



## **Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of Israel**

January 2022

This memorandum provides an overview of several of Human Rights Watch’s central concerns with respect to the Israeli government’s human rights practices in Israel and the Occupied Palestinian Territory (OPT), submitted to the United Nations Human Rights Committee in advance of its review of Israel in March 2022. This submission, which draws on years of research and documentation by Human Rights Watch, covers freedom of movement, the right to due process and humane treatment, freedom of peaceful assembly, association and expression, residency rights, and right to equality before law. We hope it will inform the Human Rights Committee’s assessment of the Israeli government’s compliance with the International Covenant on Civil and Political Rights (ICCPR).

### **Introduction: Human Rights in Prolonged Occupation & Israel’s Treatment of Palestinians**

The Convention applies to Israel’s conduct towards Palestinians in the OPT, alongside international humanitarian law governing occupation. While Israel maintains that its human rights obligations do not extend to the OPT, the Human Rights Committee has repeatedly found that states are bound to respect the human rights treaties they have ratified outside their state borders, and specifically that “the provisions of the Covenant apply to the benefit of the population of the occupied territories.”<sup>[1]</sup> The International Court of Justice endorsed this view in its Advisory Opinion regarding Israel’s separation barrier, and stated that the ICCPR

“is applicable in respect of acts done by a State in the exercise of its jurisdiction outside its own territory.”<sup>[2]</sup>

While the law of occupation permits occupiers to restrict civil and political rights, it also requires them to restore public life for the occupied population. That obligation increases in a prolonged occupation, where the occupier has more time and opportunity to develop more narrowly tailored responses to security threats that minimize restrictions on rights. In addition, the needs of the occupied population increase over time, particular as regards civil rights: suspending virtually all rights to freedom of expression, peaceful assembly and association for a short period interrupts temporarily normal public life, but long-term, indefinite suspension of rights has a much more debilitating impact. Social and intellectual stagnation results from the denial of free expression and debate, access to diverse information, and the opportunity to peacefully demand change.

After more than 50 years of occupation with no end in sight, Israel should fully respect the human rights of Palestinians, using as a benchmark the rights it grants Israeli citizens. In a December 2019 report entitled “Born Without Civil Rights,” Human Rights Watch sets out the legal foundations for this obligation given the duration of its occupation under international humanitarian law.<sup>[3]</sup> In particular, it points to the Geneva Conventions, which the International Committee of the Red Cross has interpreted to place more responsibilities on the occupier the longer the occupation lasts,<sup>[4]</sup> and Article 43 of the Hague Regulations of 1907,<sup>[5]</sup> whose requirement that occupiers should minimize the impact of its actions on the local population entails a responsibility, where an occupier has the time and opportunity to refine its methods, to arrive at security measures that minimize restrictions on rights and freedoms.

Israel should accept the applicability of the ICCPR and other international human rights law to the OPT.

Human Rights Watch has found that Israeli authorities are committing the crimes against humanity of apartheid and persecution against millions of Palestinians.<sup>[6]</sup> Human Rights Watch reached this determination based on a finding of an overarching Israeli government policy to maintain the domination by Jewish Israelis over Palestinians across Israel and the OPT, and grave abuses committed against Palestinians living in the OPT, including East Jerusalem. Those grave abuses include sweeping restrictions on their movement; widespread land confiscation; the imposition of harsh conditions which have led thousands of

Palestinians to leave their homes under conditions that amount to forcible transfer; the denial of residency rights to hundreds of thousands of Palestinians and their relatives; and the suspension of basic civil rights to millions of Palestinians.

## **Freedom of Movement in Gaza and the West Bank (Article 12)**

Since its last ICCPR review in 2014, Israel has continued to impose sweeping restrictions on the movement of the more than 4.7 million Palestinians in the OPT that fail any reasonable test of balancing Israel's security against the human right to freedom of movement.

### ***Closure of Gaza***

For the last 25 years, Israel has increasingly restricted the movement of Gaza residents. Since 2007, the year that Hamas seized effective political control over the Strip from the Fatah-led PA, Israel has imposed a generalized travel ban on movement in and out of the small territory with few exceptions. The Israeli army since 2007 has limited travel through the Erez Crossing, the passenger crossing from Gaza to the other part of the OPT, the West Bank, and abroad, as well as to Israel. Israel has limited passage to cases presenting what it deems "exceptional humanitarian circumstances," meaning mainly those needing vital medical treatment outside Gaza and their companions, although authorities also grant permits each year to hundreds of Gaza residents eligible on other grounds, such as high-level businesspeople and merchants.[7] Israel has restricted movement even for those seeking to travel under these narrow exceptions to Israel's closure policy.[8] Most Gaza residents do not fit within these exemptions. For the five-year period between January 2015 and December 2019, before the onset of Covid-19 restrictions, an average of about 373 Palestinian exited Gaza via Erez each day, less than 1.5 percent the daily average of 26,000 in September 2000, before the closure, according to the Israeli rights group Gisha.[9] Israeli authorities have tightened the closure amid the Covid-19 pandemic—between March 2020 and December 2021, an average of about 143 Palestinians exited Gaza via Erez each day, less than half the daily average for the period between January 2015 and December 2019, according to Gisha.[10] Most Palestinians who grew up under this closure have never exited the 40-by-9 km (25-by-7 mile) Gaza Strip.

Israeli authorities have also for more than two decades sharply restricted the use by Palestinians of Gaza's airspace and territorial waters. They blocked reopening an airport that Palestinians once operated there, and building a seaport, leaving Palestinians dependent on leaving Gaza by land in order to travel abroad.[11] Egypt has contributed to the closure by restricting movement and at times fully sealing its border crossing with Gaza, Gaza's only outlet aside from Erez to the outside world.

Israel restricts all travel between Gaza and the West Bank, despite its having recognized the two to be part of a single territorial unit,[12] even when the travel takes place via the circuitous route through Egypt and Jordan rather than through Israeli territory. The closure adversely affects many aspects of everyday life and contributes to other violations of Palestinians' rights, including the right to family reunification, the right to access healthcare, education, and economic opportunities.[13]

Israeli authorities often justify the closure on security grounds. Authorities have said in particular that they want to minimize travel between Gaza and the West Bank to prevent transferring "a human terrorist network" from Gaza to the West Bank, the latter of which has a porous border with Israel and is home to hundreds of thousands of Israeli settlers.[14]

These restrictions violate the rights of Palestinians under Article 12 of the ICCPR to freedom of movement and residence, in particular within the OPT, and the right to leave one own's country, that Israel can restrict only in response to concrete, specific security threats. Israel's policy to presumptively deny free movement, with narrow exceptions, based on generalized security threats and irrespective of any individualized assessment of the security risk of the individual fail any reasonable test of balancing Israel's security concerns against the human right to freedom of movement. While Israel has legitimate security concerns in regulating entry to its territory, those concerns cannot justify the massive violation of the rights that the near-total ban inflicts on the more than two million Palestinians living in a sliver of territory.

