



**International Covenant on Economic, Social and Cultural
Rights
(ICESCR)**

PARALLEL REPORT

**To the Committee on Economic, Social and Cultural Rights
on the Occasion of
the Consideration of the Third Periodic Report of Israel**

**47th Session
14 November – 2 December 2011**

Al-Haq
Occupied Palestinian Territory, 1 September 2011

This Parallel Report is submitted by Al-Haq and endorsed by:

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1. INTRODUCTION

1. The authors of this Parallel Report greatly welcome the opportunity provided by the Committee on Economic, Social and Cultural Rights (hereinafter the **Committee**) to submit an alternative report containing information which is of relevance to its review of Israel's Third Periodic Report on its implementation of the International Covenant on Economic, Social and Cultural Rights (hereinafter **Covenant**), and in particular Israel's response to the List of Issues identified by the Committee from 9 December 2010 (hereinafter **List of Issues**).

1.1. Submitting Party

2. **Al-Haq** is an independent Palestinian non-governmental human rights organisation based in Ramallah, West Bank. Established in 1979 to protect and promote human rights and the rule of law in the Occupied Palestinian Territory (OPT), Al-Haq documents violations of the individual and collective rights of Palestinians in the OPT, irrespective of the identity of the perpetrator, and seeks to end such breaches by way of advocacy before national and international mechanisms and by holding the violators accountable. The organisation conducts research; prepares reports, studies and interventions on breaches of international human rights and humanitarian law in the OPT; and undertakes advocacy before local, regional and international bodies. Al-Haq also cooperates with Palestinian civil society organisations and governmental institutions in order to ensure that international human rights standards are reflected in Palestinian law and policies.

3. Al-Haq is the West Bank affiliate of the International Commission of Jurists - Geneva, and is a member of the Euro-Mediterranean Human Rights Network (EMHRN), the World Organisation Against Torture (OMCT), the International Federation for Human Rights (FIDH), Habitat International Coalition (HIC), and the Palestinian NGO Network (PNGO).

1.2. Scope of the Parallel Report

4. As a leading human rights organisation based in the OPT, Al-Haq respectfully submits this Parallel Report to bring to the attention of the Committee Israel's lack of compliance with the Covenant. In this regard, the report will highlight house demolitions and forced evictions carried out in the OPT, as well as actions and omissions that result in Israel's denial of access to Palestinians of health and medical care. This report will also focus on Israel's lack of compliance with the right to work and underline its denial of access to Palestinians of education and cultural and holy sites.

5. It should be noted that this Parallel Report does not address all the issues identified by the Committee. The findings in this Parallel Report are based on Al-Haq's monitoring and documentation activities; when necessary, information from other sources – such as Palestinian and international NGOs and other actors in civil society – has also been incorporated. Since part of the scope of the Covenant as well as the List of Issues may be outside the direct expertise of Al-Haq, the authors have opted not to comment on these issues. However, the limitations of this report should not be understood to imply that Israel complies or does not comply with articles of the Covenant that are not mentioned here.

6. This report identifies general trends and policies in regard to Israel's lack of compliance

with the Covenant in a topic-by-topic format along the lines of the List of Issues. Under each topic, a general trend section provides an overview of the legal obligations that Israel has violated with respect to the Covenant. The vast majority of the claims made in this report are substantiated by Al-Haq's field information, *inter alia* in the form of client affidavits, which are available to the Committee in English and Arabic upon request.

7. In submitting this report to the Committee, the authors wish to provide information which is of relevance to the Committee's review of Israel's Third Periodic Report on the implementation of the Covenant, and in particular Israel's response to the Committee's List of Issues.

2. GENERAL OBSERVATIONS

2.1. Applicability of the Covenant and Israel's Legal Obligations in the OPT

8. The authors wish to bring to the attention of the Committee Israel's continuous refusal to report on the human rights situation in the OPT (West Bank, including Jerusalem, and the Gaza Strip) despite the Committee's expressed concerns in this regard.¹

9. Israel is under a clear obligation to respect and protect the rights of the Palestinian population in the OPT, in accordance with its obligations as an Occupying Power under international humanitarian law. The International Court of Justice deliberated upon this matter in its 2004 Advisory Opinion on the *Legal Consequences Arising from the Construction of the Wall in the Occupied Palestinian Territory*.² The ICJ held that "Israel is bound by the provisions of the International Covenant on Economic, Social and Cultural Rights" and that Israel is "under an obligation not to raise any obstacle to the exercise of such rights in those fields where competence has been transferred to Palestinian authorities."³

10. The Committee itself reaffirmed this position when it reiterated that Israel is bound by the Covenant towards all Palestinians in the OPT; "in its view, the State party's obligations under the Covenant apply to all territories and populations under its effective control."⁴ The Committee also repeated "its position that even in a situation of armed conflict, fundamental human rights must be respected and that basic economic, social and cultural rights, as part of the minimum standards of human rights, are guaranteed under customary international law and are also prescribed by international humanitarian law. Moreover, the applicability of rules of humanitarian law does not by itself impede the application of the Covenant or the accountability of the State under **Article 2 (1)** for the actions of its authorities."⁵

11. In fact, all UN treaty bodies mandated to monitor compliance with Israel's treaty obligations have categorically held that human rights treaties ratified by Israel apply to the OPT. More recently, the Human Rights Council called upon Israel immediately to abide by "international protection for the Palestinian people in the Occupied Palestinian Territory, in compliance with international human rights and humanitarian law, applicable in the Occupied Palestinian Territory, including East Jerusalem."⁶

¹ UN Committee on Economic, Social and Cultural Rights (UN CESCR), 'Concluding Observations: Israel' (4 December 1998), UN Doc. E/C.12/1/Add.27, paragraph 11
<<http://www.unhcr.org/refworld/docid/3f6cb4367.html>> accessed 27 July 2011.

² *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion) ICJ Rep 2004, paragraphs 102 – 113.

³ *Ibid*, paragraph 112.

⁴ UN CESCR, 'Concluding Observations: Israel' (26 June 2003), UN Doc. E/C.12/1/Add.90, paragraph 31
<<http://www.unhcr.org/refworld/docid/3f242abc7.html>> accessed 27 July 2011.

⁵ *Ibid*.

⁶ UN Human Rights Council (UN HRC), 'The grave human rights violations by Israel in the Occupied Palestinian Territory, including East Jerusalem', Resolution (13 April 2011), UN Doc. A/HRC/RES/16/29
<<http://www.unhcr.org/refworld/docid/4dbff8e02.html>> accessed 27 July 2011.

12. In the Human Rights Committee's recent consideration of Israel's Third Periodic Report to the Committee, it scrutinised Israel's position on the application of the International Covenant on Civil and Political Rights (ICCPR) in the OPT.⁷ Israel stated that it did not report on the implementation of the ICCPR in the OPT "for several reasons, ranging from legal considerations to the practical reality", and noted that it does not consider the Gaza Strip as occupied territory as a result of the "disengagement" in 2005. The Committee and the participants of the session expressed concern about Israel's failure to comply with its obligations under international law by applying the ICCPR to the OPT.

13. The Gaza Strip continues to be considered occupied territory under international law; this having been confirmed by a number of UN resolutions and reports, as well as countless opinions by international legal experts.⁸ Israel's military withdrawal from the Gaza Strip alone does not render the Gaza Strip unoccupied. Israel continues to maintain its effective control over the Gaza Strip through different means, such as control over air space, sea space and the international borders, and it these facts on the ground that determine the legal status of the territory. The State party's relentless illegal blockade on the Gaza Strip and its complete control over its borders provide clear evidence of Israel's continuing effective control of the territory.

14. Despite numerous confirmations by UN bodies and experts that Israel is under an unequivocal obligation to ensure the enjoyment of the provisions of the Covenant in the OPT, Israel continues to reject its responsibilities as an Occupying Power and fails to guarantee the human rights of the Palestinian population in occupied territory.

15. The authors reiterate the obligation of Israel, as an Occupying Power, to implement the Covenant in respect to the entirety of the OPT occupied since 1967 (West Bank, including East Jerusalem, and the Gaza Strip) and to afford Palestinians their rights as enshrined therein. Furthermore, the authors affirm that Palestinians are entitled to their **right to self-determination**, as set forth in **Article 1 of the Covenant**. Israel's denial of the Palestinian right to self-determination has effectively blocked Palestinians' realisation of other rights enshrined within the Covenant.

The authors recommend the Committee to remind the State party of their obligation to respect, protect and ensure access to the economic, social and cultural rights of all populations in all territories under its effective control.

The authors also recommend the Committee to urge the State party to include information on the human rights situation of the Palestinians in the West Bank, including East Jerusalem, and the Gaza Strip, in their next periodic report.

The authors furthermore recommend the Committee to urge the State party to respect and protect the right to self-determination of the Palestinian population in the OPT.

⁷ Human Rights Committee (HRC), 'Concluding Observations: Israel' (29 July 2010), UN Doc. CCPR/C/ISR/CO/3, paragraph 5 <<http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc>> accessed 27 July 2011.

⁸ See UN HRC, 'Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance' (27 September 2010), UN Doc. A/HRC/15/21; UN HRC, 'Report of the United Nations Fact Finding Mission on the Gaza Conflict' (15 September 2009), UN Doc. A/HRC/12/48, 85, paragraph 276; League of Arab States, 'Report of the Independent Fact-Finding Committee on Gaza: No Safe Place' (30 April 2009), 16, <<http://www.arableagueonline.org>>; See also, John Reynolds, Shane Darcy, "Otherwise Occupied": The Status of the Gaza Strip from the Perspective of International Humanitarian Law' (2010), 15 *Journal of Conflict and Security Law*, 2.

2.2. Discrimination in the Enjoyment of Economic, Social and Cultural Rights between Palestinians and Settlers in the OPT

16. The authors wish to bring to the attention of the Committee Israel's application of a completely different set of laws and policies to the settler population than it does to the local Palestinian population present in the OPT. The State party facilitates this dual-legal regime through the illegal extra-territorial application of its laws to the Israeli settler population in the OPT.

17. Israel's settlement policy is the source of a host of severe and systematic human rights violations against the local Palestinian population. The State party's extensive land appropriations and its facilitation of settlers' aggressive control over this land results in the confiscation and destruction of Palestinian property and severe restrictions on freedom of movement, which negatively impact Palestinian rights to work, housing, family life, access to education, food, health care and cultural life. The human rights situation of Palestinians in the OPT is dramatically different to that of Israel's settler population, which benefits from the same rights as Israeli citizens inside Israel.

18. In effect, the settlement project results in the creation of two parallel and unequal societies in the OPT. An Israeli settler society benefits from superior living conditions, greater protection under Israeli civil (as opposed to military) law, greater access to the resources of the OPT, including water, the freedom of movement and the enjoyment of all other human rights.⁹ Meanwhile, the disadvantaged Palestinian society living in the same territory, by contrast, is denied many of its basic economic, social and cultural rights as a result of the furtherance of the settlement project.

19. This bifurcated system of norms legitimising the perpetration of inhuman acts against Palestinians in a systematic and institutionalised manner is a formal and direct form of discrimination, which is reflective of a practice of Apartheid in violation of international law. The strong indicators of the crime of Apartheid inherent to Israel's egregious practices include policies and systematic practices of racial segregation and discrimination for the purpose of establishing and maintaining domination by one racial group over another.¹⁰ The Statute of the International Criminal Court lists the establishment of an institutionalised regime of systematic oppression and domination by one racial group over another under the category of crimes against humanity.¹¹

20. In examining Israel's practices, a study by a group of high-profile international legal experts, published by the Human Sciences Research Council of South Africa, found that the Israel's exercise of control in the OPT, with the purpose of maintaining a system of domination

⁹ Whilst Palestinians throughout the OPT are denied freedom of movement through a system of "road apartheid", settlers are given preferential treatment over Palestinians in respect of movement (major roads are largely closed to Palestinian vehicles and reserved exclusively for settlers) and can enter the closed zone between the Annexation Wall and the Green Line (the seam zone) without permits; See UN HRC, 'Human rights situation in Palestine and other occupied Arab territories: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967, John Dugard' (21 January 2008), UN Doc. A/HRC/7/17, paragraph 30 <<http://www.unhcr.org/refworld/docid/47baaa262.html>> accessed 27 July 2011.

¹⁰ See, International Convention on the Suppression and Punishment of the Crime of Apartheid (1973) (the Apartheid Convention).

¹¹ Rome Statute of the International Criminal Court (2002) Article 7.

by settlers over Palestinians, constitutes a breach of the prohibition of Apartheid.¹² The study found that Israel's laws and institutions, which seek to ensure its enduring Jewish character as a "Jewish State", are channeled into the OPT to convey privileges to settlers to the disadvantage of Palestinians on the basis of their respective group identities. This domination is associated principally with transferring control over land in the OPT to exclusively Jewish use, thus also altering the demographic status of the territory.¹³ It thereby concludes that this discriminatory treatment cannot be explained or excused on grounds of citizenship, as it goes beyond what is permitted by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).¹⁴

21. Furthermore, settlers are systematically perpetrating acts of organised violence against Palestinians. These acts, which are part of the settlers' violent reaffirmation of control over land, consist of beatings, shootings, theft and the destruction of property. Israeli occupying forces generally fail to prevent, stop or redress instances of settler violence. Settlers are rarely held accountable for their acts, and when they are, the punishment is lenient. Monitoring and documentation of these incidents by human rights organisations demonstrate that the actions of the Israeli law enforcement authorities in response to settler violence are ineffective, nonexistent and may amount to complicity.¹⁵

22. Israel has consistently violated and ignored the human rights of the Palestinian population in the OPT, while no effective remedy has been provided to ensure that victims of violations are able to obtain adequate reparations.¹⁶ Moreover, Israel's High Court of Justice does not provide remedies for many violations, since the Court has declared them to be non-justiciable.¹⁷ This includes Israel's practices and policies on the existence and construction of settlements in occupied territory and its establishment of a bifurcated system of norms between settlers and Palestinians.

