

Israel's Implementation of the Convention on the Elimination of All Forms of Racial Discrimination: Institutional Discrimination affecting Persons without "Jewish Nationality"

Part I: General

Land & People

| Inside Israel (Armistice Line [Green Line] of 1948–49) | 1967-occupied Arab Territories |
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| <p>The State party has not provided a Core Document in which these data normally appear and relate the State's laws, policies, programs, institutions and budgets to constituent groups. While questions of geographical jurisdiction and effective control, as well as ethnicity and demographics, are addressed in the present report under the "Occupied Territories" column, certain land and people data are important here as characteristics of the State party within its internationally recognized borders.</p> <p>As the State party has no constitution, its borders have never been defined in domestic law. Its internationally recognized borders, while subject to some dispute, essentially correspond to a combination of bilateral and international <i>lex feranda</i> instruments. These include the 1947 UN General Assembly "Partition of Palestine with Economic Union" recommendation¹ and the bilateral armistice agreements signed with neighbouring Egypt, Jordan, Lebanon and Syria in 1948–49. Despite its nonbinding nature, GA resolution 181 remains the international-law basis for Israel's 14 May 1948 Proclamation of Independence. By that date, the State party already had acquired by force additional territories, including parts of the southern Naqab/Negev and central Galilee, outside of the territory demarcated in GA 181. Those areas are mentioned below as significant to implementation of ICERD in the current review period.</p> <p>For millennia, the territory within the internationally recognized</p> | <p>The State party report provides no information about populations in the occupied Palestinian territories (OPT), or in the occupied Golan Heights. In order to fill this gap in the Committee's information, the relevant categories of the inhabitants in the OPT and occupied Golan, both indigenous and settlers, are provided in the following:</p> <p>Occupied Palestinian Territories</p> <p><i>West Bank:</i> Palestinians: 2,372,216⁸¹¹ Jewish settlers: 187,000 (various origins and ethnicities)</p> <p><i>Gaza Strip:</i> Palestinians: 1,389,789¹² Jews: N/A</p> <p><i>Jerusalem</i>¹³ Palestinians: 228,700 (33%) Jews: 464,500 (67%)</p> <p><i>East Jerusalem</i>¹⁴ Total Israeli Jews: 175,617* Total Palestinian Arabs: 184,627**</p> <p>* (settlers of various origins and ethnicities) ** (95% Muslim and 6% Christian)¹⁵</p> |

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border has been comprised of an amalgam of peoples. However, for well more than 1,400 years, the population of the country, even longer known as Palestine, has identified with the Arab language and culture, adhering to four religious traditions: a majority of Muslims, a minority of Christians and smaller communities of Jews and Druze. The Zionist movement, arising in response from the “Jewish problem” in Europe, initiated a process of colonizing Palestine with (mostly) European Jews, accelerating during the British Mandate (1922–48). The State party’s Proclamation of Independence claims the country in the name of one kingdom that once reigned for 176 years (909–732 BCE²) in northern Palestine, declaring “the establishment of a Jewish state in Eretz-Israel, to be known as the State of Israel.” That Proclamation also contains a nondiscrimination clause, but Israeli courts have determined that instrument to be without legal effect.³

By officially defining the State as “the Jewish State,”⁴ Israel offers distinct privileges for those recognized as “Jewish nationals” on an extraterritorial basis. A guiding principle for all governments of Israel since its inception has been the “ingathering of the exiles,” a term portraying the immigration and settlement of historic Palestine by Jewish people from other countries.⁵ Rather than implementing self-determination of all peoples living in the State on the basis of equal rights and responsibilities of citizenship, the State favours only those holding status as “Jewish nationals.”

The population within the recognized 1948–49 Armistice Lines (Green Line), the international boundaries of the State, is comprised of a wide variety of ethnicities, ranging from the indigenous Palestinian people, comprising approximately 19% of Israeli citizens (1,214,900 of a total 6,380,400),⁶ of which some 276,000 are IDPs (Arab inhabitants internally displaced from homes and properties in 1948 and legally prevented from return and restitution).⁷ (A population of over 5.5 million Palestinians belonging to the country

Golan Heights:

Syrian Arabs: 18,000 (16K Druze and 2K `Alawi)¹⁶
Jews: 20,000 (settlers of various origins and ethnicities)

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reside as refugees outside those boundaries.⁸⁾

Other Israeli citizens and residents come from 103 countries and speak more than 70 different languages, mostly sharing the status of “Jewish nationality,” which a combination of Israeli laws creates and serves with superior privileges that Jewish “national” institutions implement. This population of Israelis with “Jewish nationality” is generally considered to comprise roughly half Ashkhenazim (i.e., Jews from European and Western countries) and half Sephardim/Mezrahim (or Oriental Jews),⁹ immigrating to the State party in the 20th Century.

Religious denominations in Israel include Jewish 76.5%, Muslim 15.9%, Arab Christians 1.7%, other Christian 0.4%, Druze 1.6%, unspecified 3.9%.¹⁰ The State party, as reflected in its report to CERD (e.g., para. 229), continues to identify Palestinian Arab Druze adherents as if ethnically distinct from other Arabs. While the State traditionally treats Druze differently from other Arabs, that separate treatment and identification tends create division among the indigenous Palestinian Arab community on religious grounds.

Economic indicators***Per capita income***

Following a recession earlier in the review period, Israel’s gross domestic product increased 5.7 percent in 2005,¹⁷ while GDP per capita increased by 3.5 percent. ICBS estimates 2005 per capita GDP at NIS 79,400, or 3.2% more than 2004, in fixed prices.¹⁸

Gross domestic product: NIS 553,970 million (2005)¹⁹

Rate of inflation: N/A

External debt: 1.3 (1999), 0.1 (2000), 5.7 (2002), 0.7 (2003) 1.3

The 2004–05 economic decline in the OPT outstripped slight 2003 improvements. Israel’s control of markets has ensured increasing payment imbalances and outflows of Palestinian income to Israel. The West Bank barrier construction, settlement growth and pass restrictions have combined effectively to annex valuable Palestinian land and water resources to Israel. This has created additional categories of “new poor,” particularly dispossessed Palestinian farmers, idled agricultural workers and landless refugees.

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(2005)²⁰

Rate of unemployment: 9% (average 2005)²¹

The *Poverty Report 2003* of the National Insurance Institute (NII) revealed that 48.4% of Palestinian families in Israel live below the poverty line, as opposed to 14.9% in the Jewish sector. This percentage rises in Palestinian families who rely on social and economic benefits; e.g., 72% of Palestinian families headed by a senior citizen (compared to 15% of Jewish families) are poor.²²

With fewer income sources, 80% of Arab women are underemployed (compared to 45.8% nationwide).²³ The average income for women in Israel is 57% of the average male income. The average income of an Arab man is 68% of that of a Jewish man.²⁴ The State maintains no regular statistics on female Palestinian citizen employment.

The *Minimum Wage Law* sets the standard at 47.5% of the national average wage. In Palestinian Arab Nazareth, for example, women's working conditions in the private-sector (largest sector employing Arab women), 61% earn under the legal minimum wage; 72% lack any legal contract, and only 35% are eligible for overtime pay. When asked, only 30% say that they know what the minimum wage is.

The Arab community—particularly Arab women—are not a priority for national economic policy, including for employment generation. In 1998, 90% of state investments were in Jewish areas; and only four out of 429 localities granted development status “A” were Arab.²⁵ Social conservatism and distant commutes without public transport to Arab towns and villages pose obstacles. With limited options, 80% of employed Arab women work close to home due to difficulties that Palestinian women face in traveling.

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Geographic fragmentation, including isolation of East Jerusalem, steadily has deteriorated the economic status of Palestinians and the general OPT economy. Land scarcity (where the Israeli military government's land use over decades has forced 40% of Gazans to have access to only 6% of their land), a high population growth rate of at least 3.4% and a young population (45.8% under 15 years old) pose further challenges to social and economic development efforts.²⁶

Average incomes are currently 36% lower than the pre-Intifada period.²⁷ For the *first quarter in 2005*, the Palestinian Central Bureau of Statistics (PCBS) reported in an impact survey that 66.7% of Palestinian households live below the poverty line, 57.9% in the West Bank and 84.1% in the Gaza Strip.²⁸ 65.2% of the Palestinian households reported income reductions since the beginning of *A/ Aqsa Intifada (2000)*, with 57.4% admitting to losing more than half of their incomes during the previous six months.²⁹ In the same survey, PCBS reported that 70.5% of households indicated the need for outside assistance, with 61.2% specifying that food was a top priority.³⁰ Some 226,000 Palestinian households have lost more than 50% of their usual income, and about 22.6% of Gaza Strip households endured woefully inadequate living conditions.³¹ The increasing dependency ratio reached 6.2 in 2004 (5.4 and 8.5 in West Bank and Gaza, respectively), compared with 4.8 in 2000. Survey data in 2004 indicated that only 31.2% of West Bank households could cope with the situation for more than one year, as with 26.8% in Gaza Strip.³² While 70% of families reportedly drew down on their savings as a coping strategy in 2001, only 13% remained able to do so by 2003.³³ Fully 34.8% of households reported receiving humanitarian assistance during the first quarter of 2005 (23.0% in the West Bank, and 58.2% in Gaza Strip).³⁴ Meanwhile, 70.2% of households reported that they still need assistance (69.4% in West Bank and 72.0% in Gaza Strip).

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The overall Palestinian employment rate in OPT Never has been lower. By 2004, the Israeli army's dispossession and destruction have cost one-fifth of Palestine's entire economic base.³⁵ Labor indicators for the first half of 2004 showed that a modest recovery (6% GDP growth in 2003) was ending. Allowing for discouraged workers, third quarter 2004 unemployment was 32.6%, 3% higher than the same time in 2003. Of employed persons, about one-third worked either for the PA, UN agencies or NGOs.³⁶ Unemployment for 2004 was 50% and that rate is estimated at about 52% for 2005.³⁷

The UN Office for Coordination of Humanitarian Affairs (OCHA) currently presents a worst-case scenario, predicting unemployment in the Gaza Strip to rise to 60%, from 35% now. With the Separation Wall, the rate in the northern part of the West Bank it could rise to 40–50%.

Palestinians depend on foreign aid totaling over US\$1.3 billion a year, but international donors have withheld some aid since the January 2006 Hamas election victory. Israel also has halted tax payments to the Palestinian Authority, estimated at \$73 million monthly, dealing a further economic blow. In this scenario, GDP for 2006 could fall to negative 25 per cent from plus 5% in 2005.

