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Israel and the Occupied Palestinian Territories (OPT)

Submission to the UN Universal Periodic Review

**Third session of the UPR Working Group of
the Human Rights Council**

1-12

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Executive summary

In this submission, Amnesty International provides information under sections B and C as stipulated in the *General Guidelines for the Preparation of Information under the Universal Periodic Review*.¹

Under section B, Amnesty International raises concern over human rights violations entrenched in the normative and institutional structure of the Israeli state: the failure of Israel to recognize the applicability to the Occupied Palestinian Territories (OPT) of humanitarian and human rights law; the unlawful settlements in the OPT; the construction of a fence/wall mostly within the OPT; the demolition of Palestinian homes in the OPT and of Arab Israeli homes in Israel; policies which undermine the rights of the occupied Palestinian population to health, education, housing, work and an adequate standard of living in the West Bank and, in particular, in Gaza where Israeli authorities have imposed a stringent blockade; torture or other ill-treatment of detainees; lack of due process for Palestinian detainees and for asylum-seekers and migrants; administrative detention; impunity for perpetrators of human rights violations; the denial of family life to many Palestinians through discriminatory laws and practice; and the denial of family visits to Palestinian detainees.

Section C highlights Amnesty International's concerns about human rights violations in the context of unlawful killings by Israeli security forces and severe restrictions on the freedom of movement of Palestinians.

¹ Contained in Human Rights Council Decision 6/102, Follow-up to Human Rights Council resolution 5/1, section I adopted 27 September 2007.

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B. Normative and institutional framework of the State

The patterns of human rights violations carried out by the Israeli authorities against Palestinians in the OPT are deeply entrenched in the normative and institutional structure of the state. The Israeli authorities contend that measures which violate human rights of Palestinians in the OPT are necessary for Israel's security.

Within Israel, discriminatory laws and practices undermine the rights of Israeli Arabs in particular with regard to economic, social and cultural rights, and lack of due process undermines the rights of asylum-seekers and migrants.

Failure to comply with international humanitarian and human rights law in the OPT

Israel's grave human rights violations in the OPT stem to a large extent from its refusal to recognize the applicability of international humanitarian and human rights law to the OPT.

All relevant bodies, including the High Contracting Parties to the Geneva Conventions, the United Nations (UN) General Assembly, the UN Security Council and the International Court of Justice (ICJ) have repeatedly reaffirmed the applicability of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War to the OPT. Israel's position that its international human rights treaty obligations do not apply in the OPT has also been rejected by the UN treaty bodies and by the International Court of Justice.

Israel should comply with its obligations under humanitarian and human rights law in the OPT.

Settlement policy in breach of the Fourth Geneva Convention

Article 49 of the Fourth Geneva Convention prohibits the transfer of the population of the occupying power into occupied territory. However, Israel has settled more than 450,000 Israelis in the occupied West Bank, including some 200,000 in East Jerusalem. Some 140 settlements have been established for Israelis on confiscated Palestinian land as part of a discriminatory government policy. Settlers receive generous housing allowances and tax incentives from the government and protection by the Israeli army.

Although Israeli governments have repeatedly committed to freezing settlements, in the first six months of 2008 Israel has expanded settlements in the West Bank/East Jerusalem at a faster rate than in the previous seven years.

The appropriation by Israel of Palestinian land and natural resources for the expansion of Israeli settlements and related infrastructure, notably roads for the settlers, has caused serious violations of the human rights of the Palestinians in the OPT – including restrictions on movement, and destruction of homes and lands.

Israel should halt expansion of settlements in the OPT as a first step to removing them.

Palestinian communities cut off from land and essential services by the fence/wall in the West Bank

The fence/wall being built by Israel in the West Bank further restricts the rights of the Palestinians to freedom of movement, to work and to an adequate standard of living.

The Israeli authorities started construction of the fence/wall in 2002, describing it as a defensive barrier to provide security for Israel. However, it does not adhere to the 315 kilometres long “Green Line”² and more than 80 per cent of it is being built on Palestinian land in the West Bank. It encompasses some 80 Israeli settlements and vast areas of the most fertile and water-rich Palestinian lands, effectively annexing them to Israel. When complete, the wall will be some 720 kilometres long and 35,000 Palestinians will be confined to enclaves, needing permits to remain on their own land.³ Several villages have lost most of their farming land and villagers who are without access to their land have lost their livelihood. Gates are often closed and the Israeli army increasingly denies farmers permits to cross the fence/wall. Most petitions lodged by Palestinians in the Israeli High Court against the route of the fence/wall were rejected but even in the few instances when the High Court ordered that the route be changed, the rulings have not been implemented by the Israeli authorities.