The authors recommend the Committee to urge the State party to freeze the settlement project and to abolish the bifurcated system of norms by stopping the illegal extra-territorial application of its civil law to the Israeli settler population in the OPT.

The authors furthermore recommend the Committee to urge the State party to provide the necessary legal protections for Palestinians living under the constant threat of individual or collective violence at the hands of the settlers, in direct violation of their basic economic, social and cultural rights.

¹² Human Sciences Research Council, 'Occupation, Colonialism, Apartheid? A re-assessment of Israel's practices in the occupied Palestinian territories under international law' (May 2009), Full Report, 271-276.

¹³ *Ibid*, Full Report, 152-276; Executive Summary, 9-15.

¹⁴ Furthermore, certain provisions in Israeli civil and military law provide that Jews present in the OPT, who are not citizens of Israel also enjoy privileges conferred on Jewish-Israeli citizens in the OPT by virtue of being Jews; *Ibid*.

¹⁵ Al-Haq, 'Al-Haq Annual Report: 25 Years Defending Human Rights 1979-2004' (2004), 149; See also, Yesh Din, 'Too Little, Too Late: Supervision by the Office of the State Attorney over the investigation of offences committed by Israeli civilians against Palestinians in the Occupied Territories' (May 2008), 16-21, <<http://www.yesh-din.org/userfiles/file/Reports-English/TLTLfullreportENG.pdf>> accessed 27 July 2011.

¹⁶ Al-Haq, 'Legitimising the Illegitimate? The Israeli High Court of Justice and the Occupied Palestinian Territory', Report, (2010) <<http://www.alhaq.org/pdfs/legitimising.pdf>>; Al-Haq, Press Release, 'Sacrificing Justice for Politics: Four Years on, Israel's High Court Continues to Disregard the International Court of Justice's Advisory Opinion' (9 July 2008), <<http://www.alhaq.org/pdfs/press-release-09-07-2008.pdf>>; David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (State University of New York Press, 2002); Al-Haq Report, 'The Israeli High Court of Justice and the Palestinian Intifada: A stamp of approval for Israeli violations in the Occupied Territories' (2004).

¹⁷ Al-Haq, 'Legitimising the Illegitimate?' (n 16) 19-21.

The authors furthermore recommend the Committee to urge the State party to abstain from excluding certain groups of people from enjoying their basic economic, social and cultural rights on the bases of nationality, ethnicity or status. The State party must ensure that Palestinians present in the OPT are guaranteed the same rights and protections under the Covenant as Israeli settlers currently living in the OPT.

3. OBSERVATIONS ON LIST OF ISSUES TO THE SPECIFIC PROVISIONS OF THE ICESCR

23. With regard to the specific provisions of the International Covenant on Economic, Social and Cultural Rights and the List of Issues, the authors would like to make the following comments, on a topic-by-topic basis.

ARTICLE 6: THE RIGHT TO WORK

24. Palestinians living in the West Bank and the Gaza Strip are routinely denied their right to work by Israel in its broadest sense as defined by the Committee. Israel is failing to respect the right to work by denying access to Palestinians in the West Bank whose agricultural land has been rendered inaccessible by the construction of the Annexation Wall (hereinafter Wall) and Israel's permit system, Palestinian farmers whose agricultural land lies in or near the Israeli imposed 'seam zones', and Palestinian fishermen in Gaza. In addition to the restrictions on the right to work imposed by Israel, the State party's excessive use of force against workers in both the Gaza Strip and the West Bank directly violates its obligations under **Article 6 of the Covenant**.

25. Furthermore, the increasingly strict policy of closure and restrictions within the West Bank and the Gaza Strip is a major cause of the progressive deterioration of the Palestinian economy. The effect of the closure, and the corresponding rise in unemployment, has been a sharp increase in poverty and unemployment levels. Israel's policies of closure within the West Bank have inhibited the right to work. The regime of checkpoints and restrictions on movement inhibit Palestinians in the West Bank from being able to get to and from work. Restrictions on movement and checkpoints also make trade difficult and costly. Moreover, confiscation of land and settlement activity have taken economic opportunity away from Palestinians who make their living from agriculture and animal husbandry.

26. The following paragraphs address Issue 12 of the List of Issues identified by the Committee.

A. Agricultural Inaccessibility in the West Bank

Land appropriation

27. Since 1967, Israel has used a number of methods to confiscate land in the OPT. The State party uses a number of methods to appropriate territory including the designation of land for military purposes, declaration of state lands, seizure of absentee property, and confiscation for public needs. Using these methods, Israel has been able to take control of over 50 percent of the land area of the West Bank, barring access and use to the local Palestinian population.¹⁸

¹⁸ Peace Now, 'Methods of Confiscation - How does Israel justify and legalize confiscation of lands?' Settlements in Focus <<http://peacenow.org.il/eng/content/methods-confiscation-how-does-israel-justify-and-legalize-confiscation-lands>> accessed 25 August 2011.

28. The Wall and its associated regime continue to cause massive long-term damage to Palestinian life. As well as undermining the ability of those living in dozens of villages and communities to access their agricultural land, the Wall has absorbed large swathes of Palestinian farmland through its route, which does not coincide with the Green Line. Approximately 85 percent of the Wall is situated on Palestinian land inside the occupied West Bank including East Jerusalem, isolating 9.4 percent of the OPT.¹⁹ With the construction of the Wall, the State party has continued its policy of land confiscation and destruction of property to either expand or to enclose existing Israeli settlements, which are illegal under international law, or to build Israeli settlement infrastructure. These policies are causing severe hardships for Palestinian farmers, who are prevented from working on their land and securing an income from their crops. When Palestinians attempt to access their lands to farm or to non-violently protest the confiscation, they are subject to violent treatment by the Israeli military authorities.

29. The village of **al Jalama, Jenin governorate**, illustrates how the construction of the Wall has resulted in the confiscation of large swathes of Palestinian farmland. The Wall was constructed north of the village on a portion of al Jalama land in 2003 and, as a result, isolates behind it another portion of land, effectively annexing 15 *dunums* of the village's land. Four years later, on 29 March 2007, Israeli occupying forces seized another 70 *dunums* of plain, fertile agricultural land belonging to the residents of al Jalama. The Israeli military order announced that the seizure was for military and security necessity and that its validity would be extended until the beginning of 2011. Upon expiration of this military order, the residents were presented with a new military order dated 27 January 2011, extending the seizure until 21 December 2013 using the same military and security reasons. The military order, delivered to the residents on 6 March 2011, granted landowners a respite of one week to challenge the decision, which by then had expired.²⁰

30. The village of **Deir Qaddis, Ramallah governorate**, is a striking example of how Israel's policies of land confiscation are used to expand Israeli settlements in the West Bank. Israeli settlement activity in this area started in 1981 with the first settlement outpost, called Nili, at a distance of two kilometres north of the village. Until this day, Israeli occupying forces continue to confiscate Deir Qaddis' land, providing land to five settlements built on village land. The land confiscated for purposes of settlement construction and expansion amounts to approximately 6,000 *dunums*. In addition, the Wall has detached and isolated approximately 800 *dunums*, used to cultivate around 400 olives trees, and annexed it to the settlements of Modi'in 'Llit and Kiryat Sefer.²¹

31. In response to the confiscation and annexation of land, the villages in this area organise popular non-violent demonstrations. On 15 June 2011, **Islam Nazih Nasser**, a resident of Deir Qaddis participated in a demonstration against the bulldozers levelling land in an area called 'Ard ad Deir', north of the village. This activity started in June 2011 and is expected to serve the expansion of the Nili settlement. Islam, together with a group of young people from the village and a female activist managed to make their way past the Israeli soldiers impeding access to the land to reach the bulldozers. A large group of soldiers followed, screaming at them that the land had been seized and they could not be present there. Confrontations occurred between the Palestinian young men of the village and the soldiers, resulting in Islam being shot twice from behind with live bullets, one hit him in the chest, the other in the pelvis.²²

¹⁹ United Nations Office for the Coordination of Humanitarian Affairs - occupied Palestinian territory (UN OCHA), 'Barrier Update', Special Focus (July 2011), 3.

²⁰ Al-Haq Affidavit No. 6268/2011.

²¹ Al-Haq Affidavit No. 6477/2011.

²² Al-Haq Affidavit No. 6475/2011.

32. The village of **Beit Iksa, Jerusalem governorate**, recently fell victim to Israeli confiscation of land for the purposes of creating Israeli infrastructure. In January 2011, the Israeli District Coordination Office (DCO) announced its intention to confiscate 50 *dunums* of land belonging to the village of Beit Iksa for the purpose of constructing a railroad. This land, located a few dozen metres from 'Etzeret Kalotiya settlement, is privately owned by eight families living in the village and is used to cultivate Roman olive trees, providing a major source of income for the village.²³

*"I remember that in mid December 2010 the so-called Ra'ed al-Lozi, Director of the Palestinian District Coordination Office (DCO), telephoned me and reported that a delegation from the Israeli DCO and Civil Administration were intending to make a field tour in al-Loza area, which is an integral part of the village's land. Then, I and a delegation from the Village Council travelled to the land mentioned above, but we did not find the Israeli DCO delegation. Instead, we found a notice thrown on the ground, or rather posted on trees. It stated that 50 dunums of the village's land would be confiscated in the following areas: Block No. 4 in al-Loza area; Block No. 6 in al-Sider area; al-Jibs area; and 'Aqbat Beit Talma area."*²⁴

Permits

33. Following the construction of the Wall, large areas of fertile farmland and whole Palestinian villages have become entrapped between the Wall and the Green Line, in enclaves commonly referred to as seam zones. Palestinians living in the seam zones or wanting to enter these areas are required to obtain a permit from the Israeli authorities. Obtaining a permit involves a lengthy administrative process with often little prospect of success.

34. **'Adnan Muhammad Qubha** (53 years old) from Toura al-Gharbiyya, Jenin governorate, had his agricultural land enclosed within the Wall in 2002. Ever since, 'Adnan, along with his children Muhammad (24 years old) and Majd (16 years old), has been obtaining permits allowing them to enter the land and tend to it. This year, 'Adnan, who suffers from illness, has repeatedly been trying to obtain permits from the Israeli authorities for his two sons, on whom he relies to collect the crops. Since April 2011, Israeli authorities have denied his sons permits, leaving 'Adnan as the only family member allowed access to the land on which the family relies.²⁵

35. **Muhammad Talal Abu-al-Rub** owns farmland that measures approximately 65 *dunums* and is located south of Jalboun village, Jenin governorate, near an Israeli settlement called Merav. His land is completely isolated behind the Wall, which was constructed around the village in 2003. Built on the southern, eastern and northern areas of the Jalboun village, the Wall has isolated about 2,500 out of approximately 8,500 *dunums* of the village's land. The Israeli authorities have also installed an iron gate, which bears the number 2301, in a section of the Wall south of the village. The gate is designated to farmers from Jalboun village, whose land has been isolated behind the Wall. Although Talal and his two sons have submitted applications every year during the olive harvest season to obtain permits to cross that gate and access their land, the Israeli authorities have refused to issue them permits and have not provided justification for the

²³ Al-Haq Affidavit No. 6073/2011.

²⁴ Excerpt from Al-Haq Affidavit No. 6073/2011. Given by 'Umar 'Abdallah 'Lieyyan Hamdan, a resident of Beit Iksa village, Jerusalem governorate, West Bank.

²⁵ Al-Haq Affidavit No. 6414/2011.

rejection.²⁶ The family last applied for permits during the autumn of 2010, but they were again refused.

“Since the Wall was constructed, we have never accessed the land isolated behind it. We do not know anything about it. [...] We have been deprived of our source of living, then we have been totally deprived of the land despite the fact that my father owns a land registration certificate, which proves his title right to the land.”²⁷

Access through gates

36. Even if Palestinians are able to obtain permits, farmers with land in the seam zone residing east of the Wall only have access to their land through a gate which opens no more than a few times a day, and is often far from their village. Access through the Wall is controlled through 66 gates that are designated to particular areas.²⁸ The majority of the gates are only open during the olive harvest season and usually only for a limited period per day. Farmers must ensure that they return to the gate before it is locked for the day in the late afternoon. The crossings opening times are insufficient to allow farmers to carry out essential year-round agricultural activities, such as ploughing, pruning, fertilising, and pest and weed management.²⁹

37. The limited allocation of these permits together with the restricted number and opening times of the Wall gates have severely curtailed agricultural practice and undermined rural livelihoods throughout the West Bank.