The UN reports that the Palestinian Authority's over 152,000 employees support some 942,000 dependents; i.e., about a quarter of the Palestinian population. Under the looming crisis, the poverty level could rise to 67% in 2006, and as high as 74% by 2008.³⁸

Under its separation strategy, featuring the construction of the Separation Wall and the "Gaza disengagement," the Gol plans to end all work permits to Palestinians by end of 2008. This

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General Political Structure

The political structure arises from a combination of influences, reflecting the settler-colonial composition of the dominant Jewish population and Israel's forcible expulsion of the majority of the indigenous population (770–780,000 refugees), leaving 156,000 indigenous Palestinians remains, among whom were some 88,000 IDPs. The remaining indigenous population endured under "military administration" until 1966, prevented them from moving from their towns or villages without military permission. The result was political,

retrogressive policy implies a further net loss of about 32,800 jobs in the Gaza Strip.³⁹ Israel has expressed an interest in expanding the industrial estates program in OPT, including in Palestinian lands that it effectively has annexed with the Wall construction.⁴⁰ However, of the original nine proposed, only the Gaza Industrial Estate (al-Muntar/Karni) remains in operation, employing fewer than 700 workers. Under the current framework, industrial estates could create no more than about 8,500 new jobs by the end of 2008.⁴¹

Consequently, donor dependency by Palestinians in the OPT remains among the highest in any conflict since World War II, with each of the 3.7 million Palestinians receiving more than US\$300 each.⁴²

Golan Heights

The Syrian Arab labour force numbers approximately 6,500 workers, of whom some 750 work in local services. Another 3,200 work in Israel in agriculture and construction. Local opportunities in the construction sector remain limited due to planning criteria, particularly restricting Syrian Arab housing. Nearly 40 percent of the total labour force remains unemployed.⁴³

Gradations of Israeli and Palestinian National Authority political jurisdictions in the occupied Palestinian territories of the West Bank and Gaza Strip are defined in the interim agreements signed by the two parties since 1993. The Oslo Interim process created four spheres of jurisdiction in the West Bank and Gaza Strip, defined as follows:

A. Closed Palestinian jurisdiction (Area A): In these lands, the

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economic and social repression of normal life for the indigenous people remaining in Israel after the 1948 and subsequent population transfers. Eventually, the indigenous society reconstituted through social and civil institutions, notably since the late 1980s. Since that decade, CERD focused its findings primarily on Israel's behavior externally and in the occupied Palestinian territories, not on the institutional aspects of domestic discrimination.

Political Participation: Several stages have transpired until the present, in which successive Israeli governments have attempted to silence the indigenous Palestinian population's political expression on matters of institutional discrimination. (See "Access to the political system" below.)

Special Status for Jewish ("national") Institutions: Under the World Zionist Organization/Jewish Agency Status Law (1952), major Zionist organizations have special parastatal status. They manage land, housing and services exclusively for the Jewish population. As no non-Jewish organizations enjoy similar status, this yields a vastly inferior quality of life for the indigenous Palestinian Arab community. (For discussion on the State party's failure to address discrimination by public and parastatal institutions and the mechanisms of material discrimination, see discussion under Article 2 below.)

Budget/resource allocations: From land allocation to health care provision and education, government budgets and allocations for Jewish citizens consistently exceed those for Palestinian citizens, despite recent increases in budget allocations for the "Arab sector." For example, only 6.7% of the 2000 interurban road-building budget went to the Arab sector. Also, typically Jewish-only planners designate the "national development areas" (officially designated for special economic incentives) so as to exclude Arab populations. While this bias in distribution of State benefits and services is not

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Palestinian Authority has full theoretical (*de facto* and *de jure*) jurisdiction. Israeli troops and military withdrew fully until late 2000, when they besieged the territories. Until then, Israel formally did not exercise jurisdiction over this area, except through reoccupation or Palestinian consent. Today, these areas remain under Israel's effective control, with several areas under occasional Israeli military siege.

- B.** Overriding Israeli jurisdiction. In those areas, the Palestinian National Authority holds partial personal, functional and geographical jurisdiction, as Israel has retained overriding security jurisdiction through activities of Israel's troops and the Military Government. This area forms approximately 10% of the West Bank and Gaza Strip and is inhabited by approximately 20% of the Palestinian population.
- C.** Where Israel has held functional, geographical and personal jurisdiction, and the Palestinian Authority has claimed personal jurisdiction, awaiting withdrawal of Israeli troops and Military Government. The size of this area is undefined; it is open to speculation by both sides, with the continuation of supreme Israeli jurisdiction as the occupying power along with jurisdictional category "A" (total Israeli jurisdiction). These areas constitute more than 73% of land in the West Bank and Gaza Strip and are inhabited by some 24% of the Palestinian population.

The overriding Israeli jurisdiction encompasses all components and actions that form clear violations of the Convention, for example, through its direct military actions; protection of Jewish settler actions and movements by exclusively applying to them privileged legal, military and administrative criteria; carrying out extrajudicial punitive actions, including as Israel's conduct of house demolitions, arrests and extrajudicial executions, in those areas with the State authorities' full resolve.

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required by law, the decisions that effect this discrimination are consistent and political in nature. Certain “development” plans and budgets actually seek to dispossess further the indigenous population of citizens, as exemplified in the Sharon Plan for Development of the Negev/Naqab (see “*Bedouins in the Negev*” below).

General Legal Framework

The Israeli legal system rests on strata of Ottoman laws, English common law tradition, British Mandate regulations and, in personal matters, Jewish, Christian, and Muslim legal systems. In December 1985, Israel informed the UN Secretariat that it would no longer accept compulsory ICJ jurisdiction.

The legal cornerstone of institutionalized discrimination is the Status Law (1952), supported by two other *Basic Laws: the Law of Citizenship [ezrahut]* and the *Law of Return*. The Status Law establishes the formal subsidiary relationship between the State and the “national” organizations, including the World Zionist Organization/Jewish Agency, Jewish National Fund and their subsidiaries (e.g., United Israel Appeal), as institutions implementing exclusive benefits and services exclusively to “Jewish nationals,” including Jewish citizens of the State of Israel and extraterritorial States. In their most dramatic discriminatory purpose, these parastatal institutions are dedicated to managing the transfer of lands and properties of the indigenous Palestinian people to the development and exclusive benefit of Jewish immigrants and settlers. (See discussion under Article 2 below.)

The Basic Law: Law of Return is effectively a nationality law exclusively for Jews. This is distinct in fact and function from the Law of Citizenship (*ezrahut*), which establishes the four bases for

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In this context, Palestinian Authority institutions continue to operate at reduced capacity, including the political functions of executive and legislative branches of government in remaining Areas A.

Some 426K “Jewish nationals,” including Israeli citizens, live in the OPT (including East Jerusalem) as settlers (violating the Fourth Geneva (Civilians) Convention, Article 49) and beneficiaries of discriminatory Israeli domestic law. The Israeli military occupation largely has replaced local law with military orders imposed on Palestinians and in force throughout the various jurisdictional Areas A,B and C, and Israeli law applying to Jewish settlers and Israeli citizens there (violating The Hague Regulations, No. 43, et al.). (Palestinian legislation applies also in Areas A).

Through its already-existing treaty obligations, not least under ICERD, the State party is required to ensure that it respect the enshrined rights. That requires the State party to ensure that it not violate human rights by way of discrimination through its own commission. State institutions are required to refrain from actions and policies that disadvantage any group(s) on the basis of racial or other arbitrary criteria. In addition, omission of action also violates the international human rights obligations of ratifying states. In the case of Israel, its failure to investigate violations, whether committed by state enterprises or settlers, against the Palestinians is an omission that contradicts human rights standards.

The Palestinian population of the OPT, including East Jerusalem, are not citizens of the State of Israel. However, this does not

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acquiring citizenship in Israel: by birth, immigration, marriage or residency. However, under the Law of Return, only Jews are given a status as “*oleh*” (one who arises) to come to areas controlled by the Gol to claim their “supracitizenship” status of Jewish nationality while acquiring citizenship “by return.” The notion of a “Jewish national” having “returned” from some other domicile to Palestine is majestically ideological and lies far outside the public law norms of “nationality.”⁴⁴ (See further discussion under “Right to nationality” below.)

The Basic Law: Law of Return also should not be confused as an immigration law, which would establish immigration procedures for non-nationals to acquire status in a country. As Israel’s first prime minister instructed, the “great constitutional importance” of the WZO/JA Status Law is realized when linked as a Basic Law to its sister Basic Law: Law of Return. Thus, “return” realizes a “nationality” right reserved exclusively for Jews, wherever they may be.

At the level of individual and group enjoyment of the spectrum of human rights, Israeli law establishes “Jewish nationality” status as well as “Israeli citizenship” as differentiated levels of civil status. On the basis of a verifiable claim to Jewish religion and arrival in the country, those eligible for “Jewish nationality” enjoy a status that carries with it the guarantee of full rights in Israel, including benefits from “national” institutions, resources and services and the highly ideologised and discriminatory right of “return,” an exclusive and superior right established in a *Basic Law: Law of Return (1950)*.

Members of all ethnic and religious groups theoretically are entitled to “Israeli citizenship,” as long as they satisfy the statutory criteria of birth, immigration, marriage or residency. Indigenous Palestinian Arabs, including Muslims, Christians and Druze, are entitled to claim

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exclude them under Article 1(2) of ICERD. As the CERD Committee noted in General Comment 30, “Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights.”⁴⁶ CERD expounded further that “...differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.”⁴⁷ Under these terms, the treatment of Palestinians in the OPT, when compared to the treatment of the illegal Israeli settler population, amounts to institutionalised discrimination.

The legal set-up in the OPT is a combination of Ottoman codes, British Mandate decrees and legislation, Jordanian statues (West Bank, including East Jerusalem) and Egyptian administrative regulations (Gaza Strip), all of which have been supplanted by Israeli Law. The State party has applied its domestic laws and other modifications to the local legal system in direct violation of The Hague Regulations, Article 43, despite its formal recognition of The Hague’s *de jure* application in the OPT.⁴⁸ This violation is particularly egregious in both its application of Israeli Military law in the West Bank and Gaza and its application of Israeli domestic laws in East Jerusalem and Golan Heights.[See *parallel report of the Public Committee against Torture in Israel (PCATI)*.]