### ***Permit Regime in the West Bank***

Israeli authorities have also imposed onerous restrictions on freedom of movement in the West Bank, it says for "substantive security reasons" given that "Palestinian residents from the region carried out... hundreds of deadly terrorist attacks." [15] Israeli policies, however, restrict movement of all Palestinians, not just those whom authorities deem to present a security threat. The army requires Palestinian ID holders, with narrow exemptions, to apply

to the Israeli army for time-limited permits to enter significant parts of the West Bank, [16] including East Jerusalem, the “seam zone” between the separation barrier and the Green Line which covers more than 184,000 dunams,[17] and areas controlled by settlements and the army, while allowing Israelis and foreigners to move freely between these areas, as well as to Israel, without permits. To obtain permits, Palestinians “face an arbitrary, entirely non-transparent bureaucratic system,” with “no way of assessing the chances that their applications will be approved or how soon,” according to the Israeli rights group B’Tselem.[18] “Many applications are denied without explanation, with no real avenue for appeal,” and “permits already granted are easily revoked, also without explanation,” B’Tselem adds. Those denied permits include many who have never been detained or convicted on security grounds.[19] The uncertainty discourages many Palestinians from applying for permits at all.

When it comes to travel abroad, Palestinians in the West Bank must travel via Jordan through the Israeli-controlled Allenby Crossing, unless they receive a difficult-to-secure permit to leave from Ben Gurion Airport near Tel Aviv. But Israeli authorities sometimes ban them from using that crossing on unspecified security grounds.[20] Between 2015 and 2019, the Israeli rights group HaMoked filed administrative appeals against 797 Israeli-issued travel bans on Palestinians.[21]

While countries have wide latitude to restrict entry at their own borders, Israel largely restricts movement of the occupied population not only to travel between the West Bank and the Gaza Strip, even when it does not take place through Israel, but also within the West Bank itself. Israeli authorities, for example, have erected nearly 600 permanent obstacles, such as checkpoints and roadblocks, within the West Bank, according to OCHA.[22] Palestinians also regularly face ad-hoc “flying” checkpoints across the West Bank—OCHA estimated that Israeli forces set up nearly 1,500 such checkpoints between April 2019 and March 2020 alone.[23] Israeli forces routinely turn away or humiliate and delay Palestinians at checkpoints without explanation, obstructing commutes to school, work or appointments of all kinds.[24] The separation barrier, 85 percent of which falls within the West Bank rather than along the Green Line, further encumbers movement in the West Bank.[25]

The severe movement restrictions in the West Bank, in particular the permit regime and restrictions on movement within the OPT, restrict the rights of Palestinians under Article 12 of the ICCPR to freedom of movement and residence.

*The Human Rights Committee should call upon the Government of Israel to:*

- End the generalized ban on travel to and from Gaza and permit the free movement of people to and from Gaza, and in particular between Gaza and the West Bank, and abroad, subject to, at most, individual screenings and physical searches for security purposes.
- Permit Palestinians from the West Bank and Gaza to move freely into East Jerusalem, subject to, at most, individual screenings and physical searches for security purposes.
- Dismantle the segments of the Separation Barrier not built along the Green Line but, rather, inside the OPT.

## **Rights to Free Assembly, Association and Expression in the West Bank (Article, 18,19, 21)**

Israeli continues to deprive Palestinians in the OPT of their basic civil rights, including the rights to free assembly, association and expression. In particular, authorities have targeted Palestinians for their anti-occupation speech, activism and affiliations, jailing thousands, outlawing hundreds of political and nongovernment organizations, and shutting down dozens of media outlets.[26]

In the West Bank, the army continues to rely on draconian military orders issued in the early days of the occupation to criminalize non-violent political activity. Authorities, for example, continue to apply British Mandate-era regulations that allow them to declare unlawful groups that advocate “bringing into hatred or contempt of, or the exciting of disaffection against” local authorities and to arrest Palestinians for affiliation with such groups.[27] As of March 2020, the Israeli Defense Ministry maintained formal bans against 430 organizations, including the Palestine Liberation Organization that Israel signed a peace accord with, its ruling Fatah party and all the other major Palestinian political parties.[28] In November 2021, Israeli authorities outlawed six prominent Palestinian civil society and human rights organizations, shortly after designating them as “terrorist” organizations, moves that permit

closing their offices, seizing their assets, and jailing their staff and supporters.[29] The army prosecuted 1,704 Palestinians in the West Bank for “membership and activity in an unlawful association” between July 1, 2014 and June 30, 2019, according to data it provided Human Rights Watch.[30]

For example, Israeli authorities have jailed Khalida Jarrar, a 56-year-old member of the Palestinian Legislative Council, for most of the last six years over her political activism with the Popular Front for the Liberation of Palestine (PFLP). One of the hundreds of outlawed organizations, the PFLP includes both a political party and an armed wing. The armed wing has attacked Israeli soldiers and civilians. Israeli authorities have never charged Khalida with involvement in armed activities. Khalida spent long stretches, including between July 2017 and February 2019, in administrative detention without trial and charge based on her PFLP affiliation.[31] In March 2021, an Israeli military court sentenced her to two years in prison for “membership in an unlawful association,” based on a plea deal, with Israeli military authorities acknowledging that she “did not deal with the organizational or military aspects of the organization.”[32] Her PFLP affiliation also led to her spending April 2015 to June 2016 in an Israeli prison, after she agreed to plead guilty, to avoid a longer sentence, to charges of “membership in an unlawful association” and “incitement” for a 2012 speech at a rally for Palestinian prisoners in which she allegedly called for kidnapping soldiers. The judge said the prosecution faced “difficulties proving guilt” on these charges.[33]

The army also regularly uses military orders permitting it to shut down unlicensed protests or to create closed military zones to suppress peaceful Palestinian demonstrations in the West Bank and detain participants. One military order, for example, imposes prison terms of up to 10 years on civilians convicted by military courts for participating in a gathering of more than 10 people without a military permit on any issue “that could be construed as political” or displaying “flags or political symbols” without army approval. The Israeli army said that, in the five-year period between July 1, 2014 and June 30, 2019, it prosecuted 4,590 West Bank Palestinians for entering a “closed military zone,” a designation often used for protest sites.

For example, the Israeli army in 2016 detained human rights defender Farid al-Atrash, who works at the Independent Commission of Human Rights, a quasi-official body of the Palestinian Authority, during a peaceful demonstration in Hebron that called for re-opening a main downtown street that the army prohibits Palestinians from accessing. Prosecutors charged him for “demonstrating without a permit” and for “attempt[ing] to influence public

opinion in the Area in a manner that may harm public order or safety” through “inciting” chants and “waving Palestinian Authority flags” and holding a sign that read “Open Shuhada Street.” Prosecutors further accused him of entering “a closed military zone” and “assault[ing]” a soldier, but furnished no actual evidence to substantiate these claims outside his non-violent participation in the demonstration. Authorities released al-Atrash on bail four days after his arrest, but continued to prosecute him for his participation in this event years later.[34]

The army has further cited the broad definition of incitement in its military laws, defined to include “praise, sympathy or support for a hostile organization” and “attempts, orally or otherwise, to influence public opinion in the Area in a manner which may harm public peace or public order,” to criminalize speech merely opposing its occupation.[35] The army acknowledged prosecuting 358 Palestinians in the West Bank for “incitement” between mid-2014 and mid-2019.[36]

Military prosecutors, for example, in early 2018 claimed in an indictment against activist Nariman Tamimi that she “attempted to influence public opinion in the Area in a manner that may harm public order and safety” and “called for violence” over a livestream she posted to her Facebook account in 2017” of a confrontation between her then-16-year-old daughter Ahed and Israeli soldiers in her front yard in December 2017. Her indictment notes a series of charges based on the livestream, including “incitement,” noting that the video was “viewed by thousands of users, shared by dozens of users, received dozens of responses and many dozens of likes.” Human Rights Watch reviewed the video and case file, and nowhere in the video or case file does Nariman call for violence.[37]

These restrictions violate Israel’s core obligations under the ICCPR, including Articles 18, 19 and 21. Israeli military orders that concern assembly, association and expression do not offer sufficient clarity to allow Palestinians to know what actions may result in criminal consequences and how to conform their behavior to abide by the law, violating a basic principle of international human rights law. Core concepts like “incitements” are so vaguely defined that individuals cannot reasonably predict whether an action or inaction amounts to a crime.