38. Illustrative is the situation in the **Biddu area, Jerusalem governorate**. The communities of Beit Ijza, Biddu and Beit Surik (population approx. 11,500) have been cut off from almost 50 percent of their agricultural land, now located behind the Wall in the Giv’at Ze’ev settlement bloc. Through a cumbersome prior coordination regime, which requires cooperation between the Palestinian (DCO) and the Israeli District Coordination Liaison (DCL), Palestinian farmers put their names on a list compiled every two weeks, on average, by the Palestinian DCO, which submits the list to the Israeli DCL for approval. The Israeli DCL provides the list with the approved names to the Border Police who, together, staff the gates and control farmers’ access. The various layers of bureaucracy involved in this coordination mechanism often mean that approving a list can take up to ten days, during which time the gates are usually closed.³⁰ It should be noted that only landowners and their relatives are eligible to be approved by the Israeli DCL, which severely limits the employment of agricultural workers during the harvesting of the various agricultural products grown on the communities’ land. Grazing is also prohibited on land isolated by the Wall, which has severely affected livestock holdings.³¹

39. Figures provided by the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA) show that between January and 1 May 2011, the gates only opened for a total of six days: more recently (22 June to 5 July), the five Biddu gates have opened five days a week, with three openings each day. However, as a result of the protracted closure of the gates, farmers were unable to perform necessary ploughing, trimming, spraying, and seedling work, thus

²⁶ Al-Haq Affidavit No. 6067/2011.

²⁷ Excerpt from Al-Haq Affidavit No. 6073/2011. Given by Muhammad Talal ‘Abdallah Abu-al-Rub, son of Talal Abu-al-Rub and resident of Jalboun village, Jenin governorate, West Bank.

²⁸ UN OCHA, ‘Barrier Update’ (n 19) 4.

²⁹ *Ibid* 4,10.

³⁰ *Ibid* 7-9.

³¹ UN OCHA, ‘East Jerusalem: Key Humanitarian Concerns’ (March 2011), 77-79.

affecting the quality and quantity of the olive, nectarine, peach and grape harvests and further eroding livelihoods in the community.³²

40. As the gates are closed and un-staffed between the scheduled opening times, farmers cannot return immediately to the 'Palestinian side' in cases of accident or emergency: a widespread anxiety among farmers is that in the event of a work accident, snake bite or pesticide inhalation, they would find themselves trapped in the seam zone. The limited opening hours also penalise the employed and 'part time' farmers who might otherwise cultivate family holdings after work for domestic consumption or for supplementary income.³³

Destruction of agricultural land and property

41. Many Palestinian communities are living in a situation where they lack security, particularly housing and property security, which is threatened not only by Israeli occupying forces but also by Israeli settlers. Vandalism of Palestinian property, especially livestock, and the destruction of agricultural crops is commonplace and often to the detriment of small and isolated Palestinian villages. Settlers responsible for these attacks are not stopped, interrogated or prosecuted by the Israeli authorities and the impunity they enjoy furthers the commission of such violations, which create unbearable living conditions for Palestinians. Such acts of omission by the Israeli authorities impede Palestinians from safely accessing their land and prevent them from harvesting their crops and comprise yet another element of the persistent infringements of the rights of the Palestinian people.

42. One manifestation of settler violence is the killing and harming of livestock. On 18 December 2010, settlers burned to death 12 of **Samir Muhammad Bani-Fadhil's** sheep and severely burned five others while they were grazing in fields near the village of 'Aqraba, south of Nablus.

"Once more, [the settler] demanded that I come, but I refused and told him to say what he wanted. He carried a long weapon and wore a white shirt and trousers, with thread tying them together, as well as a cap on his head. His face was white and he had sideburns and a light red beard. He was tall – about 180 centimetres. I looked at the other settlers; they also wore civilian clothing. As the settler approached me, I ran away from him in fear of my life. He ran after me for a distance of almost 40 meters. Later, I looked back and saw a fire erupt near my sheep. When I saw the fire, I returned immediately to the sheep and drove them away from the fire. I saw some sheep ablaze and was bewildered of the intensity of the fire set to them."³⁴

43. This incident cost Samir JD 10,000. Samir went to the Israeli District Coordination Office (DCO) and filed a complaint but instead of investigating the complaint, the police at the Ariel Police station accused him of having set his sheep on fire. To date, Samir has received no compensation from those responsible for the attack and it is unlikely that he ever will.³⁵

44. Al-Haq documented another case of settler violence on 23 January 2011, when an Israeli settler opened fire on **Hani Salame al-Makhamra's** two nephews (13 and 15 years old), as they were helping him graze his sheep in a field near the small village of M'ghayer al-'Abeed, Hebron

³² UN OCHA, 'Barrier Update' (n 19) 7-9.

³³ *Ibid* 10.

³⁴ Excerpt from Al-Haq Affidavit No. 5859/2010. Given by Samir Muhammad Khader Bani-Fadhil, a resident of

'Aqraba village, Nablus governorate, West Bank.

³⁵ Al-Haq Affidavit No. 5859/2010.

governorate. When the boys heard the gunshots they ran away quickly. One of them hid behind a rock and witnessed the settler violently kicking the sheep in their heads and stomach. When the settler left the area, Hani hurried to the scene where the shooting took place and found that his dog had been killed by a bullet. As a result of the attack, Hani lost NIS 3,000 worth of livestock.³⁶

45. Other incidents of settler violence involve the destruction of agricultural property. On 29 April 2010, **Kamal Jabr Odeh** witnessed an incident where approximately 60 settlers stormed into Al- Huwwara village, in Nablus governorate. They were rushing to the Western side of the village in the direction of Muhammad Hussein's house and a nearby municipal park. As they approached Muhammad's house, the settlers began throwing stones and broke seven glass windows. They also caused extensive damage to a municipal park and set fire to approximately 20 – 25 olive trees.³⁷ The burning of olive groves by settlers is not limited to the area of Nablus, similar incidents documented by Al-Haq have occurred in other parts of the West Bank.

B. Excessive Use of Force against Palestinians Working in the Gaza Strip

46. Israeli occupying forces often use violence against Palestinian workers who are found working closely to the border area with Israel, or near areas Israel declares to be closed military zones. In the first six months of 2011, Al-Haq documented 50 deaths resulting from the actions of the Israeli occupying forces in the Gaza Strip, of which 25 took place near the borders.

47. Cases of excessive force being used against Gaza workers and fishermen by Israeli occupying forces have been increasing since the establishment of the 'buffer zone'. For people living with a crippling economic blockade, the devastating aftermath of Israel's 2008-2009 military offensive, code-named "Operation Cast Lead", and a soaring unemployment rate, agricultural activity on their lands or fishing the seas within or near the military 'no-go' areas is the only option for survival. Farmers, fishermen and stone-collectors trying to make a meagre living for their families are routinely shot at with live ammunition by Israeli occupying forces. Civilians living near the borders have also been randomly killed or seriously injured as a result of Israeli military operations in the area.³⁸

Farmers in or close to the Buffer Zone

48. In the aftermath of "Operation Cast Lead", the Israeli authorities extended the buffer zone they had imposed on Palestinian land along the eastern and northern borders of the Gaza Strip. Previously extending 300 metres from the border, Israel began expanding the restricted area up to 1,000 – 1,500 metres.³⁹ Yet, the precise width and overall size of the buffer zone on land in the proximity of the fence along the border with Israel is uncertain. The State party's air force has dropped pamphlets containing misleading information on the size of the buffer zone, claiming

³⁶ Al-Haq Affidavit No. 6089/2011.

³⁷ Al-Haq Affidavit No. 5443/2010.

³⁸ For more information on the legal issues surrounding the use of force in the buffer zone see Al-Haq, "Shifting Paradigms – Israel's enforcement of the buffer zone in the Gaza Strip" (2011) <http://www.alhaq.org/pdfs/Shifting%20Paradigms-buffer-zone-23-June-2011-m.pdf> accessed 29 August 2011.

³⁹ UN OCHA and the World Food Programme (WFP), "Between the Fence and a Hard Place: the Humanitarian Impact of Israeli-imposed restrictions on Access to Land and Sea in the Gaza Strip", Special Focus (August 2010), 15.

that it would be enforced up to 300 metres from the border.⁴⁰ However, the State party enforces the buffer zone in areas outside this declared boundary. Consequently, the parameters in terms of people's access to the restricted area are uncertain. Although the State party carries out land incursions into the buffer zone on average of three to four times every week, the buffer zone is not physically demarcated.⁴¹

49. Currently, it is estimated that the buffer zone on land extends over approximately 17 percent of the territory of the Gaza Strip and farmers are effectively prevented from accessing land located up to 1,000-1,500 metres from the fence. Since approximately 95 percent of the restricted area is arable land, the buffer zone extends over 35 percent of the Gaza Strip's agricultural land.⁴² The restrictions and the enforcement of the buffer zone primarily affects farmers whose houses and agricultural land are located within and in its immediate proximity and whose income consequently has been markedly reduced. However, it is estimated that approximately 178,000 people in the Gaza Strip are also directly affected by these restrictions.⁴³ Israel's unilateral expansion of this restricted area and its enforcement mechanisms seriously infringe upon the rights of protected persons and cause many civilian casualties.⁴⁴

50. In one tragic incident, three people were killed while working on their agricultural land located near the northern borders of the Gaza Strip. On the evening of 12 September 2010, 90-year-old farmer **Ibrahim 'Abdallah Abu-Sa'id** along with his 16-year-old grandson **Husam 'Abdallah Abu-Sa'id** and Husam's friend **Isma'il Walid Abu-'Oda** (16 years old) were killed by Israeli tank shells fired from the northern borders of the Gaza Strip. Mahmoud Saleh Hamad, a farmer who works on agricultural land nearby, witnessed the shelling that killed Ibrahim, Husam and Isma'il.⁴⁵

"At around 3:00 pm, I returned to my land and observed that Hajj Ibrahim, as well as his grandson and Isma'il Abu-'Oda, were still tending the land and grazing the sheep. I greeted them and started to work on my land. A short while later, my neighbour Ahmad al-'Afifi, who is 55 years old, arrived on an animal-pulled cart. We chatted a little and performed the afternoon prayers together. At around 4:40 pm on the same day, I heard the sound of a loud explosion [...]. My neighbour and I were scared and decided to collect our things and leave the area. Meanwhile, I saw Hajj Ibrahim and the boys collecting and guiding the sheep to the pen on their land. Almost three minutes after the first explosion, I heard the sound of a second explosion, which also came from the direction of the Border. After the second explosion, Hajj Ibrahim, the two boys, my neighbour Ahmad and I were all collecting our belongings and preparing to leave the area when again, three minutes later, I heard the sound of a third explosion; this time louder and closer. Ahmad and I sought protection on the ground for almost two minutes. Then, I got up and looked around. I saw dust and smoke rise from the sheep pen on Hajj Ibrahim's land and heard screams, which lasted for seconds only. Then I walked to the public street and waited for ambulances. I was not able to check on Hajj Ibrahim and the two boys for fear that the tank would shell the area once more. About 10 minutes later, an ambulance driven by Yusri 'Ayesh al-Masri arrived. [...] Another 10 minutes passed when Yusri came back and said that he and the medics had found the corpses of an elderly man and a child. He asked me if anyone else had been vicinity of the explosion. I said there was another boy, who had been working with Hajj Ibrahim and Husam. The ambulance set off to the hospital and I followed it on my motorcycle. I heard Yusri report on the presence of another child and request that colleagues bring another ambulance to the area."⁴⁶

⁴⁰ Al-Haq, 'Shifting Paradigms' (n 38) 6.

⁴¹ *Ibid* 5.

⁴² *Ibid* 6.

⁴³ UN OCHA and WFP, 'Between the Fence' (n 39) 5.

⁴⁴ Al-Haq, 'Shifting Paradigms' (n 38) 5.

⁴⁵ Al-Haq Affidavit No. 5645/2010.

⁴⁶ Excerpt from Al-Haq Affidavit No. 5645/2010. Given by Mahmoud Saleh Hamad, a resident of Beit Hanoun,

51. On 23 February, Israeli occupying forces stationed in military watchtowers behind the northern borders of the Gaza Strip shot **Nidal Muhammad 'Halawe** in his left foot. Nidal was collecting carrots from agricultural land 700 metres away from the border. Passer-by found Nidal and carried him away from the land in their cart. They called an ambulance that transferred Nidal to Kamal 'Udwan Hospital in Beit Lahiya in order to receive medical treatment. Nidal underwent surgery but the nature of the injury was so severe that he is no longer capable of walking properly.⁴⁷

Fishermen

52. With unemployment figures in the Gaza Strip at an estimated 45.2 percent in the last half of 2010,⁴⁸ the decimation of the Gazan fishing industry has undoubtedly impacted this figure. When Israel began restricting access to fishermen at sea, there were approximately 10,000 fishermen in the Gaza Strip. Today, that number has fallen to 4,400.⁴⁹ Those who fish off the coast of the Gaza Strip are often harassed, subject to arbitrary detention and shot at by Israeli navy boats, despite sailing within the three nautical miles (NM) limit unilaterally imposed on Palestinian fishermen by Israel. Between 1 May 2009 and 30 April 2011, there were 75 attacks against fishermen that resulted in the death of two fishermen, while eight others were injured. At least 65 fishermen were arrested, four of whom were minors, and most subjected to ill treatment.⁵⁰

53. Under the conditions of the Oslo agreements, Israel permitted Palestinians in the Gaza Strip to fish up to 20 NM offshore. Since 2000, the Israeli authorities have progressively restricted the area in which Palestinian fishermen are able to work. Following "Operation Cast Lead", the permitted fishing area was reduced to just three NM. Nowadays, along most of the Gaza Strip's coast the buffer zone begins at three NM from shore. In the north, Palestinians are completely prevented from accessing a 1.5 NM-wide strip along the maritime boundary with Israel, and a 1 NM-wide strip in the south, along the maritime boundary with Egypt. Overall, Palestinians are completely prevented from accessing 85 percent of the maritime areas they are entitled to under the 1994 Gaza-Jericho Agreement.⁵¹

54. Al-Haq has documented a number of incidents where fishermen operating out of the port of Gaza City have been shot at while fishing within the three NM limit. On 24 September 2010 at around 9:00 am, fisherman Rani Sami Bakr witnessed Israeli navy officers shooting his cousin and colleague **Muhammad Mansour Bakr**. Earlier that morning, the fishermen had set sail on their fishing boat from al-Sayyadin harbour. While heading west, an Israeli military vessel approached Rani's and several other fishing boats and began shooting heavily at them. Rani and his colleagues, including two of his brothers, tried to escape but the military vessel followed them and the soldiers continued shooting at the fishermen. Muhammad was shot and was transferred to Kamal 'Udwan Hospital in Beit Lahiya but pronounced dead upon arrival.⁵²

Northern Gaza governorate, Gaza Strip.