The State party operates military courts across the West Bank, civil courts in East Jerusalem and the Golan Heights. Israel consistently has refused the *de jure* application of the Fourth Geneva (Civilians)

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Israeli citizenship. Through the Knesset's self-acclaimed annexation of the Golan Heights and Jerusalem, indigenous inhabitants to those occupied territories are likewise eligible for Israeli citizenship, although most have refused. (See right-hand column of this report.) However, none of those residents is Jewish and, therefore, each is denied the "nationality" rights of family unification and equal benefits of the "national institutions" managing public resources such as water and land. That denial excludes them from the enjoyment of full benefits of the State and its "national" institutions as Israeli citizens (primarily such institutions as the World Zionist Organization/Jewish Agency, Jewish National Fund and subsidiaries). Moreover, this denial notably extends also to Palestinian refugees elsewhere, belonging to the territory of the State party and holding the right of return.⁴⁵

Constitutional Equality: Israeli laws make no provision for equality, as the concept is absent from *Basic Law: Human Dignity and Freedom (1992)* that serves as Israel's bill of rights. The legislature addresses equal rights of other minorities (statutes protecting women and the disabled), but no legislation protects the indigenous minority from discrimination, nor provides for needed affirmative action to redress their continuous dispossession by the State, its agents and subsidiaries.

Institutional framework

Military Service: Gol uses military service as a condition for benefiting from various public services, thus excluding the vast majority of ineligible Palestinian Arabs. As a consequence, this exclusion administratively disqualifies many Palestinian Arabs from housing loans, public employment, and financial aid for education. Jewish Yeshiva students, granted military exemptions upon request, still receive some of these benefits due to the "traditional place of

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Convention in the OPT and Golan Heights. In the OPT, the State Party also has refused to recognize the application of its human rights treaty obligations, despite all treaty bodies' ruling to reaffirm that legal obligation.⁴⁹

Golan Heights

Israel uniquely denies Syrian Arabs of the Golan Heights, where Israel applies its domestic laws through formal annexation. This includes the various forms of discrimination arising from the State party's establishment of a superior "Jewish nationality" as a basis for the enjoyment of a variety of economic, social and cultural rights. Significant among these forms also is the operation of the WZO and JNF in developing public goods and services, including the determination of access to land and environmental goods, as well as infrastructure and civil services through their Jewish-only development activities.

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Torah study in Jewish heritage."

Special Status for Jewish ("national") Institutions:

Under the World Zionist Organization/Jewish Agency Status Law (1952), major Zionist organizations have special parastatal status. They manage land, housing and services exclusively for the Jewish population. As no non-Jewish organizations enjoy similar status, this yields a vastly inferior quality of life for the indigenous Palestinian Arab community.

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| Information and publicity | | |
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In the context of the Wye River Agreement negotiations, Israel and the Palestinian National Authority (PNA) committed to prevent incitement, including racist incitement. Drawing on relevant international practice and pursuant to Article XXII (1) of the Interim Agreement and Note for the Record, the Palestinian side issued a decree prohibiting all forms of incitement to violence or terror as a parallel to existing Israeli legislation that deals with the same subject. A U.S.-Palestinian-Israeli committee began meeting regularly in 1998 to monitor cases of possible incitement to violence or terror, and to make recommendations and reports on how to prevent such incitement. The Israeli-Palestinian and U.S. sides each appointed a media specialist, a law enforcement representative, an educational specialist and a current or former elected official to the committee. However, both parties have applied their commitments

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| Part II |
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| General Information on the Elimination of Discrimination & Enjoyment of Equal Rights |
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Legislative measures:

Whereas Tthe Israeli government’s report to CERD contends that “Several Basic Laws, laws, and court rulings operate together to guarantee that no public authority or public institution engage in any act or practice of racial discrimination against persons, groups of persons or institutions.”⁵⁰ Tthat claim is patently untrue, as discrimination against “non-Jews” is structural, required under Israeli law, and upheld by judicial institutions.

The country’s judiciary does not operate independent of this institutionalized bias and serves to interpret, guide, and enforce the measures of discrimination in such a way as to facilitate unequal practices to the disadvantage of the indigenous population. For example, the High Court so far has declined to consider cases involving claims against the State involving land (dispossession) and security matters, has rejected an equal civil status for all citizens in Israel, and has ruled effectively to uphold practices of torture of Palestinians (with a caveat suggesting that, if the State intends to regulate the practice, the Knesset should legislate accordingly in order to facilitate the Court’s rulings in the future).⁵¹

As noted in the GoI report to CERD, during the period of this review, the Israeli Supreme Court has ruled that there is a need to review formal discrimination (in land and housing) within norms of equality; however, affirming that “we will proceed cautiously at every stage,” despite the State’s 587-year pattern of institutional discrimination on

Legislative measures:

The Palestinian population of the OPT, including most in East Jerusalem, are not citizens of the state of Israel. However, this does not exclude them from rights under Article 1(2) of ICERD.⁶² The treatment of Palestinians in the OPT, when compared to the treatment of the illegal Israeli settler population, amounts to discrimination.

Israeli occupation measures exclusively applied to Palestinians usually accompany a selective and single “security” rationale for discriminatory treatment of the indigenous Palestinian population. The subsequent direct discrimination is nonetheless institutionalized and its consequences produce multiple deprivations exclusively for indigenous Palestinians. Closure, arrests, “clearing operations,” demolitions, collective punishments, a forbidden road regime, land and property confiscation, as well as the West Bank Separation Barrier construction, variously cause impoverishment, physical injury, death, destruction of vital infrastructure and unprecedented economic decline exclusively for Palestinians. Social and health indicators continue to deteriorate, while refugees, women and children suffer most.

The legal set-up in the OPT is a combination of Ottoman codes, British Mandate decrees and legislation, Jordanian statues (West Bank and East Jerusalem) and Egyptian administrative regulations (Gaza Strip), all subject to replacement by Israeli Military Orders

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the basis of “Jewish nationality” and the consequent deprivation of the indigenous people as a class.⁵²

Positive aspects

In H.C.J. 3939/99 *Kibbutz Sde-Nahum et al v. Israel Land Administration et al* (29.08.02) the Court held that the Israel Land Administration must administer State lands while protecting the public interest, including the protection of the land for the benefit of the larger public, and refraining from granting unjustified benefits relating to the land to others. As expected from any other administrative body, the Administration must act fairly to promote the general principle of distributive justice in allocation of public resources. The Court also noted the difference between discrimination and “legitimate distinction.” Consequently, the Court held that a decision to allocate lands only to a specific sector was unreasonable.

While this ruling may present a step toward rectifying the discrimination that exists between Israeli nationals, in actuality it is at risk of being misapplied and/or further promulgating the discrimination. Specifically, while the Court did rule that land administration should be based on “distributive justice”, it limits the ruling to the specific “circumstances of each case”⁵³ which, consequently, ensures that the law is administered on the grounds of particularity and not on universality as is the spirit of equality. Further, this ruling does not carry jurisdiction over land previously allocated illegally and leaves its application to the State, which in turn continues to contract its authority through the Israeli Lands Administration to parastatal institutions (i.e., Jewish Agency). The Jewish Agency, in particular, issued new criteria, including stipulating that applicants “maintain suitability to a small communal regime”⁵⁴, which has the affect of essentially creating enough ambiguity that the

and, more recently, amended by Palestinian Legislative Council codes and Palestinian presidential decrees. The State party has replaced the Syrian code in the Golan Heights with its own domestic law.

The State party has applied its domestic laws and other modifications to the local legal system in direct violation of The Hague Regulations, Article 43, despite its formal recognition of The Hague’s *de jure* application in the OPT.⁶³ This violation is particularly egregious in its application in East Jerusalem and Golan Heights by applying its own laws wholesale to those areas with “annexation” in 1981.

Israel military law in the OPT not only contradict all international human rights laws and international humanitarian law, but also prohibit the occupied Palestinians from the right to apply their own legal systems. [See parallel report of the Public Committee against Torture in Israel (PCATI)]

The State party operates military courts across the West Bank, civil courts in East Jerusalem and the Golan Heights, and military rule in the areas of its partial jurisdiction in the Gaza Strip. It maintains and exercises the prerogative to carry out extrajudicial executions, extraterritorial transfer of prisoners and torture against indigenous OPT residents. Meanwhile, Israel consistently has refused the *de jure* application of the Fourth Geneva (Civilians) Convention in the OPT and Golan Heights. In the OPT, the State Party also has refused to recognize the application of its human rights treaty obligations, despite all treaty bodies’ ruling to reaffirm that legal obligation.⁶⁴

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State can use to exclude Palestinians from land benefits on the basis of such broad justifications as “...not harmoniz[ing] with the Kibbutz way of life”⁵⁵ while “theoretically” remaining within the ruling of the Court.

Administrative measures

Attorney General guidelines on regarding racial discrimination:

As mentioned in Israel’s previous periodic report to the Committee, all Government ministries are required to operate in accordance with the guidelines issued by the AG prohibiting racial discrimination. Accordingly, any authority exercising any public function by virtue of law is prohibited from discriminating on the basis of race, sex, religion, creed, political opinion or any other basis. All ministries are prohibited from engaging in any form of racial discrimination in all aspects of their activities (employment, services etc.). Furthermore, Gol the Government is to take an active role in hiring women and minorities, especially via the imposition of affirmative action programs. All governmental bodies and government corporations are to actively to pursue the hiring of women and minorities and achieve a fair representation of such groups.

Multiyear Plan for the Arab Israeli Sector

As shown by the following chart, the percentage of the ministerial budgets allocated to the Arab population ranges from a high of almost 10% to a low of less than 3%. Meanwhile, the red line at the top of the graph represents the Arab percentage of the Israeli population from 18–20%.

The Israeli government has a history of promising budgets to the Arab sector, and then not following through with the promise. In 1996, the Peres government authorized a budget of 50 million NIS to

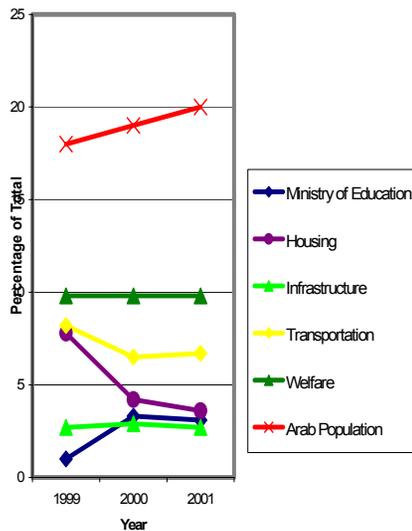
Administrative measures

Israel so-called “Civil Administration” carries out many of the administrative measures having consequences for the Palestinian civilians in the OPT. These functions fall under the Military Commander of the West Bank, effectively forming a military government in areas under its nominally administrative control. [For examples of the discriminatory consequences of these functions, see discussion under “the right to housing” below.]Some 426K “Jewish nationals,” including Israeli citizens, live in the OPT (including East Jerusalem) as settlers (violating the Fourth Geneva (Civilians) Convention, Article 49) and beneficiaries of discriminatory Israeli domestic law. The Israeli military occupation largely has replaced local law with military orders imposed on Palestinians and in force throughout the various jurisdictional Areas A,B and C, and Israeli law applying to Jewish settlers and Israeli citizens there (violating The Hague Regulations, No. 43, et al.). (Palestinian legislation applies also in Areas A.)