In addition, while the Convention permits, as subsequently clarified by the Human Rights Committee and OHCHR,[38] restrictions to the rights of free assembly, association and expression that are prescribed by law, undertaken for a legitimate purpose, including

threatening security or public order, and necessary and proportionate, Israel's restrictions far exceed what international law permits. Israeli authorities have prosecuted journalists, human rights defenders, and others for protesting or disseminating publicly available information and opinions of legitimate interest absent a specific and imminent security threat. They have arrested Palestinians in instances where there is no call to violence or where they have equated opposition to its occupation with incitement to violence without showing that the expressive activity was meant to cause violence or was understood by others in that way.

*The Human Rights Committee should call upon the Government of Israel to:*

- Cease arresting and detaining people for the nonviolent exercise of their rights to free assembly, association and expression.
- Grant Palestinians living in the occupied West Bank full protection of the rights guaranteed to all people under international human rights law, using as a benchmark the rights it grants Israeli citizens, as well as the protections they are owed under international humanitarian law.
- Repeal Military Orders 101 and 1651 and refrain from charging defendants under the Defense (Emergency) Regulations of 1945

## **Israel's Excessive Use of Force (Art. 6, 21)**

Israeli forces stationed on the Israeli side of the fences separating Gaza and Israel responded with excessive lethal force to weekly demonstrations for Palestinian rights on the Gaza side that took place for much of 2018 and 2019. Snipers killed, according to OCHA, 214 Palestinian demonstrators, many of them more than one hundred meters away, and injured by live fire more than 8,000 more, including 156 whose limbs had to be amputated.[39] As a UN Commission of Inquiry put it, Israeli forces shot at “unarmed protesters, children and disabled persons, and at health workers and journalists performing their duties, knowing who they are.”[40] The commissioners concluded that, while demonstrations were “at times violent,” in 187 of the 189 killings that took place in 2018, protesters did not pose an imminent threat to life and Israel used “neither necessary nor proportional” force.[41] Snipers followed orders from senior officials that sanctioned using live ammunition on Palestinians who approached or attempted to cross or damage fences between Gaza and Israel regardless of whether they posed an imminent threat to life. Human Rights Watch did not investigate

every case, but found that Israeli forces repeatedly fired on protesters who posed no imminent threat to life, pursuant to expansive open-fire orders from senior officials that contravene international human rights law standards.[42] These practices stem from a decades-long pattern that has changed little since outbreak of the first Palestinian *Intifada* in 1987 of using excessive force to quell protests and disturbances. Israeli forces also continue to regularly use excessive force in policing contexts in the West Bank.[43] Despite the frequency of such incidents over the years, Israeli authorities have failed to develop law enforcement tactics that comport with international human rights norms or hold perpetrators to account.

The Israeli government's use of excessive lethal force against demonstrators inside Gaza not only violates the rights of those killed to the right of life under Art. 6, but the rights of Palestinians living there to peaceful assembly under Article 21.

*The Human Rights Committee should urge the Israeli government to:*

- Issue regulations that clearly prohibit the use of lethal force except in situations where it is necessary to prevent an imminent threat to death or serious injury.

## **Israeli Detention & the Right to Due Process, Humane Treatment (Article 9, 10)**

Israeli authorities have continued to incarcerate Palestinians for what it deems “security offenses,” including hundreds at any given time held in administrative detention based on secret evidence without charge or trial for renewable periods that can extend for multiple years.[44] As of January 2022, authorities held 4,328 Palestinians in custody for “security offenses,” including 500 in administration detention, according to the Israeli human rights group HaMoked.[45] Israeli authorities try Palestinians charged with crimes in military courts where they face a conviction rate of near 100 percent.[46]

Israeli authorities have for decades mistreated and tortured Palestinian detainees.[47] A September 1999 Israeli Supreme Court ruling forbidding several torture tactics led to a significant reduction in the number of people tortured, but has not stopped the practice.[48] About 1,300 complaints of torture against Israeli authorities have been filed with Israel's Justice Ministry between 2001 and June 2020, which have resulted in one

criminal investigation and zero prosecutions.[49] The Israeli rights group the Public Committee Against Torture reported in June 2019 that, of the more than 100 complaints of alleged torture it filed over the last five years at the hands of Israel's internal security service, Shin Bet, 31 percent involved physical violence, 40 percent painful and prolonged shackling or use of stress positions, 66 percent sleep deprivation, 61 percent threats and 27 percent sexual harassment and humiliation.[50] Security forces also routinely use unnecessary force against children during arrest, which often take place in the middle of the night, and physically abuse them in custody.[51]

These policies and practice fall afoul of the ICCPR's guarantees of the right to liberty and security (Art. 9) and humane and dignified treatment (Art. 10). While Israel in 1991 derogated from Article 9, to the extent that it prohibits measures undertaken pursuant to the state of emergency it proclaimed in May 1948, that derogation should be understood in the context of the duration of the occupation. The longer the occupation, the greater the ability and therefore the obligation of occupiers to refine responses to security threats that minimize restrictions of the rights and freedoms of the local population.[52] While the law of occupation permits administrative detention as a temporary and exceptional measure, Israel's holding of hundreds of Palestinians in administrative detention, many for prolonged periods, in year 54 of an occupation with no end in sight far exceeds what the law authorizes.

The Human Rights Committee has stated, "the fundamental guarantee against arbitrary detention is non-derogable, insofar as even situations covered by article 4 cannot justify a deprivation of liberty that is unreasonable or unnecessary under the circumstances." [53] In its concluding observations on Israel in 2014, the Human Rights Committee called on Israel to "end the practice of administrative detention and the use of secret evidence in administrative detention proceedings, and ensure that individuals subject to administrative detention orders are either promptly charged with a criminal offence, or released." [54]

*The Human Rights Committee should call upon the Government of Israel to:*

- Cease its widespread practice of holding Palestinians in administrative detention without trial or charge
- Treat all detainees with humanity and with respect for their inherent dignity

## **Right of Residency (Article 12)**

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

### ***West Bank and Gaza***

Israeli policies on Palestinian residency have arbitrarily denied hundreds of thousands of Palestinians of the ability to live in, and travel to and from, the West Bank and Gaza. Israeli restrictions on residency separate families, bar thousands from returning to their homes in the OPT, trap others inside their homes or parts of the OPT, and block yet others from pursuing educational or economic opportunities.[55]

Israeli authorities have primarily done so through their ongoing control of the population registry – the list of Palestinians whom it considers lawful residents of the OPT. Israel requires Palestinians to be included in the population registry in order to obtain Israeli-sanctioned identification cards and passports, which allow Palestinians to reside, work and inherit property, but do not convey citizenship or nationality. Israeli security forces manning checkpoints and borders require Palestinians to present an identification card or passport before allowing passage for travel within the OPT, including to schools, jobs, hospitals or to visit family, and abroad.[56] Egyptian authorities also require Palestinians to present an identification card or passport to enter or exit via the Rafah crossing.[57]