Israel should cease the construction of the fence/wall inside the West Bank, including East Jerusalem. Such a barrier, if required, should be built between Israel and the West Bank.

Destruction of Palestinian homes and agricultural land

The Israeli authorities have destroyed thousands of Palestinian homes and other structures in the OPT for “lack of building permit” or for “military necessity”. “Punitive” demolition of the family homes of Palestinians involved in armed attacks against Israelis were halted in 2005 but in June 2008 the Israeli Prime Minister ordered its resumption. The practice violates both international humanitarian and human rights law, and is discriminatory as well as unlawful. House demolition has been routinely used against Palestinians and Israeli Arabs, while it is virtually never used against Israeli Jews.

Israel has consistently denied building permits to Palestinians in more than 60 per cent of the West Bank (known as “Area C”), claiming the areas are zoned as green land and not for urban development. At the same time the Israeli authorities have built tens of thousands of houses and other infrastructure for the exclusive use of Israeli settlers on Palestinian land zoned as green land.

The same pattern applies to the destruction of large areas of agricultural land and orchards which has deprived some of the most vulnerable Palestinian communities of their main source of livelihood.

In Israel, the authorities have similarly often denied building permits to Israeli Arabs and demolished their homes, especially in “unrecognized” villages in the Negev (southern Israel) and in the Galilee (northern Israel). Some 100,000 Israeli Arabs live without basic services and are at risk of expulsion from scores of villages which the authorities refuse to recognize – even though many predate the establishment of the state of Israel. At the same time, in both areas the authorities have devoted significant resources to establish new Jewish villages.

Israel should put an end to house demolition. Responsibility for planning and building policies and regulations in the OPT should be placed with the local Palestinian communities. Discriminatory provisions in laws and policies governing urban planning in Israel must be repealed and the “unrecognized” Arab and Bedouin villages should be granted legal status and basic services.

Failure to ensure the health and welfare of the occupied population in the West Bank

² The Green Line is the 1967 border between Israel and the occupied West Bank.

³ See http://www.ochaopt.org/documents/Barrier_Report_July_2008.pdf.

Closures and blockades in West Bank, including the fence/wall, have paralyzed the Palestinian economy, caused increasing poverty and unemployment, and ultimately restrict or deny Palestinians' economic, social and cultural rights, including their right to health and education.⁴

Israeli forces routinely deny passage to Palestinians, including patients whose lives are in danger, through military checkpoints within the West Bank, in violation of Israel's obligation under international human rights and humanitarian law to ensure the right to health of the population without discrimination.⁵

Israel must end restrictions within the West Bank which limit Palestinians' right to health and education, to work and to an adequate standard of living

The blockade of the Gaza Strip 2007-8 and the resulting humanitarian crisis

The Israeli government maintains that its blockade of Gaza is in response to rocket attacks on Israel by Hamas and other Palestinian armed groups. However, the blockade does not target armed groups but rather it collectively punishes the whole population of 1.5 million people and denies them their fundamental rights.

The blockade has prevented the entry into Gaza of all but the minimum and insufficient quantities of fuel, food and basic necessities. Electricity, clean water and sewage disposal, all dependent on fuel supplies, have been negatively affected. Agriculture has similarly suffered as irrigation systems are paralyzed without fuel for the water pumps, and industries have collapsed. Some 80 per cent of the population now depends on international aid.

Many seriously ill patients in need of medical treatment not available in Gaza have been refused permission to leave Gaza by the Israeli authorities. More than 50 patients have died since 2007, including at least 32 who died between October 2007 and March 2008, after being unable to leave Gaza in search of medical treatment.⁶

Israel's claim that it no longer occupies Gaza has no foundation. Israel retains effective control of Gaza's airspace, territorial waters and land borders.⁷ The Israeli army routinely operates in Gaza, carrying out military operations, attacks and arrests.