Meanwhile, colonizing Jewish Israelis exercise unique rights to bear arms, freely toting guns in public, provocatively threatening and violating Palestinian security, socioeconomic activity and property rights;. This discrimination formalized under Israeli law, military orders and occupation practices that justify implanting Jewish settler colonies, closure of territories, demolishing Palestinian homes, theft of property and attacking Palestinian residential areas near Jewish colonies, and Israeli military protection of the perpetrators.

finance the building of basic infrastructure in eight recently recognized villages in the Galilee. The funds were never actually disbursed. On 15 November 1998, the Netanyahu Government authorized a development plan for Arab Bedouin localities in the North with a budget of 660 million NIS.⁵⁶ However, the responsibility for carrying out the plan fell to the Ehud Barak government, and the plan was never implemented. The most recent development plan for the Arab sector was authorized by the Barak government on 29 Nov 2000.⁵⁷

Budget Allocations to the Arab Population by Ministry



This NIS 3.9 Multiyear Plan for the Arab Sector, most commonly known as the “Four Billion Shekel Plan,” is problematic in many ways. The most obvious problem with the plan is that it is not sufficient to close the gap between the Arab and Jewish sectors. In January 1995, a survey for the Arab Circassian and Druze populations outlined the development needs of this community, and made specific recommendations of priority areas. Local economists have

estimated that some NIS18 billion would be required to bring the entire Arab sector to the level of development in the Jewish sector.

In addition to the insufficiency of the Plan, a second problem arises from the plan’s lack of strategy. No comprehensive strategic needs survey has been conducted. The ceiling of NIS four billion was decided on first, and then the obligation was divided among the

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| Ethnic Characteristics |
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The State party has not provided information in its report as to the ethnic composition of the population subject to its implementation of ICERD. Nonetheless, this information is relevant insofar as the State’s laws, policies, programs, institutions and budgets relate to each group.

[See Part I on the ethnic and religious composition in Israel.]

The population within the recognized 1948–67 boundaries of the State is comprised of a wide variety of ethnicities, ranging from the indigenous Palestinian people, comprising approximately 19% of Israeli citizens (1,214,900 of a total 6,380,400),⁶⁵ of which some 276,000 are IDPs (Arab inhabitants displaced from homes and properties in 1948 and legally prevented from return and restitution).⁶⁶

Other Israeli citizens and residents come from 103 countries and speak more than 70 different languages, mostly sharing the status of “Jewish nationality” created by Israeli laws and institutions. This population is generally considered to comprise roughly half Ashkhenazim, Jews from European and Western countries, and half Sephardim/Mezrahim (or Oriental Jews),⁶⁷ immigrating to the State party in the 20th Century.

Religious denominations in Israel include Jewish 76.5%, Muslim 15.9%, Arab Christians 1.7%, other Christian 0.4%, Druze 1.6%, unspecified 3.9%.⁶⁸ Israeli citizens, putative “Jewish nationals” and residents combine to comprise 80.1% Jews, including 32.1% Europe/America-born Jews, 20.8% Israel-born Jews, 14.6% Africa-born Jews, 12.6% Asia-born Jews, plus 19.9% non-Jewish (mostly Arab).⁶⁹

The State party has not provided information in its report as to the ethnic composition of the population subject to its implementation of ICERD. Nonetheless, this information is relevant insofar as the State’s laws, policies, programs, institutions and budgets relate to each group.

[See Part I of this report on the ethnic and religious composition in Israel.]

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| <p>In addition to the permanent population, around 300,000 migrant workers of various religions and ethnicities are employed in Israel, of whom roughly 60% are illegally employed.⁷⁰ Half of the migrants are from Asia (China, Thailand, the Philippines), 45% from Eastern European countries (mainly Romania and Moldova) and the rest from African and Latin American countries (Ghana, Nigeria, Colombia, Bolivia, Ecuador, Chile and Brazil).⁷¹</p> <p>With the colonial settler nature and diverse composition of the population within the internationally recognized jurisdiction of Israel, its government officially defines the State as “the Jewish State,”⁷² providing distinct privileges for those recognized as “Jewish nationals” on an extraterritorial basis. A guiding principle for all governments of Israel since its inception has been the “ingathering of the exiles,” a term portraying the immigration and settlement of historic Palestine by Jewish people from other countries.⁷³</p> <p>Rather than implementing self-determination of all peoples of living in the State on the basis of equal rights and responsibilities of citizenship, the State establishes and implements distinct classes of rights holder, favoring those holding status as “Jewish nationals.” Instead of self-determination expressed through equal citizenship, therefore, the State establishes a different formulation of citizens “shareholders” in a Jewish State.⁷⁴</p> | | |
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| Discrimination against Women |
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| <p>The State party has not responded to the Committee’s question in the CERD guideline concerning the specific impact of racial discrimination on women. While much of the impact is felt in the private sphere, it is nonetheless important that the Committee understand the continuum of effects that institutionalized</p> | | <p>The occupation policies and domestic laws of Israel applied in the OPT, while not implicitly gender-biased, do affect Palestinian women differently from Palestinian men. Palestinian women suffer disproportionately from the many layers of restrictions and violence that accompany the occupation.</p> |
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discrimination against non-Jews has on the indigenous Palestinian Arab women.

Palestinian Arab women and girls account for 710,000 (765,000 including Druze) of Israel's citizens. They are the most disadvantaged sector of the population, doubly discriminated against: as Arabs within the Israeli state, and women within Palestinian society. Palestinian Arab women are the poorest, least paid, least educated segment in Israel, subject to legal abuse and inadequate judicial protection and remedy. They lack political representation, decision-making access and power.

Childcare: According to the Ministry of Social Affairs, of the 1,600 daycare centers in Israel for children aged 0-3, only 25 centers operate in Palestinian villages. Out of approximately 80 thousand children aged 0-3 who attend publicly subsidized daycare centers or house care programs, only 4,200 of them are Palestinian children, the majority of whom attend house care programs. Although Palestinian children constitute 26% of the total number of children in Israel, they constitute only 5.25% of the children attending subsidized daycare centers and house care programs. The lack of sufficient daycare centers in Palestinian villages discourages many women from participating in labor force, since most of them cannot afford a private babysitter.⁷⁵ The *Compulsory Education (Preschools) Law Amendment in 1984* extends free education to children from 3 years. Its implementation, delayed until 1999, reached only 5 Arab localities. After public pressure, they were increased to 36; however, comparing with the 146 Jewish settler colonies in OPT benefiting.

Education rights: The *Compulsory Education Law* provided for free compulsory education to age 5–15. Despite achievements of Israel's education system, great disparities in facilities, funding, enrollment and academic achievements. The Law is not implemented in the

Palestinian women in the OPT have lived most of their lives under Israeli occupation and, as a result, have faced multiple forms of discrimination impeding the enjoyment of their rights: as Palestinians under military occupation, as women in a patriarchal society and as unequal members in a territory governed by discriminatory laws.¹⁰⁷ More Palestinian men than women have directly have undergone the physical violence of Israel's military occupation, such as killing, injury, imprisonment and torture. Also, as a result of the closures, detention and outright humiliation of commuting to jobs through Israeli checkpoints, the overall economic depression and resulting poverty have combined to prevent Palestinian men from performing their traditional role as breadwinners.

Consequently, women's domestic roles and responsibilities have expanded, while their socioeconomic roles and positions have deteriorated. The socioeconomic burden on the Palestinian woman has increased with assumption of the role of head of household in the absence of her displaced, imprisoned, disabled or assassinated husband. In acute poverty, women have adopted coping strategies to maintain the domestic economy, such as planting, bartering or selling foodstuffs. Israeli policies and practices ensure the foreclosure of even these minimal survival options when the Israeli army and Jewish settlers seize, close or destroy cultivation and landed property. Women continue their primary role as the family caregivers, managing traumatized children and other family members, and guarding minimum welfare in the face of displacement, house demolition, death, injury and other grave losses. Meanwhile, women's social and material resources are depleted with the loss of income, access to health care, counseling and protection from violence.

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Arab community. In 1997, 42% of Arab students dropped out, compared with 12% Jewish students⁷⁶. Statistics published in 2004 reveal that combined public and private investment in Palestinian school students stood at an average of New Israeli Shekels (NIS) 862 per student, compared with NIS 4,935 per Jewish student for the academic year 2000-2001. Over the same period, public investment totaled on average NIS 534 per student for Palestinians, compared with NIS 1,779 per Jewish student.⁷⁷ Thus, while these figures show that private investment in Jewish students greatly outstripped that in Palestinian students, the government spent over three times as much on each Jewish student as on each Palestinian student. This under-funding is manifested in many areas, including the poor infrastructure and facilities characteristic of Palestinian schools⁷⁸, crowded classrooms⁷⁹, few teaching hours relative to Jewish students, the lack of support and management professionals in the Palestinian educational system in Israel, and poor Arabic textbooks. This environment creates a negative experience for students, academically, emotionally and socially, and leads to phenomena such as academic under-achievement and high drop-out rates.

In reviewing Israel's implementation of CEDaW, the following was noted:

- Palestinian women citizens of Israel had the highest illiteracy rate: 14.7%, among all population groups in Israel in 2003. This compares with 4.5% for Jewish women, 6.2% for Palestinian men, and 2.5% for Jewish men.
- Palestinian women citizens of Israel had the lowest median educational level: - 10.9 years, - compared with 11.2 years for Palestinian men, and 12.6 years among the Jewish population in 2003.
- The percentage of the Palestinian women citizens of Israel who did not attend school (9.9%) was treble that of the Jewish women

Concomitantly, among the many consequences of occupation, are the high levels of anxiety and despair that translate into domestic and gender-based violence. Social pressures and practices simultaneously overburden women, including dismissal and repression for expressing their plight as if it were secondary to the national cause. Israel's destruction of much of the PNA security structures has produced weak law-enforcement institutions and a resurgence of local customs to fill the gap. Consequently, gender inequality and societal pressures have increased such that women conform to the status quo with diminished hope for progress. The community considers women who transgress or challenge these norms as having tarnished family honor and, in the extreme cases, fall victim to "honor" crimes. Without the necessary legal protection from either PNA or Gol, such honor crimes go unprosecuted.