Israeli authorities base the population registry on a census it conducted in the West Bank and Gaza in September 1967, several months after it took control of these areas. The census counted 954,898 Palestinians as physically present,[58] but excluded at least 270,000 Palestinians who had been living there before 1967 but were absent during the census, either because they had fled during the 1967 war or were abroad for study, work or other reasons.[59] Israeli authorities did not include these Palestinians in the population registry, requiring them to obtain visitor permits to return to their homes and denying entry to many, including all men aged 16 to 60, during the early years of the occupation.[60] Israeli authorities set-up a restrictive family reunification process that operated until 2000 based on low annual quotas and subject to arbitrary and evolving criteria that failed to take into account genuine familial or historical ties.[61]

Between 1967 and 1994, Israeli authorities struck from the registry thousands of Palestinians who traveled and stayed abroad for long periods. During this period, it permanently cancelled the registry of 140,000 registered Palestinians, solely because they left the West Bank for a period of more than three years, according to data from Office of the Coordinator of Government Activities in the Territories (COGAT). Authorities also during this same period revoked the residency of 108,878 Palestinians from Gaza either for staying abroad for more than seven years or not being present during censuses conducted in 1981 and 1988.[62] A survey conducted in 2005, on behalf of B'Tselem, estimated that more than 640,000 Palestinians in the West Bank and Gaza had a parent, sibling, child, or spouse who was unregistered, even though 78.4 percent of them had filed a family reunification application that had not yet been processed.[63]

Soon after its establishment, the PA took on the task of handling requests to update the population registry or apply for residency, but their role consists of transferring those requests to the Israeli side for approval.[64] Since 2000, Israeli authorities have for the most part refused to update the population registry or process applications for residency by unregistered Palestinians, their spouses, and close relatives, even if they had lived in the West Bank or Gaza for years and had families, homes, jobs, or other ties there.[65] Israel entirely froze the “family reunification” process by which Palestinian apply to grant legal status to join immediate relatives or spouses not registered in the Population Registry.[66] Israeli authorities have cited the security situation following the outbreak of the *Intifada* in September 2000 as the rationale for the freeze,[67] but they have not explained why its blanket refusal to process new applications is necessary for security reasons. They simply refuse to process any new application without an explanation or reviewing whether the particular individual presents a security threat.

The freeze has remained in place since 2000, outside of processing about 35,000 family unification applications in the late 2000s and several thousand applications in late 2021 and early 2022 as gestures to the PA.[68] The PA’s Civil Affairs Ministry estimated that, between September 2000 and August 2005 alone, it relayed more than 120,000 applications for family reunification that Israeli authorities did not process.[69] The Israeli Supreme Court opted in 2019 not to force the army to end its freeze, following a challenge by the Israeli rights group HaMoked.[70] The more than two-decade-old freeze has meant that Israeli authorities have effectively stopped registering most categories of people, with the exception of children who had at least one registered Palestinian parent.

Israeli authorities have also systematically barred entry to Israel and the West Bank over the last two decades of non-registered Palestinians who lived or used to live in the West Bank and their non-registered spouses and other family members.[71]

Israel's refusal to update the population registry has applied even to requests to change addresses, which made the presence of Palestinians living in the West Bank, but registered in Gaza, illegal.[72] Most entered the West Bank on temporary permits, which have long since expired. In 2010, the Israeli army estimated that at that time around 35,000 Palestinians from Gaza were living in the West Bank with expired permits.[73] Israeli law considers Palestinians with expired permits as unlawful "infiltrators,"[74] and authorities have deported dozens back to Gaza.[75] Those who remain cannot freely move within the West Bank, fearing arrest at checkpoints and forcible return to Gaza, and often face difficulties registering at schools or universities, doing business or owning property.

### ***Revocations of Jerusalem Residency***

Israeli policies have also denied residency rights to thousands of Palestinians in East Jerusalem. Since its annexation of East Jerusalem in 1967, it has applied its 1952 Law of Entry to Palestinians from there and designated them as "permanent residents," the same status afforded to a foreigner who wants to live in Israel. Permanent residents may live, work, and receive benefits, but that status derives from their presence, can be revoked at the Interior Ministry's discretion and does not automatically pass to one's children or non-resident spouse even if they have lived in Jerusalem for years.[76] A path to citizenship exists for Palestinian Jerusalemite permanent residents, but the vast majority have chosen not to pursue it, as it involves recognizing Israel, the occupying power, as the legitimate sovereign and authorities in recent years have rejected applications from the majority of those who have applied for it.[77]

Between the start of Israel's occupation of East Jerusalem in 1967 and the end of 2020, Israel revoked the permanent resident status of at least 14,701 Palestinians from East Jerusalem.[78] Authorities have justified most revocations on a failure to prove a "center of life" in Jerusalem, targeting those it said had been living in other parts of the OPT outside Jerusalem's municipal borders or who had studied or lived abroad for extended periods of time. Others have lost their residency after obtaining permanent residency or citizenship in another country. The number of revocations have dropped since 2015, when the Interior Ministry said it would adopt "a more lenient approach" that would maintain the residency of

Palestinian Jerusalemites who “maintain a connection” to the city.”<sup>[79]</sup> Authorities have, though, in recent years revoked status to punish Palestinians accused of attacking Israelis and as an act of collective punishment against their relatives.

Each revocation often has much wider impact, as the families of persons who lose their status often accompany them as they leave the city and other Palestinians have to adjust their lives to safeguard their precarious status. Palestinians from East Jerusalem have told Human Rights Watch that the fear of losing this status weighs on their daily life, determining where families live and deterring them from pursuing educational and professional opportunities abroad.<sup>[80]</sup> By pushing Palestinians to leave their home city, revocations amount to forcible transfer.<sup>[81]</sup>

Israeli law authorizes arrest and deportation for those found without legal status. Without that status, Palestinians cannot formally work, move freely, renew driver’s licenses, or obtain birth certificates for children, which are needed to register them in school. They could also lose benefits under Israel’s national insurance program, which provides social welfare benefits such as health care, unemployment benefits, and support payments for children, the elderly, and people with disabilities. Those who lose their residency can petition the Interior Ministry to recover their status, during which time they can obtain a temporary status to remain in Jerusalem. Some Palestinians have succeeded in reinstating their status, but only after protracted legal and administrative processes that many cannot afford.<sup>[82]</sup>

In a March 2017 decision, the Supreme Court ruled that Palestinians from East Jerusalem enjoy “special status” as “native residents” that authorities should account for in determining their status.<sup>[83]</sup> But Israeli policy continues to fail to do that in practice.