Israel should immediately lift the blockade of Gaza and allow the passage of aid, fuel, electricity and other necessities. Patients in need of medical treatment outside Gaza should be allowed to leave for treatment and return.

Torture and lack of due process for detainees

Some 8,500 Palestinians from the West Bank and the Gaza Strip are detained in Israel. Many detainees were tortured or ill-treated immediately after arrest and during interrogation, including by being beaten, tied in contorted positions and threatened that their relatives would be harmed. Palestinians may be held for up to 90 days without access to lawyers.

Some 800 Palestinians are held without charge or trial in administrative detention, which may be renewed indefinitely. Although the detainee has the right to appeal to a military court and ultimately to the Supreme Court, neither the detainee nor his lawyer has the right to see the details of the evidence against him. Some detainees have been held without charge or trial for seven years.

⁴ http://www.ochaopt.org/documents/HM_May_2008.pdf

⁵ Under Articles 38-40 of the Fourth Geneva Convention Israel has an obligation to ensure the right to health and work of protected persons "to the same extent as the nationals of the State concerned".

⁶ *Access to Health Services for Palestinian people*, World Health Organization, April 2008

⁷ Israel has made it clear that the Gaza-Egypt border may not be open except in the framework of a joint agreement.

Israel must end torture and other ill-treatment and allow detainees prompt access to lawyers. Detainees should be charged with a recognizably criminal offence and given a fair trial, or released.

Denial of family visits to detainees

Most Palestinians from the OPT are detained within Israel in breach of the Fourth Geneva Convention which stipulates that detainees must be held within the occupied territories. Many are thereby denied family visits because Israel denies their close relatives permits to enter Israel on “security” grounds. In addition, since June 2007, Israel has imposed a total ban on family visits for some 900 detainees from the Gaza Strip.

Palestinians arrested in the OPT should not be removed to detention facilities in Israel and Palestinian detainees should be permitted regular access to their families.

Impunity for perpetrators of human rights violations

The Israeli authorities routinely fail to ensure independent, impartial and thorough investigations into allegations of human rights violations. While the Israeli authorities impose heavy punishment, including collective punishment in violation of international law, on Palestinians convicted of attacks against Israeli soldiers and civilians, they rarely carry out proper investigations into unlawful killings and assaults on Palestinians. Even when such investigations are carried out, punishment of the perpetrator is extremely rare and compensation is hardly ever paid. The resulting atmosphere of impunity has encouraged further violations.

Israeli settlers who have assaulted Palestinians and international peace activists have also consistently benefited from impunity. The Israeli army frequently fail to intervene to protect Palestinians attacked by settlers and in most cases the Israeli police fail to carry out proper investigations into such attacks. Over 90 per cent of police investigations into such attacks committed by Israeli settlers end without indictments.⁸

Israel should ensure prompt, independent, impartial and thorough investigation of alleged violations of human rights and humanitarian law by Israeli forces, and of attacks by Israeli settlers, and bring suspected perpetrators to justice in fair trials.

Discriminatory laws and procedures: denial of family life

Discriminatory laws and procedures against Palestinians violate the right to family life in Israel and in the OPT.

The Citizenship and Entry into Israel Law which was enacted in 2003 and has been renewed every year since then, denies permanent -- and even temporary -- residency to Palestinians from the OPT married to Israeli citizens. Israelis affected by these restrictions are invariably Israeli Arabs, as it is they who marry Palestinians. The right to family life is also denied to Palestinians from the OPT who marry foreigners, as foreign spouses of Palestinians are often prevented from living with their spouses within the OPT.

Administrative procedures are used to deny Palestinians from the OPT including those with Jerusalem residency the right to return to Jerusalem or the OPT if they have spent some time outside the country.

Israel should repeal discriminatory laws and restrictions which deny Palestinians their right to family life.

Lack of access to due process for asylum-seekers and migrants

⁸ *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank*, Yesh Din, June 2006; update 2008 <http://www.yesh-din.org/sys/images/File/LESVDataSheetJuly2008Eng%5b1%5d.pdf>.