[See Article 5 A on the treatment of women by law enforcement officials.]

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citizens (3.3%) in 2003.

- The percentage of Palestinian girls who dropped out of school in grade nine (9.5%) was almost three times greater than the percentage of Jewish girls (3.6%) in 2003.
- According to the Israeli Ministry of Education, 60% or more of the school textbooks provided for Palestinian schools include the wide use of negative gender stereotypes.
- Just 32.7% of Palestinian women citizens of Israel met university entrance requirements, as compared with 52.5% of Jewish women in 2002: a 20% gap.
- Fewer Palestinian women citizens of Israel receive a university education than other population groups in Israel; e.g., 7.1% received 16 or more years of schooling, compared with 19.0% of Jewish women in 2003.⁸⁰

Childcare: According to the Ministry of Social Affairs, of the 1,600 daycare centers in Israel for children aged 0–3, only 25 centers operate in Palestinian villages. Although Palestinian children constitute 26% of the total number of children in Israel, they constitute only 5.25% of the children attending subsidized daycare centers and house care programs. The lack of sufficient daycare centers in Palestinian villages discourages many women from participating in labor force, since most of them cannot afford a private babysitter.⁸¹

Curriculum: The Israeli curriculum for the Arab schools harms Arab girls by reflecting the state ideology, including gender stereotypes in course materials and subject options. Whereas Jewish students have over 90 educational tracks to choose from, including many technological tracks, only 19 are offered in Arab schools, whose required curriculum purveys stereotypical gendered assumptions about girls. This remains despite much pressure from Arab women's groups. Since the 2001 International Conference for Women

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(Beijing), all attempts to improve the curriculum for Arab girls have been sidelined due to redirected funds.⁸²

Personal Status Rights: In Israel, religious courts have predominant jurisdiction on personal status issues among Muslim and Christian communities. The Arab religious courts are underfunded, understaffed and have unsuitable judicial appointments. The Ministry of Religious Affairs allocates only 2% of its budget to Arab religious communities. Some 900,000 Muslims have seven⁷ courts and only six⁶ judges; none are women. Over 1,500 cases per court per year are dealt with by a staff of one¹ judge and one¹ secretary. Under Israeli law, any married Muslim man can be a *qadhi* (judge). As a consequence, most appointments are political rather than professional. In this situation, women are subject to a number of violations of their legal rights:

*Marriage Age Law*⁸³: prohibits marriages under age 17. Setting the minimum age of marriage at 17 contradicts provisions of the CRC and the CEDAW Committee’s own recommendations that the minimum age of marriage be 18 and also sidesteps the problem of child marriage. In Israel, a large portion of marriages occur between the ages of 17 and 18 and thus in accordance with the law. According to the National Council of the Child, 33% of Arab women aged 17–18 are married. In 2001, 113 Palestinian girls were married by the age of 16, compared to 24 Jewish girls of the same age. 1,272 Palestinian girls were married by age 17, compared to 314 Jewish girls of the same age. These figures do not reflect the exact number of child marriages occurring each year, since in most cases, the files or marriage contracts are hidden until the child reaches the age of 17, when the contracts are registered with the Interior Ministry. Accurate data for age groups younger than this is elusive, since underage marriages are not registered with the Ministry of the Interior. In addition, authorities do not enforce the Age of Marriage

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Law.

During 1990–96, only 16 complaints of underage marriages were registered in all the police departments; 13 of these cases were closed and only three were committed. It is police policy to take no action if the girl is 16, in direct violation of the law. In June 2004, the Parliamentary Committee on the Rights of the Child held a hearing to address child marriage in Israel. In this hearing, a police representative admitted that in 2003 the police investigated only 4 cases of child marriage. In 2004, they do not investigate any cases.

Article 176, Penal Code stipulates that polygamy is a felony punishable by up to 5 years in prison. There are few cases of prosecutions in Israel. Despite this, 40% of Arab Bedouin women in the Negev report their polygamous marriages.⁸⁴

Violence against Women: Prevention of Domestic Violence Law was drafted to combat and deter domestic violence. Statistics show 50% of Arab married women are beaten at least once a year; 25% are beaten at least once every six months.⁸⁵ Few women come forward to report this violence. In 1997, 179 women came to Arab crisis centers as a result of beatings and threats on their lives. Women, who break societal norms by finding independent employment, delaying marriage, or living alone, are sometimes beaten or even killed by family members.⁸⁶ In 1998, 6 Arab women were murdered on the so-called “family-honor” pretext.⁸⁷ In 2000 alone, nine women were killed in these so-called “honor” killings. In the past decade, the obsession with “family honor” resulted in the murder of at least 80 Arab women in Israel.⁸⁸ Since the beginning of 2005, at least 12 Palestinian Arab women were murdered in “honor” killings in Israel.⁸⁹

This state of violence against women is only perpetuated by the lack of support from the Israeli government. The State party currently runs

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only two domestic violence prevention centers for the nearly one million Arab citizens. Although the Ministry of Labor and Social Affairs partially subsidizes shelters run by independent groups and NGOs, these shelters are chronically struggling, and are often forced to turn women away for lack of funds or space. Although the Knesset passed “The Prevention of Domestic Violence Act” in 1991, Arab women lack awareness of the protections that it guarantees. In addition, the police and legal system do not support Arab women in complaints of domestic and sexual violence. Several documented cases reveal a pattern of husbands released from Israeli detention against the request of the abused wife. In many of these cases, the woman was abused again, and, in some cases, sometimes killed.⁹⁰

The increasing number of Palestinian women victims of violence is not being met by a similar increase in the number of secure facilities and safe homes for Palestinian women. Palestinian women have needs different from than Israeli Jewish women, and thus require separate facilities. Fourteen shelters for women operate in Israel. Of them, two serve Palestinian women, accommodating 24 women and 48 children; and one is a mixed shelter that serves both Jewish and Palestinian women, accommodating 12 women and 24 children. One of the shelters for Palestinian women was just opened in 2003. Women against Violence (WaV) estimates that, in order to meet the most basic minimum level of services, the State would have to must open at least one more shelter for battered Palestinian battered women and a secured shelter for Palestinian young women.

Palestinian young women in distress (over the age of 18 and single) have even fewer options as they are served by only one facility. The Shelter for Palestinian Young Women in Distress run by *Dhuhur al-Ghad* seeks to assist young women who are in physical or psychological danger and in an emergency situation. Palestinian young women in need of a transitional home to start an independent

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life but who are not in an emergency situation are served by the Halfway House for Young Women run by WaV. From September 2000 to October 2004, this Halfway House received a total of 44 applications, but could accommodate only six young women and can only offer services to a total of 14 young women at once. These young women do not receive any allowances from the State and do not receive unemployment benefits (unless they have worked for six months before registering as unemployed). The lack of job opportunities also makes it extremely difficult for them to live independently.

In 2003 and 2004, three other care and protective facilities for Palestinian women and young women were closed by the State:

1. In May 2003, the Ministry of Labor and Social Affairs closed down the only state-funded secured exclusively for Palestinian young women, including those under the age of 18 in danger of physical abuse, those judged by the courts to be a threat to themselves or others, and girl juvenile offenders serving an alternative sentence to incarceration. A petition was filed to the Supreme Court arguing that the failure to open a new shelter was discriminatory and violates the principles of equality on the bases of sex and nationality.⁹¹ Palestinian women citizens of Israel form a distinct subgroup, and thus are discriminated against as they are the only group not provided with an appropriate shelter. The Ministry funds secured shelters for Jewish young women, Jewish young men, and Palestinian young men. Since the filing of the petition, the state has deferred its commitment to opening a new shelter and, to date, no such shelter has been opened. This inaction is also in defiance of an investigatory committee's recommendation that a separate secured shelter should operate for young Palestinian women.⁹²

2. In June 2004, the Ministry closed the hostel for young Palestinian

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women in distress (for those under the age of 18 who live in problematic family situations and are in need of safe and secure facilities). The reason for the closure was due to lack of approaches. However, the lack of approaches reflects the inability of social workers to reach out to young women (due to lack of social workers and lack of budgets) rather than the actual number of young women in need of a hostel.

3. In December 2004, the Ministry also closed the Amirim shelter (for Jewish and Palestinian women and young women who are pregnant and in danger). These women are being directed to the existing shelters, which are not equipped or prepared to deal with such high risk cases. No official notice or reason was given.

Status of Women in Court: The police response is mirrored by women’s treatment in Israeli courts. According to a recent study,⁹³ Women’s testimonies, bodies and even lives have had less value than men’s in the Israeli justice system.⁹⁴ The courts require lower standards of proof to convict women rather than men. Judges interrupted female witnesses more frequently than male ones and challenged their credibility far more frequently. For women victims of violence, a romantic involvement often mitigates the prosecution, and violence against a family member is treated less seriously than violent crimes against strangers.

Access to Decision Making: At Beijing, States undertook commitments to ensure women’s equal access to, and full participation in power structures and decision making. Arab women in Israel live far from these ideals and rights.

Political Representation: No Israeli law or policy measure guarantees women’s representation in elected forums. Equally, Arab representation in Israel in elected positions is not consistent with

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their electoral power. In 1999 Knesset elections, 12 Arab members gained seats, out of a total of 120. Only one of them was a woman.

Proportionally, Arab women should have nine Knesset seats. In the 1998 local elections, two Arab women were elected from among 800 elected positions. Since 1948, only one woman ever has been elected to head an Arab Local Council.

Senior Employment: The proportion of Arab women in senior positions within State employment is negligible. From 641 managing directors of government companies, only three are Arab and none is of them are Arab women; of 1,059 directors of government companies, 15 are Arab, and only one of them is a woman.⁹⁵ Only 19 Arab judges are currently employed by any State Court, and only four are women. Even in spheres where women are relatively well represented, such as education, Arab women have little senior representation. Currently, there is only one Arab woman university lecturer in Israel, and no Arab women principals of State party's high schools.