### ***Effective Ban on Granting Status to Palestinian Spouses from the OPT***

Israel’s Citizenship and Entry into Israel Law (Temporary Order)—2003 bars Palestinians from the West Bank and Gaza from residing with their spouse in Israel or East Jerusalem.<sup>[84]</sup> The temporary order, enacted by the Knesset in July 2003, upheld by the Israeli Supreme Court and renewed every year until 2021 prohibits with few exceptions the granting of residency or citizenship to Palestinian ID holders, even if married to an Israeli citizen or permanent resident.<sup>[85]</sup> While Israeli authorities already restricted family reunification before 2003, this law has brought the process to a near halt.<sup>[86]</sup>

In July 2021, the Knesset in July failed to renew the temporary order. Interior Minister Ayelet Shaked, though, instructed authorities to continue to act as if the law was in place while the Interior Ministry examines the implications of its expiration, prolonging the separation of many families.[87] In January 2022, the High Court instructed the Interior Ministry to stop enforcing the ban in the absence of the temporary order. [88]

This policy denies Israeli citizens and residents, both Jewish and Palestinian, who marry Palestinian residents of the West Bank and Gaza the right enjoyed by other Israelis to live with their loved ones in the place of their choosing. This denial is based on the spouse's identity rather than on an individualized assessment of security risk. If an Israeli marries a foreign spouse who is Jewish, the spouse is granted citizenship automatically; other foreigners normally become eligible for citizenship after living in Israel for a minimum of four years.[89] Palestinian men over 35 and women over 25 from the West Bank and Gaza married to Israeli citizens or residents can apply for temporary, renewable visitor permits, but authorities have denied many of those applications.[90]

Israeli officials have openly justified the law by pointing to demographics. Ariel Sharon, commenting in 2005 when he was prime minister, on the renewal of the temporary law, said, "There's no need to hide behind security arguments. There's a need for the existence of a Jewish state." [91] He later added that authorities had "a correct and important intention of Israel being a Jewish state with a massive Jewish majority" and that "we must do everything so that this state remains a Jewish state in the future." [92] Giora Eiland, national security advisor at the time, who headed a panel in 2005 examining immigration policies, conceded that "the Citizenship Law is the way to overcome the demographic demon." [93] Former prime minister Benjamin Netanyahu, who was then finance minister, put it more directly during discussions over renewing the law: "Instead of making it easier for Palestinians who want to get citizenship, we should make the process much more difficult, in order to guarantee Israel's security and a Jewish majority in Israel." [94] Eli Yishai, while serving as Minister of Interior Affairs, said in 2012 that approving a larger number of family unification applications from the West Bank would constitute "national suicide." [95]

The law forces a difficult choice for the thousands of couples – 30,000 where one spouse is a Palestinian citizen of Israel, according to the Haifa-based human rights group the Mossawa Center – who marry despite these restrictions. They must either live separately or have the

Israeli citizen or resident spouse move to the West Bank, despite Israeli military orders prohibiting Israelis from living in Area A.[96]

Moving to the OPT has led Palestinian Jerusalemites to lose their residency status and jeopardizes the eligibility of both Israeli citizens and residents to exercise rights related to residency or citizenship such as the right to receive social security benefits. This difficult choice has splintered thousands of Palestinian and mixed families.[97]

### ***Palestinian Refugees***

Israel's Citizenship Law of 1952 denies citizenship and residency rights to the more than 700,000 Palestinians who resided before 1948 in the territory that is now Israel and who fled or were expelled during the events of 1948, and to their descendants.[98] Restrictive Israeli policies also block refugees from neighboring countries from legally residing even in the OPT. International human rights law guarantees to refugees and exiles the right to enter the territory they are from, even where sovereignty of the territory is contested or has changed hands, and reside in areas where they or their families once lived and have maintained links to.[99] The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has registered 5.7 million Palestinian refugees.[100] Many remain stateless and have lived for generations in crowded refugee camps in poor conditions in the OPT, Jordan, Lebanon and Syria.[101]

Israel's policies that deny millions of Palestinians – Jerusalemites, those from the West Bank and Gaza and refugees – the ability to live in Israel and the OPT and, in some cases, travel to and from them, constitute measures that restrict the right of residency, as set out under Article 12 of the ICCPR. While the ICCPR permits restrictions to “protect national security, public order (ordre public), public health or morals or the rights and freedoms of others,” these restrictions, undertaken with a discriminatory purpose and affecting only Palestinians and not Jewish Israelis, far exceed what the Convention permits.

*The Human Rights Committee should call upon the Government of Israel to:*

- Remove arbitrary restrictions on residency rights for Palestinian residents of East Jerusalem, the West Bank, and the Gaza Strip and their families, including by stopping the practice of revoking the residency of Palestinians in East Jerusalem, ending the effective freeze on family reunification applications in the West Bank and

Gaza since 2000, and allowing Palestinians to resettle in other parts of the OPTs and register their residences at their new addresses.

- Lift the effective ban on granting status to Palestinians from the West Bank and Gaza married to Israeli citizens and residents and permit the couples to reside together in East Jerusalem and Israel
- Recognize and honor the right of Palestinians who fled or were expelled from their homes in 1948 and their descendants to enter Israel and reside in the areas where they or their families once lived, as Human Rights Watch has outlined in a separate policy, which also outlines the options of integration in place or in the OPT and resettlement elsewhere. [102]

## **The Nation State Law (Article 2, 26)**

The Israeli Knesset in 2018 passed the “Basic Law: Israel—The Nation State of the Jewish People,” (‘Nation State Law’), a law with constitutional status that affirms the inferior legal status of Palestinian citizens, who make up around 19 percent of Israel’s population,[103] as compared to Jewish citizens. The Nation State Law sets out amid its ‘basic principles’ that Israel is “the nation of the Jewish people” and that the “exercise of the right to national self-determination in the state of Israel is unique to the Jewish people.” Article 7 further states that “the State views the development of Jewish settlement as a national value, and shall act to encourage and promote its establishment and strengthening.”[104] It further revokes the status of Arabic as an official language.

The law does not articulate the right of self-determination for other people, nor declare it a priority to build homes for non-Jews, much less include language about equality. A Knesset legal advisor said he sought to include “mention of the issue of equality and the issue of the state belonging to all citizens, [but] the committee chose not to make this into a law.”[105] In June 2018, several Knesset members sought to introduce a bill to define Israel as a state of all its citizens, but the Knesset presidium disqualified it before it could be discussed, since it “seeks to deny Israel’s existence as the state of the Jewish people,” as stated by the Knesset legal advisor.[106]

In July 2021, the Israeli Supreme Court upheld the Nation State Law.[107]

By enshrining as a constitutional value the inferior legal status of non-Jews, the law denies non-Jews equal protection under the law in contravention of Articles 2 and 26 of the ICCPR.

*The Human Rights Committee should call upon the Government of Israel to:*

- Repeal provisions in the “Basic Law: Israel as the Nation-State of the Jewish People” that discriminate between Jews and non-Jews

[1] See, for example, United Nations Human Rights Committee (HRC), “Concluding Observations on the Fourth Periodic Report of Israel,” CCPR/C/ISR/CO/4, November 21, 2014, <https://bit.ly/2koggJV> (accessed October 24, 2019), para. 5; See also the numerous prior HRC concluding observations on Israel, for example, CCPR/CO/ISR/3, September 3, 2010, para. 5; CCPR/CO/78/ISR, August 5, 2003, para. 11; CCPR/C/79/Add.93, August 18, 1998, para. 10; Article 2 of the ICCPR itself notes that the Covenant should apply to “all individuals within its territory and subject to its jurisdiction.”

[2] International Court of Justice (ICJ), Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ General List, No.131, ICJ Rep 136, July 9, 2004, <https://bit.ly/34531oj> (accessed October 25, 2019), para. 111.

[3] Human Rights Watch, *Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank* (New York: Human Rights Watch, 2019) <https://www.hrw.org/report/2019/12/17/born-without-civil-rights/israels-use-draconian-military-orders-repress>, pp. 14-20.