⁴⁷ Al-Haq Affidavit No. 6105/2011.

⁴⁸ United Nations Relief and Works Agency (UNRWA), 'Gaza Labour Market Brief second-half 2010' (2011) <<http://www.unrwa.org/userfiles/201106083557.pdf>> accessed 3 August 2011.

⁴⁹ Al-Haq, 'Shifting Paradigms' (n 38) 8.

⁵⁰ Al Mezan Center for Human Rights, 'Documentation Report: Torture and other Forms of Cruel, Inhumane and Degrading Treatment against the Palestinian Population in Gaza Strip by IOF' (July 2011), 3-4.

⁵¹ UN OCHA and WFP, 'Between the Fence' (n 39) 11.

⁵² Al-Haq Affidavit No. 5652/2010.

“All the while, my brothers, my cousin Muhammad and I were calling to the soldiers requesting that they cease fire, but they did not take any notice. We waved to the soldiers with our clothes and lifted our arms so that they would cease fire, but in vain. As bullets hit the fishing boat, I heard someone scream beside me. I turned around to see my cousin Muhammad placing his hand on the right side of his waist underneath his chest. I lifted Muhammad’s hand to examine him and saw a hole in his waist, from which blood was gushing out. I put my hand on his wound in order to stop the bleeding. Rami also put his hand on the bullet wound. Then, Muhammad stopped talking and the soldiers ceased fire. ‘Umar and I stood up and started to shout at the soldiers and waved with our hands, which were dripping with blood. We requested that they offer first aid to Muhammad, but they did not respond to our calls. Afterwards, we moved Muhammad to Munther’s fishing boat, which had approached us. Rami went with him. They sailed east towards the shore in order to take Muhammad to hospital.”⁵³

55. Fisherman **Ahmad Mahmoud Jarbou’** was also shot by Israeli navy officers in another incident that took place on 27 November 2010. Fortunately, Ahmad received medical care in time at Kamal ‘Udwan Hospital in Beit Lahiya and survived the shooting. At around 5:30 am on the day of the incident, Ahmad and three of his colleagues set sail to fish and were approached by an Israeli military vessel at approximately 12:30 pm. Ahmad heard the sound of gunfire and few moments later noticed that his knee was bleeding. In shock, Ahmad lost consciousness and fell face down into the sea. His colleagues were able to pull him out of the water and transported him to Kamal ‘Udwan Hospital in Beit Lahiya for medical treatment. Since the incident, Ahmad has been unable to work.⁵⁴

Stone-collectors

56. Due to the four-year long illegal blockade imposed by Israeli authorities on the entire Gaza Strip, the economy has virtually collapsed. Currently, 80 percent of the Gaza Strip’s population live under the poverty line and are denied access to basic services. The unemployment rate has risen to 65 percent, constituting one of the highest in the world. As a result, many Palestinians are engaging in risky employment near the Israeli border, such as stone-collecting for the purpose of construction, placing themselves at risk of being shot or imprisoned.

57. Since the beginning of 2010, stone-collectors have been increasingly under attack by Israeli soldiers positioned along the borders of the Gaza Strip. In 2010, 68 stone-collectors, including 16 children, were shot by live fire while working in or near the buffer zone.⁵⁵ According to documentation from the Al-Mezan Centre for Human Rights, as of 31 July 2011, two stone-collectors have been killed and 21 injured by Israeli live fire in 20 separate incidents this year. Amongst the cases investigated, the following two are particularly illustrative. The victims were family bread-winners who were injured while working in the proximity of Beit Lahiya, an area near the buffer zone previously occupied by the two Israeli settlements of Eli Sinai and Nisanit. The buffer zone in this area extends 300 metres into the territory of the Gaza Strip.

58. On 4 December 2010, **Bilal Sha’ban al-Hassoumi** was shot while he was collecting stones in an area northwest of Beit Lahiya. About 120 other stone-collectors were working in the same area when Bilal suddenly heard gunshots. Bilal was hit by a bullet and soon after noticed that his

⁵³ Excerpt from Al-Haq Affidavit No. 5652/2010. Given by Rani Sami Bakr, a resident of al-Shate’ refugee camp, Gaza governorate, Gaza Strip.

⁵⁴ Al-Haq Affidavit No. 5890/2010.

⁵⁵ Al-Haq, ‘Shifting Paradigms’ (n 38) 9.

cousin, **Muhammad ‘Ata al- Hassoumi**, had also been shot in his leg. Bilal was transferred to Kamal ‘Udwan Hospital in Beit Lahiya and was told he needed surgery for the injury he sustained. It is unclear whether Bilal will be able to fully recover and return to his job.⁵⁶

“My brother Nidal was collecting rubble when, on four separate occasions, he was injured by Israeli troops positioned behind the border. Israeli troops frequently open fire on my co-workers and me as we collect rubble. [...] [On 04 December 2010] the atmosphere in the area was calm. My brother and I, and our fellow co-workers, had been collecting gravel for about three hours when at around 9:00 am, I heard the sound of bullets being fired towards us from behind the border. At the same time, I fell to the ground and saw blood gushing from my left leg.”⁵⁷

59. On 28 February 2011, Israeli occupying forces shot and killed **‘Umar ‘Arfeh Ma’ruf** (20 years old) in Beit Lahiya near the northern Gaza Strip borders while he was collecting rubble from the dismantled settlement of Eli Sinai. ‘Umar’s cousin, Talal ‘Aish Ma’ruf, advised him not to go there because he had witnessed, on multiple occasions, Israeli occupying forces shooting rubble- collectors. More worrying, the rubble-collectors who usually work there had not gone for the past three days because it had become increasingly dangerous. Regardless, ‘Umar went to the collect rubble because he had been suffering severe economic problems that had prevented him from providing food for his family.

60. Around 11:00 am, Talal heard intermittent fire and saw two bulldozers and a tank from behind the border approaching the area where ‘Umar was collecting rubble. Worried about his cousin, Talal called for an ambulance after the tank and bulldozers retreated at around 12:30 pm but the ambulance had to receive permission from the Israeli occupying forces to enter the area. At around 2:00 pm the ambulance was informed that the Israeli occupying forces had retrieved a body from the area and had transferred the body to the Palestinian Ministry of Health over the Erez Crossing and that the body was now at al-Shefa’ Hospital in Gaza City. Talal verified that the body was that of his cousin and later found the cousin’s donkey dead in the same area.⁵⁸

The authors recommend the Committee to urge the State party to:

Stop construction of the Wall and dismantle segments already built to eliminate the seam zone and end the illegal appropriation of Palestinian territory so as to allow Palestinians unimpeded access to their agricultural lands;

Allow Palestinians unhindered freedom of movement across the OPT to facilitate the right of Palestinians to work and access their sources of livelihood;

Lift the illegal closure of the Gaza Strip, which constitutes collective punishment and adversely affects the civilian population’s right to work;

Limit the size of the buffer zone to the extent strictly necessary to address its security concerns and provide Palestinian access to as much arable land and the sea as possible to avoid disproportionately impacting the lives and livelihoods of the civilian population;

Clearly demarcate the buffer zone and effectively inform the civilian population in the Gaza Strip of the extent of its applicable regime; and

⁵⁶ Al-Haq Affidavit No. 5888/2010.

⁵⁷ Excerpt from Al-Haq Affidavit No. 5888/2010. Given by Bilal Sha’ban al-Hassoumi, a resident of Beit Lahiya, Northern Gaza governorate, Gaza Strip.

⁵⁸ Al-Haq Affidavit No. 6109/2011.

Conduct investigations of the killings and injuries of workers in the buffer zone in accordance with the international standards of independence, impartiality, thoroughness and effectiveness, providing victims with adequate remedy.

ARTICLE 11: THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

61. Palestinians living in East Jerusalem and Area C of the West Bank are systematically denied their right to adequate housing in its broadest sense as defined by the Committee. In these areas, the State party's imposition of a range of discriminatory restrictions on building, planning and zoning has severely limited availability of housing in these areas of the OPT, therefore impeding the right of Palestinians to an adequate standard of living. Moreover, Israel's enforcement of its discriminatory policies regularly results in the eviction of Palestinian families and the demolitions of all or parts of their homes and infrastructure.

62. In its review of Israel in July 2010, the UN Human Rights Committee stated the following in relation to Israel's policies:

[T]he Committee is concerned at frequent administrative demolition of property, homes, as well as schools in the West Bank and East Jerusalem due to the absence of construction permits, their issuance being frequently denied to Palestinians... The State party should further review its housing policy and issuance of construction permits with a view to implementing the principle of non-discrimination regarding minorities, in particular Palestinians and to increasing construction on a legal basis for minorities of the West Bank and East Jerusalem. It should further ensure that municipal planning systems are not discriminatory.⁵⁹

63. The following paragraphs address Issues 23, 24, 25 and 26 of the List of Issues identified by the Committee. For information on Issue 27, please see the EWASH – Al-Haq Parallel report, which deals specifically with the right to water.

A. Housing in Area C

Home demolitions in Area C

64. Palestinians living in Area C are subject to an Israeli planning and zoning regime, which requires them to apply for permits from the Israeli Civil Administration to obtain approval for building or renovating their homes and other infrastructure. The Israeli authorities have prohibited Palestinian construction in approximately 70 percent of Area C, while a range of restrictions means that it is virtually impossible for Palestinians to obtain a permit to build in the remaining 30 percent. In practice, the Israeli Civil Administration allows construction in less than one percent of Area C, much of which is already built up.⁶⁰ As a result, many Palestinians living in Area C, which encompasses almost 60 percent of the West Bank, live either in inadequate and overcrowded housing conditions or build 'illegally' and risk demolition of their homes and displacement.

⁵⁹ HRC, 'Concluding Observations: Israel', (n 7) paragraph 17.

⁶⁰ UN OCHA, Special Focus, 'Restricting Space: The planning regime applied by Israel in Area C of the West Bank' (December 2009), 6. The following are included as reasons: lack of detailed plans for Palestinian villages, the Israeli Civil Administration's restrictive interpretation of outdated plans that do exist and difficulties Palestinians face in providing ownership of land.

65. In 2011, there has been a notable increase in the State party's practice of demolishing Palestinian homes and livelihood structures. During the course of 2010, 357 structures were demolished in the West Bank, excluding East Jerusalem, displacing 478 people including 230 children, and otherwise affecting 13,861 people, including 7799 children.⁶¹ As of 24 July 2011, at least 371 Palestinian structures have been demolished in the West Bank, excluding East Jerusalem, in 50 separate incidents since the beginning of the year.⁶² As a result, approximately 698 Palestinians have been forcibly displaced, while a further 1396 have been otherwise affected owing to extensive damage of property or destruction of livelihoods.⁶³

66. Particularly vulnerable are rural villages located in Area C near the Jordan Valley. Many of these villages experience repeated demolitions, which often target not only residential homes, but the shelters they use for livestock and storing food, which are integral for sustaining their way of life. The State party consistently fails to consult communities before they are affected by demolitions and also do not attempt to explore possible alternative options to demolition and displacement. Following the evictions and demolitions, the State party also fails to provide effective remedies to residents who have been forcibly evicted. Humanitarian agencies provide tents and temporary shelters; however, these are often subsequently destroyed when the State party carries out repeated demolitions. By conducting repeated large-scale demolitions in these traditional communities without consultations or recourse to legal remedies, the State party is demonstrating a clear intent to displace these residents from their land.

67. **Khirbet Tana, a village in Nablus Governorate**, adjacent to the Jordan Valley, has suffered wide-scale demolitions six times since 2005 and provides one example of the impact Israel's planning policies have on Palestinian's right to adequate housing in Area C. Following the first demolition in July 2005, where Israeli authorities demolished a number of homes, the village school, livestock shelters and water cisterns, residents rebuilt their village. However, the Israeli authorities returned to the village twice in 2010, on 10 January and 8 December, to carry out large-scale demolitions. During the operation in December, the Israeli Civil Administration demolished around 29 structures, of which 11 were residential, displacing 61 village residents.⁶⁴

68. In 2011, Israeli occupying authorities carried out extensive demolitions in the village on three separate occasions: 9 and 20 February, and 2 March. In total, 33 residential structures and 61 other structures were destroyed, displacing 194 residents.⁶⁵ During one of the demolitions, which took place on 9 February 2011, Khirbet Tana resident **Mahfoutha Salim Nasasra** and her family of seven had the barracks they use for their livestock destroyed. A bulldozer accompanied by seven Israeli military patrols carried out the demolition.⁶⁶

69. The State party has targeted **Khirbet Yarza, Tubas governorate**, near the Jordan Valley, for demolitions three times over the past year, once on 25 November 2010, and again on 17 February and 21 June 2011. During the incident in November, Israeli military bulldozers demolished a large number of structures, including the village mosque and eleven shelters and sheds used for livestock or storing food. Mukhles Na'im Masa'id, head of the village's planning committee, explains that only one of the village's 10 houses has a construction license, which was issued in 1975. Owners of the other homes do not have licenses because the Israeli authorities

⁶¹ Displacement Working Group – occupied Palestinian territory (DWG oPt), 'Demolition Summary Table' (31 December 2010).