Affirmative Action: The State Services (Appropriate Representation) Law secures a suitable representation for women in all government companies. Through judicial interpretation, suitable representation has come to mean 30%. The law has largely benefited upper-class Jewish women, since they have access to these jobs. Only one Arab woman so far has benefited. A more-effective mechanism for Arab women; e.g., no proposal for Arab or Arab women's proportionate representation ever has succeeded.

Women's Employment: In 1948–66, the State party's military administration severely restricted the Arab population's movement. Then, nearly all employment opportunities were reserved for men. The only paid employment possible for women was in the education

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field. Due to the religious/ethnic segregation of the school system, teachers in the Arab sector were in low demand. That double disadvantaged indigenous Arab women citizens both as professional job seekers, and as girls deprived of appropriate curriculum. Many over-qualified Arab men, facing high rates of unemployment in the professional sector, took the available teaching positions.

After 1966, with the end of military rule and with greater freedom of movement and employment, Arab society's mistrust for Jewish society lingered nonetheless. At the same time, shifting from a collective economy relying on kibbutzim, Israel's economy was more privatized and relied on manufacturing. This shift created a demand for cheap wage labor, translating into more employment for the Arab sector, increasingly for women as well as men.

Since the 1994 peace treaty with Jordan, some of these manufacturing workshops moved to Jordan and Egypt in search of cheaper labor. Without the manufacturing sector, Arab women primarily worked in education or the service industry. A new opportunity was created for Arab women when the kibbutzim opened their labor forces to outside wage workers. But unemployment for Arabs remained high, particularly for women.

While *Israel admits that Palestinian women citizens of the state are still among the most disadvantaged*, Gol has presented no clear plan of action to accelerate progress toward equality, nor any disaggregated statistics to compare Palestinian women citizens others. Employment discrimination is one of the most-pressing issues for Palestinian women in Israel. In 1994, only 17% of Arab working-age women had employment outside the home.⁹⁶ (This includes only taxable employment, and may underestimate the number of Arab women who are employed informally, as in seasonal agriculture, caring for children and elderly, and house cleaning.) The

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low level of employment for Arab women is especially stark in contrast with the level of employment for Jewish women. In 1995, 50.6% of Jewish working-age women participated in the labor force.⁹⁷ The disparity in wage levels shows Arab women earning only 50% of Jewish women's wages.

These figures have remained constant throughout the 1990's. In 1999, less than 20% of women in the Arab sector participated in the labor force, compared with over ½ of women in the Jewish sector.⁹⁸ In 2001, the State Comptroller's 2001 Annual Report (released 29 April 2002) noticed that 72% of Palestinian women citizens of Israel aged 25–34 do not work outside of the home, as compared with 38% of the general population.⁹⁹ Only 16% of Palestinian women citizens 25–54 are employed, as compared with 75% of Jewish women. In the Naqab/Negev, only 7% of Palestinian women citizens are employed. Of all unemployed Palestinian women, 11% hold a BA or BS degree.¹⁰⁰

The percentage of Palestinian women citizens participating in the workforce has only marginally increased (from 22.3% in 1998 to 22.9% in 2001¹⁰¹) while the percentage of Jewish women participating in the workforce has increased from 51% in 1998 to 77.3% in 2001. While the State Report indicates that the total budget for the Department for Adult Training has increased by 10% in 1996–2000; nonetheless, Palestinian women made up only 6% of participants in training programs in 2001–02. Moreover, Palestinian women citizens earn the lowest wages, and have the fewest resources, such as daycare centers or industrial zones, to help them participate in the workforce.¹⁰²

Although some of this disparity arises from Arab societal restrictions on female freedom of occupation, other influential factors include lack of transportation, language barriers, hiring discrimination, and

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unequal educational opportunities.

The educational levels of the Arab and Jewish sectors are disparate. While 71.8% of Jewish students complete high school, only 42.3% of Arab students do so. While 15.1% of Jewish students never make it to high school, the rate of Arab students with only elementary school education is 38.7%. The rate of Arab female students is even higher (43.8%), and, of those Arab women, 13.6% have had no formal schooling whatsoever.¹⁰³ These low levels of education severely limit the employment opportunities available to Arab women.

These statistics demonstrate “double discrimination”; whereby, structural discrimination in education, such as inequality in funding allocations to Arab schools and to Arab women citizens. Also, female Palestinian women citizens face discrimination in their own Arab society, which places more emphasis on educating male children than female children. The result of this gender discrimination can be seen in the disparity in the levels of education held by Arab males and females.

Traditionally, many families do not permit their daughters to learn outside of their villages; that has devastating consequences on their education. In 1997, only 45%¹⁰⁴ of school-age girls in the Negev were in school. A 1999 HRA survey¹⁰⁵ of 55 Arab Bedouin women in the Negev, aged 15–65, and from both unrecognized and recognized villages found the following:

- 43% of the women interviewed were illiterate.
- Only 16% of women interviewed had completed high school.
- Only 4.5% had passed Bagrut school matriculation exams.
- Only 2% had begun some form of further education.
- 65% responded that the most important expressed needs for them and their community were educational: providing schools,

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| <p>kindergartens and also adult education and literacy classes.</p> <p>Positive aspects</p> <p>The Israeli Supreme Court has affirmed the principles of equality and nondiscrimination in <i>the H.C.J 453/94 Israel Women’s Network v. Government of Israel</i> (01 November 1994), where the Supreme Court required the Port Authority Commission to include women in its list of candidates for directors positions and H.C.J 721/94 <i>El A Israel Airlines Ltd. v. Danilovitch</i> (30 November 1994), where the Court held that homosexual couples are to be provided with the same employee benefits given to heterosexual couples. While this development also may potentially benefit the individuals Palestinian Arab citizens, it does not meet the requirement of affirmative action.</p> <p><i>The Governmental Companies Law (1975) Amendment 6 (passed in 1993)</i>, requires equal representation for all women in Israel on boards of directors of Gol-owned companies. Its Amendment 11 (passed in June 2000) sets forth that: “In the board of directors of governmental companies, adequate representation will be given to the Arab population.” Despite these new laws and Supreme Court litigation,¹⁰⁶ < 1% of sitting board members are Palestinian women citizens. While Jewish women’s representation increased from 7% to almost 37% (1994–2002); Arab women’s representation did not increase.</p> <p>According to Article 15A of the Civil Service Law (Appointments) (1959), as amended in December 2000, applying affirmative action in the hiring of Palestinian citizens of Israel and for women for civil service jobs is obligatory. Despite this, Palestinian citizens, in general, and Palestinian women citizens, in particular, are rare in civil- service positions.</p> | | |
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- ¹ United Nations General Assembly resolution 181 on "Partition of Palestine with Economic Union," which state delegations adopted by a vote of 33 votes in favor, 13 votes against, with 10 abstentions, on 29 November 1947.
- ² According to Cogan, M., *Anchor Bible Dictionary* (New York: Doubleday, 1992), Vol. 1, p. 1010; Gershon Galil, *The Chronology of the Kings of Israel and Judah* (Leiden: Brill, 1996); and Israel Finkelstein and Neil Asher Silberman, *The Bible Unearthed: Archaeology's New Vision of Ancient Israel and the Origins of Its Sacred Texts* (New York: Simon & Schuster, 2002), p. 20 and throughout.
- ³ "The State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture..." Provisional Government of Israel, "Proclamation of Independence/Declaration of Establishment of the State of Israel," *Official Gazette*: Number 1 (Tel Aviv, 14 May 1948), p. 1, at: http://www.knesset.gov.il/docs/eng/megilat_eng.htm.
- ⁴ The Committee on Economic, Social and Cultural Rights has expressed its concern that "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, *inter alia*, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice." "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel," E/C.12/1/Add.27, 4 December 1998, para. 8.
- ⁵ "Proclamation of Establishment of the State of Israel," *Official Gazette*: Number 1; Tel Aviv, 5 Iyar 5708, 14 May 1948, p. 1, at: http://www.knesset.gov.il/docs/eng/megilat_eng.htm.
- ⁶ Israel Central Bureau of Statistics *Statistical Abstract of Israel*, No. 55 (2004).
- ⁷ 2004 figure, CIA, *The World Factbook* (Washington: updated 1 November 2005), at: <http://www.cia.gov/cia/publications/factbook/print/is.html>.
- ⁸ The estimated total of 5,511,041 Palestinian refugees is comprised of 3,973,360 UNRWA-registered refugees and 1,537,681 nonregistered refugees as of 2002 data, and does not include internally displaced Palestinians remaining inside Israel. Badil Resource Center for Palestinian Residency and Refugee Rights, "Palestinian Refugees, Internally Displaced Palestinians and Convention Refugees, 1950–2002," at: <http://www.badil.org/Statistics/population/04.pdf>.
- ⁹ The majority of Jews fall into only a few communities, the largest of which are the Ashkenazim (meaning "German" in Hebrew), who migrated from Italy to southern Germany in the 7th–8th centuries, and spread to northern, central and eastern Europe, and the Sephardim (Hebrew for "Spanish"), who migrated to Iberia in the 8th–9th Centuries, although scattered since 1492 throughout North Africa, southeastern Europe and the Near and Middle East, and parts of the Americas. Together, these two groups comprise 90–95% of Jews. The designations "Ashkenazi" and "Sephardi" encompass cultural, religious, culinary and other differences. Some scholars purport that Ashkenazi Jews descend from the religious traditions of the Babylonian Jewish academies, and that Sephardi Jews are descendants of those who originally followed the Palestinian Jewish religious traditions.
- Mizraḥi Jews, sometimes also called Oriental Jews, (מִזְרָחִי "eastern", Standard Hebrew Mizraḥi, Tiberian Hebrew Mizrāḥī; plural מזרחים "easterners," (standard Hebrew Mizraḥim, Tiberian Hebrew Mizrāḥīm) are those Jews with millennia-long residence in the Muslim world, or whose ancestors were among those, but are not Sephardi. Included in the *Mizraḥi* category are non-Sephardic Jews from the Arab world, as well as other communities including the Gruzim, Persian Jew, Bukharan Jews, Mountain Jews, Iraqi Jews (including the Baghdadi Jews of India), Kurdish Jews, and contestably the Yemenite Jews among various others. Though many Mizraḥim now follow the liturgical traditions of the Sephardim, and in modern Israel may be colloquially referred to as Sephardi Jews, the Mizraḥim are not Sephardic, as they are not descended from those Jews who were expelled from *Sepharad* (the Iberian peninsula) during the Spanish Inquisition and the Portuguese Inquisition. Sephardi has in some modern contexts acquired the meaning of "non-Ashkenazi Jew," however, to include Mizraḥim with Sephardim may be considered historically ignorant and culturally insensitive. Prior to the emergence of the term "Mizraḥi," which dates from the time of the establishment of the State of Israel, Arab Jews (יהודים ערבים) was a commonly used designation for those Mizraḥim originating in Arab lands, though almost never employed by the Mizraḥim themselves. The term is rarely used today, except among a minority of Mizraḥim who promote reintroducing the designation *Arab Jews* instead of Mizraḥim; this usage has thus far received little support among the wider Mizraḥi community. Many Mizraḥim today also identify themselves with and exhibit affinity toward their country of origin, or that of their immediate ancestors, e.g. "Iraqi Jew," "Tunisian Jew," "Persian Jew," etc., retaining particular traditions and practices. Unlike the terms *Ashkenazi* and *Sephardi*, *Mizraḥi* is simply a convenient way to refer collectively to a wide range of Jewish communities, most of which are as unrelated to each other as they are to either the Sephardi or Ashkenazi communities. In the context of modern Israeli society the label is commonly used in the sense "non-Ashkenazi and non-Sephardi Jew" and is mostly associated with the Near East and North Africa.
- ¹⁰ Figures as of 2003, cited in CIA, *The World Factbook*, op cit.
- ¹¹ Palestinian Central Bureau of Statistics (PCBS), "Projected Mid-year population in the Palestinian territory by governorate (2001–2007), www.pcbs.org/populati/dend1.aspx.
- ¹² Ibid.
- ¹³ "Jerusalem's Population 1967–2003," in *Report on Israeli Settlement in the Occupied Territories*, Vol. 15, No. 4 (March–April 2005), Foundation for Middle East Peace (FMEP) website, at: http://www.fmep.org/settlement_info/stats_data/jerusalem/jerusalems_population_1967-2003.html.

