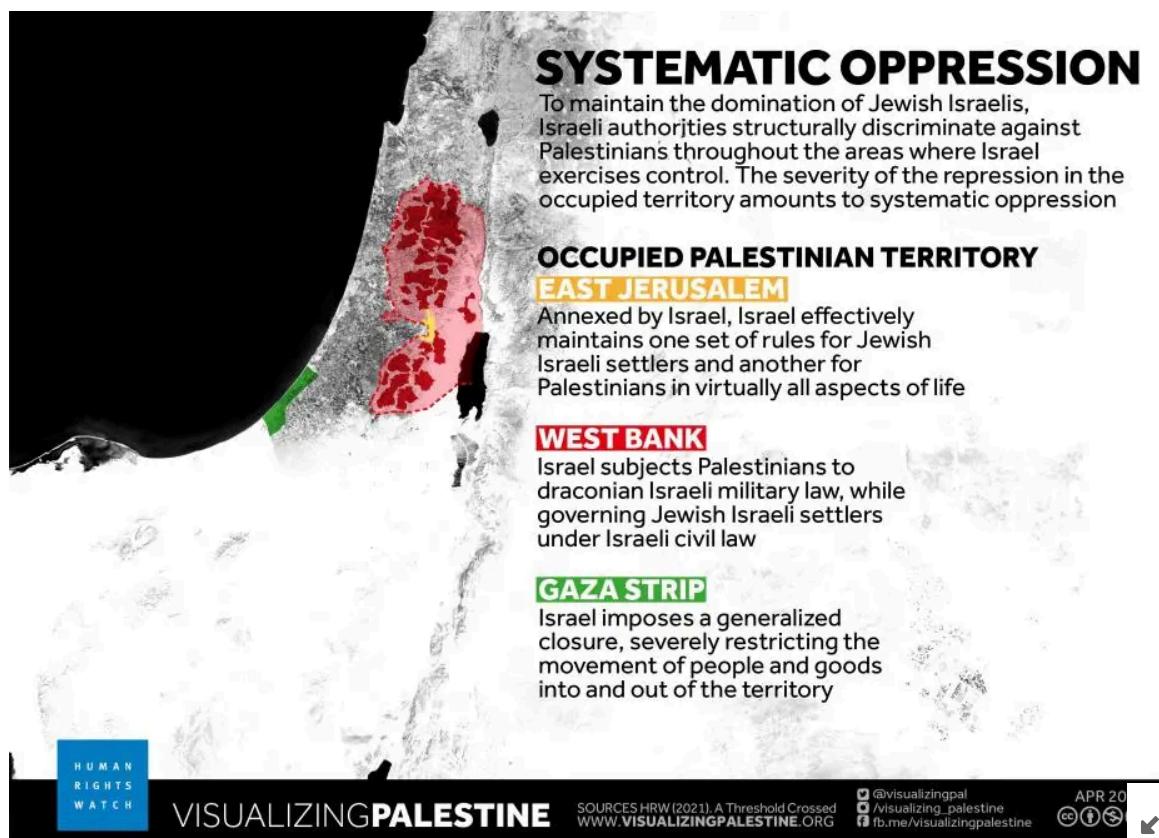
The definition of the crime of apartheid under both the Apartheid Convention and Rome Statute requires, in addition to the intent to dominate, systematic oppression, along with the commission of inhumane acts.

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amount to “systematic oppression” for the purpose of the crime of apartheid.

Inside Israel’s pre-1967 borders, Palestinians hold citizenship, the right to vote and free movement, and encounter less severe policies and practices, but still face institutional discrimination and other abuses.

By contrast to the differences in the treatment of Palestinians, Israeli authorities grant all Jewish Israelis the same rights and privileges regardless of which side of the Green Line they live on. The effect, to varying degrees, is to privilege them over Palestinians in most aspects of life, including with legal status, access to land and freedom to build, and allocation of resources and services.

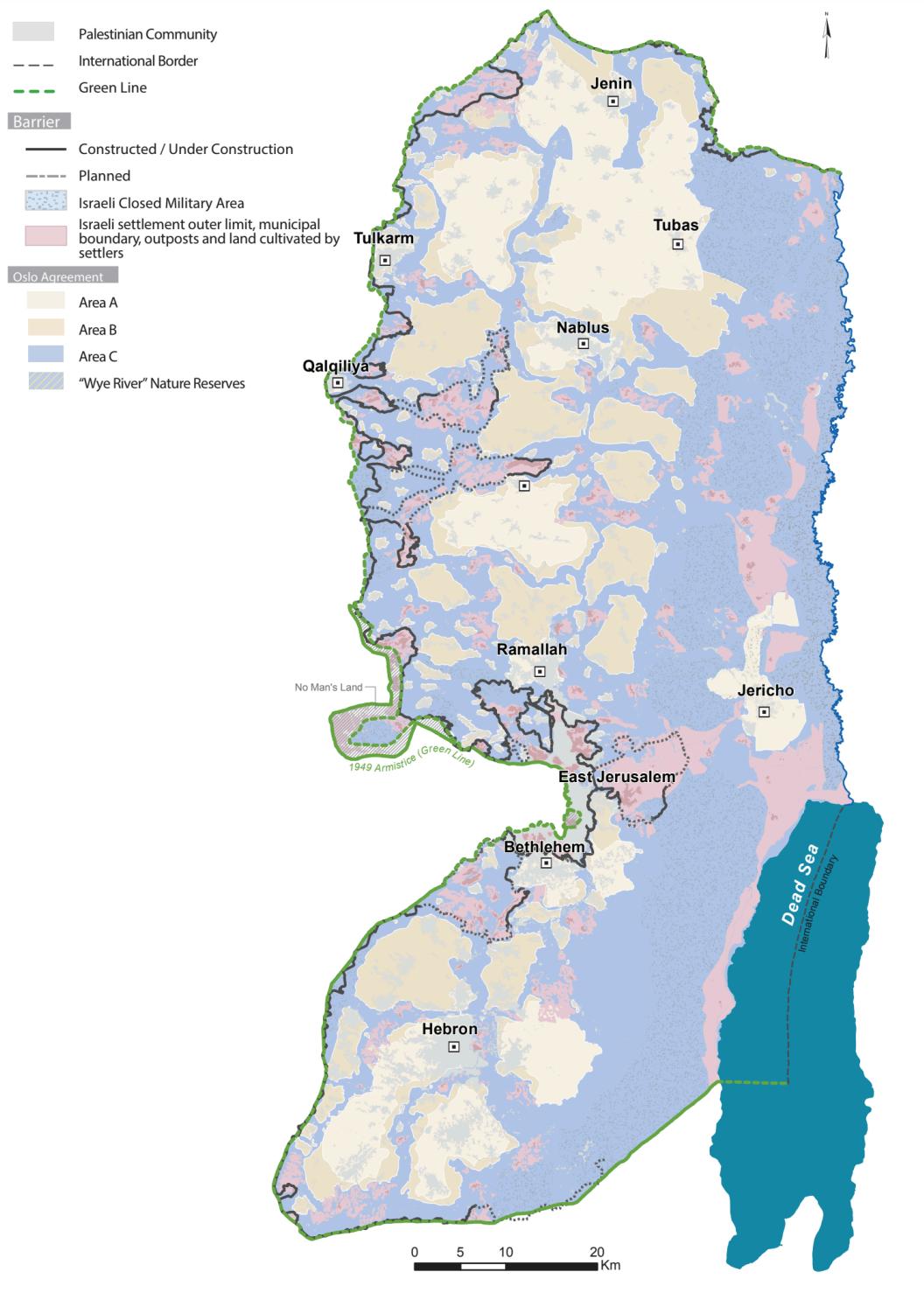


Systematic Oppression in the OPT

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natural resources, except for in East Jerusalem, which Israel unilaterally annexed in 1967 and has governed under its civil law.^[231] Israeli authorities have exclusive control over Area C, comprising about 60 percent of the West Bank. Following its establishment in 1994, the PA has managed some affairs in Areas A and B, which comprise the remaining 40 percent, namely, education, health care, and other civil affairs. Israeli authorities, however, greatly restrict its powers even in Areas A and B and retain primary control across the West Bank over many aspects of the lives of Palestinians, including over borders, control of natural resources, airspace, movement of people and goods, security, and the population registry.

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settlement enclaves inside Palestinian neighborhoods in parts of East Jerusalem and Hebron.^[232] Authorities have done so in violation of the Fourth Geneva Convention's prohibition against the transfer of an occupying power's civilian population to occupied territory.^[233] Israeli authorities bar Palestinians in the West Bank from entering settlements, except as laborers bearing special permits,^[234] and nearly all settlers are Jewish Israelis.

Israeli authorities treat the more than 441,000 Israeli settlers and 2.7 million Palestinians who reside in the West Bank, excluding East Jerusalem, under distinct bodies of law.^[235] They also treat the two population groups unequally on a range of issues, including protection of civil and political rights; methods of law enforcement; freedom of movement; freedom to build; and access to water, electricity, infrastructure, and other resources and services.

Legal Status

Palestinians and Jewish Israelis living in the West Bank hold different legal statuses. Palestinians hold identity cards and passports that permit them to reside and work in the West Bank but that do not convey citizenship or nationality.^[236] Only Palestinians registered in the Israeli-controlled population registry are eligible to receive an identity card or passport. Israeli authorities have refused to register, or denied residency to, hundreds of thousands of West Bank Palestinians on the grounds that they were either outside the territory when the occupation began in 1967 or spent time abroad between 1967 and 1994.^[237] By contrast, Jewish Israelis living in the West Bank are Israeli citizens who cannot lose that status no matter how many years they spend abroad.

Palestinians and settlers enjoy vastly different levels of freedom of movement. Israeli authorities bar West Bank Palestinians from entering large sections of the West Bank itself unless they have a difficult-to-obtain, time-limited permit. These sections include East Jerusalem and nearby villages that Israel annexed in 1967, the "seam zone" between the separation barrier and the Green Line, settlements, and areas authorities deem "closed military zones."^[238] The separation barrier, slicing in some places through

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Israeli settlers, residents, and visitors, along with foreign tourists, largely unfettered freedom of movement throughout the West Bank, including into the seam zone and many closed military zones, but excluding Palestinian population centers, and into East Jerusalem and Israel.^[241]

Israel ostensibly built the separation barrier for security purposes, starting in 2002 during the second *Intifada*. However, officials have acknowledged that it chose its path, 85 percent of which lies inside the West Bank and protrudes up to 22 kilometers beyond the Green Line,^[242] to accommodate the growth needs of settlements,^[243] and to maintain the fabric of life of Israeli settlers.^[244]

Israeli authorities apply in parallel different bodies of laws to Palestinians and Jewish Israelis. The Israeli army governs the West Bank under military law, which incorporates laws that existed in the West Bank prior to the beginning of the occupation. While governing Palestinians under military law, the Israeli army has issued military orders that stipulate that Israeli civil and administrative law shall apply to settlements,^[245] a process that Israeli human rights lawyer Michael Sfard describes as “pipelining,” allowing Israeli authorities to “exercise powers in the settlements without annexing them de jure.”^[246] In recent years, pursuant to guidelines set by the attorney general in December 2017 requiring that all government-sponsored bills specify that they apply to settlers in the West Bank or otherwise justify why not, several pieces of Knesset legislation directly state that they apply to settlers in the West Bank.^[247]

Israeli authorities also maintain parallel criminal justice systems for settlers and Palestinians in the West Bank, excluding East Jerusalem. Israeli authorities try Palestinians charged with crimes in military courts, where they face a conviction rate of nearly 100 percent.^[248] By contrast, authorities have passed regulations that extend Israeli criminal law on a personal basis to settlers, and grant Israeli courts jurisdiction over them, while authorities have followed a longstanding policy not to prosecute Jewish settlers in military courts.^[249] The Association for Civil Rights in Israel (ACRI) found in a 2014 report that “since the 1980s, all Israeli citizens brought to trial before the military courts were Arab citizens and residents of Israel.”^[250]

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could be construed as political,”^[254] while settlers can demonstrate without a permit unless it involves more than 50 people, takes place outdoors and involves “political speeches and statements.”^[255] Authorities can deny a permit to settlers for such a gathering only when they can show a “near certainty” of harm to public security, public order, or the rights of others.^[256]

Discrimination also pervades every aspect of the criminal law and detention system. Conducting a search of a settler requires a warrant or meeting very restrictive conditions, none of which apply to searching a West Bank Palestinian.^[257] Israeli law requires detainees be brought before a judge within 24 hours—although that period can be extended to 48 hours in exceptional cases and up to 96 hours when authorized in extraordinary cases—while military law permits holding Palestinians for up to eight days before they must see a judge—and in their case a military judge.^[258] Authorities can renew detention for longer periods and have a much wider latitude to keep Palestinians in pretrial detention or during proceedings, compared to the standards applicable to Israeli civilians, including settlers.^[259] Authorities can also deny Palestinians access to counsel for twice as long as to settlers—up to 96 hours for regular offenses and 60 days for “security offenses,” as compared to 48 hours and 21 days for settlers.^[260]

The laws governing children in detention also discriminate between Israelis and West Bank Palestinians. Israeli civil law protects children against nighttime arrests, provides the right to have a parent present during interrogations, and limits the amount of time children may be detained before being able to consult a lawyer and to be presented before a justice.^[261] In law and in practice, Palestinian children in the West Bank enjoy far fewer protections—Israeli forces regularly arrest children during nighttime raids, interrogate them without a guardian present, and hold those as young as 12 in lengthy pretrial detention.^[262] ACRI found in 2017, based on government data from 2015, that authorities kept 72 percent of Palestinian children from the West Bank in custody until the end of proceedings, but only 17.9 percent of children in Israel.^[263]

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**JEWISH CITIZEN OF ISRAEL
BORN IN AN ISRAELI
SETTLEMENT**



**PALESTINIAN ID HOLDER
BORN IN A PALESTINIAN
VILLAGE (AREA C)**

CAN I HOP IN MY CAR AND DRIVE TO JERUSALEM?

YES

You can do so on roads designed to bypass Palestinian communities and facilitate your commute

NO

You need a rarely issued Israeli permit that's generally time limited. Even with a permit, you'll face checkpoints where you're likely to experience delays and humiliation

IF I'M ARRESTED, WILL I GET A FAIR TRIAL?

YES

You'll be tried in Israeli civil courts with full due process rights

NO

You'll be tried in an Israeli military court with a near 100% conviction rate, or possibly even held in administrative detention without trial or charge, based on secret evidence

DO I HAVE THE RIGHT TO FREE SPEECH AND RIGHT TO PROTEST?

YES

Only speech with "near certainty" to "seriously jeopardize" vital security can be restricted. You can protest without fear of state repression

NO

Military orders restrict your right to free speech and right to protest. If you violate these vaguely worded orders, you could face up to 10 years in prison

CAN I BUILD A HOME?

YES

Israel has allocated large swaths of the West Bank to settlements, where plans have been approved to build thousands of homes

NO

Because you live in the 60% of the West Bank that is under exclusive Israeli control (Area C), it's virtually impossible. You may be more likely to have your home demolished than get a permit to build

Israeli authorities have incarcerated hundreds of thousands of Palestinians for what it

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Israeli authorities, as of March 1, 2021, held no Jewish Israelis for “security offenses” and, over nearly 54 years of occupation, have held not more than a handful of Jewish Israelis in total in administrative detention.^[268]

Israeli authorities have for decades mistreated and tortured Palestinian detainees, using tactics rarely utilized against Jewish detainees.^[269] A September 1999 Israeli Supreme Court ruling forbidding several torture tactics led to a significant reduction in the number of people tortured, but has not stopped the practice.^[270] About 1,300 complaints of torture against Israeli authorities have been filed with Israel’s Justice Ministry between 2001 and June 2020, which have resulted in one criminal investigation and zero prosecutions.^[271] The Israeli rights group Public Committee Against Torture (PCATI) reported in June 2019 that, of the more than 100 complaints of alleged torture it filed over the last five years at the hands of Israel’s internal security service, Shin Bet, 31 percent involved physical violence, 40 percent painful and prolonged shackling or use of stress positions, 66 percent sleep deprivation, 61 percent threats, and 27 percent sexual harassment and humiliation.^[272] Security forces also routinely use unnecessary force against children during arrests, which often take place in the middle of the night, and physically abuse them in custody.^[273]

Security forces also frequently raid populated Palestinian areas in the West Bank, even Area A, where Israeli authorities ostensibly charged the PA with fully managing civil and security affairs. Israeli forces routinely use excessive force, including live ammunition, against Palestinian demonstrators, rock-throwers, suspected assailants, and others in policing situations when lesser means could have been deployed.^[274] Between January 19, 2009, and January 31, 2021, Israeli security forces killed 449 Palestinians in the West Bank, according to B’Tselem.^[275] Many thousands more have been grievously wounded.^[276]

Settlers, meanwhile, enjoy virtual impunity for criminal acts against Palestinians. Between 2005 and 2019, police closed 91 percent of the complaints tracked by the Israeli human rights group Yesh Din of reported settler violence against Palestinian persons and property without indicting anyone.^[277] The army not only systematically fails to intervene, but, B’Tselem found, “they often provide the perpetrators escort and back-up. In some cases, they even join in on the attack.”^[278]

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land, including land privately owned by Palestinians, as “state land.”^[279]

Israeli authorities have allocated 674,459 dunams of state land in the West Bank for Israeli civilian use, primarily settlements, according to figures from the Israeli Civil Administration obtained by Peace Now in June 2018.^[280] This figure comprises 99.76 percent of the total state land that Israeli authorities have officially allocated for use by third parties. The remaining 0.24 percent, or about 1,600 dunams, went to Palestinians. Of this tiny fraction, 80 percent constituted “compensation” for lands taken for settlements and alternative land allocated after the forcible transfer of Palestinian Bedouins from the land on which they had lived. Authorities allocated the majority of this state land, 400,000 dunams in total, to the World Zionist Organization (WZO), according to data provided to the groups ACRI and Bimkom in March 2013.^[281] The WZO’s Settlement Division defines its mission as to “establish and strengthen Jewish settlement in the country’s periphery through strengthening the hold on state lands given to it by the government.”^[282]

Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in Area C, the 60 percent of the West Bank under exclusive Israeli control.^[283] For the 20-year period between 2000 and 2019, Israeli authorities approved only 245 building permits for Palestinians in Area C, less than 4 percent of the number of applications submitted. They issued 21 permits between 2016 and 2018, less than 1.5 percent of the applications submitted.^[284] Between 2009 and 2020, Israeli authorities demolished 5,817 Palestinian-owned structures, including homes, in the West Bank, mostly for lacking a permit, according to the UN’s Office for the Coordination of Humanitarian Affairs (OCHA).^[285] B’Tselem documented 1,533 Palestinian homes demolished by authorities in this period for lacking a permit, leaving 6,492 Palestinians displaced.^[286] By contrast, Israeli authorities offer a range of incentives, including housing benefits, business subsidies (particularly in agriculture and industrial zones), budgetary perks, and tax breaks to encourage Jewish Israelis to move to settlements.^[287] In doing so, they have steadily and unlawfully expanded Israeli settlements in the West Bank for decades. According to Peace Now, between 2009 and 2020, Israeli authorities began construction on more than 23,696 units in West Bank settlements, excluding East Jerusalem.^[288]

The World Bank estimated in 2010 that discriminatory Israeli restrictions in Area C cost

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water, electricity, health care, and other services. Even where Palestinians maintain a degree of autonomy within their enclaves, they rely on infrastructure projects, including roads, electricity towers, and water and sewage pipes that require Israeli-issued permits or that cross through Israeli-controlled Area C.