⁶² DWG oPt, 'Demolition Summary Table', (24 July 2011).

⁶³ *Ibid.*

⁶⁴ DWG oPt, 'Demolition Summary Table' (n 61).

⁶⁵ DWG oPt, 'Demolition Summary Table' (n 62).

⁶⁶ Al-Haq Affidavit No. 6096/2011.

have refused to grant such licenses in Israeli-controlled Area C. Three months prior to the demolition on 25 November, the village received notices from the Israeli occupying forces that the mosque and shelters would be demolished. The village council attempted to appeal the demolition orders by hiring a lawyer and taking their case to the Israeli High Court, but they did not succeed in stopping the demolition.⁶⁷

70. Israeli authorities classify **Fasayel Wusta**, a village north of Jericho city in Area C, as state land. Between 2009 and 2011, the Israeli civil administration issued 44 stop-work and demolition orders against all Bedouin structures in the village. After the Jerusalem Legal Aid and Human Rights Center filed six legal petitions with the Israeli High Court, demolitions were temporarily frozen. On 9 March 2011, a hearing on one of the petitions in the High Court resulted in a decision that upheld the demolition orders. On 13 June 2011, 20 structures in the village were demolished, displacing nine families. On 14 July 2011, the High Court approved a final order for demolition on two additional files, but froze the execution of the order until 15 November 2011, pending the Israeli civil administration's submission of further details for Fasayel's plan. On 7 August 2011, the civil administration went to the village to photograph the area, which is a strong indication of impending demolitions.⁶⁸

71. The High Court's recent decisions are legally significant because they are likely to influence a similar outcome for the remaining petitions, which place 40 more families at risk of displacement. The current Israeli civil administration map for the area indicates that the State party is seeking to evict the residents of this village in order to make way for Jewish settlement expansion.

B. Housing in East Jerusalem

Planning policy in East Jerusalem

72. In 1967, Israel illegally annexed East Jerusalem and amended the Laws of the State of Israel to extend its jurisdiction over the newly declared municipal borders of a 'united Jerusalem.' Since this illegal de-facto annexation of East Jerusalem, which has been consistently condemned by the international community, building and construction in East Jerusalem has been subject to the jurisdiction of the Jerusalem Municipal Authority, which is in contrast to the rest of the West Bank. Despite the applicability of different legal regimes, the effects of the State party's discriminatory policies against Palestinian construction similarly severely restrict building for Palestinians in East Jerusalem.

73. In the last review of Israel in 2003, this Committee reiterated its "grave concern about the continuing practices by the State party of home demolitions, land confiscations and restrictions on residency rights, and its adoption of policies resulting in substandard housing and living conditions, including extreme overcrowding and lack of services, of Palestinians in East Jerusalem, in particular in the old city."⁶⁹ Since Israel's last report to this Committee, the housing situation for Palestinians in East Jerusalem has not improved, as the community remains subject to discriminatory planning and zoning laws.

⁶⁷ Al-Haq Affidavit No. 5847/2010.

⁶⁸ Jerusalem Legal Aid and Human Rights Center, Case No. 1291/11.

⁶⁹ UN CESCR, 'Concluding Observations: Israel' (n 4) paragraph 26.

74. Since 1967, there has been a clear Israeli strategy focused on achieving a strong Jewish demographic majority within Israel's declared municipal boundaries of Jerusalem. In the years following the illegal annexation, Israel articulated a government policy that sought to maintain a demographic balance of 70 percent Jews to 30 percent 'Arabs' within the Israeli-declared municipal boundaries of Jerusalem.⁷⁰ This official policy remains in effect today. Master Plan 2000 for Jerusalem, ratified by the Planning and Construction Committee of the Jerusalem municipality in 2007, directly addresses this policy while considering a more realistic 60/40 ratio because high Palestinian birth rates have made the 70/30 goal unlikely.⁷¹

75. Israel's demographic policy provides an explanation for the State party's severe restriction of land available for Palestinian development in East Jerusalem. While more than one third of East Jerusalem has been expropriated to construct Israeli settlements, approximately only 13 percent is currently zoned by the Israeli authorities for Palestinian construction.⁷² However, even in this area, much of this land is already built up, the permitted construction density is limited and the application process for construction permits or land zoning changes is complicated and expensive.⁷³ Palestinians who attempt to navigate the administrative planning process are commonly refused permits.

76. Consequently, it is the case that the number of construction permits and housing plans granted by the Israeli authorities in East Jerusalem does not meet the demand for housing, with the shortage estimated to be around 1,100 housing units per year.⁷⁴ Compounding the housing shortage is the precarious situation of Palestinian residents of Jerusalem, who risk having their Jerusalem residency status revoked if they move away from the city.

77. The **al-Bustan neighbourhood of Silwan**, made up of 88 houses located just outside the old city of Jerusalem on a hill overlooking the al-Aqsa Mosque, provides a prominent example of the discriminatory planning policy in place in East Jerusalem. Home to 1500 people, with many having built their homes over 20 years ago, residents of al-Bustan pay regular taxes to the Israeli authorities. However, in 2005 residents were informed by the Jerusalem municipality that their homes were built without permits on an area with ties to Jewish history, which was renamed the "Garden of the King" in reference to the City of David.

78. **Fakhri Khalil Abu Diab**, a resident of al-Bustan and a member of the neighbourhood's defence committee, was present at the consultations held with the Jerusalem municipality in 2006 in which the defence committee attempted to follow procedures to acquire the proper permits to avoid the demolition of their homes. The municipality outlined 13 provisions it required for the committee to address in an organizational plan for the neighbourhood. That year, the al-Bustan committee hired an Israeli engineering office to complete a plan to fulfil all of the provisions set out by the municipality. The residents of al-Bustan paid almost 85,000 USD for the plan, which was submitted in 2007.

79. In February 2009, the Higher Planning and Building Committee of the Israeli Ministry of the Interior, in a sitting with representatives of the al-Bustan committee, refused the plan, not

⁷⁰ Nadav Shragai, 'Demography, Geopolitics, and the Future of Israel's Capital: Jerusalem's Proposed Master Plan', (Jerusalem Center for Public Affairs, 2010) 14

<<http://www.scribd.com/doc/27960017/Jerusalem-Master-Plan>> accessed 17 August 2010.

⁷¹ *Ibid.*

⁷² UN OCHA, "The Planning Crisis in East Jerusalem: Understanding the phenomena of "Illegal" construction" in Special Focus (April 2009), 2.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

because it did not meet the municipality's conditions, but because it did not correspond to the Jerusalem municipality's plans and projects for the area. Following the decision, demolitions in al-Bustan were stopped after the diplomatic intervention of the American and British consulates. Although the municipality agreed to freeze the demolitions, during that time, it undertook another outline plan for the neighbourhood that included the demolition of half of the homes in the area to turn the land into a national park.

80. The municipality asked the community to introduce an alternative plan with more space for public facilities. The residents of al-Bustan enlisted a group of professionals, headed by a specialist in urban planning from Haifa University. In September 2010, the planning team submitted their proposal to the municipality, but failed to receive an affirmative or negative response within 45 days of the receipt of the plan, as required by municipal regulations. On 20 June 2011, in violation of legal provisions, the Higher Committee conducted an ad-hoc sitting without inviting any representatives from al-Bustan, and decided to refuse the plan submitted in September 2010. Residents of the neighborhood only later discovered this through newspaper articles. As a result of the refusal, residents of al-Bustan face the very real risk of the demolition of half of their neighbourhood. Further legal challenges to the decision of the Higher Committee will be expensive and, given the record of the Israeli courts on house demolitions, unlikely to succeed.⁷⁵

Home demolitions in East Jerusalem

81. The demolition of Palestinian homes is usually ostensibly justified for administrative reasons, that is, because a permit has not been obtained. However, due to the lack of practical options for Palestinians to build legally in East Jerusalem, and the requirement that they must remain living in the city to maintain their residency rights in Jerusalem, many Palestinians risk constructing homes or completing renovations without a permit in order to meet their housing needs. It is conservatively estimated that 28 percent of Palestinian home construction in East Jerusalem is in breach of Israeli zoning laws, effectively leaving more than 60,000 Palestinians facing the risk of home demolition.⁷⁶

82. According to Al-Haq documentation, from 2004 to 2009, 317 residential homes were demolished in East Jerusalem for lack of building permit. From January 2010 until 24 July 2011, 98 structures (including homes and other buildings) were demolished in East Jerusalem, displacing 185 people, including 101 children.⁷⁷

83. In many home demolition cases, Palestinian families lose the contents of their homes, as they are not given sufficient time to remove their belongings before the border police and demolition crews evict them. Moreover, compounding the immediate impact of the loss of homes and property are the economic losses that arise from legal fees, the lost investment in constructing their home, and the fines that displaced families must continue to pay to the Jerusalem municipality.⁷⁸ Many Palestinians build on land that was passed down to them through their family and displaced families in East Jerusalem have very few options of moving elsewhere, given the lack of availability of land and housing in East Jerusalem on which Palestinians are able to build and live.

⁷⁵ Al-Haq Affidavit No. 6561/2011 (available in Arabic, English translation can be provided upon request).

⁷⁶ UN OCHA, 'Planning Crisis in East Jerusalem' (n 72) 2.

⁷⁷ See, DWG oPt, 'Demolition Summary Table' (n 61); and DWG oPt, 'Demolition Summary Table' (n 62).

⁷⁸ UN OCHA, 'Planning Crisis in East Jerusalem' (n 72) 4.

84. In a typical example, 'Ala' 'Abd-al-Razeq al-Shuweiki, was served with a demolition order in February 2008 and had to pay a fine of NIS 28,000. Despite making several applications to the municipal authorities to gain the correct permit, all of 'Ala's applications were unsuccessful because his land was zoned "green land", on which houses cannot be built. In December, the family was issued a second demolition order, which was upheld by the municipal court. On 13 July 2009 'Ala' and his family of eight were given just ten minutes to vacate the home they had lived in for ten years before it was demolished along with much of their personal belongings. Moreover, 'Ala must continue to pay the 28,000 NIS fine.⁷⁹

The authors recommend the Committee to urge the State party to:

Freeze all pending demolition orders and undertake to revise planning and zoning laws in a manner that is not discriminatory in order to address the housing crisis for Palestinians in East Jerusalem and Area C; and

Provide effective access to justice to allow Palestinians genuine legal remedies when they attempt to challenge the restrictions in the State party's current discriminatory planning and zoning system, including financial assistance for legal aid.

⁷⁹ Al-Haq Affidavit No. 5089/2009.

ARTICLE 12: THE RIGHT TO PHYSICAL AND MENTAL HEALTH

85. Article 12 of the Covenant recognises the right of everyone to the enjoyment of the highest attainable standards of physical and mental health. Yet, a range of restrictions on the movement of Palestinians severely limits their access to health services, and thus their enjoyment of the highest attainable standards of physical and mental health. The restrictions on movement are also imposed on ambulance drivers and medical staff, which affect emergency health care, professional development and education opportunities, especially in the Gaza Strip.

86. The following paragraphs address Issues 28, 29 and 30 of the List of Issues identified by the Committee.

A. Access and Quality of Medical Care in the West Bank

87. The route of the Wall particularly impacts on the right to health, constraining the Palestinians from accessing health facilities and health providers from servicing the Palestinian population. As the Wall has effectively isolated East Jerusalem from the rest of the West Bank, Palestinians face increased difficulties in accessing health treatment in Jerusalem, where six hospitals provide specialised treatment unavailable elsewhere in the OPT: dialysis, oncology, open-heart surgery, neurosurgery, neonatal intensive care, eye surgery, and rehabilitation for handicapped children. Together, these hospitals have 624 beds, 12.4 percent of the total available in the OPT.⁸⁰ Palestinians who hold West Bank ID cards are required to obtain the relevant permit through a complicated and lengthy process. These permits are often refused, especially in cases where the applicant wishes to escort a sick child or elderly relative to Jerusalem for treatment.⁸¹

88. Since the construction of the Wall, access to Jerusalem for medical reasons has become almost impossible for Palestinians without permits. Palestinians who are fortunate enough to obtain permits are permitted to enter East Jerusalem through only three out of a total of 14 checkpoints: Qalandiya, Gilo and Zaytoun, the three most crowded pedestrian terminals. Palestinians often face harassment and humiliation at these checkpoints, which are crowded, arduous, time consuming and stressful, particularly for people with health problems or disabilities who have to cross on foot. Separate lines for people with special needs either do not exist or are out of service. Patients requiring emergency treatment available only in Jerusalem are particularly affected by the delay in accessing the city. Permission for emergency cases can be obtained the same day through the Palestine Red Crescent Society (PRCS). But even if permission is granted, emergency cases are frequently delayed at the checkpoints and patients have to be transferred from one ambulance to another at the checkpoint, which causes further delay and inconvenience.⁸²

89. Four-year old **Amna Nabil Fahmi Taha** has been suffering from a disease which impacts her ability to swallow food. She uses a feeding tube that must be changed at regular intervals. As part of her treatment, Amna's condition requires constant monitoring and testing, requiring her to

⁸⁰ UN OCHA, 'The Impact of the Barrier on Health', Special Focus (July 2010) 9.