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- ¹⁴ *Statistical Yearbook of Jerusalem*, 2003, Table III/13, as cited in *Report on Israeli Settlement in the Occupied Territories*, Vol. 15, No. 4 (July–August 2005), Foundation for Middle East Peace website, at: http://www.fmep.org/settlement_info/stats_data/jerusalem/east_jerusalem_population_area_2000-2002.html
- ¹⁵ PASSIA, "Palesine Facts," at: http://www.passia.org/palestine_facts/pdf/pdf2004/Jerusalem/Jerusalem-Population.pdf.
- ¹⁶ "Demographics of Syria," at Reference.com website: http://www.reference.com/browse/wiki/Demographics_of_Syria.
- ¹⁷ ICBS, "Gross Domestic Product and National Income" (updated as of 15 March 2006), at: http://www.cbs.gov.il/hodaot2006n/08_06_050t11.pdf.
- ¹⁸ Mati Bassok, "GDP per capita will rise to 3.5% says CBS", *Ha'aretz* [online edition] (23 December 2005), at: <http://www.haaretz.com/hasen/pages/ShArt.jhtml?itemNo=633840&contrassID=2&subContrassID=2>
- ¹⁹ Israel Central Bureau of Statistics (ICBS), December 2005, at: http://www.cbs.gov.il/hodaot2006n/08_06_050t11.pdf.
- ²⁰ Official figures unavailable. Estimates provided by IndexMundi, at: http://www.indexmundi.com/israel/inflation_rate_consumer_prices.html.
- ²¹ Official figures unavailable. Estimated average provided in Zeev Klein, "Israel's unemployment rate high among developing countries," *Globes [online]* (15 March 2006), at: <http://archive.globes.co.il/ENGLISH/index.asp?ID=1000071845>.
- ²² *Ibid.*, p.36.
- ²³ Arab Association for Human Rights & A. Farris, *The Status of Arab Women Working in the Private Sector in Nazareth* (Nazareth: HRA, 1998).
- ²⁴ Fiona McKay, *The Palestinian Arab Minority in Israel: Economic, Social and Cultural Rights* (Nazareth, 1998), p. 67.
- ²⁵ National Council for the Child, *Young Children in Israel* (1998), p. 49.
- ²⁶ UNFPA contribution to "Economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and the Arab population in the occupied Syrian Golan," A/60/65 and E/2005/13, 24 May 2005, at: <http://domino.un.org/UNISPAL.NSF/eed216406b50bf6485256ce10072f637/e146db635ae686b585257053004a18e9!OpenDocument>. UNICEF cites a 3.9% growth rate in "Ata Glance: occupied Palestinian territory," at: www.unicef.org/infobycountry/opt_statistdics.html.
- ²⁷ World Bank, *Four Years- Intifada, Closures, and Palestinian Economic Crisis: Assessment Report*, October 2004, p. xiii.
- ²⁸ PCBS, "Impact of the Israeli Measures on the Economic Conditions of Palestinian Households," January-March 2005, at http://www.pcbs.org/press_r/Measures_e.pdf.
- ²⁹ Palestinian Central Bureau of Statistics (PCBS), *Impact of Israeli Measures on Economic Conditions of Palestinian Households*, 14th Round, July-Sept 2005, www.pcbs.org/press_r/econjulysep_05e.pdf
- ³⁰ *Ibid.*
- ³¹ Caritas Jerusalem, "Main Findings of the Survey on the Impact of Israeli Measures on the Economic Conditions of the Palestinian Households," press release, 1 October 2004; The Humanitarian Impact of the West Bank Barrier on Palestinian Communities, at Holy Land Christian Ecumenical Foundation: <http://www.hcef.org/hcef/index.cfm/mod/news/ID/16/SubMod/NewsView/NewsID/1175.cfm>.
- ³² *Ibid.*
- ³³ IUED, October 2003 and UN Special Committee on Nutrition, Report IV, November 2004, p. 23.
- ³⁴ Caritas Jerusalem, op cit.
- ³⁵ UNCTAD, "UNCTAD Report on Palestinian Economy Calls for Intensified Donor Commitment to Development," 29 September 2004, at <http://www.unctad.org/palestine> and <http://domino.un.org/UNISPAL.NSF/9a798adb322aff38525617b006d88d7/16a51bf9fefed2d285256f1f004cf535!OpenDocument>.
- ³⁶ UNSCO "Economic and social repercussions of the Israeli occupation," op cit.
- ³⁷ World Bank figures, cited in UNSCO "Economic and social repercussions of the Israeli occupation," op cit.
- ³⁸ "Palestinian unemployment rate tipped to rise," *ABC News On-line* (20 April 2006), at: <http://www.abc.net.au/news/newsitems/200604/s1619520.htm>.
- ³⁹ World Bank, "Economic Update and Potential Outlook" (15 March 2006), at: <http://domino.un.org/UNISPAL.NSF/22f431edb91c6f548525678a0051be1d/8d5634857b5581348525713300670732!OpenDocument>.
- ⁴⁰ "Technical Paper I – Borders and Trade," in *Stagnation or Revival? Israeli Disengagement and Palestinian Economic Prospects* (Jerusalem: World Bank, 1 December 2004, p. 1, at: <http://www.worldbank.org/ps> and <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/MENAEXT/WESTBANKGAZAEXTN/0,contentMDK:20209926~pagePK:141137~piPK:217854~theSitePK:294365,00.html>.
- ⁴¹ *Ibid.*
- ⁴² David Shearer, "The humanitarian crisis in the occupied Palestinian territory: an overview", *OCHA Jerusalem*, at: <http://odihpn.org/report.asp?ID=2664>.
- ⁴³ Interview with Al Marsad (NGO), Majdal Shams, op cit.
- ⁴⁴ For example, see United Nations Leg. Series, *Laws concerning Nationality* (1954), 586–93. The Treaties of St. Germain refer to persons born of parents "habitually resident or possessing rights of citizenship (*pertinenza*)." See also article 19 of the Italian Peace Treaty, 10 February 1947; cited in Brownlie, *Principles of International Law*, op. cit., 560. This relates also to the emerging concept of the right to the homeland (*Recht auf die Heimat*), as elaborated in Kurt Rabl, ed., *Das Recht auf die Heimat* vols. 1–5 (Munich: 1959); Otto Kimminich, *Das Recht auf die Heimat* (Bonn: 1978); F.H.E.W. du Buy, *Das Recht auf die Heimat* (Utrecht: 1975); Hartmut Koschyk, ed., *Das Recht auf die Heimat. Ein Menschenrecht* (Munich: 1992);

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Christian Tomuschat, "Das Recht auf die Heimat: Neue rechtliche Aspekte," in J. Jekewitz, ed., *Das Menschenrecht zwischen Freiheit und Verantwortung*, festschrift for Karl Josef Partsch (Berlin: 1989), 183–212; and Felix Ermacora, *Die sudetendeutschen Fragen. Rechtgutachtung* (Munich: 1992).

⁴⁵ This legal fact became most clear in the High Court of Israel case of *George Tamarin v. the State of Israel* (1971), wherein a Jewish Israeli had petitioned to have the official registration of his nationality changed from "Jewish" to "Israeli." The High Court denied his request as "there is no Israeli nation separate from the Jewish nation...composed not only of those residing in Israel but also of Diaspora Jewry." See Roselle Tekiner, "On the Inequality of Israeli Citizens," *Without Prejudice* Vol. 1, No. 1, at 9–48. See also *New York Times*, 21 January 1972, p. 14; cited in Oscar Kraines, *The Impossible Dilemma: Who is a Jew in the State of Israel* (New York: Bloch Publishing, 1976).

⁴⁶ CERD, *General Recommendation 30: Discrimination against Non-Citizens*, CERD/C/64/Misc.11/rev.3, paragraph 2.

⁴⁷ *Ibid.* paragraph 4.

⁴⁸ "Convention (IV) respecting the Laws and Customs of War on Land," signed at The Hague, 18 October 1907, entry into force: 26 January 1910, Art. 43: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

⁴⁹ For example, the Human Rights Committee, monitoring the Covenant on Civil and Political Rights, and CAT, covering the Torture Convention, both have cited Israel's human rights treaty obligations in the OPTs. See also CESCR's E/C.12/1/Add.27, CCPR/C/79/Add.93, D 10 and CERD A/52/18, para. 19(3).

⁵⁰ "Reports Submitted by States under Article 9 of the Convention: Thirteenth periodic reports of States parties due in 2004: Israel," CERD/C/471/Add.2, 1 September 2005, para. 23.