[4] ICRC, Convention (II) de Genève pour l’amélioration du sort des blessés, des malades et des naufragés des forces armées sur mer, 12 août 1949, Commentaire of 2017, Article 2: Application of the Convention, <https://bit.ly/2Pg47ZX> (accessed August 7, 2019), para. 344.

[5] Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, The Hague, adopted October 18, 1907, entered into force January 26, 1910, art. 43.

[6] Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*, April 27, 2021.

[https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution#\\_ftn805](https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution#_ftn805)

[7] Human Rights Watch, *Unwilling or Unable: Israeli Restrictions on Access to and from Gaza for Human Rights Workers*, April 2, 2017,

<https://www.hrw.org/report/2017/04/02/unwilling-or-unable/israeli-restrictions-access-and-gaza-human-rights-workers>.

[8] “Israel: Record-Low in Gaza Medical Permits,” Human Rights Watch news release, February 13, 2018, <https://www.hrw.org/news/2018/02/13/israel-record-low-gaza-medical-permits>.

[9] Data from Gisha on file with Human Rights Watch.

[10] Data from Gisha on file with Human Rights Watch.

[11] Gisha, “Scale of Control,” pp. 12-14. In 2001, Israel bombed the airport that had operated briefly in Gaza and destroyed the site where construction of a seaport was to begin. [https://www.gisha.org/UserFiles/File/scaleofcontrol/scaleofcontrol\\_en.pdf](https://www.gisha.org/UserFiles/File/scaleofcontrol/scaleofcontrol_en.pdf) (accessed September 2, 2020)

[12] The Israeli-Palestinian Interim Agreement (Oslo II), September 28, 1995, art. 31.

[13] B’Tselem and HaMoked, “So Near and Yet So Far: Implications of Israeli-Imposed Seclusion of the Gaza Strip on Palestinians’ Right to Family Life,” January 2014, [http://www.btselem.org/sites/default/files/201401\\_so\\_near\\_and\\_yet\\_so\\_far\\_eng.pdf](http://www.btselem.org/sites/default/files/201401_so_near_and_yet_so_far_eng.pdf) (accessed September 2, 2020); Palestinian Center for Human Rights (PCHR), “Actual Strangulation and Deceptive Facilitation,” March 2016, <http://pchrgaza.org/en/?p=7962> (accessed September 2, 2020) pp. 31-33; Physicians for Human Rights-Israel, “#Denied: Harassment of Palestinian Patients Applying for Exit Permits,” June 2015, <http://cdn2.phr.org.il/wp-content/uploads/2016/04/Denied-2015-New-Report.pdf> (accessed September 2, 2020); Gisha, “Student Travel Between Gaza and the West Bank 101,” September 2012, <http://www.gisha.org/UserFiles/File/publications/students/students-2012-eng.pdf> (accessed September 2, 2020).

[14] *Kafarne v. Defense Minister*, HCJ 495/12, State Response of August 16, 2012, para. 26 (Hebrew), [tinyurl.com/k3o8ckn](http://tinyurl.com/k3o8ckn) (accessed May 2, 2020). Excerpts unofficially translated by Gisha are available at [tinyurl.com/p4jc9x9](http://tinyurl.com/p4jc9x9) (accessed September 2, 2020).

[15] *HaMoked: Center for the Defence of the Individual v. The Government of Israel et al.* HCJ 9961/03, January 1, 2004, [http://www.hamoked.org/items/3827\\_eng.pdf](http://www.hamoked.org/items/3827_eng.pdf) (accessed September 2, 2020).

[16] Women over the age of 50 and men over the age of 55 can enter East Jerusalem and Israel, though not the “seam zone” and some other areas in the West Bank, without a permit. “HaMoked to the Military: Palestinians Over 50 Must Be Allowed to Freely Access West Bank Lands Trapped Behind the Barrier,” HaMoked, May 20, 2020, <http://www.hamoked.org/Document.aspx?dID=Updates2172> (accessed September 2, 2020).

[17] “Israel: Palestinians Cut off from Farmlands,” Human Rights Watch news release, April 5, 2012, <https://www.hrw.org/news/2012/04/05/israel-palestinians-cut-farmlands>.

[18] B’Tselem, “Restrictions on Movement,” November 11, 2017, [https://www.btselem.org/freedom\\_of\\_movement](https://www.btselem.org/freedom_of_movement) (accessed September 2, 2020).

[19] See for example, Omar Shakir, “Amnesty International Staffer Challenges Israel’s Travel Ban,” Human Rights dispatch, May 25, 2020, <https://www.hrw.org/news/2020/05/25/amnesty-international-staffer-challenges-israels-travel-ban>.

[20] *Ibid.*

[21] Jessica Montell, executive director of HaMoked, email to Human Rights Watch, June 3, 2020.

[22] OCHA, “Longstanding Access Restrictions Continue to Undermine the Living Conditions of West Bank Palestinians,” Monthly Humanitarian Bulletin, March-May 2020, <https://www.ochaopt.org/content/longstanding-access-restrictions-continue-undermine-living-conditions-west-bank-palestinians> (accessed September 2, 2020).

[23] *Ibid.* Also see Umm Forat, “Flying Checkpoints and Traffic Jams: The Genius of the Israeli Occupation’s Architecture,” Haaretz, June 1, 2020, <https://www.haaretz.com/middle->

east-news/palestinians/the-idiot-who-cut-me-off-did-not-build-the-checkpoint-that-ruined-our-day-1.8922173 (accessed September 2, 2020).

[24] B'Tselem, "Restrictions on Movement," November 11, 2017, [https://www.btselem.org/freedom\\_of\\_movement](https://www.btselem.org/freedom_of_movement) (accessed September 2, 2020).

[25] "Israel: Palestinians Cut off From Farmlands," Human Rights Watch news release; International Court of Justice (ICJ), Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, ICJ General List, No.131, ICJ Rep 136, July 9, 2004, <https://bit.ly/34531oj> (accessed September 2, 2020).

[26] Human Rights Watch, *Born Without Civil Rights: Israel's Use of Draconian Military Orders to Repress Palestinians in the West Bank*.

[27] The Defense (Emergency) Regulations, 1945, available at <https://bit.ly/2XImDic> (accessed May 3, 2020).

[28] "List of Declarations and Orders of Terrorist Organizations and Unlawful Associations," Ministry of Defense, [https://nbctf.mod.gov.il/he/Announcements/Pages/%D7%A7%D7%91%D7%A6%D7%99%D7%9D-%D7%9C%D7%94%D7%95%D7%A8%D7%93%D7%94-\(DATA\).aspx](https://nbctf.mod.gov.il/he/Announcements/Pages/%D7%A7%D7%91%D7%A6%D7%99%D7%9D-%D7%9C%D7%94%D7%95%D7%A8%D7%93%D7%94-(DATA).aspx) (Hebrew) (accessed June 29, 2020).

[29] "Israel/Palestine: Designation of Palestinian Rights Groups as Terrorists," Human Rights Watch and Amnesty International news release, October 22, 2021; <https://www.hrw.org/news/2021/10/22/israel/palestine-designation-palestinian-rights-groups-terrorists>.

[30] Human Rights Watch, *Born Without Civil Rights: Israel's Use of Draconian Military Orders to Repress Palestinians in the West Bank*.

[31] Ibid.