Israeli authorities built the main network of roads in the West Bank, often at considerable expense and on land expropriated from Palestinians, to bypass Palestinian populated areas and connect settlements to the Israeli road network, to other settlements, and to major metropolitan areas inside Israel.^[290] According to B'Tselem, there are more than 40 kilometers of West Bank roads that authorities prohibit Palestinians from traveling on and another 19 kilometers of West Bank roads, not including in Hebron, on which Palestinian travel is restricted.^[291] Israeli forces in Hebron prohibit Palestinians from walking on large sections of what used to be the central thoroughfare of the city as part of a policy of making those areas “sterile” of Palestinians, as per the parlance of the Israeli army.^[292]

To facilitate Palestinian travel between enclaves without using the bypass roads favored by settlers, Israeli authorities established a rudimentary secondary road network for Palestinians. These “fabric of life roads,” as the Israeli army refers to them, generally run alongside and underneath the “bypass roads” used by Israelis.^[293] With gates at the entrances and exits to Palestinian enclaves, authorities can, at will, shut down the network and cut off traffic between different parts of the West Bank, creating what OCHA calls “an adaptable system of control.”^[294]

Israeli authorities, for example, built in the 1980s a significant segment of Road 443 in the West Bank, in part on expropriated Palestinian land, to offer an alternative route for Israelis to commute between Jerusalem and Tel Aviv.^[295] Some landowners challenged the confiscation, but the Supreme Court dismissed their petition, accepting the government’s position that it built the road, which also historically connected Ramallah to villages to its west, partly to serve the local Palestinian population.^[296] In 2002, following attacks by Palestinians on Israeli vehicles during the second *Intifada*, Israeli authorities banned Palestinian vehicles from using the road for any purpose, with the then local Israeli army commander declaring, “I made Route 443 an Israelis-only road.”^[297] In 2007 and 2008, they built “fabric of life” roads to make it easier for Palestinians to access Ramallah.

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exit several hundred meters away that leads straight into Ramallah, a central hub for Palestinians in the West Bank.^[298] So while Palestinian drivers from the West Bank can formally use a large section of Road 443, the checkpoints, by blocking access to Ramallah, render the road useless for most Palestinians. Palestinians from the villages near Road 443 instead rely on the “fabric of life” roads on which it takes them much longer to reach Ramallah or any destination beyond the several other small villages located alongside the road.

Israeli authorities also maintain primary control over water resources in the West Bank and allocate water in a discriminatory fashion to Palestinians. Two of Israel’s three major water resources run largely through the West Bank: the Jordan River and the Mountain Aquifer, which consists of three basins. The third, the Coastal Aquifer, runs along the coast of Israel and Gaza.^[299] Military orders established in the first 18 months of the occupation in 1967 and 1968 granted the army full authority over water-related issues in the West Bank,^[300] declared water resources state property,^[301] and barred Palestinians from establishing or using water installations without a permit.^[302] In 1982, Israeli authorities transferred ownership of water resources and supply from the Civil Administration to the national Israeli water company, Mekorot, while continuing to vest the Civil Administration with regulatory control.^[303]

Israel has used its control over parts of the Mountain Aquifer in the West Bank to serve its own citizens and settlers, in contravention of international humanitarian law which prohibits occupiers from exploiting natural resources for its own economic benefit. While 80 percent of the Mountain Aquifer’s water recharge area lies beneath the West Bank,^[304] Israel directly extracts about 90 percent of the water that is withdrawn from the aquifer annually, leaving Palestinians only the remaining 10 percent or so to exploit directly.^[305] In monopolizing this shared resource, Israeli authorities sharply restrict the ability of Palestinians to directly exploit their own natural resources and render them dependent on Israel for their water supply. For decades, authorities have denied Palestinians permits to drill new wells, in particular in the most productive Western Aquifer basins, or to rehabilitate existing ones. While the Oslo Accords of 1995 included provisions that promised to increase Palestinian access to water,^[306] Palestinian extraction levels have

been capped at 100 million cubic meters per year, while the total available volume is 150 million cubic meters per year. [307]

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settlement water networks without seeking JWC approval,^[310] and can extract water without limit when it flows downstream into Israel without need for JWC approval, while Palestinians face strict extraction quotas.^[311] The JWC did not meet between 2010 and 2016; during this period, according to government data received by ACRI, Israeli authorities permitted Palestinians to build two new water wells, while demolishing 11.^[312]

In addition, Israeli authorities have almost entirely deprived Palestinians access to water from the Jordan River, the only major surface water resource in the West Bank, by diverting its flow upstream of the West Bank.^[313]

Israeli policies in Area C further restrict Palestinian water access. The separation barrier, for example, separates Palestinians from more than 20 wells in the “seam zone,” between the barrier and the Green Line, limiting their ability to use these water sources, as well as cutting them off from about 70 percent of the Western Aquifer Basin.^[314] Authorities have also denied permits for Palestinians to build water pipelines and demolished water infrastructure built without permits.^[315] Between 2009 and July 2019, Israeli authorities demolished or seized 547 structures providing water and related sanitation services, including cisterns, water pipes, and mobile latrines, according to OCHA.^[316]

These restrictions have made Palestinians dependent on purchasing water, in large part extracted from under their land, from Mekorot. A 2013 UN Fact-Finding report found that Mekorot supplies “almost half the water consumed by Palestinian communities” in the West Bank.^[317] Palestinians in many cases pay more for water than Israelis, at times deriving from mark-ups in the price of the water sold to them, and in particular more than settlers, for whom the WZO subsidizes purchases.^[318] In addition, many Palestinian communities in Area C are not connected to the water network, despite Mekorot pipes in some cases running nearby, and depend on water transported by tanker trucks, significantly increasing its price and leading some families to spend up to 40 percent of their income on water.^[319]

Israel’s discriminatory water policies in the West Bank enable settlers to enjoy bountiful water, while some Palestinian communities lack sufficient water to provide for their basic needs. In 2017, Amnesty International documented how Israel’s drilling in the Jordan

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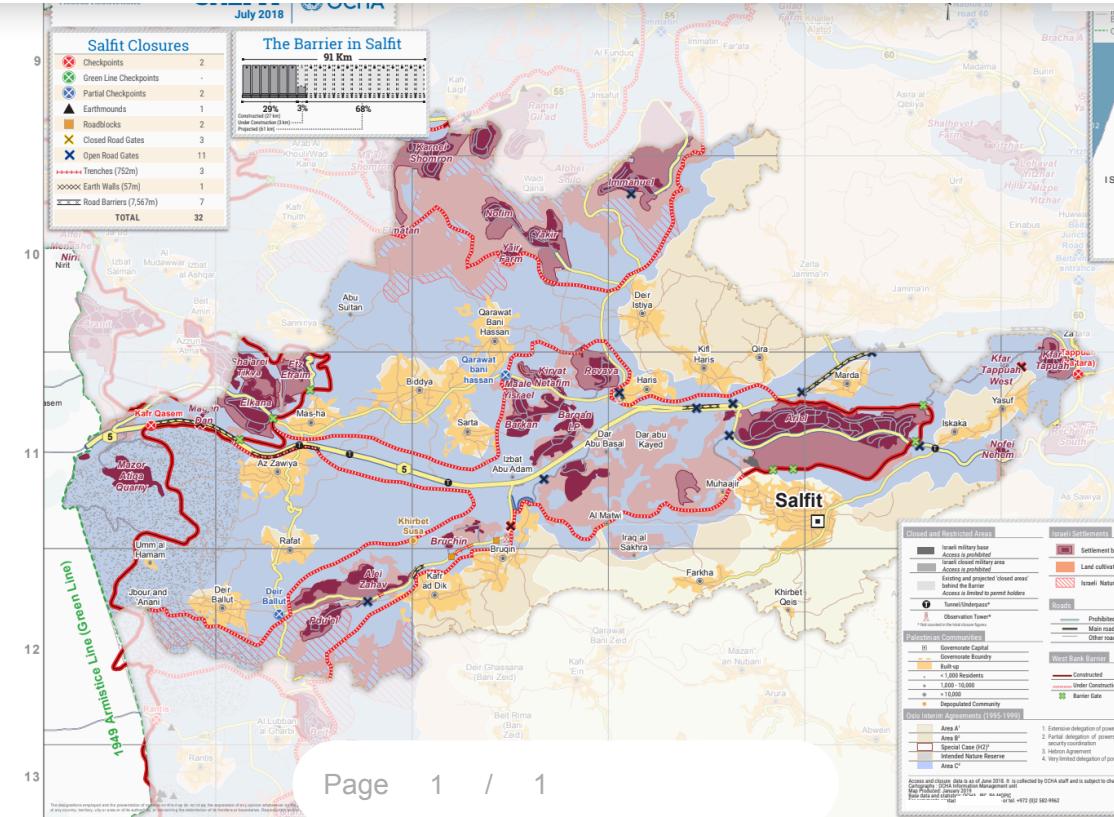
four times per capita the amount used by Palestinians living in the same territory.^[322]

Case Study: Salfit Governorate

The following case study details how Israeli authorities use oppressive means for the purpose of establishing domination over the Palestinian governorate of Salfit in the West Bank, abusing the rights of its residents to benefit Jewish Israeli settlers living nearby.

Salfit is one of eleven Palestinian governorates in the West Bank. It has a population of 81,162 and encompasses a cluster of hilltops and valleys in the northwest West Bank.^[323] Salfit's fertile lands, location atop the West Bank basin with the greatest water reserves, high elevation, and proximity to Tel Aviv, a 30-minute drive away, has made the governorate a strategic target for settlement activity.^[324] Israeli authorities have seized significant parts of the land, building a cluster of settlements centered around the urban settlement of Ariel. The settlements form a 22-kilometer corridor that strikes a wedge in the center of the governorate, dividing Salfit's Palestinians into three disconnected pockets of villages, and separating the town of Salfit, the governorate's administrative and commercial center, from other villages to the north.^[325] Residents of these communities face regular land confiscations, restricted access to agricultural land, movement restrictions, settler violence, and sewage run-offs from the nearby settlements.

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Israeli settlements form a 22-kilometer corridor that creates a wedge through the center of the Palestinian governorate of Salfit in the occupied West Bank. © 2018 UN OCHA

The cluster of settlements grew out of a 1977 Israeli government plan formulated by Ariel Sharon, then agriculture minister and chairperson of the Ministerial Committee for Settlement Affairs, to fortify Israeli control in the western West Bank. As former Israeli official and analyst Shaul Arieli put it, the plan, in particular, sought to, “create a Jewish barrier” between Palestinian population centers and “control key hilltops overlooking the coastal plain [inside Israel].”^[326]

A 1997 plan by the WZO’s Settlement Division highlights the “attractiveness” of this area, which it refers to as “western Samaria,” “as a residential area for people who are employed in the center of the country.”^[327] Noting its “close proximity to centers of employment, services, and the existing culture of the coastal plain,” it describes how it offers a “valve” to “release the urban pressures of the coastal plain.”^[328]

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Israeli settlement zones in Judea and Samaria.”^[329] While Israeli settlers commute daily from Ariel to inside Israel without facing any major checkpoints, authorities have rendered a four-kilometer segment of the highway off-limits to Palestinian vehicles, according to B’Tselem.^[330]

The cluster of settlements also lies above the most productive section of the Mountain Aquifer, the Western Aquifer Basin.^[331] Israeli authorities though have effectively blocked Palestinians in Salfit from extracting water from the Aquifer, creating a water deficit in the governorate. With few other options, the Salfit governate purchases the vast majority of its water from Mekorot.^[332]

Twenty-four largely contiguous Israeli settlements and settlement zones, more than the number of Palestinian communities there, sprawl across the hilltops of the governorate.

Ariel, one of the more populous settlements in the West Bank with a population of 20,500,^[333] lies at the eastern edge of the cluster of settlements. The settlement, established in 1978 and with a municipal area (11,600 dunams) more than three times the size of its build-up area (3,500 dunams),^[334] describes itself on its municipal website as a “blossoming city” that is “located in the heart of Israel.”^[335] Palestinians in the West Bank can only enter Ariel, including Ariel University, which has about 16,000 students, roughly 3,000 of whom reside there,^[336] with a difficult-to-obtain permit from the army.^[337]

Israeli authorities have built three fences around Ariel since its establishment, in each case expanding the areas enclosed: the first in the 1980s, a second in 1993, and most recently the separation barrier in 2004. Israel confiscated some private land to build the barriers and, in other cases, effectively fenced off thousands more dunams from their Palestinian owners, who are now subject to a complex set of administrative restrictions on accessing their land. In 2004, the separation barrier around Ariel separated Palestinians in Salfit from 9,000 dunams (900 hectares) of their land – 3,500 dunams (350 hectares) belong to more than 200 farmers from Salfit, with the remainder belonging to residents from the nearby villages of Haris, Kifl Haris, Iskaka, Marda, and Qira.^[338]

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The Israeli settlement of Ariel between the Palestinian village of Marda (below) and Salfit (above) in the occupied West Bank. Satellite Image © 2021 Maxar Technologies. Source: Google Earth

Human Rights Watch in 2014 and 2015 interviewed fourteen farmers from Salfit and the village of Marda, just north of Ariel, who own land that Israeli authorities either confiscated or restricted their access to in order to build settlements or fences or as a result of their construction. The farmers who maintained ownership of their land can access it only with prior permission of the Israeli army, which often only permits them to do so two or three times a year for a limited number of days. In each case, the farmers described how Israeli restrictions, including how often they could cultivate the land and what equipment they could use, drastically reduced the productivity of their harvest and even limited what crops they could grow. Two farmers stopped cultivating all or part of their land altogether, despite their fears that Israel may designate it as state land on the basis that Palestinians have not continuously cultivated it.”^[340]

A farmer from the village of Marda told Human Rights Watch in 2015 that his father owned more than 1,000 dunams, but he lost almost all of it over the years to Ariel. “They took it little by little,” he said. “In the beginning [in 1978 and 1979], they took 100 dunams and put caravans there. In the 1980s, they put a barbed wire fence around more land; they didn’t confiscate the land but declared it a closed military zone. Then they started building on it. Each time they would move the fence [to encompass more land], they

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Mas-ha for “military purposes.”^[342] In subsequent years, they declared lands around Mas-ha “state land” and allocated it to establish the settlement of Elkana in large part on agricultural lands belonging to Mas-ha residents.^[343] In 2002, authorities expropriated more land to build the separation barrier, cutting residents from some of their land. In 2018, Human Rights Watch interviewed the Aamer family, Mas-ha residents who own about 400-500 dunams of land about two kilometers from their house, but now located beyond the barrier and inside Elkana. A family member said that authorities confiscated some of their land and that they now need permits to access the remainder of it. The permits only allow them to enter through a designated gate that only opens twice a day, for 15-30 minutes each time. Reaching their land via the gate involves a two hour and 20 kilometer detour.^[344]

Settlements wreak havoc on the daily life of residents in other ways. Two landowners from Bruqin, a village in an isolated pocket south of the cluster of settlements, told Human Rights Watch that soldiers have for the past 20 years blocked residents from accessing 100 dunams of land they own next to the settlement of Bruchin, southwest of Ariel.^[345] Settlers have also placed mobile caravans on the land. One of the landowners, 60-year-old farmer Jamal Salameh, said he has since 2017 regularly sought, in vain, the Civil Administration’s assistance to access this plot of land, where he has a well and used to grow wheat and barley.^[346]

Salameh owns another small plot of land on the other side of Bruchin that he said settlers have attacked on multiple occasions, including in 2011 when they torched hundreds of olive trees that he planted in 1986, and at least four times in March and April 2020 amid the significant movement restrictions associated with the Covid-19 pandemic. “The army has handed the reins to the settlers. I haven’t seen the army in this area for the past two years,” he said, noting that other landowners from Bruqin have stopped even trying to access their land in this area due to the frequent settler attacks. He also recounted a 2016 incident where he said Mekorot cut down scores of his olive trees without prior notice, to build water pipes to serve the settlements.^[347]

In the nearby village of Kufr ad-Dik, Fares ad-Dik and his family own a 4.5 dunam plot of land, which includes the archaeological site of Deir Samra, that the settlements of

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must “stay away” to avoid confrontation. In one incident in 2019, he said settlers uprooted 13 of their fig and olive trees.

Ad-Dik owns a second plot of land in the village that before 2010 took him five minutes by car to reach. In 2010, however, authorities began construction of the settlement of Leshem under the guise of expanding the nearby settlement of Alei Zahav,^[349] which blocked the road to his land. Now he said reaching his land involves driving through two nearby villages and walking through a valley where sewage from nearby settlements flow, a journey that takes more than an hour. Due to the difficulty and length of the journey, he said his 70-year-old mother has not visited the property in seven years and he himself only goes once or twice a year. He added that, without being able to transport equipment, he has not been able to plant anything new there. The sewage, he said, leaves his property “surrounded by sewage” from three directions.^[350]

Across the governorate, raw sewage and untreated industrial chemical waste from settlements and industrial zones flows into residential areas and around water sources, two municipal officials and two residents told Human Rights Watch.^[351] In a 2009 report, B’Tselem documented how Ariel’s wastewater had since the mid-1990s flowed south towards the city of Salfit where it merged with Salfit’s sewage and flows westward into Bruqin and Kufr ad-Dik.^[352] The group documented how Ariel’s wastewater plant ceased functioning altogether in 2008, after more than a decade of unheeded warnings by Israeli environmental authorities about the plant’s condition.^[353] It has remained dysfunctional since;^[354] a 2016 Israeli government publication noted that its efficiency is “low” with “effluent channeled into irrigation and the Shilo river.”^[355] Salfit has sought for more than two decades to build a wastewater treatment plant, even securing funding for the project, but Israeli authorities continually frustrated their efforts, once claiming the location would be too close to Ariel,^[356] and another time conditioning approval on agreeing to treat Ariel’s wastewater,^[357] a condition Palestinians often refuse since it would imply effective recognition of settlements. In 2019, though, the Salfit municipality obtained approval to build a plant to treat its wastewater alone and began construction of the plant in November of that year.^[358]

A report published by the United Nations International Children's Emergency Fund

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A Bruqin municipality employee, Murad Samara, told Human Rights Watch that in al-Matwi valley, between Salfit and Bruqin, sewage from Ariel and Salfit flows through a valley where at least 50 families live.^[362] People in the community worried that exposure to sewage and chemical waste was making people sick. May Barakat, a mother of four who lives in the valley, told Human Rights Watch that “the smell in the valley is deadly” and that her three-year-old daughter was diagnosed with leukemia two years ago. She said that she stopped allowing her children to play outside after one of them fell into the sewage several years prior.^[363]

Another cluster of settlements runs through northern Salfit and juts deep into the neighboring governorate of Qalqilya. The separation barrier entirely encircles the city of Qalqilya, home to more than 55,000 people,^[364] with only one access road in and out of the city, in order to, according to B’Tselem “create contiguity between Israel” and the settlements there.^[365] They found that the barrier separates Qalqilya from half of its agricultural lands, about 2,500 dunams.^[366]

East Jerusalem

After seizing the West Bank in 1967, Israel unilaterally annexed 72 square kilometers, including the eastern part of Jerusalem and land that belonged to 28 surrounding West Bank villages, to the Jerusalem municipality. Human Rights Watch is not aware of any other country, with the recent exception of the United States under President Donald Trump, that recognizes Israel’s annexation of East Jerusalem, which remains occupied territory under international law.^[367]

As of September 2020, the Jerusalem municipality includes, according to Israel’s Central Bureau of Statistics, 371,800 Palestinians and 563,200 Jewish Israelis.^[368] The Jewish Israeli population includes more than 220,000 settlers living in occupied East Jerusalem.^[369] In the city, Israel effectively maintains one set of rules for Jewish Israelis and another for Palestinians on virtually all aspects of everyday life.