⁵¹ In *Public Committee against Torture in Israel v. 1. The State of Israel, 2. The General Security Service*, HCJ 5100/94; *The Association for Civil Rights in Israel v. 1. The Prime Minister of Israel, 2. The Minister of Justice, 3. The Minister of Police, 4. The Minister of the Environment, 5. The Head of the General Security Service*, the Court ruled: "If the state wishes to enable GSS investigators to utilize physical means in interrogations, it must enact legislation for this purpose. This authorization would also free the investigator applying the physical means from criminal liability. This release would not flow from the 'necessity defense,' but rather from the 'justification' defense" (at p. 34). "In such legislation, the legislature, if it so desires, may express its views on the social, ethical and political problems of authorizing the use of physical means in an interrogation. Naturally, such considerations did not come before the legislature when the 'necessity' defense was enacted" (at p. 35). Whether it is appropriate for Israel, in light of its security difficulties, to sanction physical means is an issue that must be decided by the legislative branch, which represents the people." HCJ 4054/95, *Israel Law Reports*, p. 37, at: http://www.btselem.org/english/legal_documents/HC5100_94_19990906_Torture_Ruling.PDF. Also see Yuval Ginbar, *Flawed Defense: Torture and Ill-treatment in GSS Interrogations following the Supreme Court Ruling 6 September 1999 – 6 September 2001* (Jerusalem: PCaTI, September 2001), pp. 10–11, at: <http://www.stop torture.org/eng/images/uploaded/publications/13.doc>.

⁵² *H.C.J. 6698/95 Ka'adan v. The Israel Lands Administration* (ILA) (08.03.2000), in Gol report, paras. 38–47, quote at para. 42.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

⁵⁵ *H.C.J. 5601/00 Ibrahim Dwiri v. Israel Land Administration et al.*, in Gol report, quote at para. 42.

⁵⁶ Government Decision No. 4464.

⁵⁷ Government Decision No. 2467.

⁵⁸ Sikkuy: The Association for the Advancement of Civic Equality, *Report on Equality and integration of the Arab Citizens of Israel 1999–2000* (2000).

⁵⁹ Government of Israel, "Budget Proposal for Fiscal Year 2001" 2000.

⁶⁰ Development Plan for Arab Localities in the North: Secretary of the Prime Minister, 2000.

⁶¹ Prime Minister's Office, "A Committee on the Non-Jewish Sector" [press release], 5 July 2004, at: <http://www.pmo.gov.il/PMOEng/Archive/Press+Releases/2004/07/spokemes050704.htm>.

⁶² As the Committee noted, "Article 1, paragraph 2, must be construed so as to avoid undermining the basic prohibition of discrimination; hence, it should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in particular in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights." The Committee has noted further that "...differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim." CERD, *General Recommendation 30: Discrimination Against Non-Citizens*, CERD/C/64/Misc.11/rev.3, paragraphs 2, 4

⁶³ "Convention (IV) respecting the Laws and Customs of War on Land," signed at The Hague, 18 October 1907, entry into force: 26 January 1910, Art. 43: "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

⁶⁴ For example, the Human Rights Committee, monitoring the Covenant on Civil and Political Rights, and CAT, covering the Torture Convention, both have cited Israel's human rights treaty obligations in the OPTs. See also CESCR's E/C.12/1/Add.27, CCPR/C/79/Add.93, D 10 and CERD A/52/18, para. 19(3).

⁶⁵ Israeli Central Bureau of Statistics, *Statistical Abstract of Israel*, No. 55 (2004).

⁶⁶ 2004 figure, CIA, *The World Factbook* (Washington: updated 1 November 2005), at: <http://www.cia.gov/cia/publications/factbook/print/is.html>.

⁶⁷ See note 6 above.

⁶⁸ Figures as of 2003, cited in CIA, *The World Factbook*, op cit.

⁶⁹ 1996 estimation, cited in *Ibid.*

- ⁷⁰ Euro-Mediterranean Human Rights Network and the International Federation of Human Rights (FIDH), "Migrant workers in Israel - A Contemporary form of Slavery" [release of joint investigative mission report], at: <http://www.euromedrights.net/english/emhrm-documents/country-reports/migrants.htm>.
- ⁷¹ "Implementation of the International Covenant on Economic, Social and Cultural Rights, Second periodic reports submitted by States parties under articles 16 and 17 of the Covenant (Addendum): Israel," E/1990/6/Add.32, 16 October 2001, paras. 161–62 [hereinafter "Israel report to CESCR, 2001"].
- ⁷² The Committee on Economic, Social and Cultural Rights has expressed its concern that "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens. The Committee notes with concern that the Government of Israel does not accord equal rights to its Arab citizens, although they comprise over 19 per cent of the total population. This discriminatory attitude is apparent in the lower standard of living of Israeli Arabs as a result, *inter alia*, of lack of access to housing, water, electricity and health care and their lower level of education. The Committee also notes with concern that despite the fact that the Arabic language has official status in law, it is not given equal importance in practice." "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel," E/C.12/1/Add.27, 4 December 1998, para. 8.
- ⁷³ "Proclamation of Establishment of the State of Israel," *Official Gazette*: Number 1; Tel Aviv, 5 Iyar 5708, 14 May 1948, p. 1, at: http://www.knesset.gov.il/docs/eng/meqilat_eng.htm.
- ⁷⁴ As the Supreme Court has articulated, "Certainly, all the citizens of Israel—Jews and non-Jews—are 'shareholders' in the State, and the proposition that the State is the 'State of all its citizens' does not detract from it being a Jewish State, and if one wishes: the Jewish State..." in CAP 2316/96 *Issacson v Registrar of Political Parties, Takdin Supreme* vol. 96 (2) 306, 319. Cited in "Israel report to CESCR, 2001," para. 42.
- ⁷⁵ *Status of Palestinian Women Citizens of Israel*, op cit., p. 30.
- ⁷⁶ Center for Bedouin Studies and Development: Facts About Negev Bedouin Arab Education (1998)
- ⁷⁷ Central Bureau of Statistics (CBS), New Survey – Investment in Education 2000/1, Press Release 3 August 2004 (Hebrew). According to the Mosawa Center – The Advocacy Center for Arab Citizens of Israel, only 3.1% of the MOE's budget was allocated for Palestinian citizens of Israel in 2001. From State Budget for Fiscal Year 2001, Government of Israel 2000, cited in Mosawa Report, The Arab Citizens of Israel: Status and Implications for the Middle East Conflict, Shira Kamm (et al.) Mosawa Center 2003, pp.13–14.
- ⁷⁸ A study commissioned by the Follow-Up Committee on Arab Education in Israel found that, for example, of the 6,300 classrooms surveyed, as many as 6.5% were completely unsuitable for productive learning and instruction. In addition, the physical facilities themselves are also laden with health risks, such as asbestos and other hazardous substances.
- ⁷⁹ From primary to secondary school levels, average class sizes are larger in Palestinian schools than in Jewish schools, with an average class size of 27 pupils per class in Jewish schools compared with 30 pupils in Palestinian schools. Source: CBS, *Statistical Abstract of Israel 2004*, Table 8.11.
- ⁸⁰ *Status of Palestinian Women*, op cit., p. 23.
- ⁸¹ *Ibid.*, p.30.
- ⁸² Information taken from The Working group on the Status of Palestinian Women in Israel, *The Status of Palestinian Women Citizens of Israel* (Nazareth, 1997) pp. 33–36.
- ⁸³ *Status of Palestinian Women*, op cit., p.40
- ⁸⁴ According to an HRA 1999 survey in the Negev.
- ⁸⁵ *Status of Palestinian Women*, op cit., p. 83
- ⁸⁶ *Ibid.* pp.15, 16.
- ⁸⁷ The Arab Association for Human Rights. *Palestinian Arab Women in Israel, 2000*, op cit., p. 3.
- ⁸⁸ Joseph Algazy, "A murderous plague," *Ha'aretz*, at: www.mossawacenter.org/en/report/2004/01/040115.pdf.
- ⁸⁹ According to Aida Toumeh-Suleiman, of Women against Violence Organization (WAVO), in Jack Khouri, "Maghar brothers confess killing sister in name of family honor," *Ha'aretz*, (21 December 2005).
- ⁹⁰ The Arab Association for Human Rights. *Palestinian Arab Women in Israel, 2000*, p. 3.
- ⁹¹ See H.C. 9111/03, *Women against Violence, et. al. v. Minister of Labor and Social Affairs* (case pending). Petition filed by Adalah: The Legal Center for Arab Minority Rights in Israel.
- ⁹² The investigatory committee was set up in 2004 by the Ministry of Social Welfare to investigate alleged human rights violations against women residing in the Zofia shelter, a secured shelter for young women (under the age of 18). The committee issued its recommendations in 2004.
- ⁹³ Bryna Bogoch and Rochelle Don-Yechiya, *The Gender of Justice: Bias against Women in Israeli Courts* (1999), study undertaken by the Israel Women's Network.
- ⁹⁴ *Ibid.*
- ⁹⁵ Sikkuy: The Association for the Advancement of Equal Opportunity, Equality and Integration (1997), p. 28.
- ⁹⁶ Amin Fares, *The Status of Arab Women in the Job Market in Israel* (Haifa: Mosawa Center, 1996).
- ⁹⁷ CBS, *Statistical Abstract of Israel, 1996*.
- ⁹⁸ Fares, op cit.
- ⁹⁹ State Comptroller's Annual Report for 2001 (released 29 April 2002), p. 6.
- ¹⁰⁰ Ministry of the Labor and Social Affairs, cited in Ori Nir, "The Arab Sector: The Unemployment May Block Arab Women's Integration into the Labor Force," *Ha'aretz*, 1 December 2001; and Ruth Sinai, "Jewish Work: 55% of the women in the state do not work," *Ha'aretz* (24 September 2002).

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¹⁰¹ Israel's Third Periodic Report to the United Nations Committee on the Elimination of Discrimination against Women, submitted in 2001.

¹⁰² *Status of Palestinian Women Citizens of Israel*, op cit., p.29)

¹⁰³ ICBS (1996), op cit.

¹⁰⁴ McKay, op cit., p. 100.

¹⁰⁵ Statistical Abstract, Tables 12.7, 5.

¹⁰⁶ HC 453/94, *Israel Women's Network v. The Government of Israel*, PD 48 (5), 501.

¹⁰⁷ Amnesty International, *Israel and the Occupied Territories: Conflict, Occupation and Patriarchy: Women Carry the Burden* (31 March 2005), at: <http://web.amnesty.org/library/index/engmde150162005>.