[32] Omar Shakir, "Remembering Suha Jarrar, Trailblazing Palestinian Rights Defender," Human Rights dispatch, July 12, 2021, <https://www.hrw.org/news/2021/07/12/remembering-suha-jarrar-trailblazing-palestinian-rights-defender>; Jack Khoury, "Israel Hands Palestinian Lawmaker Khalida Jarrar Two-year Prison Term for PFLP Membership," *Haaretz*, March 1,

2021, <https://www.haaretz.com/israel-news/.premium-israel-hands-palestinian-lawmaker-two-year-prison-term-for-pflp-membership-1.9578796> (accessed January 24, 2022); “Israel Sentences Palestinian Lawmaker to Ten Years in Prison,” *Associated Press*, March 2, 2021, <https://apnews.com/article/israel-3a1e20a42d5fc434ac487ae08422ed6e> (accessed January 24, 2022).

[33] Human Rights Watch, *Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank*.

[34] *Ibid.*

[35] Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (Military Order No. 1651), 5770-2009, available at <https://bit.ly/2X8PCaJ> (accessed October 25, 2019), adopted November 2009, entered into force May 2, 2010, Art. 251.

[36] Human Rights Watch, *Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank*.

[37] *Ibid.*

[38] HRC, General Comment No. 34, CCPR/C/GC/34, para. 25, 34, 35; UNHRC, Twenty-second session, Annual report of the United Nations High Commissioner for Human Rights, Report of the UN High Commissioner for Human Rights on the expert workshops on the prohibition of incitement to national, racial or religious hatred, A/HRC/22/17/Add.4, January 11 2013, <https://bit.ly/343uxT3> (accessed June 30, 2019).

[39] “Two Years On: People Injured and Traumatized During ‘Great March of Return’ Still Struggling” April 6, 2020, <https://www.ochaopt.org/content/two-years-people-injured-and-traumatized-during-great-march-return-are-still-struggling#ftn3> (accessed September 2, 2020).

[40] “UN Commission urges Israel to review rules of engagement before Gaza protest anniversary,” UN HRC news release, March 18, 2019, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24348&LangID=E> (accessed September 2, 2020).

[41] “UN Commission urges Israel to review rules of engagement before Gaza protest anniversary,” UN HRC news release.

[42] “Israel: Apparent War Crimes in Gaza,” Human Rights Watch news release, June 13, 2018, <https://www.hrw.org/news/2018/06/13/israel-apparent-war-crimes-gaza>; “Israel: Gaza Killings Unlawful, Calculated,” Human Rights Watch news release, April 3, 2018, <https://www.hrw.org/news/2018/04/03/israel-gaza-killings-unlawful-calculated>.

[43] See, e.g., “Israel: Release Body of Slain Palestinian,” Human Rights Watch news release, September 14, 2020, <https://www.hrw.org/news/2020/09/14/israel-release-body-slain-palestinian>.

[44] B’Tselem, “Statistics on Palestinians in the custody of the Israeli security forces,” updated May 31, 2020,

[https://www.btselem.org/statistics/detainees\\_and\\_prisoners](https://www.btselem.org/statistics/detainees_and_prisoners) (accessed June 4, 2020); Addameer, “On Administrative Detention,” July 2017, [http://www.addameer.org/israeli\\_military\\_judicial\\_system/administrative\\_detention](http://www.addameer.org/israeli_military_judicial_system/administrative_detention) (accessed June 4, 2020).

[45] Israeli Prison Services figures on file with Human Rights Watch.

[46] Chaim Levinson, “Nearly 100% of All Military Court Cases in West Bank End in Conviction, Haaretz Learns,” *Haaretz*, November 29, 2011, <https://www.haaretz.com/1.5214377> (accessed January 31, 2018); B’Tselem, “Presumed Guilty: Remand in Custody by Military Courts in the West Bank,” June 2015, [https://www.btselem.org/sites/default/files/sites/default/files2/201506\\_presumed\\_guilty\\_eng.pdf](https://www.btselem.org/sites/default/files/sites/default/files2/201506_presumed_guilty_eng.pdf) (accessed June 1, 2020).

[47] Human Rights Watch, *Torture and Ill-Treatment: Israel’s Interrogation of Palestinians from the Occupied Territories* (New York: Human Rights Watch, 1994) <https://www.hrw.org/legacy/reports/1994/israel/>; International Rehabilitation Council for Torture Victims (IRCT), “Torture in Israel,” Country Factsheet, June 2015, [http://stoptorture.org.il/wp-content/uploads/2015/11/CF\\_Israel\\_Final-2.pdf](http://stoptorture.org.il/wp-content/uploads/2015/11/CF_Israel_Final-2.pdf) (accessed July 3, 2020).

[48] The Public Committee Against Torture in Israel (PCATI), “Milestones in the struggle against torture in Israel,” <http://stoptorture.org.il/frequently-asked-questions/milestones-in-the-struggle-against-torture-in-israel/?lang=en> (accessed June 4, 2020).

[49] PCATI, “Torture in Israel 2020: Situation Report,” June 26, 2020, [http://stoptorture.org.il/wp-content/uploads/2020/06/%D7%90%D7%A0%D7%92%D7%9C%D7%99%D7%AA-%D7%9C%D7%90%D7%99%D7%A0%D7%98%D7%A8%D7%A0%D7%98.pdf?fbclid=IwAR3ls7GvEAEEO9Ss9cN8fw1Ld44pZ\\_p9cZHyQsBiD-s9xMWivDwfxIzAAsU](http://stoptorture.org.il/wp-content/uploads/2020/06/%D7%90%D7%A0%D7%92%D7%9C%D7%99%D7%AA-%D7%9C%D7%90%D7%99%D7%A0%D7%98%D7%A8%D7%A0%D7%98.pdf?fbclid=IwAR3ls7GvEAEEO9Ss9cN8fw1Ld44pZ_p9cZHyQsBiD-s9xMWivDwfxIzAAsU) (accessed July 14, 2020).

[50] PCATI, “Torture in Israel 2019: Situation Report,” June 29, 2019, <http://stoptorture.org.il/2927/?lang=en> (accessed April 9, 2020).

[51] Human Rights Watch, *Submission by Human Rights Watch to the Committee on the Rights of the Child on the State of Palestine*, March 20, 2019, <https://www.hrw.org/news/2019/03/20/submission-committee-rights-child-state-palestine>.

[52] Human Rights Watch, *Born Without Civil Rights: Israel’s Use of Draconian Military Orders to Repress Palestinians in the West Bank*.

[53] UN Human Rights Committee, CPR, General Comment No. 35 of 2014, art. 9 (freedom of movement) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en) (accessed February 3, 2022).

[54] UN Human Rights Committee, “Concluding Observations on the Fourth Periodic Report of Israel,” CCPR/C/ISR/CO/4, November 21, 2014, <https://bit.ly/2koggJV> (accessed February 3, 2022).

[55] Human Rights Watch, *Forget About Him, He’s not Here: Israel’s Control of Palestinian Residency in the West Bank and Gaza*, (New York: Human Rights Watch, 2012) <https://www.hrw.org/report/2012/02/05/forget-about-him-hes-not-here/israels-control-palestinian-residency-west-bank-and#1e8d92>.

[56] Ibid.

[57] Gisha, “Changes at Rafah Crossing,” n.d., <https://gisha.org/updates/1688> (accessed September 17, 2020).