Legal Status

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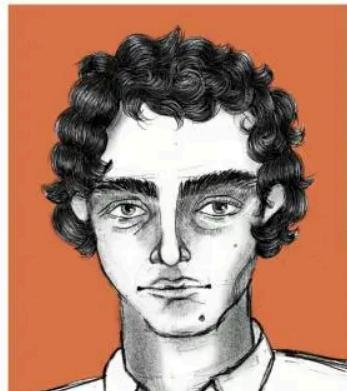
A path to citizenship exists for Palestinian Jerusalemite residents, but the vast majority have chosen not to pursue it, as it recognizes Israel, the occupying power, as the legitimate sovereign. Moreover, the vast majority of those who applied did not receive citizenship.^[372] As permanent residents, Palestinian Jerusalemites who are not citizens can vote in municipal elections, but not in national Israeli elections.^[373]

In contrast, Jewish Israelis from Jerusalem, including settlers in East Jerusalem, are Israeli citizens and do not have to prove that they maintain connections to the city in order to safeguard their legal status. Israeli authorities have not revoked the legal status of a single Jewish Israeli for failing to prove a “center of life” in Jerusalem. Jewish Israelis living in all parts of Jerusalem also vote in both municipal and national elections.

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**JEWISH CITIZEN OF ISRAEL
BORN IN EAST JERUSALEM
(SETTLEMENT)**



**PALESTINIAN RESIDENT
BORN IN EAST JERUSALEM**

IS MY LEGAL STATUS IN JERUSALEM SECURE?

YES

You're an Israeli citizen and it's government policy to maintain a Jewish majority in the city

NO

Just like foreigners who move to Israel, you're a resident, a conditional and revocable status. You can apply for citizenship, but you're unlikely to get it

CAN I MOVE ABROAD FOR A FEW YEARS AND COME BACK?

YES

Whenever you decide to move back to Jerusalem, you'll be welcome

MAYBE NOT

You can leave, but if you stay away too long, your residency could be revoked, leaving you without legal status

WILL I KEEP MY LEGAL STATUS IF I MOVE TO OTHER PARTS OF THE WEST BANK?

YES

You can move to an Israeli settlement in the West Bank. Your legal status is secure, regardless of where you live

MAYBE NOT

If Israeli authorities determine that you no longer "maintain a connection" to Jerusalem, you might lose your residency

CAN I EASILY MOVE TO A NEW HOME IN EAST JERUSALEM?

YES

You should have no problem moving into a settlement

MAYBE NOT

It's virtually impossible to obtain a building permit, and built-up Palestinian areas are already overcrowded

While Palestinians and Jewish Jerusalemites are subject to the same criminal law,

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documenting how police forces regularly entered the neighborhood to “initiate ‘friction’... block the narrow streets, fire stun grenades, tear gas and sponge rounds and arrest and beat residents.”^[378] The Israeli newspaper *Haaretz*, which has reported on near-daily raids, patrols, checkpoints, and ambushes in Issawiya, and described the policy as one of “collective punishment,”^[379] found that only a “tiny fraction” of those arrested have been charged with stone-throwing or other offenses.^[380]

In addition, the separation barrier cuts through East Jerusalem, separating Palestinian communities in at least three ways. First, it places tens of thousands of Palestinian Jerusalemites living in areas such as Kufr Aqab and the Shuafat refugee camp on the West Bank side of the barrier, separating them from the rest of East Jerusalem.^[381] Second, the barrier traps some West Bank Palestinians on the Jerusalem side, for example in Nabi Samuel. West Bank Palestinian residents of these areas are effectively forbidden from being anywhere on the Jerusalem side of the barrier outside their homes or communities and must cross a checkpoint to attend school or work or go to the grocery store or hospital.^[382] Third, the barrier creates various fully encircled enclaves in the West Bank, for example in Bir Nabala, that are connected to other Palestinian communities only by “fabric of life” roads.^[383]

Land and Housing

Since 1967 Israeli authorities have expropriated from Palestinians nearly one-third of the land in East Jerusalem, comprising at least 23,378 dunams, largely for settlements.^[384] As with the rest of the West Bank, Israeli authorities have since 1967 frozen the land registration process for Palestinians in East Jerusalem, while registering land in East Jerusalem settlements throughout the entire period.^[385] The freeze puts the land of Palestinians who had not registered it by 1967 at risk of confiscation and also makes it difficult for them to obtain building permits. The Israeli rights group Ir Amim estimated in a 2015 report that half the land in East Jerusalem is not registered.^[386]

Beyond formal state confiscation, discriminatory laws and policies enable settler and settler organizations to take possession of Palestinian homes, evict the Palestinian

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The Ateret Cohanim settler organization, for example, has filed dozens of eviction lawsuits against around 100 Palestinian families living in the Batn al-Hawa area of Silwan in East Jerusalem, claiming that their homes belonged to a Jewish property trust that had housed Yemeni Jews in the late 19th century.^[390] Ateret Cohanim aims to create a Jewish neighborhood in the heart of Silwan, putting 700 Palestinians at risk of eviction.^[391] Jerusalem magistrate courts ruled in favor of Ateret Cohanim in several of these suits in 2020, ordering the eviction of families who had lived there for decades.^[392] In June 2020, a Jerusalem court ruled in favor of the Jewish National Fund (JNF) in an eviction proceeding that the group filed against a family of 18 from a building in Silwan that the family has lived in since the 1950s.^[393] These decisions have been appealed, and the evictions have not yet been carried out, as of March 2021.^[394]

Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in East Jerusalem, in particular outside built-up neighborhoods that make up less than 15 percent of East Jerusalem and 8.5 percent of the Jerusalem municipality.^[395]

According to Peace Now, “while the government has initiated planning, appropriation of land for construction, tenders for the construction of more than 55,000 housing units for Israelis in East Jerusalem since 1967, the Palestinians have seen government-initiated construction of only 600 housing units (in the 1970s).”^[396] As a result, most Palestinian construction in East Jerusalem is based on private rather than state initiatives. Municipal planners between 1991 and 2018 approved only 9,536 building permits for Palestinians, while approving 48,201 in Jewish neighborhoods of Jerusalem, including 21,834 in settlements.^[397]

Between 2009 and 2020, Israeli authorities demolished 1,434 structures in East Jerusalem, in more than 98 percent of the cases for lacking a permit, according to OCHA.^[398]

According to B’Tselem, authorities demolished 786 homes in East Jerusalem during this period, leaving 2,561 Palestinians displaced.^[399] By contrast, Israeli authorities almost never demolish the homes of Jewish Israelis in Jerusalem, even where there are building violations.^[400]

Resources and Services

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more playgrounds in the Palestinian neighborhoods of Shuafat and Beit Hanina, after residents of those neighborhoods alleged that they only had two playgrounds to serve a combined population of 60,000, while nearby Jewish neighborhoods had a playground for every 1,000 residents.^[402]

The Jerusalem municipality in 2013 allocated only 10.1 percent of its municipal budget for projects and spending in Palestinian neighborhoods, according to the Israeli rights group Ir Amim, despite Palestinians making up about 37 percent of the city's population at the time and paying taxes.^[403] Ir Amim estimated in 2020 that Palestinians in East Jerusalem faced a shortage of 3,794 classrooms; while some shortages also existed in Jewish communities, in particular Orthodox communities, the group estimated that, by the end of 2022, "the classroom shortage in Jerusalem will be confined to the Arab sector alone."^[404] In addition, only 44 percent of Palestinians in East Jerusalem are connected to the water grid "in an orderly and legal manner," according to ACRI, leaving many residents with limited supply.^[405]

The discriminatory allocation of resources contributes to the starkly different realities faced by Palestinians and Jewish Israelis in Jerusalem. Seventy-two percent of Palestinian families live below the poverty line, as compared to 26 percent of Jewish families.^[406] Despite this, the Israeli government maintains six welfare offices, or offices that provide information to residents looking to receive government aid or other services, in Palestinian neighborhoods, but 19 in predominantly Jewish neighborhoods.^[407] Thirty-two percent of Palestinian students in East Jerusalem do not complete 12 years of education, as compared to 1.5 percent of Jewish students in Jerusalem.^[408]

Case Study: Kufr Aqab

The following case study details how Israeli authorities have discriminated against Palestinians living in Kufr Aqab on the outskirts of East Jerusalem mainly through building the separation barrier between it and the rest of the city in 2002 and then largely neglecting the needs of residents. The situation in Kufr Aqab differs from the more common policies and practices that institutionally discriminate against Palestinians of Jerusalem but represents a different method by

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resulting lawlessness have effectively turned Kufr Aqab into a crowded slum and what one Israeli policy institute deemed “a kind of no man’s land.”^[409]



The Palestinian area Kufr Aqab, which largely falls within the jurisdiction of the Israeli-governed Jerusalem municipality, is effectively cut off from the rest of the city because it lies on the West Bank side of the separation barrier. © 2018 AFP/Getty

After the 1967 war, Israel annexed most of Kufr Aqab, including the then Jerusalem airport and the neighborhoods of Samiramis and Zghayyar that have historically been a part of Kufr Aqab, and incorporated it, along with other West Bank villages and East Jerusalem, into the Jerusalem municipality, apparently to bring the airport under its control.^[410] Annexation, though, split the town into two parts, with about 40 percent remaining outside the territory that Israel incorporated and today falling within Area C of the West Bank, where Israel maintains full civil and security control.^[411] Kufr Aqab’s municipal council formally serves the part of the town outside Jerusalem’s municipal boundaries, but, in practice, also engages residents in the Jerusalem part. Neither Israeli nor Palestinian authorities maintain precise population figures for Kufr Aqab; estimates range

^[412]

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petitioned the Israeli Supreme Court to halt construction, the Israeli army declared the area a closed military zone, although it allowed settlers to remain, and several years later declared 224 dunams as state land, according to the Israeli rights group Yesh Din.^[416] The Supreme Court in November 2020 rejected the residents' claim of land ownership and thereby their challenge to the state land designation.^[417] In February 2020, Israel's Housing Ministry advanced a plan to build a settlement in the area where the Jerusalem airport once stood.^[418]

In 2002, Israeli authorities, citing security reasons, built in the Jerusalem area a segment of the separation barrier more than 200 kilometers long. The Israeli rights group Ir Amim noted that its route "adds to Jerusalem the Jewish population that lives in the settlement blocs outside of the city's municipal area[,] in addition to a very large area of land outside them," while it "subtracts the Palestinian population that lives in those areas from Jerusalem."^[419] Running between Kufr Aqab and the strip where the airport once was, in part on Kufr Aqab's land, the barrier separates residents from Jerusalem and over 500 dunams of the town's own agricultural lands, according to Kufr Aqab municipal council officials.^[420] The barrier runs south to the Qalandiya checkpoint, the main crossing between Ramallah and Jerusalem, which Kufr Aqab residents, the majority of whom hold Jerusalem IDs, must cross to reach the rest of Jerusalem. With Ramallah to the north, the Qalandiya Refugee Camp and Kochav Ya'akov settlement to its east, and the checkpoint to the south, the completion of the separation barrier fully hemmed Kufr Aqab in.^[421]

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Kufr Aqab, a Palestinian area on the northernmost edge of the boundaries of the Israeli-demarcated Jerusalem municipality, is hemmed in, by: to the west by, the separation barrier; to the south, the Qalandiya checkpoint that separates the cities of Ramallah and Jerusalem; to the east, Qalandiya Refugee Camp and the settlement of Kochav Ya'akov, built in part on Kufr Aqab land; and to the north, Ramallah. © Satellite image courtesy of Planet Labs Inc. 2021

Beyond physically separating Palestinians from one another, the building of the barrier coincided with the Israeli government's effective abandonment of governance and law enforcement over Kufr Aqab. Israeli authorities do not operate a police station in Kufr Aqab,^[422] and, as acknowledged in a 2008 State Comptroller report, maintain "no police operations to enforce or maintain order" there.^[423] Munir Zghayyar, chair of the Kufr Aqab Residents Committee, told Human Rights Watch that he is not aware of a single incident of Israeli police entering Kufr Aqab since 2001 and that, even when residents cross the

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crime and drug trafficking,”^[426] and offer fertile ground for fugitives from the PA police.^[427] Three Kufr Aqab residents told Human Rights Watch that they regularly hear gunfire, so much so that one resident’s family grew “afraid to go on the balcony.”^[428] Another said, “I am always afraid—anything can happen and who am I supposed to turn to when it does?”^[429] In the absence of law enforcement, Zghayyar, the Residents Committee chair, said some of the larger families living there have taken it upon themselves to adjudicate disputes.^[430]

Israeli authorities have also since the building of the barrier effectively stopped regulating construction. Municipal authorities approved a plan for Kufr Aqab in 2005, but Ir Amim found that it was “no longer current” even then.^[431] Zghayyar and an official from the municipal council both told Human Rights Watch that authorities have not issued a building permit for the area since 2001.^[432] Moien Odeh, a lawyer who has brought cases on behalf of Kufr Aqab and a former resident, said that residents used to have to get a difficult-to-obtain permit to “build anything,” but, following the outbreak of the second *Intifada* and the building of the barrier, authorities suggested off-hand to some contractors and residents that they did not need a permit and residents eventually stopped applying.^[433] Ir Amim quoted the director of the municipality’s building inspection division in a June 2015 report as acknowledging that the municipality is not monitoring or enforcing construction there.^[434] Ir Amim also determined that the division had not entered Kufr Aqab in a decade.^[435]

The lack of regulation in Kufr Aqab stands in sharp contrast to the government’s policy of sharply restricting building in other Palestinian neighborhoods in East Jerusalem and carrying out thousands of home demolitions since 1967.^[436] Amid the housing crunch and difficulty of building in Palestinian neighborhoods inside the separation barrier, many Palestinian Jerusalemites have moved to Kufr Aqab, where, according to Zghayyar, property costs one-third less.^[437]

Kufr Aqab has since the building of the barrier attracted Jerusalemites married to Palestinians from other parts of the West Bank, who under Israel’s Citizenship and Entry into Israel Law (Temporary Order)—2003 cannot obtain permanent status through marriage to a Jerusalem resident.^[438] Since Kufr Aqab falls within the Jerusalem

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basis only in neighborhoods like Kufr Aqab. By contrast, Jewish “mixed” couples, including Jerusalemites married to West Bank settlers, can freely live anywhere in Israel, East Jerusalem, and the West Bank settlements.

A Palestinian woman said she lived for four years in a Jerusalem neighborhood inside the separation barrier apart from her husband, who is from Hebron and has been unable to get permits to enter Jerusalem. During this time, she had to raise their three children alone, in order to maintain a “center of life” in the city and thereby her residency.^[440]

When she learned that she could both do that and live with her husband in Kufr Aqab, she said they moved there in 2006 and they have remained since. Her daughter, though, continued to attend school across the barrier, crossing the Qalandiya checkpoint daily. She said her family did not wish to remain in Kufr Aqab, citing the difficulty of life there, but had no other options.

High demand and lack of regulation in Kufr Aqab have driven a “rapid and informal increase in residential construction, particularly high-rise buildings.”^[441] Built without properly vetted plans or oversight, and often within meters of each other, many buildings rise 10-12 stories high, lack adequate infrastructure for “water, drainage, sewage, electricity and roads,” and appear not to meet basic safety standards.^[442] Odeh, the lawyer, adds that this sort of construction creates a reality where no one knows the boundaries between parcels, and trespassing is common.^[443] Multi-story buildings, about 90 percent built without a permit, according to a municipal council employee involved in inspections,^[444] have been constructed on land reaching up the barrier, taking up virtually all the area available for public spaces, and contributing to population density.^[445] An official from the municipal council observed that the only place left to build is “towards the sky.”^[446]

Although Jerusalemites living in Kufr Aqab pay the same municipal taxes as those living in other Jerusalem neighborhoods, “public infrastructure, resources and services are significantly degraded or lacking entirely.”^[447] In February 2015, the municipality’s deputy legal advisor acknowledged to Ir Amim that “the Municipality encounters difficulties” servicing Kufr Aqab.^[448] Kufr Aqab has no government buildings beyond an Interior Ministry office at the Qalandiya checkpoint, and no emergency health or fire, banking, or welfare services.^[449] As a result, residents generally have to cross Qalandiya checkpoint

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one.^[452]

In 2006 the Israeli government established the Jerusalem Envelope Administration (JEA) to oversee communities within the Jerusalem municipality but beyond the separation barrier, mainly Kufr Aqab and the Shuafat refugee camp, in addition to several smaller communities.^[453] UN OCHA estimated in 2016 that about 160,000 Palestinians live in these areas.^[454] According to Ir Amim, these areas receive only a fraction of the budget allocated to other Jerusalem neighborhoods.^[455] The group said that the JEA has “effectively served to distance residents from the Municipality,” which often refers residents to the JEA. The JEA, in turn, often informs them that they do not have the funding to implement necessary projects.^[456] The former head of the JEA acknowledged to Ir Amim the government’s “neglect,” as he put it, of these areas and has spoken of the “lawlessness” there, noting that “there is no government presence in [Kufr Aqab] for the purposes of public order.”^[457] Ir Amim noted one exception to the neglect of the area: private investigators hired by the government to verify that residents actually live there for the purposes of probing their residency status.^[458]

Even when the municipality provides services, it largely fails to meet the needs of residents. The municipality, for example, contracts the task of garbage collection to a private company but based on an underestimate of the number of residents the company is to serve.^[459] A lawsuit filed by Kufr Aqab residents against the municipality alleged that, in 2012, Jerusalem spent about 328 million NIS on garbage collection, but only around 2 million NIS – or less than 1 percent – in Kufr Aqab, despite the portion of Kufr Aqab within the city’s boundaries housing a percentage of the city’s population likely at least six times higher.^[460] The municipality increased the budget following the suit,^[461] but Odeh, the lawyer who filed it, said that the collection schedule still does not meet the needs of residents, who often resort to burning their trash.^[462]

Ir Amim further estimated in 2015 that 10 out of 25 kilometers of roads in Kufr Aqab are unpaved, eight are in “dilapidated condition,” and only four are paved and “in reasonable condition.” Even paved ones, they noted, “lack sidewalks, signage, and pedestrian crossings,” and the “only traffic light in Kufr Aqab is permanently broken.”^[463] Documents from the municipality cited by Odeh in a petition he filed show that, in 2015, less than

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cities of Bethlehem, Hebron, and Jerusalem, via the Qalandiya checkpoint. According to a statement by Israeli authorities quoted by Reuters in April 2017, about 26,000 people cross the Qalandiya checkpoint daily.^[466] Due to consistently heavy traffic, it can take up to two or three hours during morning and evening commutes to pass through the area around the checkpoint.^[467]

Poor infrastructure, in particular, a run-down water pipeline system, also causes residents to lose about one-fourth of the water supplied to it.^[468] While Mekorot, the national water company, supplies water to most neighborhoods in Jerusalem, including settlements, the Palestinian-run Jerusalem Water Undertaking, which operates in Ramallah and nearby areas, services Kufr Aqab, as it did before 1967, and struggles to meet the demands of residents.^[469]

Jerusalem's mayor, Moshe Lion, visited Kufr Aqab, reportedly for the first time, in February 2021 and said the municipality will "increase its activity and take confidence-building steps."^[470]

Lawmakers in 2017 introduced legislation at the Knesset that would separate communities beyond the separation barrier from the Jerusalem municipality and establish a separate local authority to govern them.^[471] The legislation has not advanced, but residents expressed concern that the law represents the government's long-term designs for these areas. Authorities have long pursued a policy to box in, separate, and exert pressure on Palestinian Jerusalemites to live beyond the barrier. The draft law threatens to take things one step further, opening the door to removing residents of Kufr Aqab and other areas beyond the barrier from Jerusalem's demographic calculus altogether to preserve a Jewish majority there.