⁸¹ *Ibid* 13.

⁸² *Ibid* 10.

visit the hospitals in Jerusalem four to five times a week on average. On 4 November 2010, Amna's mother, Randa Khamis Hajir Taha, set out to take her to Hadassa Hospital, located in East Jerusalem. At the 'Anata-Shu'fat checkpoint, which separates the East Jerusalem town of 'Anata from other towns and villages in East Jerusalem, Randa was harassed by Israeli soldiers, one of whom pushed her to the ground as she was holding her daughter. Amna banged her head and her leg on an iron gate of the checkpoint and suffered bruises on her face and leg. Despite Randa's distress, the soldier shouted at her to go back while mocking and cursing her before finally allowing her through. Because of the delay at the checkpoint Amna missed her appointment. When she arrived late, the hospital turned Amna away without changing the food tube.⁸³

90. In addition to patients not being able to access health care in East Jerusalem, in many instances, health care providers cannot reach those who require medical care in other areas of the West Bank. On 15 March 2011, **Dr. Najeh Muhammad Nammour**, a resident of Nablus and director of the Medical Centre belonging to the Health Work Committee, was delayed for hours at a checkpoint that was set up at the entrance of 'Awarta village, in Nablus governorate, with several other medical personnel and ambulances after Israeli occupying forces refused to allow them inside the village, which was under an Israeli-imposed curfew.⁸⁴ In the two days prior to his delay at the checkpoint, Dr. Najeh had been able to enter 'Awarta, but was ordered to close the Medical Centre and to "leave 'Awarta and never come back".⁸⁵

"I headed to the village in an ambulance with a medical team but we were held up at the checkpoint from 8:00 am until 1:00 pm. Many ambulances were stopped at this checkpoint at the entrance to the village. There were ambulances from the Palestinian Red Crescent Society, UNRWA, the Medical Relief Committees and the Ministry of Health. All were forbidden from entering the village. Subsequently, I called the Head of the Village Council and asked him to speak with the Israeli Military base to arrange for us to enter the village. Meanwhile a representative of the International Red Cross arrived, and a foreigner spoke to the soldiers. The foreigner told us that the soldiers would allow us to enter but that they needed some more time. Afterwards, an Israeli officer named Captain Jamal (I found out his name from an ambulance driver) told the staff of the Medical Relief Ambulance to enter the village, drop off a patient and come back. Then an argument broke out between us and the captain in which he made it clear that he did not want us to stay in the village. He was shouting foul terms of abuse in Arabic. He demanded that the ambulance cars go to the northern entrance of the village. We did, and we waited at this entrance until 4:00 pm when we were finally able to enter."⁸⁶

B. Access and Quality of Medical Care in the Gaza Strip

91. The effects of "Operation Cast Lead" and the ongoing closure of the Gaza Strip have led to a sharp deterioration in both access to health care and the provision of health services for Palestinians living in the Gaza Strip. As a result of Israel's persistent refusal to allow construction materials, fuel, medical equipment and medicines to be imported into the Gaza Strip, the medical infrastructure damaged during "Operation Cast Lead" cannot be repaired, which severely impacts the availability and quality of medical care, creating a situation where adequate medical care is severely limited for the civilian population of the Gaza Strip.

⁸³ Al-Haq Affidavit No. 5879/2010.

⁸⁴ For more information on the situation in 'Awarta and the Israeli army's response, see Al-Haq, 'Collective Punishment in 'Awarta: Israel's Response to the Killing in Itamar Settlement' (April 2011).

⁸⁵ Al-Haq Affidavit No. 6231/2011.

⁸⁶ Excerpt from Al-Haq Affidavit No. 6231/2011. Given by Dr. Najeh Muhammad Nammour, a resident of Nablus, Nablus governorate, West Bank.

92. Illustrative is the call from the World Health Organization (WHO) in May and June of this year, which draws attention to the severe and ongoing shortage of drugs and medical disposables in the Gaza Strip. UN OCHA reports that on 30 June 2011, 29 percent of essential drugs were out of stock, in addition to 150 out of 700 medical disposables (21 percent).⁸⁷ According to the WHO, the protracted situation of low stocks further hampers the ability to deliver health care.⁸⁸

93. The provision of health services has been also affected by the restrictions preventing residents from leaving the Gaza Strip. Israel's closure of the Gaza Strip's border crossings effectively prohibits movement out of the Gaza Strip. Palestinians who suffer from medical conditions that cannot be treated in the Gaza Strip must apply for permits to travel to receive treatment at hospitals in foreign countries or in the West Bank. These permits require extensive supporting documentation and are frequently refused or delayed by the Israeli authorities.⁸⁹ The imposition of the blockade has compounded gaps in the availability of key medical services and has created the need to refer patients to hospitals outside the Gaza Strip for specialised medical treatment.⁹⁰ The process needed to obtain an exit permit adds anguish and stress to people already vulnerable due to illness and, when permits are denied, can sometimes prove fatal.

94. The case of **Ra'ed 'Azzam al-Mghari** (32 years old) is illustrative in this respect.⁹¹ Ra'ed is a resident of the al-Bureij Camp, Gaza Strip and has suffered from a chronic heart disease, living with a hole in his heart for nearly 20 years. Until 2005, he received treatment regularly at al-Shifa' hospital in Gaza City, but when his condition worsened he underwent open-heart surgery at the Arab Centre for Heart and Blood disease in Nablus, West Bank.

95. On 11 June 2011, after his health deteriorated, he received permission from the Israeli DCO to leave the Gaza Strip to the Centre in Nablus through Erez border crossing. Despite the medical treatment Ra'ed received in Nablus, his health continued to deteriorate and medical consultant Marwan al-Sadiq recommended on 16 July 2011 that Ra'ed undergo another open-heart surgery to replace the valve that was installed during his first surgery in Nablus and fix a second valve. The surgery would have to be done outside of the Gaza Strip.

96. Although Ra'ed's family initially received confirmation that Ra'ed would be allowed to pass through the Erez border crossing on his way to Nablus, on 19 July the Israeli DCO refused his exit for security reasons. Left with no other option, the family tried to get Ra'ed medical treatment in Egypt. Despite receiving the positive notification from a hospital in Egypt that had agreed to treat Ra'ed, the Israeli DCO refused him the travel papers. The following day, Ra'ed's health deteriorated further and the doctors at al-Shifa' hospital worried that transporting him to Egypt would threaten his life, so they decided to operate on him at al-Shifa' that day around noon. On the same day at around 4:00 pm, Ra'ed died while in surgery.⁹²

97. At the same time that patients are prevented from accessing health care, it is also the case that health care providers cannot reach those who require medical care. **Ni'ma Yousef Abu-Sa'id** (33 years old) died on 13 July 2010 after she was hit by shrapnel from a shell fired from an Israeli tank located near the eastern border of the Gaza Strip. When her husband called an ambulance,

⁸⁷ The essential drug list contains 480 medications of which 140 were out of stock in the Gaza Strip.

⁸⁸ UN OCHA, 'The Monthly Humanitarian Monitor' (July 2011), 9.

⁸⁹ Amnesty International, 'Suffocating: The Gaza Strip Under the Israeli Blockade' (January 2010), 4-5.

⁹⁰ UN OCHA, 'Easing the Blockade – Assessing the Humanitarian Impact on the Population of the Gaza Strip', Special Focus (March 2011), 19-21.

⁹¹ Al-Haq Affidavit No. 6507/2011 (available in Arabic, English translation can be provided upon request).

⁹² Al-Haq, 'Weekly Focus: Denial of the Right to Health and the Death of Ra'ed al-Mghari 25 July – 31 July' (4 August 2011) <<http://www.alhaq.org/etemplate.php?id=608>> accessed 7 August 2011.

the Israeli authorities delayed it nearby. Two hours after the explosion that hit Ni'ma, Israeli occupying forces finally allowed the ambulance through, but by then Ni'ma's heavy bleeding had become fatal.⁹³

“Suddenly we heard the sound of loud explosions and intensive fire breaking out from inside the Border Fence. We all hurried into the house. However, my three-year-old son Jaber remained outside. At that time, I noticed my sister-in-law Sana' (25 years) had injured her left foot and, my sister Amira (30 years), her right shoulder. Blood was gushing from their wounds. I called 101 for an ambulance and reported that two injured women were in my house. Around 10 minutes later, a medic called and told me that ambulances could not access the area. He also said that the International Committee of the Red Cross (ICRC) was trying to coordinate with the Israeli side in order to transfer the injured women. Meanwhile, the Israeli occupying troops continued to subject the area to intensive fire. I heard bullets hit the house walls. [...] Around 15 minutes later, the fire ceased. My wife went outside to rescue my son and bring him in. [...] I saw my wife lying on the ground, blood pouring from her body.”⁹⁴

The authors recommend the Committee to urge the State party to:

Ease restrictions on freedom of movement for Palestinians in the Gaza Strip and the West Bank, including East Jerusalem, to facilitate unimpeded access to health care for all Palestinians; and

End the closure policy on the Gaza Strip and open all crossing points to allow for the free entry of medical supplies and equipment to re-build the health care system in the Gaza Strip.

⁹³ Al-Haq Affidavit No. 5585/2010.

⁹⁴ Excerpt from Al-Haq Affidavit No. 5585/2010. Given by Naser Jaber Abu-Sa'id, a resident of Juhr al- Deek village, Gaza governorate, Gaza Strip.

ARTICLE 13 AND 14: THE RIGHT TO EDUCATION

98. The right to education, similar to many economic, social and cultural rights, is inexorably linked to the realisation of all other rights. It is seen as a precursor to the fulfilment of other rights, namely a peoples' ability to determine their own future. As an Occupying Power, Israel is under obligation to facilitate the right to education. Derived from this is the obligation to allocate adequate space and to allow access to the materials needed for the construction and upgrading of schools, as well as to take all measures needed to avoid disruption in the functioning of schools, either by its military forces or its citizens.

99. Despite this Committee's expression of concern over demolitions and the construction of the Wall and settlements in the OPT, Israeli occupation policies and individual acts of settler violence continue to infringe the rights of Palestinians in the OPT, including the right to education. In particular, the demolition and destruction of schools by Israeli authorities has a negative effect on Palestinian students, reducing the number of classrooms available and generally making access to education more difficult. Incidents of settler violence take many forms, including damage and destruction of property and physical assaults on Palestinian students and teachers; many are rarely investigated or prosecuted by the Israeli authorities, resulting in a situation of impunity.⁹⁵

100. The following paragraphs address Issue 36 of the List of Issues identified by the Committee.

A. Access to Education

Impact of checkpoints and the Annexation Wall

101. In order to access education, many Palestinian students travel long distances and must often pass through physical barriers such as checkpoints or Wall gates. Such restrictions on freedom of movement negatively impact Palestinians' access to education and in many cases children are subject to physical and mental abuse, leaving them scared and traumatised.

102. Illustrative in this case is the village of **Dhahr al-Maleh, Jenin governorate**, enclosed within the Wall, which is constituted of both concrete slabs and a barbed wired fence in that area. The only way for the village residents to enter and exit Dhahr al-Maleh is through an iron Wall gate, which is under the arbitrary control of Israeli occupying forces.⁹⁶

“The life of residents of the village has been harsh since the Wall was built. The iron gate is opened daily between 7:00 am and 10:00 am and between 12:00 pm and 7:00 pm. As a result, access to and from the village is only possible within those hours. When the gate is closed, we live in a large prison, which we cannot leave. [...] Dhahr al-Maleh does not have a school and students must therefore cross the gate to access schools in Toura al-Gharbiyya village. About 40 male and female students are subjected every day to searches at the gate. Soldiers have a list of names of the students, which they check every day. This daily process of passing the checkpoint is especially

⁹⁵ Yesh Din, 'A Semblance of Law: Law Enforcement Upon Israeli Civilians in the West Bank' (June 2006), 6
<<http://www.yesh-din.org/report/ASemblanceofLaw-Eng.pdf>> accessed 4 August 2011.

⁹⁶ Al-Haq Affidavit No. 5713/2010.

exhausting to students in the winter and in hot summers. The Israeli occupying soldiers often deliberately delay students, especially when they are returning home.”⁹⁷

Curriculum change in East Jerusalem schools

103. In May 2011, Al-Haq documented a case in which Israel has further attempted to distance East Jerusalem from its Palestinian Arab surroundings through unilateral measures that violate international conventions and laws. This particularly striking example demonstrates Israel’s disregard of the occupied status of East Jerusalem and violates Palestinians’ right to education in Jerusalem.

104. With the advent of the anniversary the Independence of Israel, which coincides with the day of Palestinian *Nakba* on 15 May 2011, a circular distributed by the Israel Ministry of Education, requested by way of recommendation that Arab schools acquaint students with the document of Israel’s Independence by exhibiting it in a visible place so that they could learn about the principles of the State of Israel and ensure that they are an indispensable part of it.