[58] The Israeli census recorded the population of the West Bank, including East Jerusalem, as 598,637, and the population of the Gaza Strip as 356,261. Levy Economics Institute of Bard College, “The 1967 Census of the West Bank and Gaza Strip: A Digitized Version,” February 2012, [http://www.levyinstitute.org/pubs/1967\\_census/dataset\\_doc.pdf](http://www.levyinstitute.org/pubs/1967_census/dataset_doc.pdf) (accessed June 15, 2020); Levy Economics Institute of Bard College, “Population, Area and Population Density in the West Bank by District,” February 2012, <https://bit.ly/3hurjzp> (accessed June 15, 2020); “Gaza Strip Population according to 1967 census and Egyptian estimate for 1966,” February 2012, <https://bit.ly/2YE84L1> (accessed June 15, 2020). Also see UN Conference on Trade and Development (UNCTAD), “Population and Demographic Developments in the West Bank and Gaza Strip until 1990,” U.N. Doc. UNCTAD/ECDC/SEU/1, June 28, 1994, <http://www.unctad.org/en/docs/poecdceud1.en.pdf> (accessed April 3, 2020), pp. 73, 75.

[59] Yehuda Lukacs, *Israel, Jordan and the Peace Process* (Syracuse, NY: Syracuse University Press, 1997), note 4, p. 218, citing two UNRWA reports from October and December 1967, and Daniel Dishon, ed., *Middle East Record, 1967* (Tel Aviv: Israeli Univ. Press, 1968), p. 311.

[60] B'Tselem, “Perpetual Limbo: Israel’s Freeze on Unification of Palestinian Families in the Occupied Territories,” June 2006, [https://www.btselem.org/sites/default/files/sites/default/files2/publication/200607\\_perpetual\\_limbo\\_eng.pdf](https://www.btselem.org/sites/default/files/sites/default/files2/publication/200607_perpetual_limbo_eng.pdf) (accessed June 1, 2020), p. 9.

[61] Human Rights Watch, *Forget About Him*. For instance, after 1967, Israeli authorities granted residency to children under 16 who were born in the West Bank and Gaza, or who were born abroad if one parent was a registered resident. In 1987, with the outbreak of the first Palestinian *intifada*, the military ordered that children under 16 who were born in the occupied territory could only be registered if their mother was a resident, and that children born abroad could not be registered after the age of five, regardless of either parent’s residency status. In 2000, authorities stopped granting entry to all unregistered Palestinians more than five years old. Authorities in 2006 began to grant entry permits to Palestinian children for the purpose allowing them to apply for registration, but it has refused to register

children who turned 16 during the period from 2000 to 2006, when Israeli policies had made their entry and registration impossible.

[62] “Ceased Residency”: between 1967 and 1994 Israel revoked the residency of some quarter million Palestinians from the West Bank and the Gaza strip,” HaMoked, June 12, 2011, <http://www.hamoked.org/Document.aspx?dID=Updates1175> (accessed September 2, 2020).

[63] B’Tselem, “Perpetual Limbo,” p. 20.

[64] “Israel: End Restrictions on Palestinian Residency,” Human Rights Watch news release, February 5, 2012, <https://www.hrw.org/news/2012/02/05/israel-end-restrictions-palestinian-residency>. In May 2020, the PA stopped transferring applications to Israeli authorities, as part of its vow to end coordination with Israel on security and civil affairs. Avi Issacharoff, “Israeli Officials Confirm Palestinian Authority is Ending Security Coordination,” *Times of Israel*, May 21, 2020, <https://www.timesofisrael.com/israeli-officials-confirm-palestinian-authority-has-ended-security-coordination/> (accessed September 2, 2020); Amira Hass, “The Palestinian Authority is Harming Its Own People in the Name of National Pride,” *Haaretz*, August 3, 2020, <https://www.haaretz.com/israel-news/.premium-in-the-name-of-national-pride-the-palestinian-authority-is-harming-its-own-people-1.9040489> (accessed September 2, 2020);

[65] “Israel continues to harm the right of Palestinians to family life: the state persists in its refusal to examine family unification requests submitted by Palestinian residents of the Occupied Territories,” HaMoked, June 17, 2018, <http://www.hamoked.org/Document.aspx?dID=Updates1997> (accessed September 2, 2020).

[66] Ibid.

[67] “Application on behalf of the Respondents for Summary Dismissal of the Petition in Response to the Application for a Temporary Injunction,” HaMoked, September 2, 2007, [http://www.hamoked.org/items/9073\\_eng.pdf](http://www.hamoked.org/items/9073_eng.pdf).

[68] “Israel continues to harm the right of Palestinians to family life,” HaMoked; Joseph Krauss, “Israel Gives Legal Status to 4K in Gesture to Palestinians,” *Associated*

*Press*, October 19, 2021, <https://apnews.com/article/immigration-jerusalem-israel-west-bank-gaza-strip-f706709318e802fc23c2c3ab6d7b8270> (accessed January 24, 2022).

[69] B'Tselem, "Perpetual Limbo," p. 13, citing information provided by the PA Civil Affairs Ministry on August 14, 2005.

[70] "In the absence of documentation: HaMoked had to delete its petitions against Israel's freeze on family unification in the West Bank," HaMoked, August 8, 2019, <http://www.hamoked.org/Document.aspx?dID=Updates2097> (accessed September 2, 2020).

[71] Human Rights Watch, *'Forget About Him'*; "Israel continues to harm the right of Palestinians to family life," HaMoked.

[72] Gisha, "Disengagement Danger: Israeli Attempts to Separate Gaza from the West Bank," Briefing paper, February 2006, <https://bit.ly/2Y3B7ZF> (accessed September 2, 2020), citing a letter from Avi Biton, Office of the Coordinator of Operations in the Territory, November 17, 2004 and *Kachlut v. West Bank Military Commander*, State's Response, HCJ 5504/03, February 25, 2004, para. 4. Israel allowed around 2,800 Palestinians registered as residents of Gaza to change their addresses to the West Bank in 2011, but this did not clear the backlog. Following a 2013 petition filed by HaMoked and other organizations, Israeli authorities indicated that they would not forcibly relocate to Gaza Palestinians with registered addresses in the Gaza Strip who had lived in the West Bank since September 2005; Human Rights Watch, *A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution*.

[73] Letter from Uri Mendes, Division Head, Coordination and Operations Directorate, Coordinator of Government Activities in the Territories, to Ido Bloom, HaMoked: Center for the Defense of the Individual, June 2, 2010, available at: [http://www.hamoked.org/files/2010/112281\\_eng.pdf](http://www.hamoked.org/files/2010/112281_eng.pdf) accessed September 2, 2020).

[74] Order Regarding Prevention of Infiltration, No. 1650, Amendment No. 2; the order revises the definition of an "infiltrator" as a person who entered the West Bank from Jordan, Syria, Lebanon, or Egypt without an Israeli military permit, or who stayed in the area after the permit expired in Order Regarding Prevention of Infiltration (Judea and Samaria), No. 329, 1969.

[75] Letter from Uri Mendes to HaMoked, June 2, 2010; B'Tselem, "One Big Prison: Freedom of Movement to and From Gaza on the Eve of the Disengagement Plan," March 2005, [http://www.btselem.org/publications/summaries/200503\\_gaza\\_prison](http://www.btselem.org/publications/summaries/200503_gaza_prison) (accessed September 2, 2020), p. 20; HaMoked, "Military data reveals: sharp rise in the number of people deported by the military from their West Bank homes to the Gaza Strip, due to their out of date addresses in the Israeli copy of the population registry," December 12, 2017, <http://www.hamoked.org/Document.aspx?dID=Updates1942> (accessed September 2, 2020).

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