Gaza Strip

Israeli authorities have exerted primary control over the Gaza Strip since occupying it in 1967. Israel recognized Gaza as part of a "single territorial unit" with the West Bank in the 1995 Oslo Accords.^[472] Israel's withdrawal of its ground troops and settler population in

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waters and airspace and has blocked the building of an airport and seaport, significantly complicating efforts to travel abroad.^[474] Israel also controls the movement of people and goods into and out of Gaza, except for at Gaza's border with Egypt, which the Egyptian government also significantly restricts. Israel controls all transit between Gaza and the West Bank and maintains a "policy of separation" between the two parts of the OPT.^[475] It controls the Palestinian population registry, which determines eligibility for establishing legal residency and obtaining an ID card.^[476] It sets the rates for the customs and value-added taxes that it collects on behalf of the PA on goods entering the common market.^[477] It enforces a so-called "no-go" zone inside Gaza, near Israeli territory.^[478] It controls the infrastructure upon which Gaza relies, including electricity lines, the underwater cable that phone calls are placed on, the network that provides internet, and the frequencies assigned to Palestinian cell phone companies.^[479]

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differ since it is not the occupying power and can, with some key limitations, decide whom to allow to enter its territory.^[481]

Given international consensus around and Israeli recognition of Gaza and the West Bank comprising a single territorial unit, the OPT, Human Rights Watch assesses dynamics in Gaza as part of the OPT, despite Israel's "separation policy." Viewed in that light, the severe repression of Palestinians in Gaza stands in marked contrast to the treatment of Israeli settlers in the West Bank and East Jerusalem. Israeli authorities deny Palestinians in the OPT, including in Gaza, basic rights and services that they provide Israeli settlers living in the same legal territory, including freedom of movement, the right to live with or visit loved ones living in that territory, and access to 24-hour electricity and clean water.

Legal Status

Palestinians in Gaza, like those in the West Bank, hold Israeli-issued identity cards and passports that grant them residency in Gaza, but they do not have citizenship or nationality. About 70 percent of Gaza's nearly 2.1 million residents are refugees forced to flee their homes in what became Israel, or their descendants, who have been denied their right to return to the areas where they or their families once lived.^[482] Israeli authorities struck from the registry thousands of Palestinians from Gaza who were not present in the territory in 1967 when the occupation began, either because they had fled during the fighting or were already abroad, as well as more than 100,000 between 1967 and 1994 who had been abroad for long periods.^[483] Palestinians not in the population registry cannot obtain ID cards and thereby enter or exit Gaza through either the Israeli—or Egyptian—controlled crossings.^[484] By contrast, Israeli settlers in the OPT never risk losing their citizenship, even after having lived abroad for long periods.

Until 2005, the Israeli army ruled directly over Gaza, while applying Israeli civil law to the more than 7,500 Jewish settlers who lived there.^[485] Following the withdrawal of those settlers in 2005 and the takeover by Hamas in 2007, Israel declared Gaza "hostile territory"^[486] and tightened movement restrictions, imposing a generalized ban on travel to the rest of the OPT or abroad, irrespective of any individualized risk assessment for a

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The shifts that took place between 2005 and 2007 altered the mechanisms but not the fact of Israeli control of the Gaza Strip, nor the systematic oppression of its population. The withdrawal of settlers and regular ground forces from Gaza shifted Israel's practice from one focused on raids and arrests as in the West Bank to one built on the periodic use of overwhelming military force, often with devastating consequences for the civilian population.

In the period since 2007, the Israeli army conducted several large-scale military offensives in Gaza, including in 2008–09, 2012, and 2014, and clashed scores of times with Palestinian armed groups in Gaza. During these confrontations, Israeli forces regularly used excessive and vastly disproportionate force, at times deliberately targeted civilians or civilian infrastructure,^[489] and, in total, killed well over 2,000 Palestinian civilians.^[490]

Palestinian armed groups also committed war crimes, including indiscriminate rocket attacks fired towards Israeli population centers,^[491] but Israel's attacks went far beyond striking those responsible. Beyond the thousands killed or maimed, Israeli attacks have destroyed tens of thousands of structures and critical infrastructure, including homes, hospitals, schools, and Gaza's only power plant, causing considerable harm to civilian life that has lasted for years afterward.^[492] The 2014 hostilities alone completely destroyed or heavily damaged about 18,000 residential units, leaving more than 100,000 people without a home, according to B'Tselem.^[493] In July 2019, some 8,200 people remained internally displaced as a result of 2014 hostilities, according to OCHA.^[494] In January 2019, when campaigning for public office, former Israeli army chief-of-staff and current Alternate Prime Minister and Defense Minister Benjamin (Benny) Gantz said that these attacks "sent [parts of Gaza] back to the Stone Age."^[495] Israeli authorities have for years consistently failed to credibly investigate unlawful attacks and to hold those responsible to account.^[496]

Israeli forces stationed on the Israeli side of the fences separating Gaza and Israel responded with excessive lethal force to weekly demonstrations for Palestinian rights on the Gaza side that took place for much of 2018 and 2019.^[497] Snipers killed, according to OCHA, 214 Palestinian demonstrators, many of them more than one hundred meters

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sanctioned using live ammunition on Palestinians who approached or attempted to cross or damage fences between Gaza and Israel regardless of whether they posed an imminent threat to life. These practices stem from a decades-long pattern that has changed little since the outbreak of the first Palestinian *Intifada* in 1987 of using excessive force to quell protests and disturbances, at great cost to civilians. Despite the frequency of such incidents over the years, Israeli authorities have failed to develop law enforcement tactics that comport with international human rights norms, which prohibit the use of lethal force except in situations when it is necessary to prevent an imminent threat of death or serious injury.^[501] Israeli authorities have often justified these tactics in the name of protecting Israeli communities on the other side of the Gaza fence from the possibility of harm,^[502] but without justifying the force used under the imminent-threat test.

Land and Housing

Israel's closure, alongside restrictions that the Egyptian government often imposes, boxes Gaza's more than two million residents into a strip of territory that is 41 kilometers long and between 6 and 12 kilometers wide, totaling 365 square kilometers. Gaza's population density of about 5,453 people per square kilometer is more than 13 times that of Israel's 400 people per square kilometer.^[503]



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farmers whom it permits to approach within 100 meters of the fence.^[504] Israeli forces routinely fire on those who enter or approach the “buffer zone.” Between 2010 and 2017, before the wave of protests that began in March 2018, Gisha reported 1,300 incidents of live fire on Gaza residents, which killed 161 Palestinians and injured more than 3,000.^[505]

Since 2014, Israeli authorities have also regularly sprayed herbicides along the eastern fences to remove vegetation, it says in order to “enable optimal and continuous security operations.”^[506] Authorities have also said that the spraying takes place “exclusively” over Israeli territory,^[507] but the research group Forensic Architecture in January 2020 documented how the westward wind causes herbicide sprayed on the Israeli side of the fences to cause damage in more than 350 meters into Gaza.^[508] Spraying these sorts of pesticides has caused extensive damage to crops in an area that includes the most arable land in all of Gaza, causing financial loss for farmers,^[509] and can impair the health of people living in the area.^[510]

Citing concerns about weapons smuggling, Israeli authorities also restrict how much of the sea, including Gaza’s territorial waters, residents can access. For years, they generally permitted Palestinians to venture up to six nautical miles off the coast, though subject to frequent fluctuations; for a short period in 2019, they extended the limit to 15 nautical miles, though at other times barred access entirely.^[511] Israel has not justified these fluctuations in the fishing zone on security grounds, but rather as punitive measures in response to rocket fire or the launching of incendiary balloons by armed Palestinian groups, acts with which fishermen had no involvement.^[512] Between 2010 and 2017, the Palestinian rights group Al-Mezan documented 976 incidents of live fire at sea, resulting in five deaths and 250 incidents in which Israeli authorities seized boats or other equipment, allegedly for traveling beyond the permissible fishing zone.^[513] B’Tselem in 2017 found that the number of registered fishermen in Gaza dropped from about 10,000 in 2000 to around 4,000 in 2017, half of whom are out of work and 95 percent of whom live below the poverty line, concluding that Israeli policies, including “harassment of fishermen,” are “destroying Gaza’s fishing sector.”^[514]

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authorities between September 2007 and May 2010 banned most civilian goods from entering Gaza, including coriander, paper, and chocolate.^[516] Israeli authorities in January 2008 calculated the minimum number of calories per person that Gaza residents needed to avoid malnutrition, although they insist they never implemented a policy based on the calculation.^[517] Israeli officials said at the time that they wanted to keep Gaza's economy "on the brink of collapse" while avoiding a humanitarian crisis.^[518]

Since 2010, Israeli authorities have allowed most everyday goods to enter, but sharply restrict and often prohibit altogether what they deem "dual-use" items or those that could be used for military purposes, such as for building or fortifying tunnels into Israel.^[519] The government's "dual-use" list, though, includes both overly broad categories and items that are vital to meet the needs of Gaza's population, including "communications equipment," "steel elements and construction products," "drilling equipment," "fertilizers and chemicals," gas tanks, castor oil, and "vehicles except for personal vehicles (not including 4X4 vehicles)."^[520] Israeli authorities have also claimed certain kinds of medical equipment, including x-ray equipment, as "dual use," according to the WHO.^[521] Gisha has documented how many of these items are "rarely, if ever, allowed into the Strip."^[522] OCHA has said that these "restrictions impede the delivery of humanitarian assistance, basic services and reconstruction programs, and undermine the response capacity for emergencies."^[523] However, Israeli authorities have maintained them in lieu of alternatives, such as international monitoring of the use of dual-use items. Egypt only began formally allowing goods into Gaza in February 2018, but subject to unclear procedures, including denials of some goods also barred by Israeli authorities and at a volume significantly less than through the Israeli-administered crossing.^[524]

As part of the closure policy, Israeli authorities also sharply restrict the export of goods out of Gaza to the West Bank, Israel, and abroad. Between June 2007 and October 2014, Israeli authorities on average permitted only 14 truckloads of goods to exit per month, according to Gisha.^[525] The situation has improved somewhat since, with an average of 219 truckloads per month exiting for the four-year period between 2016 and 2019, but that still is just roughly 20 percent of the 1,064 truckloads per month exiting prior to the June 2007 tightening of the closure.^[526] Egypt does not allow goods from Gaza to be shipped

^[527]

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Gaza in the West Bank and Israel.^[530] While there is a wider variety of produce that can be sold from Gaza in the West Bank, Israeli authorities only in practice permitted, as of March 2021, the sale of eggplants and tomatoes to the Israeli market.^[531] It also until November 2020 banned processed goods from Gaza entering markets in the West Bank and Israel.^[532]

Not only do no such restrictions exist on Israeli producers in the OPT, but Israel has through its restrictions created in Gaza a “captive market,” as Gisha has put it, for Israeli businesses.^[533] More than 80 percent of the goods entering Gaza are purchased from Israeli companies and suppliers, the value of which in 2015 alone amounted to almost 2 billion NIS (over \$600 million), according to Gisha.^[534] The Israeli cement company Nesher also produces nearly all the cement used in Gaza.^[535]

These restrictions have devastated Gaza’s economy.^[536] Gross domestic product (GDP) per capita in Gaza dropped 23 percent between 1994 and 2016 in real dollars.^[537] Eighty percent of Gaza’s population relies on humanitarian aid, according to UNRWA,^[538] and more than half the population lives below the poverty line.^[539] Unemployment rates in Gaza have for some time hovered around 50 percent and are higher for young people and women.^[540]

Israeli policies also sharply limit access to basic services, such as electricity and water. Between 1967 and 2002, Gaza depended on electricity it received from the Israeli Electric Corporation (IEC).^[541] Although Gaza’s power plant became operational in 2002, it has operated at only partial capacity, in part as a result of several Israeli aerial attacks, and Gaza remains “almost completely dependent,” as the Israeli Supreme Court put it in 2008, on Israel for its supply of electricity, either directly or indirectly.^[542] The IEC, though, sells only a set quantity of electricity to Gaza, which is insufficient to meet the demand of the population, even if the power plant operated at full capacity, and periodically reduces supply.^[543] In 2017, for example, it cut by 30 percent the amount it supplied Gaza, following a request from the PA, which sought to pressure Hamas authorities to relinquish their control over Gaza.^[544] Israeli forces have bombed Gaza’s sole power plant on multiple occasions,^[545] significantly reducing its capacity.^[546] Israel’s restriction on the entry of goods, including spare parts and equipment deemed dual-use

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electricity; that figure increased to 12 in 2019, largely due to Israel permitting Qatar to purchase fuel for use in Gaza through Israeli vendors.^[551] Meanwhile, Israeli settlers in the OPT enjoy uninterrupted electricity, mostly from the same IEC. Regular power outages affect many aspects of everyday life in Gaza, from heating and cooling and sewage treatment to health care and business.^[552]

Gaza residents also do not have regular access to clean water. Gaza relies principally on the Coastal Aquifer, which runs along Israel's coast and the Gaza Strip and is accessible inside Gaza via wells, as its sole water source.^[553] Over-extraction, both upstream by Israelis and downstream by Palestinians in Gaza, as well as the intrusion of seawater, sewage, and nitrates, has left more than 96 percent of the groundwater "unfit for human consumption," according to OCHA.^[554] A 2018 study by the RAND Corporation found that water pollution accounts for 26 percent of illnesses in Gaza and is the leading cause of child mortality.^[555] Gaza also purchases water from the Israeli water utility Mekorot, but Israel controls the supply. Water from Mekorot goes through the same pipeline system as the groundwater and mixes with it, reducing its quality.^[556] Gaza's old water pipeline system also causes about a 30 percent loss of supply through leaks,^[557] but Israel complicates its maintenance by restricting the import of about 70 percent of the materials and equipment needed to repair the water and sewage systems on the grounds that they are "dual-use" items.^[558] Gaza desalinates some water, but desalination requires significant electricity, fuel, and funding.^[559] These limitations force most Gaza households to rely on purchasing purified water from private companies for drinking when they can afford it.^[560] In 2019, Gaza residents used 79 liters per day of water, an increase from 2017 and 2018 levels, but below the WHO minimum recommended level of 100.^[561]

Case Studies: Gaza

The following individual case studies illustrate how Israeli authorities, through violations of basic rights, systematically oppress Palestinians in Gaza, a part of the OPT.

"Yazan": Yazan, 26, felt his dream had come true; the University of Nottingham in the United Kingdom offered him admission for undergraduate studies. Yazan missed the start

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providing us with some simple things in exchange for money and travel?” Yazan took this statement to be a request to provide intelligence about people in his community, and he refused. The soldier turned him away, warning that “you are ruining your future,” and urged him “to think about it.” Yazan said

he considered leaving via Rafah, the crossing with Egypt, but the Hamas-administered waiting list was long, he could not afford to pay the several thousand dollars to advance his place on the waitlist, and the opportunity passed. Israel’s separation policy effectively makes it impossible for Yazan to pursue educational or professional opportunities in the West Bank, even though his mother is from Nablus.^[563] He ended up studying in Gaza and now does temporary contract jobs, but “still has the same dream to study abroad” and continues to pursue scholarships. He told Human Rights Watch, “I flew away with this dream, but suddenly fell down and found myself in the real world. I feel like a bird inside a cage—I can fly in the cage, but always remain inside it. This is Gaza—you’re inside a big prison, wondering what the world outside has.”

“Leen”: Leen, a 23-year-old actress, received a permit to leave Gaza for a visa interview in Jerusalem in July 2016, but decided not to return and went to live with her uncle in Jenin. She told Human Rights Watch that her prior travels abroad made her feel that she “wouldn’t be able to achieve anything in Gaza” and could not come to terms with remaining there.^[564] She began studying at university and acting, moved to Ramallah, and applied to change her address so she could legally remain in the West Bank. But she never heard back about her application. Israeli authorities have effectively frozen the population registry since 2000, blocking even address changes.^[565] Her permit expired, Leen’s presence in the West Bank became illegal, and she said she began to fear getting stopped and removed back to Gaza. She said, “I dream of getting a Palestinian ID that would allow me to move freely and travel, then go back home to Gaza to see my family.” She now finds herself stuck, unable to visit her family, but unwilling to give up her dream of pursuing a better life in the West Bank. She added, “Gaza is a small prison. Ramallah is a big one.... If I had the chance to go back in time, I would have remained in Gaza and just learned to

“**This is Gaza — you’re inside a big prison, wondering what the world outside has ”**

— **Yazan, 26**

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constantly restricted, unable to move freely with friends and family. On July 3, 2019, she set off in a taxi to visit her relatives in Nablus. On the way, Israeli soldiers stopped her at a checkpoint they had set-up. Upon seeing her address listed as Gaza, they accused her of “staying here illegally” and took her into custody at a military facility, where she spent the night. Early the next morning, she said, officers cuffed her around her feet and hands, put her in a vehicle without windows and drove her to the Erez Checkpoint, where they removed her back to Gaza without her belongings or even her ID card. “It was a nightmare,” Samia said. She had planned to get married in 2020 and had already rented a place and began furnishing it, then “everything was gone within seconds.” She could not believe, she said, that she “was deported from the second part of my country,” a place just an hour away. She applied for a permit to return to the West Bank, but the Palestinian Civil Affairs office in Gaza told her that Israelis had placed a 6-month security bloc on her, barring her from travel. She said her fiancé twice applied for permits to visit Gaza, but Israeli authorities denied him both times; once due to Jewish holidays and the other without reason. She “lost hope” and even “told [her] fiancé to break up with me, if we are not able to get together.” He refused, she said, and they continue to look for a way to live together.