105. Three days prior, the Directorate of Arab Education at the Israeli Jerusalem Municipality distributed a circular demanding that schools purchase textbooks of the applicable curriculum from the Municipality warehouses and not from any other place.⁹⁸

“This refers to textbooks of the Palestinian curriculum, which the Israeli Jerusalem Municipality reprints after it deletes certain pages, paragraphs, and words pertaining to the Palestinian people’s identity and attachment to their land and homeland, such as the Palestinian national anthem, Palestinian flag, as well as any phrases relating to the human right to one’s land and home. Furthermore, the Israeli Jerusalem Municipality deletes all that is related to the right of Palestinian refugees to return to their country in accordance with relevant United Nations resolutions. It also removes the word Palestine on any maps and replaces it with the word Israel. It should be noted that copyrights of the curriculum textbooks are preserved for the Palestinian Ministry of Education. As far as I know, the Palestinian Authority has not ceded the right to reprint these textbooks to any party. The aforesaid circular was distributed to 52 schools, at which approximately 21,000 Palestinian students are enrolled.”⁹⁹

106. This measure highlights Israel’s attempt to impose the versions of the textbook printed by the Israeli Jerusalem Municipality on schools under control of the Directorate of Arab Education and on private schools and to prevent the entry of Palestinian-printed textbooks through Israeli military checkpoints set up around Jerusalem. This measure is a prelude to imposing hegemony and control over the educational process in occupied East Jerusalem by replacing the Palestinian curriculum with an Israeli curriculum, which constitutes a violation of the Palestinian students’ right to education in East Jerusalem. Palestinian students have a right to education in accordance with their culture, identity and allegiance. Israel’s beliefs and ideology cannot be imposed on them.¹⁰⁰

⁹⁷ Excerpt from Al-Haq Affidavit No. 5713/2010. Given by Wasef Wasfi Khateeb, a resident of Dhahr al-Maleh, Jenin governorate, West Bank.

⁹⁸ Al-Haq Affidavit No. 6286/2011.

⁹⁹ Excerpt from Al-Haq Affidavit No. 6286/2011. Given by Sameer Mustafa Salman, Director of the Education District Office – *Waqf* Department, and a resident of Beit Safafa village, Jerusalem governorate.

¹⁰⁰ Al-Haq Affidavit No. 6286/2011.

B. Attacks, Arrests and Demolitions

107. The State party's continuing military occupation of the OPT negatively impacts the rights of children to seek education. Al-Haq has documented several cases where schools are attacked, demolished, destroyed and raided and where children are attacked on their way to or at school by Israeli occupying forces carrying out military or law enforcement operations, or by settlers.

Attacks on schools and children

108. On 9 February 2011, the students and staff of the 'Urif Secondary School, located in 'Urif village, Nablus governorate, were attacked by the Israeli occupying forces. Some of the soldiers had entered the school, while others remained outside firing teargas grenades and rubber-coated steel bullets at the students and staff, injuring 17-year-old **Ahmad Muhammad Khalil Shihada**. Ahmad was taken to Rafidiya hospital and suffered muscle rupture contusions in his left leg.¹⁰¹

109. '**Urif Secondary School** has suffered attacks in the past. In January 2011, settlers from Yitzhar settlement, located one kilometre east of the village, attempted to set fire to the teacher's room, burned the entrance of the school and destroyed school furniture. Later that same month, settlers vandalized the school wall with slogans in Hebrew.¹⁰²

110. For about one month, schools and homes in '**Awarta, Nablus governorate**, were subject to raids and citizen arrests after settlers had been killed in Itamar settlement, located approximately two kilometres from 'Awarta, on 11 March 2011.¹⁰³ As a result of the recurrent curfews, the 1,642 schoolchildren of the village were prevented from attending classes for a substantial period of time.¹⁰⁴ In one incident, which occurred on 12 March 2011, Israeli occupying forces raided the '**Awarta Basic School** and destroyed the school doors and window grilles.¹⁰⁵

Demolition of schools

111. Similar to Israel's restrictive and discriminatory planning regime affecting the right to housing, the provision of education, specifically in Area C communities, continues to be undermined by the difficulties in obtaining permits to build new schools or upgrade existing ones, which leads to a lack of educational facilities such as classrooms, school furniture and materials.¹⁰⁶

112. Small villages in the West Bank are particularly vulnerable to Israeli occupation policies. An example of this is the situation of the village of **Khirbet Tana, east of Beit Fourik**, Nablus governorate, which has suffered demolitions on six separate occasions since 2005. In one of the incidents on 8 December 2010, the Israeli Civil Administration carried out a large demolition operation in which a military force with three bulldozers demolished, amongst other structures, a school consisting of two classrooms with a concrete ceiling and two external bathrooms. The

¹⁰¹ Al-Haq Affidavit No. 6121/2011.

¹⁰² Al-Haq Affidavit No. 6121/2011.

¹⁰³ For more information see Al-Haq, 'Collective Punishment in 'Awarta' (n 84).

¹⁰⁴ *Ibid* 12.

¹⁰⁵ Al-Haq Affidavit No. 6297/2011.

¹⁰⁶ UN OCHA, 'The Monthly Humanitarian Monitor' (February 2011), 6.

bulldozers completely demolished the building and its contents, including the school furniture.¹⁰⁷

113. Another striking example of the demolition of schools in small villages in the West Bank is the **Daqaiqa school**, located in Daqaiqa village (350 people), Hebron governorate. Wa'el Ismai'l Atmaiza works as a teacher in the Daqaiqa school, which is attended by 51 students. On 12 January 2011, Wa'el and several other teachers arrived at the school at 8:00 am and found dozens of Israeli military vehicles and four bulldozers. A soldier told him to stay away from the school, but after some argument allowed him and the students who had gathered to enter one of the rooms. Several minutes later several soldiers entered the school and told them to leave. He argued with the soldier for several minutes but the soldier said that Wa'el had entered a closed military zone and gave him ten minutes to evacuate. The soldier provided a written order in Hebrew that Wa'el could not read. Another soldier proceeded to remove Wa'el from the school by force, handcuffing him, putting him in a car, and blindfolding him. Wa'el could hear the school being destroyed by bulldozers before he and another detained teacher were driven to a different location and eventually released to walk back to the school. The Israeli occupying forces demolished the fifth grade building and two rooms belonging to the school outside the school's immediate premises. The destruction interrupted studies including the end of year exams.¹⁰⁸

Detention of children

114. Since 2000, Israel has arrested more than 7,500 children, approximately 700 per year. While the minimum age of criminal responsibility in the Israeli military legal system is 12, children as young as seven years old have been arrested, interrogated and placed under house arrest¹⁰⁹ for allegedly inciting anti-Annexation Wall protests, throwing stones during demonstrations or belonging to Hamas.¹¹⁰ As of 31 July 2011, there were 202 child prisoners, 40 of whom are under age 16.¹¹¹ The vast majority of children who are arrested and held in custody are denied access to education.

115. Children who are subject to house arrest are also denied access to education. The case of **Islam Ayyoub Dar Ayyoub** is one prominent example. On 23 January 2011 at around 2:00 am, Israeli occupying forces arrested 14-year-old Islam, a resident of the village of al-Nabi Saleh. Islam's case was first brought before a judge on 27 January 2011. Two weeks later Islam was released, but put under house arrest.¹¹² Islam cannot leave his house under any conditions or he will have to pay NS 10,000. His house arrest was subsequently extended until 16 May 2011, denying him access to education for at least five months of the school year.¹¹³

The authors recommend the Committee to urge the State party to:

¹⁰⁷ Al-Haq Affidavit No. 5833/2010.

¹⁰⁸ Al-Haq Affidavit No. 6016/2011 (available in Arabic, English translation can be provided upon request).

¹⁰⁹ Al-Haq has documented cases where children as young as 8 years old are arrested and beaten during the arrest and while in detention. See also Addameer, 'Quarterly Update on Palestinian Prisoners' (15 April – 15 July 2011), 2 <<http://addameer.info/wp-content/images/addameer-quarterly-update-on-palestinian-prisoners-15-april-15-july-2011.pdf>> accessed 8 August 2011.

¹¹⁰ Defence for Children International – Palestine Section, 'In their own Words: A report on the situation facing Palestinian children detained in the Israeli military court system' (19 July 2011), <http://www.dci-palestine.org/sites/default/files/un_sp_-_detention_-_west_bank_-_july_2011.pdf> accessed 4 August 2011.

¹¹¹ Defence for Children International – Palestine Section, 'Detention Bulletin' (July 2011) <http://www.dci-palestine.org/sites/default/files/detention_bulletin_jul_2011.pdf> accessed 29 August 2011.

¹¹² Al-Haq Affidavit No. 6042/2011.

¹¹³ Al-Haq Affidavit No. 6314/2011 (available in Arabic, English translation can be provided upon request).

Stop the demolition of schools and facilitate freedom of movement to protect the right to education for Palestinians living in Area C, the seam zone and East Jerusalem;

**End attacks on schools by military and border police officers;
Investigate and prosecute settlers who perpetrate attacks on children and schools in order to end the impunity they currently enjoy for their actions; and**

Ensure that no child is prosecuted in military courts, which lack comprehensive fair trial and juvenile justice standards that ignore a child's right to education.

ARTICLE 15: CULTURAL RIGHTS

116. The Committee recognises that “cultural rights are an integral part of human rights and, like other rights, are universal, indivisible and interdependent. The full promotion of and respect for cultural rights is essential for the maintenance of human dignity and positive social interaction between individuals and communities in a diverse and multicultural world.”¹¹⁴ Furthermore, the Committee recognises that the right of everyone to take part in cultural life is intrinsically linked to the right to education, “through which individuals and communities pass on their values, religion, customs, language and other cultural references, and which helps to foster an atmosphere of mutual understanding and respect for cultural values.”¹¹⁵

117. Like many economic, social and cultural rights, the Committee emphasises that the right to take part in cultural life is also interdependent on other rights enshrined in the Covenant, including the right of all peoples to **self-determination**, Article 1 of the Covenant and the right to an **adequate standard of living**, Article 11 of the Covenant.

118. The Human Rights Committee recently expressed its concern in regard to the “illegal actions by Israel”, which undermine “the sanctity and inviolability of religious sites in the occupied Palestinian territories, in particular in and around the holy city of Jerusalem.” It “condemns the disrespect of the religious and cultural rights” by Israel in the OPT and “demands that Israel [...] respect religious and cultural rights in the occupied Palestinian territories, particularly in occupied East Jerusalem.”¹¹⁶

119. The following paragraphs address Issue 38 of the List of Issues identified by the Committee.

A. Protection of non-Jewish Holy Sites from Desecration

Demolition of mosques

120. As aforementioned, small villages in the West Bank are particularly vulnerable to Israeli occupation policies and similar to houses, schools and livestock barracks, mosques are also subject to the Israeli policies of demolition, destruction and appropriation as a result of lack of permits for their construction.

121. **Khirbet Yarza village, Tubas governorate**, is a small village located in the Jordan Valley (Area C) and houses 60 people in 10 houses. Only one of these houses has a construction license, which was issued in 1975 by the Israeli Civil Administration. Constructed several years ago, Khirbet Yarza used to have its own mosque, which measured approximately 100 square metres. On 25 November 2010 at around 6:30 am, an Israeli military force, consisting of 25 – 30 military jeeps and three yellow JCB bulldozers raided Khirbet Yarza, demolishing the mosque completely. In addition to the mosque, the Israeli military bulldozers demolished many barracks, which were

¹¹⁴ UN CESCR, General Comment 21, Right of everyone to take part in cultural life (21 December 2009), UN Doc. E/C.12/GC/21, paragraph 1 <<http://www2.ohchr.org/english/bodies/cescr/comments.htm>> accessed 6 August 2011.

¹¹⁵ *Ibid* paragraph 2.

¹¹⁶ UN HCR, The grave human rights violations by Israel (n 6).

used for raising livestock and storing animal feed. The mosque was demolished under the pretext that it had been built without the construction license.¹¹⁷

The 'Price Tag' policy

122. Incidents of settler violence have intensified in the past months in response to recent evacuations of outposts carried out by the Israeli army in the West Bank, following the Israeli government's decision that the Israeli High Court of Justice (HCJ) would not be able to protect outposts built on private Palestinian land, thereby ordering them to be evacuated at once.¹¹⁸ In response, settler communities in the OPT mobilised to implement the so-called 'Price Tag' policy, with political support from Israeli religious and political public figures. The 'Price Tag' policy promotes attacks against Palestinians and their property in response to any type of enforcement measure taken by Israel, including evacuations of houses in outposts and settlements as well as any other practical or political measure regarding construction in settlements.¹¹⁹

123. Incidents of settler violence against Palestinians, including those involving the use of firearms, have intensified in recent years, becoming a serious concern for the safety of the Palestinian population.¹²⁰ It is often the case that such incidents are not simply random criminal acts carried out by individuals, but are organised activities carried out by politically motivated groups of settlers and an organised leadership and operational network. These incidents frequently result in injury to Palestinians, large-scale damage to private and public property, including but not limited to the desecration of religious places.¹²¹

124. The practices that ensue from the implementation of this policy amount to severe acts of violence executed by settlers against the Palestinian population and their property. The direct and indirect support provided to settlers by the Israeli authorities has afforded settlers the protection of their rights and interests at the expense of Palestinian rights. Israel's legislative and administrative regime in the OPT has effectively shielded settlers from the law and facilitated the perpetuation of acts of violence against Palestinians. This reality has created a climate of impunity in the OPT causing a remarkable increase in settler violence,¹²² which amounts to

¹¹⁷ Al-Haq Affidavit No. 5847/2010.