Asylum-seekers and migrants have often been denied access to due process on arrival in Israel. A new draft law (Prevention of Infiltration Law – 2008), currently before the Knesset (parliament), contains provisions which are inconsistent with Israel's international human rights treaties, notably the obligation of non-refoulement. The draft law criminalizes irregular entry, without regard for the reasons for entry or the risk of removal, severely restricts the ability of individuals to seek asylum and potentially criminalizes those seeking protection from persecution.

Israel should ensure the protection of all individuals within its jurisdiction, regardless of their immigration status, and should ensure that individuals are not returned to states where they would be at risk of serious human rights abuses.

C. Promotion and protection of human rights on the ground

Unlawful killings

Unarmed Palestinian civilians are frequently killed as a result of disproportionate and reckless use of force by the Israeli army. Palestinian armed groups frequently attack Israeli unarmed civilians;⁹ however, such abuses cannot justify Israel's violations of international humanitarian law.

Attacks by Israeli forces in the OPT show a pattern of disregard for the lives of unarmed bystanders, including children. The Israeli army uses high explosive weaponry, missile strikes from aircrafts, and artillery, including tank shells containing thousands of "flèchettes", in densely populated residential areas. Israeli government authorities have authorized hundreds of extrajudicial executions of Palestinians. In addition to those targeted in these assassinations, several hundred bystanders, including children, have also been killed in such attacks.

In the first six months of 2008 some 400 Palestinians, including more than 50 children, were killed by Israeli forces. Most were killed in Gaza and at least half of them were unarmed civilians. In the same period 26 Israelis, including 17 civilians, were killed in attacks by Palestinian armed groups.

Israel should put and end to unlawful killings and to of the use of disproportionate and reckless force and, in particular, cease all aerial bombardment and shelling of civilian areas.

Restrictions on freedom of movement

The regime of Israeli military closures, checkpoints, and other barriers in the OPT violates the right to freedom of movement of Palestinian people in the OPT. Such restrictions have paralyzed the Palestinian economy and are depriving Palestinians of the rights to work, to health, to an adequate standard of living, to education, and to family life. These measures amount to collective punishment and violate Israel's obligations under international human rights and humanitarian law.

The network of Israeli settlements and roads for settlers have fragmented the West Bank.¹⁰ Movement for Palestinians is severely hampered by a system of more than 550 checkpoints, roadblocks, barriers, earth mounds and trenches. Israel contends that such restrictions are needed to protect Israelis from attacks; however the vast majority of them are located to block Palestinian travel between towns and villages *within* the OPT, in particular to keep Palestinians away from Israeli settlements and settlers' roads -- not to prevent Palestinians from entering Israel.

⁹ *Israel and the Occupied Territories and the Palestinian Authority: Without distinction - attacks on civilians by Palestinian armed groups*, MDE 02/003/2002.

¹⁰ See http://www.ochaopt.org/documents/InsertMap_Fragmentation_May07-withCheckpoint.pdf

Israel should end the current regime of restriction of movement of people and goods for Palestinians in the West Bank. Only restrictions which are absolutely necessary for immediate security threats and are non-discriminatory and proportionate may be imposed.

Appendix: Amnesty International documents for further reference¹¹

Surviving under siege: The impact of movement restrictions on the right to work (MDE 15/001/2003)

Israel must end its policy of assassinations (MDE 15/056/2003)

The place of the fence/wall in international law (MDE 15/016/2004)

Under the rubble – house demolition and destruction of land and property (MDE 15/033/2004)

Torn apart – families split by discriminatory policies (MDE 15/063/2004)

Israeli settlers wage campaign of intimidation on Palestinians and internationals alike (MDE 15/099/2004)

Conflict, occupation and patriarchy – women carry the burden (MDE 15/016/2005)

Briefing to the Committee on the Elimination of Racial Discrimination (MDE 15/002/2006)

Israel and the Occupied Territories: Road to nowhere (MDE 15/093/2006)

Update to Comments on Israel's compliance with its obligations under the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) (MDE 15/007/2007)

Enduring occupation: Palestinians under siege in the West Bank (MDE 15/033/2007)

Punitive restrictions: Families of Palestinian detainees denied visits (MDE 15/006/2008)

Gaza Blockade: Collective Punishment (MDE 15/021/2008)

¹¹ All of these documents are available on Amnesty International's website: <http://www.amnesty.org/en/region/israel-occupied-palestinian-territories>