“Hadil”: In 2011, Hadil, a 37-year-old who works as a social media coordinator in Gaza, fell in love with a man from Nablus whom she met at a conference in Amman. She began applying for permits to visit him, but Israeli authorities routinely denied them, 11 times in total, she told Human Rights Watch.^[567] In 2012, the man managed to enter Gaza through Egypt for a visit and the two got engaged. Shortly thereafter, following a July 2013 military coup, Egyptian authorities largely sealed their border with Gaza. Hadil applied in 2014 for a family reunification request to live with her fiancé in the West Bank, but that was rejected without a reason given. In late 2015, she managed to get a permit to attend a conference abroad. On her way back, during transit via the West Bank from Jordan, she contemplated staying. But she worried about getting caught and being sent “for life imprisonment in Gaza,” a reference to her fear that she would not be able to secure another travel permit, so she returned to Gaza, and the couple broke up in May 2015. In 2019, though, she managed to obtain permits through work to travel to the West Bank and met and got engaged to a man from Ramallah. She regularly worries, she said, about facing

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“Kiran”: 33-year-old Kiran and her husband decided in 2016 to move from Gaza to the West Bank in search of a better life. Kiran told Human Rights Watch that her husband obtained a permit to travel as a businessperson and decided to remain in the West Bank.

^[568] Without meeting the stringent criteria for which Israel permits Gazan residents to travel, Kiran obtained a falsified medical referral indicating that her then 3-year-old son needed to travel for urgent medical care, she told Human Rights Watch. Authorities granted him a permit and her a permit to accompany him, and they traveled in 2017 alongside her 8-month-old second son. They have remained in the West Bank without status since. Her husband requested to change his address to one in the West Bank in 2016, but, as of writing, had not received a reply. Kiran said her family of five, including a third child they had in the West Bank, lives in “constant fear” of getting caught and being sent back to Gaza, and stays home whenever “there is any tension.” They “feel like strangers inside [their own] home,” as if they “are illegally residing in another country.” She said she has missed many family occasions in Gaza, including weddings for both of her brothers, and that her husband hasn’t seen his five children from a prior marriage since he left Gaza. She said she has considered returning to Gaza, but she worries about how life in Gaza would affect her three young boys. She told Human Rights Watch that “my boys get so happy when they see planes in the sky...I can’t imagine their reaction when they see the planes they love firing missiles and bombs. I don’t want them to experience war and death.”

Institutional Discrimination in Israel

Authorities inside Israel institutionally discriminate between the country’s Jewish and Palestinian inhabitants, though in ways less severe than the oppression and persecution of the OPT. There are roughly 6.2 million Jews and about 1.6 million Palestinians within Green Line Israel, according to data from the Israeli Central Bureau of Statistics. ^[569] Israel’s Proclamation of Independence affirms the “complete equality” of all residents. Palestinians in Israel are citizens who have the right to vote in national elections, unlike Palestinians in the West Bank, Gaza, and East Jerusalem (except for the small minority of Palestinian Jerusalemites who have applied for and been granted Israeli citizenship). For

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over demographics and land as officials have directly acknowledged.^[571]

Legal Status

Israel maintains a two-track citizenship structure that treats Palestinians unequally as compared to Jews. While both Jews and Palestinians living in Israel are citizens, Israel's citizenship process privileges Jews and sharply restricts which Palestinians, beyond most existing residents and their descendants, can become citizens.

Israel's 1952 Citizenship Law at its outset notes that the state grants citizenship via four routes: (1) "return," (2) "residence in Israel," (3) birth, and (4) naturalization.^[572] Israel reserves the first path, "return," exclusively for Jews. This path grows out of the 1950 "Law of Return," which guarantees Jewish citizens of other countries the right to settle in Israel.^[573] The Citizenship Law states that Jews already living in Israel at the time gain citizenship via this path, as opposed to the "residence in Israel" one.

Palestinians, by contrast, obtained citizenship in 1952 via the second path, "residence in Israel." The law, though, conditions citizenship on proving residency before 1948, inclusion in the population registry, and continuous presence or legal entry in the period between 1948 and 1952. None of these restrictions apply to Jewish Israelis. The language not only excludes the more than 700,000 Palestinians that fled or were expelled from their homes in 1948, along with their descendants,^[574] but also those not counted in the population registry due to a perfunctory registration process and those not present or not able to prove their residency either before 1948 or continuously between 1948 and 1952.^[575]

Haaretz reported in 2017 that Israeli authorities had revoked the citizenship of "hundreds if not thousands" of Palestinian Bedouins in the Negev region in recent years over alleged "erroneous registration" by them or their families between 1948 and 1952.^[576] In an August 2020 Knesset hearing, government officials acknowledged investigating the circumstances around the granting of citizenship to about 2,600 people and said that they had concluded that about 500 of them had been granted citizenship by mistake, although they claimed to have reestablished the citizenship of 262 of them via an expedited process.^[577]

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In July 2003, the Israeli government issued Citizenship and Entry into Israel Law (Temporary Order), which effectively suspended the naturalization process, as well as the granting of long-term status, for Palestinian spouses of Israeli citizens or residents from the West Bank and Gaza.^[578] The Supreme Court has upheld the law and the Knesset has renewed it every year since, most recently in June 2020. In 2005, the Knesset permitted Palestinian women over 25 and Palestinian men over 35 who are married to Israeli citizens or residents to apply for renewable temporary permits. In 2007, it expanded the scope of the restriction to apply to spouses from Lebanon, Syria, Iraq, and Iran.^[579]

Israeli authorities also distinguish between citizenship and nationality, and structurally discriminate between citizens based on their nationality. The Israeli government registers the nationality of all citizens and, until 2005, included nationality on each citizen's identity card.^[580] Jewish Israelis and Palestinians are deemed to belong to different nationalities: "Jew" and "Arab". While recognizing more than 140 nationalities, the government does not recognize an "Israeli nationality" and has denied requests of citizens to identify their nationality as such.^[581] Citizens have appealed this denial to the Supreme Court, which upheld it. In 2013, the Court reaffirmed a 1972 ruling denying that "an Israeli nationality had come into being, separate and differentiated from a Jewish nationality."^[582] In a concurring opinion, Justice Hanan Melcer wrote that "the 'constitutional Jewishness' of the state negates the legal possibility of recognizing an 'Israeli nationality' which is distinct, as it were, from the 'Jewish nationality'.^[583]"

The bifurcation between citizenship and nationality means that Israeli law relegates Palestinians at birth to an inferior status by law. Israel has long defined itself as the "nation-state of the Jewish people," as enshrined in its 2018 Basic Law: Israel—The Nation-State of the Jewish People. That law, which has constitutional status, articulates for Jews alone the right of self-determination and makes it a national priority to build homes for Jews but not others.^[584] Excluding Palestinians from the state's definition of the nation provides a legal basis to pursue policies that favor Jewish Israelis to the detriment of Palestinians, in the name of advancing the "national interest" or "national security." For example, in November 2020, an Israeli magistrate court cited the 2018 Nation-State

law to dismiss a lawsuit by two Palestinian schoolchildren seeking reimbursement for

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municipal decision-making.”^[585]

Legal measures aimed at protecting the Jewish character of the state that discriminate against Palestinians undermine the pledge in Israel’s Proclamation of Independence to “ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.” Palestinian citizens vote in elections and have served in the Knesset, but Israel’s Basic Law: The Knesset—1958, which has constitutional status, declares that no candidate can run for the Knesset if they expressly or implicitly endorse “negation of the existence of the State of Israel as a Jewish and democratic state.”^[586] Israel’s Law of Political Parties (1992) further bars registration of any party whose goals directly or indirectly deny “the existence of Israel as a Jewish and democratic state.”^[587] While the Supreme Court often opts against disqualifying candidates for violating these provisions,^[588] the provisions formally block Palestinians from challenging the laws that codify their subjugation and, in so doing, diminish the value of the right of Palestinian citizens to vote. The fact that no government in Israel’s history has ever included representatives of a Palestinian-led party highlights the political disempowerment of the community.^[589]

Palestinian former Knesset member Azmi Bishara, in describing the situation of Palestinians inside Israel, writes, “in 1948, we lost a country and gained citizenship.”^[590]

Land and Housing

As a result of decades of land confiscations and discriminatory land policies, Israeli authorities have hemmed in Palestinian towns and villages, while nurturing the growth and expansion of Jewish communities, many of which in practice exclude Palestinians. The majority of Palestinians in Israel live in these communities, while some live in “mixed cities” like Tel Aviv-Jaffa and Haifa.^[591]

Ninety-three percent of all land in Israel constitutes state land, directly controlled by the Israeli government.^[592] Israeli authorities confiscated much of this land, several million dunams, from Palestinians through several different legal instruments, as documented in a later chapter of this report.^[593] A government agency, the Israel Land Authority (ILA).

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creation of more than 900 “Jewish localities” in Israel,^[598] but none for Palestinians except for a handful of government-planned townships and villages in the Negev and Galilee, created largely to concentrate previously displaced Bedouin communities.^[599] Less than 3 percent of all land in Israel falls under the jurisdiction of Palestinian municipalities, where the majority of Palestinian citizens live, according to a 2017 estimate by Israeli and Palestinian groups.^[600]

Even inside Palestinian towns and villages within Israel, Israeli authorities discriminatorily restrict the land available for residential growth. The authorities have zoned large sections of Palestinian towns and villages for “agricultural” use or as “green” areas, prohibited residential building in them, and built roads and other infrastructure projects that impede expansion. A 2003 Israeli government-commissioned report found that “many Arab towns and villages were surrounded by land designated for purposes such as security zones, Jewish regional councils, national parks and nature reserves or highways, which prevent or impede the possibility of their expansion in the future.”^[601] While increasing focus in recent years on these issues has resulted in more state-approved residential development,^[602] they have done little to date to change the reality of hemmed-in Palestinian towns and villages. By contrast, in case studies documented by Human Rights Watch in each of Israel’s six districts, planning authorities provided sufficient land and zoning permissions to predominantly Jewish communities to facilitate their growth.^[603]

These restrictions create density problems and a housing crunch in Palestinian communities. The Arab Center for Alternative Planning, based in Israel, told Human Rights Watch in December 2018 that it estimates that 15 to 20 percent of homes in Palestinian towns and villages lack permits, some because owners’ applications were rejected and others because they did not apply knowing that authorities would reject their requests on the grounds that they were contrary to the existing zoning. The group estimated that 60,000 to 70,000 homes in Israel, excluding Jerusalem, were at risk as of 2018 of full demolition.^[604] As of July 2015, 97 percent of Israel’s pending judicial demolition orders were for structures located in Palestinian towns.^[605]

These dynamics most dramatically manifest themselves in the Negev, where

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committees that can reject applicants from living there for being “not suitable for the social life of the community” or for incompatibility with the “social-cultural fabric.”^[609] This authority effectively permits the exclusion of Palestinians from small Jewish towns, which Adalah, a human rights group based in Haifa, estimated in 2014 make up 43 percent of all towns in Israel, albeit a far smaller percentage of the country’s population.^[610] In a 2015 study, Yosef Jabareen, a professor at the Technion-Israel Institute of Technology in Haifa, found that there are more than 900 small Jewish towns, including *kibbutzim*, across Israel that can restrict who can live there and have no Palestinian citizens living in them.^[611]

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**JEWISH
CITIZEN OF ISRAEL
BORN IN AN ISRAELI TOWN**

**PALESTINIAN
CITIZEN OF ISRAEL
BORN IN UNRECOGNIZED
BEDOUIN VILLAGE**

IS MY COMMUNITY RECOGNIZED BY THE GOVERNMENT?

YES

As part of a policy to "Judaize the Negev", Israel actively nurtures the development of Jewish communities in the Negev

NO

Israel does not recognize 35 Palestinian Bedouin communities, making it impossible for 90,000 or so residents to live lawfully in their homes

CAN I ACCESS BASIC SERVICES?

YES

Likely without any obstacles, thanks to billions of shekels Israel has invested in major infrastructure projects to attract Jewish residents to the area

NO

Israel refuses to connect your unrecognized village to national electricity or water grids or provide basic services like paved roads, sewage systems and schools

CAN I STAY HERE FOR YEARS TO COME?

YES

Israel continues to make more and more land available to Jewish communities to encourage you to stay and raise your family here

MAYBE NOT

Israel seeks to concentrate Bedouins in government-planned townships. As a resident of an unrecognized village, you live under constant threat of home demolition

IF I WANT TO MOVE, DO I HAVE A LOT OF OPTIONS?

YES

You can move to a big city or one of hundreds of other small Jewish towns across Israel

MAYBE NOT

Among other challenges, hundreds of small Jewish towns have admissions committees that have power by law to exclude Palestinian citizens from living there



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local taxes make up 66 percent of the revenue for localities across Israel, they constitute only 31 percent of the overall budget for Palestinian localities.^[612] While the gap in part reflects the significantly lower tax base in Palestinian localities, the groups found a larger disparity in income from non-residential or business taxes. They, in particular, highlighted the dearth of “revenue-generating properties” in Palestinian municipalities, including in the residential, industrial, commercial, tourism, banking, and infrastructure sectors.^[613] In May 2020, Sikkuy found, based on 2018 data, that while Jewish localities collected 2.5 times more in residential taxes than Palestinian ones, they collected 6.5 times more in non-residential taxes.^[614]

The significantly higher levels of non-residential local taxes that Jewish localities collect are the result of discriminatory state policies. The Knesset Research and Information Center found in July 2018 that only 2 percent of industrial zones managed by the government, which generate significant tax income, are located in Palestinian municipalities.^[615] Government buildings also generate significant tax revenues, but, according to a July 2020 study by Knesset Research and Information Center, only 0.4 percent of government properties that generate tax revenues are located within Palestinian municipalities.^[616] In addition, according to Sikkuy, not a single Palestinian municipality has a government hospital, university, military base, or government administrative buildings in it.^[617] An April 2020 study by the Knesset Research and Information Center found that Palestinian localities, where about 90 percent of Palestinian citizens of Israel reside,^[618] received in 2018 only 2.2 percent of the total amount of non-residential taxes across the country.^[619]

Localities which collect less revenue from local taxes rely more on funding from the central government. Here too, Israeli authorities allocate budgets in a discriminatory fashion. For example, of the 2.82 billion NIS (\$804 million) of economic recovery funds handed out by the Israeli government to local authorities in April 2020 amid the Covid-19 pandemic, only 1.7 percent went to Palestinian municipalities, according to Adalah.^[620] In education, the Israeli government operates two separate school systems, one for Jewish children and one for Palestinian children in Israel.^[621] Discrimination colors every aspect of the two systems; often overcrowded and understaffed, poorly built or maintained, state

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While authorities in recent years have reduced budgeting inequities, significant gaps remain. In particular, a five-year, more than 10 billion NIS (\$3 billion) “economic development plan for the Arab sector”^[625] approved in December 2015 has increased allocation to sectors like transportation. However, it did not address other areas of disparity, including welfare services and high school education.^[626] Palestinian localities have also received funding from “equalization grants” provided by the central government and from a governmental fund aimed at “closing the [economic] gaps” between differently situated localities, but, according to Sikkuy, not to levels proportional to the gaps that exist in comparison to Jewish localities.^[627] The Mossawa Center found in a study of Israel’s 2019 budget that funding allocated to Palestinian areas remains “meager,” with significant needs in education and other areas still present, and that “systematic discrimination” remains endemic in government spending.^[628]

These disparities contribute to the starkly different socio-economic situations for Palestinians and Jewish citizens. According to May 2020 figures from Israel’s Ministry for Social Equality, 45.3 percent of Palestinian families live below the poverty line, as compared to 13.4 percent of Jewish families.^[629] Sikkuy in 2015 found that the wage gap between Palestinian and Jewish men stood at 44.6 percent and at 31 percent for women, and that 47.4 percent of Palestinians worked in unskilled labor and construction, as compared to 10.4 percent of Jewish Israelis.^[630]

Case Study: Nazareth

The following case study details how Israeli authorities discriminate against the residents of the Palestinian city of Nazareth in Israel in ways that stifle the community’s growth and undermine its well-being while promoting the development of a Jewish-majority city next to it.

Nazareth, the largest Palestinian locality in Israel with a population of 77,400,^[631] lies in the Galilee region within Israel’s Northern District. It is the only Palestinian city that survived the events of 1948 intact.^[632] Discriminatory Israeli land policies have restricted it to largely the same geographical area it had then, while its population has increased more

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developed into a “mixed city” with about 26 percent of its population Palestinian, in large part due to the migration of Nazarenes amid the squeeze they face, as described below.^[636]

Slated to belong to the Arab State under the 1947 UN partition plan, Nazareth came under Israeli control in July 1948. Unlike the hundreds of thousands of Palestinians forced to leave their communities during the establishment of the Israeli state, the residents of Nazareth largely remained in their homes. According to historian Benny Morris, Israeli officials gave the order to “uproot all the residents of Nazareth,” but the commander of the nascent Israeli army’s brigade given the order, Ben Dunkelman, refused to carry it out, and authorities eventually allowed the city to surrender.^[637] Nazareth’s population increased in the aftermath of the events of 1948, as it absorbed more than 5,000 Palestinians who had been displaced from nearby villages and prevented from returning to them.^[638] Many displaced Palestinians have since remained in Nazareth, unable to return to their villages.^[639]

One displaced Palestinian, 85-year-old souvenir-shop-owner Ameen Muhammad Ali, known as Abu Arab, told Human Rights Watch that he ended up in Nazareth in 1949 months after he and his family fled his home village of Safuriyya, which then stood six kilometers north of Nazareth, amid Israeli fire.^[640] He was 13 at the time. After several months in Lebanon, he said his family managed to cross back into Israel before Israeli forces tightened border controls and blocked refugees from returning.^[641] Some other Safuriyya residents also managed to return, which prompted Israeli authorities in January 1949, as historian Benny Morris documented, to forcibly expel residents who remained in the village or had returned there.^[642] Later that year, Israeli authorities established the Jewish *moshav*, or cooperative village, of Tzipori on Safuriyya’s lands.^[643] Abu Arab said his family lost their home and about 200 dunams of land they owned in the village.