¹¹⁸ C. Levinson, B. Ravid, 'Israel vows to raze all illegal outposts built on private Palestinian land', *Haaretz* (1 March 2011) <<http://www.haaretz.com/print-edition/news/israel-vows-to-raze-all-illegal-outposts-built-on-private-palestinian-land-1.346329>> accessed 27 July 2011; A. Glickman, 'Court chides State over West Bank outposts', *Ynet* (19 October 2010) <<http://www.ynetnews.com/articles/0,7340,L-3971965,00.html>> accessed 27 July 2011.

¹¹⁹ Settler groups have been determined to respond with violence against Palestinians to any type of measure taken by the Israeli authorities against settlements, including the evacuation of a bus. After a bus was evacuated by the Israeli Civil Administration and police, about 150 settlers attacked farmers in the Palestinian village of Bourin, threw stones, set farming land on fire and caused damage to farm land and property; E Weiss, 'Settlers after Itzhar: A 'price tag' was given to the evacuations', *Haaretz* (25 July 2008) <<http://www.ynet.co.il/articles/0,7340,L-3572983,00.html>> accessed 5 May 2011.

¹²⁰ See generally, UN OCHA, 'Unprotected: Israeli settler violence against Palestinian civilians and their property', Special Focus (December 2008).

¹²¹ Avi Issacharoff, 'Palestinian mosque torched in suspected 'price tag' operation by settlers', *Haaretz* (4 October 2010) <<http://www.haaretz.com/news/diplomacy-defense/palestinian-mosque-torched-in-suspected-price-tag-operation-by-settlers-1.317090>> accessed 31 May 2011; Avi Issacharoff, Anshel Pfeffer, 'Palestinians claim: settlers tried to burn down a mosque in Fajr village in the West Bank', *Haaretz* (4 October 2010) <<http://www.haaretz.co.il/hasite/spages/1191875.html>> accessed 15 June 2011; Chaim Levison, 'Settlers tried to burn down a mosque in Moghair village in the Shilo bloc', *Haaretz*, (7 June 2011) <<http://www.haaretz.co.il/hasite/spages/1230528.html>> accessed 15 June 2011.

¹²² For more information on the 'Price Tag' policy see Al-Haq's forthcoming Report, 'Harbouring Impunity: Settlers' 'Price Tag' Policy Inciting Violence and Hatred Against Palestinians in the Occupied Palestinian Territory'.

systematic violations of Israel's obligations as an Occupying Power to protect the Palestinian population.

B. Access to Holy Sites

Denial of entry to East Jerusalem

125. In its General Comment No. 21 (2009), the Committee affirmed that the right to take part in cultural life can be characterised as a freedom and that "it requires from the State party both abstention (i.e., non-interference with the exercise of cultural practices and with access to cultural goods and services) and positive action (ensuring preconditions for participation, facilitation and promotion of cultural life, and access to and preservation of cultural goods)."¹²³

126. Local Palestinian religious communities, both Muslim and Christian, are denied access by Israel to practice their religion in the holy city of Jerusalem. The regime of checkpoints and restrictions on movement inhibit Palestinians in the West Bank from being able access sites of religious significance, cultural services and practices. Since the construction of the Wall began in 2002, many Palestinians with West Bank IDs have been unable to access Jerusalem, and a new generation of Palestinians are growing up completely cut off from their holy sites in the city. On a regular basis, Palestinians engage in peaceful demonstrations, especially around Qalandiya checkpoint, to demand access to their holy sites.

127. While the Israeli authorities claim to ease restrictions around religious holidays and issue prayer permits to allow Palestinians holding West Bank IDs to access mosques and churches in East Jerusalem, the permit regime is implemented in a piecemeal manner that does not allow for families to celebrate these holidays together. According to the Anglican church in Ramallah, out of 5000 requests for prayer permits for access to Jerusalem during Palm Sunday in April 2011, only 2500 were granted.¹²⁴ However, many families would have one member denied a permit, which would result in the entire family choosing not to travel to Jerusalem to celebrate the holiday.

128. It is often the case that age limits are imposed for permits, particularly during the Muslim holy month of Ramadan. In this manner, men under the age of 45 and women under the age of 30 are unable to acquire prayer permits for access to their holy sites in Jerusalem.

129. On 5 August 2011, the first Friday of the holy month of Ramadan, '**Abd-al-Hadi Mustafa Ighbariya** left his home in Jenin Refugee Camp at 3:00 am to make it to the Qalandiya checkpoint in time to pass into Jerusalem for prayers at the Al-Aqsa Mosque. He arrived at Qalandiya at 6:00 am to find that Israeli soldiers (border guard and border police) had divided the checkpoint into an area for women and an area for men and were standing behind concrete blocks while checking Palestinians' IDs. He approached an Israeli officer and asked him to be allowed into Jerusalem when a police officer approached and pushed 'Abd-al-Hadi back, forbidding him from speaking with the officer. He approached the Israeli soldiers several times and on every occasion they asked him to show his ID to which he replied that he was 44 years old and did not have a permit despite applying multiple times to the Israeli Civil Administration. The soldiers

¹²³ UN CESCR, General Comment No. 21 (n 114) paragraph 6.

¹²⁴ Women's Centre for Legal Aid and Counselling, interview with Raja Shehadeh, special assistant at Ramallah's Anglican Church, 18 April 2011.

replied that he had to be above 45 years to be allowed entry with a permit and above 50 years to be allowed entry without a permit.¹²⁵

130. **Jamil Younes Tarwa**, from Sa'ir town, Hebron governorate, carries a West Bank ID but lives in Shu'afat Camp in Jerusalem because his wife carries a blue Jerusalem ID card. He submitted his request for family unification years ago, and has been waiting for a decision. On 5 August 2011, the first Friday of the holy month of Ramadan, he left his house at 9:00 am to pray at Al-Aqsa Mosque and was told by his lawyer that the incomplete ID papers would allow him access through the Shu'afat checkpoint into Jerusalem. When the soldier at the checkpoint examined his ID, Jamil was told that he would not be allowed in from that checkpoint and to instead try at Qalandiya. He went directly to the Qalandiya checkpoint, which is about an hour's car ride from his home. A soldier at the checkpoint refused him entry a second time. He returned to Shu'afat Camp to pray in the local mosque. He has been unable to access Al-Aqsa for one and a half years, and before that he was only able to access Jerusalem through a secret route.¹²⁶

Appropriation of cultural sites

131. In February 2010, the State party announced that the **al-Ibrahimi mosque**, in the old city of Hebron, and **Rachel's Tomb**, in Bethlehem, would be designated as Israeli national heritage sites.¹²⁷ The two shrines were included in a national plan intended to rehabilitate around 150 Jewish and Zionist heritage sites.¹²⁸ Palestinian access to these sites, which are located in the OPT, is prohibited or strictly controlled by Israeli authorities. Rachel's Tomb, which is guarded by Israeli soldiers, has been completely encircled by the Wall and cut off from the West Bank. In addition to prohibiting Palestinians from accessing the site, the route of the Wall around Rachel's Tomb has resulted in land confiscation and has completely severed the surrounding Palestinian neighbourhood of al-Qubba, isolating people behind the Wall and separating them from their communities.

132. The home of **George Anistas** provides one prominent example of the impact the Wall around Rachel's Tomb has had on cultural life for Palestinians in that area. Measuring over 12 metres high and surrounding the family's home on three sides, the Wall has completely cut off the family from the rest of their neighbours, leaving them isolated and secluded from the community. Since the construction of the Wall, friends and relatives have been afraid to visit the family because of the presence of soldiers in the neighbouring watchtowers. Moreover, the Wall's path cuts through the former main street of Bethlehem, leaving the thoroughfare, which had once been bustling with shops, tourists, and activity, completely deserted.¹²⁹

133. Israel also controls access to the al-Ibrahimi mosque, which was divided in half to create separate worship spaces for Jews and Muslims after a Jewish settler shot and killed 29 Muslim worshippers in 1994. The State party has installed security checkpoints and controls all entry into the holy site, requiring Palestinians and Israeli Jews to enter the holy site from two separate

¹²⁵ Al-Haq Affidavit No. 6509/2011 (available in Arabic, English translation can be provided upon request).

¹²⁶ Al-Haq Affidavit No. 6512/2011 (available in Arabic, English translation can be provided upon request).

¹²⁷ 'US slams Israel over designating heritage sites' *Haaretz* (25 February 2010) <<http://www.haaretz.com/news/u-s-slams-israel-over-designating-heritage-sites-1.263737>> accessed 29 August 2011.

¹²⁸ 'Israel to include West Bank shrines in heritage plan' *Reuters* (21 February 2010) <<http://www.reuters.com/article/2010/02/21/us-palestinians-israel-sites-idUSTRE61K1QL20100221>> accessed 29 August 2011.

¹²⁹ Al-Haq, 'Anistas House' Video Documentation Unit (June 2010), <<http://vimeo.com/12880299>> accessed 29 August 2011.

entrances. The mosque is completely closed to Muslim worshippers on several Jewish holidays. The State party's policies and practices with respect to the holy place and its designation of the site as a national heritage site present a continuing threat to the enjoyment of cultural rights by the Palestinians.

The authors recommend the Committee to urge the State party to:

Ensure that holy sites in the OPT are protected against demolition and desecration;

Ensure that perpetrators of the price-tag policy are effectively investigated and prosecuted to ensure protection of Palestinian religious and cultural sites;

Allow complete freedom of movement for all Palestinians who wish to access occupied East Jerusalem to maintain their religious and cultural ties to the city;

Remove the Ibrahimi Mosque in Hebron and Rachel's Tomb in Bethlehem, both located on occupied territory, from the list of Israel's national cultural sites; and

Dismantle the Wall, including the area completely encircling Rachel's Tomb, which prohibits Palestinian access to this cultural site.

4. CONCLUSIONS AND SUGGESTED CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

134. Based on the foregoing, Al-Haq encourages the Committee to adopt the following Concluding Observations:

To express deep concern that the State party refuses to apply the Covenant to the Palestinian population in the OPT and to report on the situation of Palestinians in the occupied territories.

To reiterate its grave concern about the deplorable living conditions of the Palestinians in the OPT who continue to live under a prolonged military occupation. Measures including the construction of the Annexation Wall, confiscation of Palestinian land to build Israeli settlements, and the system of closures, checkpoints, and permits that restrict movement throughout the OPT have resulted in the increasing fragmentation and division of Palestinian territory in a manner that has severely infringed the economic, social and cultural rights of Palestinians, particularly access to work, land, water, health care, education, and cultural and religious sites.

To express deep concern about the impact of the State party's Annexation Wall in the OPT, the route of which has been found to be in violation of international law by the International Court of Justice. The impact of the Wall is grave, as it severely impedes access to land and water resources for Palestinian individuals and communities and has been an integral factor in the fragmentation and division of the OPT.

To reiterate its grave concern about the State party's continuing practices of home demolitions, land confiscations, and its adoption of policies resulting in substandard housing and living conditions. The State party's discriminatory housing and zoning policies have resulted in extreme overcrowding and a general lack of services in East Jerusalem, as residents struggle to avoid displacement from the city. At the same time that Palestinian communities are struggling to build homes and develop their land, Israel is facilitating the construction and expansion of settlements in Area C and East Jerusalem and expropriating Palestinian land and resources for this purpose.

To express deep concern over the continuing closure of the Gaza Strip, which results in the collective punishment of the Palestinians therein and severely impinges on their rights to live, work, access land and natural resources, health care, education and cultural rights. The State party's closing of the Gaza Strip's border crossings restrictions on travel both to the West Bank and internationally, has had a severe impact on the ability of Palestinians to enjoy economic, social and cultural rights in the Gaza Strip.

135. Based on the foregoing, Al-Haq encourages the Committee to adopt the following Recommendations:

To remind the State party that the provisions of the Covenant are applicable to all populations in the OPT, and to request that the State party report on all populations that reside in territory under its effective control;

To urge the State party to freeze the settlement project and to abolish its bifurcated system of norms by stopping the illegal extra-territorial application of its civil law to the Israeli settler population in the OPT. As a result of this practice, certain groups are excluded from enjoying their basic economic, social and cultural rights on the bases of nationality, ethnicity or status. The State party must ensure that Palestinians present in the OPT are guaranteed the same rights and protections under the Covenant as Israeli settlers currently living in the OPT.

To urge the State party to provide the necessary legal protections and access to justice for Palestinians living under the constant threat of individual or collective violence at the hands of the settlers, who must be held accountable for their crimes in order to ensure wider protection for Palestinian rights to work, adequate housing, education and culture.

To urge the State party to allow Palestinians unhindered freedom of movement across the OPT to facilitate the enjoyment of the full range of economic, social and cultural rights that Palestinians are entitled to under the Convention;

To urge the State party to stop the construction of seam zones and dismantle the current route of the Wall that appropriates Palestinian territory to allow Palestinians unimpeded access to their rights to work, housing, family life, water, health, education and culture; and

To urge the State party to lift the illegal closure of the Gaza Strip, which constitutes a form of collective punishment and adversely affects the economic, social and cultural rights of the Palestinian civilian population.