Later in 1949, Abu Arab’s family moved to a neighborhood in Nazareth that came to be known as Safafra because of the many displaced Safuriyya residents who ended up there.^[644]

In January 2001, *Haaretz* estimated that internally displaced Palestinians and their descendants constitute about half of Nazareth’s population.^[645] Most of Abu Arab’s family who lived in Safuriyya, including several dozen aunts, uncles, and cousins, never returned to the country, and they and their descendants remain refugees today, largely barred from

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Galilee.”^[647] The establishment of Nazareth Illit became a key part of that strategy, as the army’s then-Planning Department Director Yuval Ne’eman put it, to “emphasize and safeguard the Jewish character of the Galilee as a whole.”^[648] The northern military governor at the time, Colonel Mikhael Mikhael, wrote that the establishment of Nazareth Illit would result in the “transfer of the center of gravity of life from Nazareth to the Jewish neighborhood.”^[649]

Israeli authorities established Nazareth Illit in the 1950s on lands belonging to residents of Nazareth and other nearby villages. The first confiscation, of about 1,200 dunams of land from Nazareth, took place in June 1954 under a 1943 law (Acquisition for Public Purpose Ordinance), a relic of British mandate law that permits the taking of land for a public purpose.^[650] Nazarenes brought a legal challenge against the decision, but the Israeli Supreme Court upheld it, based on a state declaration that it confiscated the land solely to build government facilities.^[651] Authorities used only a fraction of the land for government facilities—109 dunams, according to one historian—with most of it going to develop a “Jewish neighborhood” inside Nazareth.^[652] In August 1952, Government Secretary Ze’ev Sherf said, “the only chance of making Nazareth a partially Jewish city is by consolidating the [state] institutions there. It is a colonizing act with difficulties, but without it we will not be able to Judaize Nazareth.”^[653]

Keen to avoid relegating the Jewish community to a minority status in Nazareth, Israeli officials opted in the late 1950s to make Nazareth Illit a separate locality, with the aim of later merging the municipalities once the Jewish community surpassed the Palestinian population.^[654] Authorities continued to confiscate Palestinian land to develop Nazareth Illit into the 1960s and 1970s, including a 160 dunam plot of land in the center of Nazareth known as the Sprinzak Enclave. A military base for years and home to a hotel, the site falls within the municipality of Nazareth Illit, despite its location in the center of Nazareth, meaning Nazareth Illit receives the taxes based on the facilities there.^[655] Through these confiscations, Nazareth Illit deepened its footprint in the Galilee, weaving between Nazareth and six other Palestinian villages and impeding the establishment of a larger, contiguous Palestinian municipal area. Nazareth-based journalist Jonathan Cook has written that Nazareth Illit’s development blocked Nazareth from “transform[ing] into the capital of Israel’s Palestine.”^[656] “Colonization” in the

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Nazareth over more than 70 years, totaling more than 6,000 dunams, has only slightly outpaced the land lost during the events around the establishment of Israel in 1948 and in the years that followed.^[660] The Nazareth municipality has in subsequent years estimated that it needed between 10,403 and 12,378 more dunams to meet the needs of residents, including for new residential neighborhoods, land for industrial and commercial development, and more public spaces.^[661] In a survey of Nazareth residents conducted in 2013 by Professor Yosef Jabareen of the Technion-Israel Institute of Technology in Haifa, 71.8 percent of those surveyed said that the local regulations barred them from any construction to expand their current properties.^[662]

The restricted access to land for housing to accommodate natural population growth has created density problems and a housing crunch in Nazareth. In the same survey, 86.6 of residents identified traffic and 83.7 population density as “very serious” problems.^[663] Musab Dukhan, a member of Nazareth’s municipal council, told Human Rights Watch that “narrow streets and a lack of space for parking creates heavy traffic” and that “there is no space for the new generation to build a future here and remain in the city.”^[664] One resident described Nazareth as a “city that can’t breathe and always feels tense.”^[665]

While restricting Nazareth, Israeli authorities have allowed Nazareth Illit to grow rapidly. Built in part on state land and designated as a city to receive new Jewish immigrants, Israeli authorities invested heavily in Nazareth Illit, including by establishing in 1992 the Ziporit Industrial Area, which includes factories and a park for high-tech companies. While slated to be a regional industrial zone encompassing 3,560 dunams,^[666] none of the revenues it generates go to Nazareth, located just to the south, or Palestinian villages directly adjacent to it.^[667] Nazareth, by contrast, has two small industrial zones, one consisting of carpentry workshops in the Old City and the other of car repair shops.^[668]

Nazareth long served as a regional administrative hub. Beginning in the late 1950s, Israeli authorities gradually relocated many government offices servicing the region from Nazareth to Nazareth Illit. The offices moved include those belonging to the agriculture ministry, the education ministry, the health ministry, the interior ministry, the prime minister’s office, the census bureau, the customs, and value-added tax division, the taxation authority, the land registration department, and the Magistrate’s District and

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businesses and government properties, of Nazareth Illit.^[671]

The Israeli government policy of funneling resources from Nazareth to Nazareth Illit has also underlined its approach to tourism. Although widely known as Jesus' hometown and home to a key church in the Christian tradition, authorities historically invested little in Nazareth's tourism infrastructure and, as a result, the city benefited little from the flocks of religious tourists that visit.^[672] Authorities only in 1993 granted Nazareth the status of "National Priority A" in tourism—a status that qualifies the city to receive grants and tax breaks—in preparation for the millennium and planned visit by the Pope at the time.^[673] The first commercial chain hotel in Nazareth did not open until the late 1990s.^[674] Subsequent governments revoked Nazareth's tourism priority status, while retaining it for Nazareth Illit, which had received it in the 1970s.^[675]

Three business owners in or near Nazareth's Old City—one runs a restaurant, one a café, and one a souvenir shop—told Human Rights Watch that tourists and in particular organized tour groups often spend only an hour or two visiting Nazareth's churches, without entering the Old City or spending money or the night in the city.^[676] Some stay in hotels in Nazareth Illit, while others continue on to eat and sleep in the nearby predominantly Jewish city of Tiberias, on the Sea of Galilee.^[677]

The lack of revenue-generating properties, as well as discriminatory allocation of budgets from the central government, means Nazareth residents often receive inferior services compared to those in Nazareth Illit. The business owners each separately contrasted the traffic, lack of parking spaces, and narrow roads in Nazareth with the availability of parking and open roads in Nazareth Illit.^[678] A 2015 study by the Knesset Research and Information Center found that the average class size in Nazareth is 30.3, as compared to 21.4 in Nazareth Illit.^[679] Dukhan, the municipal council official, said that, as of April 2021, the difference in the number of students per classroom between Nazareth and Nazareth Illit had risen to at least 10 and, in some cases, up to 20.^[680]

The housing crunch, density, and high rents push many Nazarenes to quit the city. Nazarenes often head to nearby predominantly Jewish localities to spend time in parks,
~~given the paucity of those or other public spaces in their hometown. When one Nazareth~~

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Ironically, thousands of Nazarenes have moved to Nazareth Illit in recent years, many of them purchasing property from Jewish Israelis who were resettled there as immigrants and then earned enough to “head for a better life in the center of the country,” according to Cook.^[683] Nazarene restaurant owner Khalil Haddad, 43, told Human Rights Watch that, although born and raised in Nazareth Illit, he and his wife decided when they got married in 2006 to live in Nazareth, considering it their “national duty” as Palestinians. However, the population density, housing crunch, and lack of playgrounds, parks, and other public spaces gradually eroded his opposition to living in Nazareth Illit, and they finally decided to move there in 2014.^[684]

Some of the factors that motivated Haddad to leave the city he loved with his young family bear some similarities to pressures that lead urban dwellers in other contexts to move out of cities, including high housing costs, congestion, and a shortage of green space. In the case of Nazareth, these pressures in part derive from discriminatory Israeli land and budgetary policies.

Hava Bachar, Nazareth Illit’s general manager, told Human Rights Watch in 2020 that 26 percent of the city’s residents today are Palestinian, many from Nazareth, which she attributes to the fact that “Nazareth and other nearby [Palestinian] towns do not have space to grow.”^[685] Bachar noted that the municipality was not about to “give away land” to these communities, given “our ambition to reach 100,000 citizens” and suggested instead that Israel build “a new city for Arab citizens.”^[686] Bachar noted that the city is “bringing in Jewish families to settle” in order to “ensure it stays Jewish.”^[687]

Despite moving, many Nazarenes who live in Nazareth Illit maintain a center of life in Nazareth. Haddad said he continues to do his shopping, including for groceries, in Nazareth, referring to Nazareth Illit as a “bedroom community.”^[688] It does not have a state school to serve the roughly 3,000 school-age Palestinian children, forcing most, including Haddad’s son, to commute to Nazareth, since Palestinian and Jewish Israelis attend separate schools.^[689] Former Nazareth Illit mayor Shimon Gafsi, who once described Nazareth as a “nest of terror,”^[690] told the *Washington Post* in 2013 that “I would rather cut off my right arm than build an Arab school.”^[691]

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V. Inhumane Acts and Other Abuses of Fundamental Rights

Grave abuses, or “inhuman[e] acts” as set out in the Apartheid Convention and Rome Statute, amount to the crime against humanity of apartheid when carried out in the context of systematic oppression with an intent to maintain a system of domination. Severe abuses of fundamental rights make up the crime against humanity of persecution when carried out with discriminatory intent.

To maintain the domination of Jewish Israelis over Palestinians, Israeli authorities have carried out over many years a range of serious abuses.

In the OPT, many of these abuses amount to inhumane acts, one of the three elements of the crime of apartheid, including:

- sweeping restrictions on movement;
- the confiscation of hundreds of thousands of dunams of land in the West Bank from Palestinians, depriving them of their property, means of livelihood and way of life, and consequent hemming in of the densely populated enclaves where most live;
- the imposition of harsh conditions, including near-categorical denial of building permits, in large parts of the West Bank that coerce thousands to abandon their homes in conditions that amount to forcible transfer;

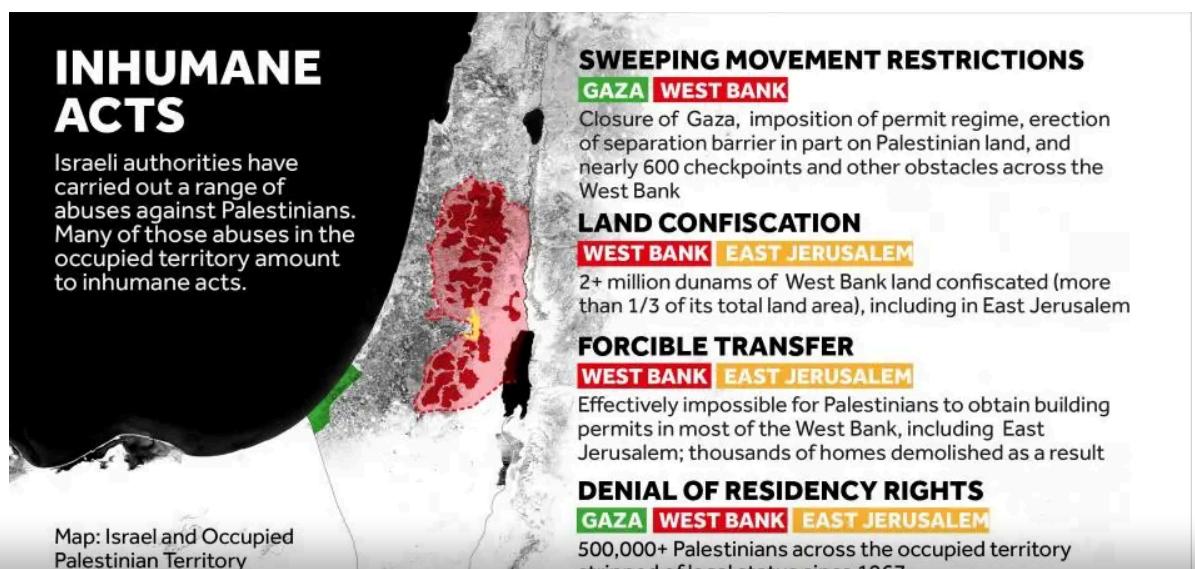
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most affect their daily lives and futures.

Separately from the inhumane acts carried out in the OPT, the Israeli government has carried out abuses against Palestinians within Israel, including:

- refusing to allow Palestinians access to the millions of dunams of land that were confiscated from them;
- implementing policies that make it virtually impossible for tens of thousands of Palestinians in the Negev region to live lawfully in the communities they have lived in for decades;
- not permitting the more than 700,000 Palestinians who fled or were expelled in 1948 and their descendants to return to Israel; and
- restricting legal residency in ways that block many Palestinian spouses and families from living together in Israel.

Carried out pursuant to long-standing policies and practices of the Israeli government, these acts dispossess many Palestinians, bar some from entering their places of origin, block others from leaving it, forcibly separate families, and wreak havoc on the lives of many more.



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Israeli authorities have carried out a range of inhumane acts in the OPT.

Movement Restrictions

For over two decades, Israeli authorities have imposed sweeping restrictions on the ability of the more than 2 million Palestinians living in Gaza to leave that territory and sharply restricted the movement of 2.7 million Palestinians in the West Bank, both within that territory and beyond.

Closure of Gaza

For the last 25 years, Israel has increasingly restricted the movement of Gaza residents. Since 2007, the year that Hamas seized effective political control over the Gaza Strip from the Fatah-led PA, Israel has imposed a generalized travel ban on movement in and out of the small territory with few exceptions. The Israeli army since 2007 has limited travel through the Erez Crossing, the passenger crossing from Gaza to the other part of the OPT, the West Bank, and abroad, as well as to Israel. Israel has limited passage to cases presenting what it deems “exceptional humanitarian circumstances,” meaning mainly those needing vital medical treatment outside Gaza and their companions, although authorities also grant permits each year to hundreds of Gaza residents eligible on other grounds, such as high-level businesspeople and merchants.^[693] Israel has restricted movement even for those seeking to travel under these narrow exceptions to Israel’s closure policy.^[694] Most Gaza residents do not fit within these exemptions. For the five-year period between January 2015 and December 2019, an average of about 373 Palestinians exited Gaza via Erez each day, less than 1.5 percent of the daily average of 26,000 in September 2000, before the closure, according to the Israeli rights group Gisha.^[695] Most Palestinians who grew up under this closure have never exited Gaza.

Israeli authorities have also for more than two decades sharply restricted the use of Gaza’s airspace and territorial waters by Palestinians. They blocked both reopening an airport that Palestinians once operated there, and building a seaport, leaving them dependent on leaving Gaza by land in order to travel abroad.^[696] Egypt has for much of the last 15 years

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of Palestinians' rights, including the right to family reunification, the right to access healthcare, education, and economic opportunities.^[698]

Israeli authorities often justify the closure on security grounds. Authorities have said in particular that they want to minimize travel between Gaza and the West Bank to prevent transferring “a human terrorist infrastructure” from Gaza to the West Bank, the latter of which has a porous border with Israel and is home to hundreds of thousands of Israeli settlers.^[699]

As an occupying power that maintains significant control over aspects of life in Gaza despite the formal withdrawal of its troops,^[700] Israel has obligations under international humanitarian law to ensure the welfare of the population there. Palestinians also have the right under international human rights law to freedom of movement, in particular, within the OPT, that Israel can restrict only in response to concrete, specific security threats. Its policy of presumptively denying free movement, with narrow exceptions, based on generalized security threats and irrespective of any individualized assessment of the security risk of the individual, fails any reasonable test of balancing Israel’s security concerns against the human right to freedom of movement. While Israel has legitimate security concerns in regulating entry to its territory, those concerns cannot justify the massive violation of rights that the near-total travel ban inflicts on the over two million Palestinians living in a sliver of territory.

Permit Regime in the West Bank

Israeli authorities have also imposed onerous restrictions on freedom of movement in the West Bank that they justify based on “substantive security reasons” given that “Palestinian residents from the region carried out... hundreds of deadly terrorist attacks.”^[701] Israeli policies, however, restrict the movement of all Palestinians, not just those whom authorities deem to present a security threat. The army requires Palestinian ID holders, with narrow exemptions, to apply to the Israeli army for time-limited permits to enter significant parts of the West Bank,^[702] including East Jerusalem, the “seam zone” between the separation barrier and the Green Line which covers more than 184,000

^[703]

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uncertainty discourages many Palestinians from applying for permits at all.

When it comes to travel abroad, Palestinians in the West Bank must travel via Jordan through the Israeli-controlled Allenby Crossing, unless they receive a difficult-to-secure permit to leave from Ben Gurion Airport near Tel Aviv. But Israeli authorities sometimes ban them from using that crossing on unspecified security grounds.^[706] Between 2015 and 2019, the Israeli rights group HaMoked filed administrative appeals against 797 Israeli-issued travel bans on Palestinians.^[707]

While countries have wide latitude to restrict entry at their own borders, Israel largely restricts movement of the occupied population not only to travel between the West Bank and the Gaza Strip, even when it does not take place through Israel, but also within the West Bank itself. Israeli authorities, for example, have erected nearly 600 permanent obstacles, such as checkpoints and roadblocks, within the West Bank, according to OCHA.^[708] Palestinians also regularly face ad-hoc “flying” checkpoints across the West Bank—OCHA estimated that Israeli forces set up nearly 1,500 such checkpoints between April 2019 and March 2020 alone.^[709] Israeli forces routinely turn away or humiliate and delay Palestinians at checkpoints without explanation, obstructing commutes to school, work, or appointments of all kinds.^[710] The separation barrier, 85 percent of which falls within the West Bank rather than along the Green Line, further encumbers movement in the West Bank.^[711]

The generalized travel ban Israeli authorities impose on Gaza, presumptively blocking residents from leaving Gaza, amounts to a measure that denies Palestinians “the right to leave and to return to their country,” one of the inhumane acts set out in the International Convention on the Suppression and Punishment of the Crime of Apartheid.^[712] The Gaza closure, the severe movement restrictions in the West Bank, and the restrictions on movement between the West Bank and Gaza, two parts of the OPT, also violate Palestinians’ “right to freedom of movement,” as also outlined in the Apartheid Convention.^[713] The closure, with its severe restrictions on the entry and exit of people and goods and provisions of services,^[714] also constitutes “conditions preventing the full development” of the community, as also defined in the Apartheid Convention.^[715]

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B'Tselem and Kerem Navot have found that Israeli authorities have confiscated more than 2 million dunams of land, making up more than one-third of the West Bank.^[716] Israeli settlement authorities effectively control these lands, including about 540,000 that fall within their formal jurisdiction.

Most commonly, Israeli authorities take land, including land privately owned by Palestinians, by declaring it to be “state land.”^[717] The Israeli group Peace Now estimates that the Israeli government holds about 1.4 million dunams of land, or about a quarter of the West Bank, as state land.^[718]

Under Israeli judicial and military practice and policy, land not formally registered as privately owned by authorities who controlled the West Bank before 1967 can be declared state land. Upon seizing control of the West Bank in 1967, the Israeli military froze the land registration process that had been underway under Jordanian auspices and has not conducted one since. Landowners who did not register their land before 1967 have the onus of proving ownership through a lengthy and expensive process that typically involves producing tax documents, gathering testimonies from neighbors and local officials, and paying for a court-approved survey of the land.^[719] In some cases, the authorities declared as state land parcels on which Palestinian landowners had paid taxes to the Jordanian authorities, a hallmark of ownership at the time. Israeli courts have upheld as legal the state’s mechanism for declaring state land.^[720]

Even if ownership can be proved, Israeli authorities interpret Ottoman land law in such a way as to take land without paying compensation to the owners when it can claim that at least 50 percent of the parcel has not been cultivated within the prior three years.^[721] This interpretation facilitated the takeover of “absentee” property belonging to Palestinians who fled during or following the 1967 War, as well as from Palestinians who remained in the West Bank but lost access to their land.^[722] Beginning in 1979, following an Israeli Supreme Court ruling that restricted the army’s authority to transfer to settlements lands confiscated on purported security grounds that it recognized as privately owned by Palestinians,^[723] the Israeli military Custodian of Government Property conducted a hasty and error-riddled land survey that aimed to identify uncultivated lands that Israeli authorities could claim as state land.^[724] Based on the survey, Israeli authorities declared

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A and B.^[726] The remaining roughly 600,000 dunams of state land it holds, including about 70,000 dunams currently in Areas A and B, consists of land that Jordanian or British authorities registered as state land during their respective reigns over the West Bank and which Israel took control of in 1967.^[727]

Israeli authorities have issued hundreds of eviction orders against Palestinians they claim are “illegally holding” state land.^[728] The Israeli rights group Kerem Navot and Haqel found, based on a review of more than 600 eviction orders issued against Palestinians between 2005 and 2018, that 41.5 percent of the territory encompassed by the orders had not formally been declared by authorities as state land.^[729]

Of the more than 675,000 dunams of state land that Israeli authorities have officially allocated for third parties in the West Bank, they have earmarked more than 99 percent to serve the needs of Israeli civilians.^[730]

Beyond what they deem state land, Israeli authorities have confiscated tens of thousands of dunams of land they acknowledge to be privately owned by Palestinians. Peace Now, based on data provided by the Israeli government, found in 2007 that more than 30 percent of the land located within settlements is privately-owned Palestinian land, by the Israeli government’s own accounting.^[731] In addition, the Israeli rights group Kerem Navot estimates that more than 40 percent of the roughly 55,000 dunams of land outside the jurisdiction of settlement municipalities, that settlers use for agricultural activity, is acknowledged to be private Palestinian land.^[732]

Israeli authorities have relied on two primary legal tools to carry out confiscations of acknowledged private Palestinian property. First, authorities have expropriated land for public use, permanently stripping Palestinian landowners of their rights to it in return for some compensation.^[733] Second, the Israeli army, particularly during the first 12 years of its occupation, seized privately owned land in the West Bank for security purposes. These seizure orders did not change the title to the land, premised as they were on the assumption that the occupation is temporary. But while continuing to list the confiscated land as belonging to its Palestinian owners, Israeli authorities gave it to Israeli civilians while sharply restricting its Palestinian owners and their heirs from accessing it. Kerem

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Palestinian owners lands they seized and allocated to settlements prior to the court decision.

In addition, settlers have established settlements without any formal process or authorization from the Israeli military authorities, largely on the private property of Palestinians. Rather than demolish the buildings that settlers constructed on stolen land without permits, however, the authorities have, with a few notable exceptions, facilitated the land takeover by providing infrastructure, water, electricity, and other services.^[736] One hundred and fifty of such so-called outposts have been established across the West Bank since 1991, according to B'Tselem and Kerem Navot.^[737] Peace Now has documented 60 outposts established since 2012 alone.^[738] Israeli authorities retroactively granted legal status to 15 outposts between 2012 and early 2019,^[739] and Netanyahu has indicated that he intends to annex and incorporate outposts into Israel.^[740]

In February 2017, the Knesset passed a law allowing authorities to retroactively expropriate private Palestinian land on which settlements have been built. In June 2020, however, the Supreme Court struck it down as unconstitutional,^[741] finding that “less harmful tools” could achieve similar ends. These include a military order cited by the attorney-general in a submission to the court that recognizes as valid deals made in “good faith,” where authorities reasonably believed at the time of sale that the land was not privately owned by Palestinians.^[742] Attorney General Avichai Mandelblit began to cite this order in 2018 as a basis to legalize outposts,^[743] and estimated at the time that this mechanism would offer a pathway to formalizing the status of 80 percent of the remaining areas within settlements that do not have legal status.^[744]

Israeli military records show other parcels of land as sold by Palestinians to Israeli settlement entities. In many cases, though, settlers’ claims to the land they bought rely on dubious documents or sellers not legally entitled to sell the land in question, creating fraudulent sales.^[745] Even in cases in which Palestinian landowners genuinely sell land they owned to a settlement, such a transaction might involve duress because Israeli authorities fully or partially prevented the Palestinian owners from making use of the land before they sold it.

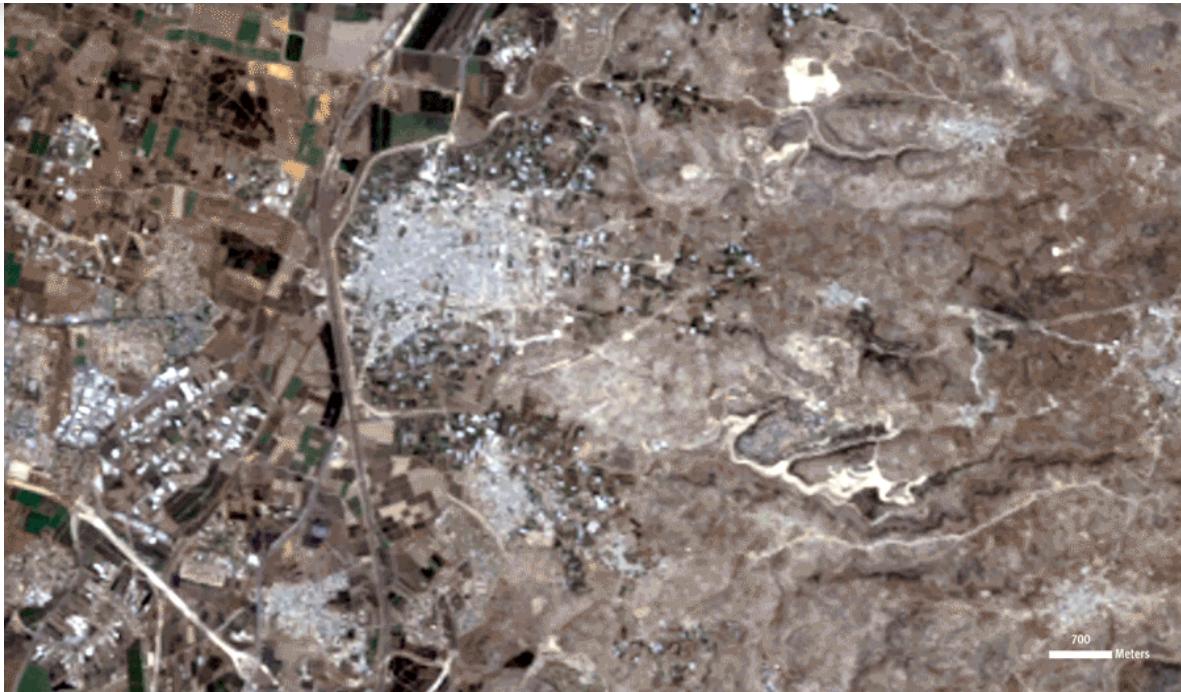
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one-third of the entire West Bank, as “closed military areas” as of March 2015, according to figures obtained by Kerem Navot.^[748] More than two-thirds of closed military areas, a category that includes both designated state land and acknowledged private Palestinian land, fall outside the formal jurisdiction of settlement municipalities. Kerem Navot found that of the more than half the land in these closed military areas that were closed ostensibly to be used for military training 78 percent is not actually used for training.^[749] Second, the Israeli army has issued formal no-construction orders, primarily along roads and parts of the separation barrier, on more than 488,600 dunams of Palestinian land in the West Bank, as documented by Kerem Navot.^[750]

Land grabs and restrictions confine the nearly 3 million Palestinians in the West Bank to densely populated enclaves. Israel maintains full control over the majority of the West Bank, including East Jerusalem and Area C. In Areas A and B, where Palestinians have a limited degree of self-rule and which comprises the remaining roughly 40 percent of the West Bank excluding East Jerusalem, it concentrates Palestinians, according to B’Tselem, into “165 non-contiguous ‘territorial islands.’”^[751]

The mass confiscation of Palestinian land and restrictions that block Palestinians from recovering what authorities seized from them or using their lands amount to the inhumane act of “expropriation of landed property” under the Apartheid Convention.^[752] The boxing of Palestinians into densely populated enclaves constitutes measures “designed to divide the population along racial lines by the creation of separate reserves and ghettos.”^[753]

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Israeli authorities built the separation barrier around the Palestinian city of Qalqilya in the occupied West Bank in 2003, constraining the movement of its residents and restricting their access to the half of their agricultural lands located on the other side of the barrier. Landsat-5 imagery courtesy of the U.S. Geological Survey. 2021.

Forcible Transfer and the Right to Residence (Area C of the West Bank and East Jerusalem)

Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in East Jerusalem and in the 60 percent of the West Bank under its exclusive control (Area C), effectively forcing Palestinians in need of housing or space to establish a business to leave these areas or to build at the risk of seeing their “unauthorized” structures bulldozed.^[754] More than 371,000 Palestinians live in East Jerusalem,^[755] while an estimated 300,000 Palestinians reside in Area C.^[756] Israel exercises complete control over planning procedures and construction in these areas and effectively prevents building outside built-up areas, constituting less than one percent of Area C and 15 percent of East Jerusalem (8.5 percent of the Jerusalem municipality), which are in many cases already densely populated,^[757] in order to maximize Jewish Israeli control over the land as documented in previous chapters of this report.^[758]

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Palestinians in Area C,^[760] and many Palestinians have stopped bothering to even apply for them.^[761] Meanwhile, Israeli authorities between 2000 and 2018 approved on average fewer than 400 construction permits a year for Palestinians in East Jerusalem.^[762]

Largely for lacking a permit, Israeli authorities have razed thousands of Palestinian properties. They have also demolished Palestinian homes as punishment imposed on those accused of attacking Israelis and as collective punishment of their families.^[763] From 2009 through 2020, Israeli authorities demolished 7,118 structures in East Jerusalem and Area C, displacing 10,493 people, according to OCHA.^[764] B'Tselem documented that Israeli authorities fully demolished in this same period 2,319 homes throughout the West Bank, including East Jerusalem, for lacking a building permit, leaving 9,053 people displaced.^[765] Israel has not offered resettlement options or compensation to families whose homes it demolished. Israeli authorities also carried out 84 punitive home demolitions during this period, acts that left 345 people without a home, according to B'Tselem.^[766] International humanitarian law prohibits an occupying power from destroying property unless “absolutely necessary” for “military operations” and prohibits all acts that constitute collective punishment.^[767]

These coercive policies affect many more Palestinians living in these areas, who face demolition orders and the prospect that authorities could at any time raze their homes. According to Israeli government data obtained by Bimkom, the Israeli government carried out about 21 percent of the more than 18,600 demolition orders it issued in the West Bank, not including East Jerusalem, between 1995 and March 2020.^[768] As of April 2021, the UN considered 46 Palestinian communities in the West Bank at “high-risk of forcible transfer due to a ‘relocation’ plan advanced by the Israeli authorities.”^[769]

These policies create a coercive environment that pressures Palestinians to leave East Jerusalem and Area C. By making it exceedingly difficult to remain, Israeli policies induce Palestinians in these communities to abandon their homes and livelihoods and relocate, usually to towns or cities under the administrative and civil control of the PA. Peace Now estimates that, although Palestinians constitute 90 percent of the population of the Jordan Valley, Israel effectively restricts them from building on about 94 percent of the territory.^[770] According to OCHA, between January 1, 2020, and December 31, 2020, Israel

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authorities have blocked residents, including Bedouin and herding communities, from accessing roads and agricultural lands, failed to provide electricity, sewage, water, and other utilities, and rejected their applications for such services. Many of these communities also have no reliable access to water sources and have to spend up to one-sixth of their income to purchase water from small, portable water tankers. These restrictions often result in children walking long distances for school and leaving residents with limited access to health care.^[776]

In addition, Israel has directly deported more than 1,500 Palestinians out of the OPT, largely before 1993, only some of whom they have permitted to return.^[777]

Israel's coercive policies in East Jerusalem and Area C of the West Bank amount to intentional forcible transfer of civilians within an occupied territory, defined as "the movement of individuals under duress from where they reside to a place that is not of their choosing,"^[778] a grave breach of the laws of war. The Rome Statute states that forcible transfer can occur "directly or indirectly," through coercive circumstances as well as direct force,^[779] and defines it, when carried out in a widespread or systematic manner, as a state policy, as a crime against humanity and one of the kinds of inhumane acts that make up the crime of apartheid.^[780] The Israeli policies in these areas, which have coerced thousands to leave their homes and put tens of thousands more at risk, amount to forcible transfer under the terms of the Rome Statute. By denying building permits for houses, schools, clinics, and infrastructure and demolishing homes and entire areas, these policies suffocate communities and constitute "the deliberate creation of conditions preventing the[ir] full development."^[781]

Denial of Residency and Nationality

Israeli authorities have denied millions of Palestinians the right to residency and nationality through its control over population registries, the granting of legal status and residency rights, and entry and exit to Israel and the OPT.

West Bank and Gaza

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Israeli authorities have primarily done so through their ongoing control of the population registry—the list of Palestinians whom authorities consider lawful residents of the OPT. Israel requires Palestinians to be included in the population registry to obtain Israeli-sanctioned identification cards and passports, which allow Palestinians to reside, work, and inherit property, but do not convey citizenship or nationality. Israeli security forces manning checkpoints require Palestinians to present an identification card before allowing passage for travel within the OPT, including to schools, jobs, hospitals or to visit family.^[783] Egyptian authorities also require Palestinians to present an identification card or passport to enter or exit via the Rafah crossing.^[784]

Israeli authorities base the population registry on a census it conducted in the West Bank and Gaza in September 1967, several months after it took control of these areas. The census counted 954,898 Palestinians as physically present,^[785] but excluded at least 270,000 Palestinians who had been living there before 1967, but were absent during the census, either because they had fled during the 1967 war or were abroad for study, work, or other reasons.^[786] Israeli authorities did not include these Palestinians in the population registry, requiring them to obtain visitor permits to return to their homes and denying entry to many, including all men aged 16 to 60, during the early years of the occupation.^[787] Israeli authorities set up a restrictive family reunification process that operated until 2000 based on low annual quotas and subject to arbitrary and evolving criteria that failed to take into account genuine familial or historical ties.^[788]

Between 1967 and 1994, Israeli authorities struck from the registry thousands of Palestinians who traveled and stayed abroad for long periods. During this period, it permanently canceled the registry of 140,000 registered Palestinians, solely because they left the West Bank for a period of more than three years, according to data from the Office of the Coordinator of Government Activities in the Territories (COGAT), the Israeli army body in charge of administering the occupied West Bank. Authorities also during this same period revoked the residency of 108,878 Palestinians from Gaza either for staying abroad for more than seven years or for not being present during censuses conducted in 1981 and 1988.^[789] A survey conducted in 2005, on behalf of B'Tselem, estimated that more than 610,000 Palestinians in the West Bank and Gaza had a parent, sibling, child, or

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residency by unregistered Palestinians, their spouses, and close relatives, even if they had lived in the West Bank or Gaza for years and had families, homes, jobs, or other ties there.

^[792] Israel entirely froze the “family reunification” process by which Palestinians apply to grant legal status to join immediate relatives or spouses not registered in the population registry.^[793] Israeli authorities have cited the security situation following the outbreak of the second *Intifada* as the rationale for the freeze,^[794] but they have not explained why their blanket refusal to process new applications is necessary for security reasons. They simply refuse to process any new application without an explanation or to review whether the particular individual presents a security threat.

The freeze has remained in place since 2000, outside of processing about 35,000 family unification applications in the late 2000s as a “diplomatic gesture” to the PA.^[795] The PA’s Civil Affairs Ministry estimated that, between September 2000 and August 2005 alone, it relayed more than 120,000 applications for family reunification that Israeli authorities did not process.^[796] The Israeli Supreme Court opted in 2019 not to force the army to end its freeze, following a challenge by the Israeli rights group HaMoked.^[797] The two-decade-old freeze has meant that Israeli authorities have stopped registering most categories of people, with the exception of children who had at least one registered Palestinian parent.

Israeli authorities have also systematically barred entry to Israel and the West Bank over the last two decades of non-registered Palestinians who lived or used to live in the West Bank and their non-registered spouses and other family members.^[798]

Israel’s refusal to update the population registry has applied even to requests to change addresses, which made the presence of Palestinians living in the West Bank, but registered in Gaza, illegal.^[799] Most entered the West Bank on temporary permits, which have long since expired. In 2010, the Israeli army estimated that at that time around 35,000 Palestinians from Gaza were living in the West Bank with expired permits.^[800] Israeli law considers Palestinians with expired permits as unlawful “infiltrators,”^[801] and authorities have removed dozens back to Gaza.^[802] Those who remain cannot freely move within the West Bank, fearing arrest at checkpoints and forcible return to Gaza, and often face difficulties registering at schools or universities, doing business, or owning property.

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1967, it has applied its 1952 Law of Entry to Palestinians from there and designated them as “permanent residents,” the same status afforded to a foreigner who wants to live in Israel. Permanent residents may live, work, and receive benefits, but that status derives from their presence, can be revoked at the Interior Ministry’s discretion, and does not automatically pass to one’s children or non-resident spouse even if they have lived in Jerusalem for years.^[803] A path to citizenship exists for Palestinian Jerusalemite permanent residents, but the vast majority have chosen not to pursue it, as it involves recognizing Israel, the occupying power, as the legitimate sovereign. The vast majority of those who applied did not receive citizenship. Authorities rejected many applicants for failing to demonstrate that Israel, and not the West Bank, was their “center of life,” or for their having a criminal record, insufficient knowledge of Hebrew, or “lack of loyalty [to Israel].”^[804] Others never received a response to their applications.

Between the start of Israel’s occupation of East Jerusalem in 1967 and the end of 2020, Israel revoked the permanent resident status of at least 14,701 Palestinians from East Jerusalem.^[805] Authorities have justified most revocations based on a failure to prove a “center of life” in Jerusalem, targeting those it said had been living in other parts of the OPT outside Jerusalem’s municipal borders or who had studied or lived abroad for extended periods of time. Others lost their residency after obtaining permanent residency or citizenship in another country. The number of revocations has dropped since 2015 when the Interior Ministry said it would adopt “a more lenient approach” that would maintain the residency of Palestinian Jerusalemites who “maintain a connection” to the city.^[806] Authorities have, though, in recent years revoked status to punish Palestinians accused of attacking Israelis and as an act of collective punishment against their relatives.^[807]

Each revocation often has a much wider impact, as the families of persons who lose their status often accompany them as they leave the city, and other Palestinians have to adjust their lives to safeguard their precarious status. Palestinians from East Jerusalem have told Human Rights Watch that the fear of losing this status weighs on their daily life, determining where families live and deterring them from pursuing educational and professional opportunities abroad.^[808] By pushing Palestinians to leave their home city,^[809]

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petition the Interior Ministry to recover their status, during which time they can obtain a temporary status to remain in Jerusalem. Some Palestinians have succeeded in reinstating their status, but only after protracted legal and administrative processes that many cannot afford.^[810]

In a March 2017 decision, the Supreme Court ruled that Palestinians from East Jerusalem enjoy “special status” as “native residents” that authorities should account for in determining their status.^[811] But Israeli policy continues to fail to do that in practice.

Mass Suspension of Civil Rights (West Bank, Gaza)

Israeli authorities have deprived generations of Palestinians in the OPT of their basic civil rights, including the rights to free assembly, association, and expression. In particular, authorities have targeted Palestinians for their anti-occupation speech, activism, and affiliations, jailing thousands, outlawing hundreds of political and non-government organizations, and shutting down dozens of media outlets.^[812]

In the West Bank, the army continues to rely on draconian military orders issued in the early days of the occupation to criminalize non-violent political activity. Authorities, for example, continue to apply British Mandate-era regulations that allow them to declare unlawful groups that advocate “bringing into hatred or contempt of, or the exciting of disaffection against” local authorities and to arrest Palestinians for affiliation with such groups.^[813] As of March 2020, the Israeli Defense Ministry maintained formal bans against 430 organizations, including the Palestine Liberation Organization that Israel signed a peace accord with, its ruling Fatah party, and all the other major Palestinian political parties.^[814] The army prosecuted 1,704 Palestinians in the West Bank for “membership and activity in an unlawful association” between July 1, 2014, and June 30, 2019, according to data it provided Human Rights Watch.^[815]

In addition, the army regularly uses military orders permitting it to shut down unlicensed protests or to create closed military zones to suppress peaceful Palestinian demonstrations in the West Bank and detain participants.^[816] One military order, for

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The army has further cited the broad definition of incitement in its military laws, defined to include “praise, sympathy or support for a hostile organization” and “attempts, orally or otherwise, to influence public opinion in the Area in a manner which may harm public peace or public order,” to criminalize speech merely opposing its occupation.^[819] The army acknowledged prosecuting 358 Palestinians in the West Bank for “incitement” between mid-2014 and mid-2019.^[820]

While the law of occupation permits occupiers to restrict some civil and political rights based on limited security justifications, the decades-long mass suspension of basic civil rights for Palestinians in the OPT with no end in sight amounts to measures “calculated to prevent” their “participation in the political, social, economic and cultural life” and create “conditions preventing the[ir] full development” by denying them the rights to freedom of expression, peaceful assembly, and association, specifically identified in the Apartheid Convention.^[821] When the sweeping restrictions result in unlawful arrests, they also constitute a denial of the right of liberty by virtue of “arbitrary arrest and illegal imprisonment” under the Apartheid Convention.

Other Abuses in Israel

Separately from the inhumane acts committed in the OPT, the Israeli government has carried out other abuses against Palestinians within its pre-1967 borders.

Land Expropriation and Restrictions

Beginning in 1948 and in subsequent decades, Israeli authorities seized several million dunams of land from Palestinians inside Israel. Many of the most serious abuses described in this subsection, involving the massive confiscation of land from Palestinian citizens of Israel, occurred between 1948 and 1966. While the plight of Palestinians in Israel has generally improved since the lifting in 1966 of the martial law that Israeli authorities imposed on them for the first 17 years of the country’s history, these violations are

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and the lack of formal registration of much of the land in the land registry before 1948.^[822]

The pre-eminent historians of the era, though, largely estimate that Israeli authorities confiscated at least 4.5 million dunams of land from Palestinians, constituting an estimated 65 to 75 percent of all land owned by Palestinians before 1948, including 40 to 60 percent of the land belonging to Palestinians who remained and became Israeli citizens.^[823] Some historians also estimate that of the 370 Jewish towns and villages established by the Israeli government between 1948 and 1953, 350 were built on land confiscated from Palestinians.^[824] Much of the confiscation took place between 1949 and 1966. During these years Israel subjected most Palestinians in Israel to military rule, confined them to dozens of enclaves, and severely restricted their movement. *Haaretz* reported, based on declassified government documents, that Israeli officials lifted military rule in 1966 only after they had ensured that internally displaced Palestinians “could not return to the villages they had fled or been expelled from.”^[825]

Israeli authorities used principally two mechanisms to seize land belonging to Palestinians in Israel. First, in 1950, the Knesset, building on emergency regulations issued in December 1948 to authorize land confiscations, passed the Absentees’ Property Law that allowed the state to confiscate the land and homes of Palestinians not present on their property in 1947 and 1948 amid the fighting in the events surrounding the establishment of Israel and who had fled or were expelled to one of several neighboring or nearby Arab countries or to “any part of Palestine outside the area of Israel,” including those places “in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment.”^[826] Israeli authorities applied the law to take hold of most of the land belonging to the hundreds of thousands of Palestinian refugees who came to reside outside of Israel, as well as land belonging to Palestinians internally displaced as a result of the events of 1947 and 1948. Israeli authorities placed the land under the control of the Custodian for Absentees’ Property and eventually converted it to state land, almost exclusively used to build new Jewish communities.^[827] Israeli authorities have also used the Absentees’ Property Law to take control of land belonging to Palestinians in occupied East Jerusalem.^[828]

Second, the Israeli government declared many Palestinian towns and villages, particularly

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as one historian wrote, or compensation based on rates so low that Israel's then-Foreign Minister and later Prime Minister Moshe Sharett referred to them as a "scandalous robbery."^[830]

In a 2005 report, the Global IDP Project of the Norwegian Refugee Council estimated based on a review of a range of sources that there were at the time between 150,000 and 300,000 Palestinians in Israel internally displaced from the events surrounding the establishment of Israel.^[831] The UN Committee on Economic, Social and Cultural Rights (CESCR) found in 1998 that most of what they estimated to be around 200,000 internally displaced Palestinians, who they refer to as "present absentees," continue to be displaced and dispossessed within the State because their lands were confiscated and not returned to them.^[832]

Israeli authorities continue to block Palestinian citizen landowners from accessing or using land that they confiscated from them.^[833] For example, in November 1948, Israeli forces expelled residents from the village of Iqrit, near the Lebanon border, after fighting in the area had largely ended and soon after declaring Iqrit a closed military area.^[834] Residents, most of whom remained internally displaced inside Israel, filed a legal challenge against their displacement and, in 1951, the Israeli Supreme Court ruled that residents should be allowed to return to their homes.^[835] However, before the order could be carried out and two months before another Supreme Court hearing on the case, the army blew up all the houses still standing in the village.^[836] Residents have continued to seek to return, but the government has continued to block them, claiming in the 1960s, for example, that return would constitute a security risk.^[837] In 2003, the Israeli Supreme Court rejected a new petition by residents to return, determining the issue to be "political" and therefore deferring to the government, which had determined that permitting Iqrit residents to return would "harm the country's important interests."^[838] The court, though, noted that residents were entitled to either compensation or allocation of an alternative parcel of land, conditions the residents had previously refused.^[839]

Land confiscations and discriminatory land and housing policies have created a situation where the majority of Palestinian citizens of Israel, who make up around 19 percent of Israel's population^[840] live in crowded Palestinian municipalities, which have jurisdiction

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tens of thousands of Palestinian Bedouins residing in the Negev to live lawfully in the communities they have lived in for decades.^[842] Dating back to the formulation of the state's first formal plans in the 1960s, authorities have refused to legally recognize 35 Bedouin communities in the Negev, forcing their 90,000 or so residents, constituting more than 28 percent of the Bedouin population in the Negev, to live under constant threat of demolition.^[843] Israeli law considers all buildings in these unrecognized villages illegal and authorities have refused to connect most to the national electricity or water grids or provide basic infrastructure, such as paved roads or sewage systems.^[844] The communities do not appear on official maps, most have no educational facilities or basic infrastructure, and, without recognized addresses, residents cannot register to participate in local elections.^[845]

Israeli authorities have demolished thousands of Bedouin homes, many consisting of no more than tents or shacks, over the course of decades. According to government data, between 2013 and 2019, 10,697 structures belonging to Palestinian Bedouins were demolished in the Negev, including 2,241 in 2019 alone, the majority by owners themselves in the face of demolition orders and under threat of significant penalty.^[846] Israeli authorities have razed one unrecognized village that has been embroiled in a years-long legal battle with the state, al-Araqib, 185 times.^[847] In a 2007 letter to Human Rights Watch, the Justice Ministry said it considered there to be 45,000 illegal structures in the Negev at that time.^[848]

For years, authorities have sought to concentrate Bedouins living in the Negev in government-planned townships in order to maximize the land available for Jewish communities.^[849] Many Bedouins, though, see the development of these townships as an effort to extinguish their land claims elsewhere in the Negev and do not view them as acceptable residential options, given their lack of involvement in their development and concerns about overcrowding and government neglect.^[850] Those efforts continue; according to the rights group Adalah, a 2019 government plan would displace 36,000 Bedouins in order to expand military training areas and establish "economic development" projects.^[851]

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^[852] The temporary order, enacted by the Knesset in July 2003, renewed every year since and upheld by the Israeli Supreme Court, prohibits with few exceptions the granting of residency or citizenship to Palestinian ID holders, even if married to an Israeli citizen or permanent resident.^[853] While Israeli authorities already restricted family reunification before 2003, this law has brought the process to a near halt.^[854]

The law denies Israeli citizens and residents, both Jewish and Palestinian, who marry Palestinian residents of the West Bank and Gaza the right enjoyed by other Israelis to live with their loved ones in the place of their choosing. This denial is based on the spouse's ethnicity rather than on an individualized assessment of security risk. If an Israeli marries a foreign spouse who is Jewish, the spouse can obtain citizenship automatically. Other foreigners can receive immediate status and normally become eligible for citizenship after living in Israel for several years.^[855] Palestinian men over 35 and women over 25 from the West Bank and Gaza married to Israeli citizens or residents can apply for temporary, renewable visitor permits, but authorities have denied many of those applications.^[856]

The law forces a difficult choice for the thousands of couples—30,000 where one spouse is a Palestinian citizen of Israel, according to the Mossawa Center—who marry despite these restrictions. They must either live separately or have the Israeli citizen or resident spouse move to the West Bank, despite Israeli military orders prohibiting Israelis from living in Area A.^[857] Moreover, moving to the OPT has led Palestinian Jerusalemites to lose their residency status and jeopardizes the eligibility of both Israeli citizens and residents to exercise rights related to residency or citizenship such as the right to receive social security benefits. This difficult choice has splintered thousands of families.^[858]

Palestinian Refugees

Israel's Citizenship Law of 1952 denies citizenship and residency rights to the more than 700,000 Palestinians who resided before 1948 in the territory that is now Israel and who fled or were expelled during the events of 1948, and to their descendants.^[859] Restrictive Israeli policies also block refugees from neighboring countries from legally residing even in the OPT.^[860] International human rights law guarantees to refugees and exiles the right

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Conclusion

Israeli authorities have deprived millions of people of their basic rights by virtue of their identity as Palestinians. These longstanding policies and systematic practices box in, dispossess, forcibly separate, marginalize, and otherwise inflict suffering on Palestinians.

In the OPT, movement restrictions, land expropriation, forcible transfer, denial of residency and nationality, and the mass suspension of civil rights constitute “inhuman[e] acts” set out under the Apartheid Convention and the Rome Statute. Under both legal standards, inhumane acts when carried out amid systematic oppression and with the intent to maintain domination make up the crime against humanity of apartheid.^[865]

Collectively, these policies and practices in the OPT severely deprive Palestinians of fundamental human rights, including to residency, private property, and access to land, services, and resources, on a widespread and systematic basis. When committed with discriminatory intent, on the basis of the victims’ identity as part of a group or collectivity, they amount to the crime against humanity of persecution under the Rome Statute and customary international law.

Separately from the inhumane acts carried out in the OPT, the Israeli government violates the rights of Palestinians inside Israel on account of their identity, including measures that have made it virtually impossible for tens of thousands of Palestinian Bedouins living in the Negev to live lawfully in the communities; the denial to hundreds of thousands of Palestinians of the ability to access or use land confiscated from them historically; the effective bar on citizens and residents obtaining long-term legal status to and thereby living permanently together in Israel with spouses from the West Bank and Gaza, which deprives them of the ability to live together permanently in Israel; and the denial of residency rights to Palestinians who fled or were expelled from their homes in the events around the establishment of the state.

These abuses continue and there is no indication that authorities have investigated, much

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Recommendations

These recommendations stem from Human Rights Watch's finding that Israeli authorities are committing the crimes against humanity of apartheid and persecution.

Human Rights Watch found that the Israeli government has pursued an intent to maintain the domination of Jewish Israelis over Palestinians throughout the territory it controls. In the OPT, including East Jerusalem, that intent has been coupled with systematic oppression of Palestinians and inhumane acts committed against them. When these three elements occur together, they amount to the crime of apartheid.

Israeli authorities are also committing the crime against humanity of persecution based on the discriminatory intent behind Israel's treatment of Palestinians and the grave abuses it has carried out in the OPT.

To the State of Israel

- Dismantle all forms of systematic oppression and discrimination that privilege Jewish Israelis at the expense of Palestinians and otherwise systematically violate Palestinian rights in order to ensure the dominance of Jewish Israelis, and end the persecution of Palestinians, including by ending discriminatory policies and practices in such realms as citizenship and nationality processes, protection of civil rights, freedom of movement, allocation of land and resources, access to water, electricity, and other services, and granting of building permits.
- Fully respect the human rights of Palestinians, including those in the OPT, as well as the protections owed to Palestinians in the OPT under international humanitarian law.
- Cease construction and expansion of settlements, dismantle existing settlements, and bring Israeli citizens inhabiting settlements in the West Bank, including East

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- Permit Palestinians from the West Bank and Gaza to move freely into East Jerusalem, subject to, at most, individual screenings and physical searches for security purposes.
- End discrimination in the application of planning, permit, and building laws and regulations that subject Palestinians to discriminatory permit refusals and demolition orders.
- Provide equitable access to land, housing, and essential services for Palestinians.
- Dismantle the segments of the Separation Barrier not built along the Green Line but, rather, inside the OPT.
- Repeal discriminatory laws and legal provisions in favor of legislation that is rooted in the principle of equality and conforms to international human rights standards, including:
 - The Citizenship and Entry into Israel Law (Temporary Order)—2003, which allows Israeli citizens and residents to obtain legal status for their non-Israeli spouses, but not if the spouses are Palestinians from the West Bank and Gaza, who are explicitly ineligible under this law with few exceptions;
 - Provisions in the 2011 Admission Commissions Law that effectively allow discrimination by residents of small towns inside Israel against prospective residents on the basis of their race, ethnicity, or national origin;
 - Provisions in the Basic Law: Israel as the Nation-State of the Jewish People that discriminate between Jews and non-Jews with regard to the right to self-determination and to housing.
- Remove arbitrary restrictions on residency rights for Palestinian residents of East Jerusalem, the West Bank, and the Gaza Strip and their families, including by stopping the practice of revoking the residency of Palestinians in East Jerusalem, ending the effective freeze on family reunification applications in the West Bank and Gaza since 2000, and allowing Palestinians to resettle in other parts of the OPT

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- Cooperate with and heed the recommendations of UN bodies and human rights mechanisms.
- Ratify the Rome Statute and incorporate crimes against humanity, including the crimes of persecution and apartheid, into national criminal law with a view to investigate and prosecute individuals credibly implicated in these crimes.

To the Palestinian Liberation Organization

- Adopt an advocacy strategy centered on the immediate attainment of the full human rights of Palestinians, rather than one that puts off attainment of human rights in favor of a particular political outcome.

To the Palestinian Authority

- Cease all security coordination with the Israeli army that contributes to facilitating the crimes of apartheid and persecution in the OPT.
- Incorporate crimes against humanity, including the crimes of persecution and apartheid, into national criminal law.

To the International Criminal Court Office of the Prosecutor

- Investigate and prosecute individuals credibly implicated in the crimes against humanity of apartheid or persecution.

To Members of the United Nations

- Establish through the UN an international commission of inquiry to investigate

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- Establish a UN Committee of representatives of member states to assess the findings of the international commission of inquiry, regularly review compliance with the commission of inquiry's recommendations, and recommend further action as needed.
- Recommend, given the deadlock on this issue at the UN Security Council, that member states and blocs of states impose unilateral measures in the form of targeted sanctions, including travel bans and asset freezes, against officials and entities credibly implicated in the crimes of apartheid and persecution; unilaterally condition arms sales and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution of Palestinians; and subject agreements, cooperation schemes, and all forms of trade and dealing with Israel to enhanced due diligence to screen for those directly contributing to the commission of the crimes of apartheid and persecution of Palestinians, mitigate the human rights impacts and, where not possible, end those activities and funding found to contribute to facilitating these serious crimes.
- Establish through the UN a position of UN global envoy for the crimes of persecution and apartheid with a mandate to advocate for their end and identify steps that states and judicial institutions should take to prosecute these crimes. Once established, request the UN Security Council to invite the envoy to participate in quarterly briefings on the situation in the Middle East.

To All States

- Issue individual and collective public statements expressing concern about Israeli authorities' commission of the crimes of apartheid and persecution.
- Subject agreements, cooperation schemes, and all forms of trade and dealing with Israel to enhanced due diligence to screen for those directly contributing to the commission of crimes of apartheid and persecution of Palestinians, mitigate the

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the crimes of apartheid and persecution.

- Incorporate the crimes against humanity of apartheid and persecution into national criminal law with a view to investigate and prosecute individuals credibly implicated in these crimes.
- Investigate and prosecute those credibly implicated in the crimes of persecution and apartheid, under the principle of universal jurisdiction and in accordance with national laws.
- Consider including calls for Israel to grant Palestinians in the occupied territory civil rights at least equal to those it grants its own citizens in publications, reports, and policy positions and to assess Israel's conduct on this basis, as Human Rights Watch has outlined in a separate publication.^[867]

To the President of the United States

- Issue a public statement of concern regarding Israeli authorities' commission of the crimes of apartheid and persecution.

To the United States Department of State, Department of Defense and Department of Treasury

- Condition military and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution.
- Conduct an assessment of and release a public report on the use of US-origin weapons and/or equipment, or Israeli weapons and/or equipment purchased with US funds, to contribute to the commission of the crimes of apartheid and persecution, or to facilitate violations of international human rights or humanitarian law. If and when further assistance is provided, ensure that no funding goes to units where there is credible information implicating them in the

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including the crimes of apartheid and persecution.

To the United States Congress

- Issue public statements of concern regarding Israeli authorities' commission of the crimes of apartheid and persecution.
- If the US executive branch fails to condition military and security assistance to Israel, Congress should legislate accordingly to condition military and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution.
- Request a report from the Government Accountability Office (GAO) on how US support to Israel, including funds, weapons, and equipment, is used to contribute to the commission of the crimes of apartheid and persecution; request that the GAO include in its report an investigation into the degree to which the US Departments of State and Defense are able to conduct appropriate human rights vetting of Israeli military units.
- Ensure that all offices tasked with ensuring compliance under the Leahy Laws at the Departments of State and Defense have adequate funding and staff.

To the European Union and its Member States

- Issue public statements of concern regarding Israeli authorities' commission of the crimes of apartheid and persecution.
- Conduct a holistic assessment of the implications for EU and member states relations with Israel arising from the findings of the crimes of apartheid and persecution, identifying in particular the legal consequences and obligations under EU and international law that apply to EU institutions, member states and EU-based private businesses, and the steps that should be taken accordingly, and make such assessment public.

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- Impose targeted sanctions against individuals and entities found to be responsible for the continued commission of grave international crimes, including apartheid and persecution.
- Condition military and security assistance to Israel on Israeli authorities taking concrete and verifiable steps towards ending their commission of the crimes of apartheid and persecution.
- Support the establishment of a Commission of Inquiry by the UN to investigate all forms of systematic discrimination or repression based on group identity in Israel or the OPT.
- Support the establishment of a UN envoy on the crimes of apartheid and persecution.

To the European Parliament

- Urge for the European Commission, the European External Action Service and EU member states to take the steps outlined above and request the EU High Representative and the Commission to keep the Parliament informed about next steps.

To businesses active in Israel and the OPT

- Cease business activities that directly contribute to the crimes of apartheid and persecution.
- Assess whether their goods and services contribute to the crimes of apartheid and persecution, such as equipment used in the unlawful demolition of Palestinian homes, and cease providing goods and services that will likely be used for such purposes, in accordance with the UN Guiding Principles on Business and Human Rights.

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