The ‘State’ of Palestine:

A survey of the main Human Rights Issues affecting Palestinians in the Occupied Palestinian Territories

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1. Executive Summary

In September the Palestinian Authority will ask the UN to recognise the State of Palestine within the borders of the 1949 ceasefire lines. This request is an attempt to mobilise the legitimacy of the international community to bring to an end the occupation of the Palestinian Territories and its associated human rights violations. This paper outlines the effect of these violations and highlights their widespread, enduring and systematic nature.

2. The Right of Self-Determination

The right of peoples to self-determination is the foremost and most fundamental human right. In the opinion of the Office of the High Commissioner for Human Rights, “The right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights. It is for that reason that States set forth the right of self-determination in a provision of positive law in both Covenants and placed this provision as article 1 apart from and before all of the other rights in the two Covenants.”

The United Nations recognized the Palestinian people’s right to self-determination in UN General Assembly Resolution 3236 (1974), reaffirming their “right to self-determination without external interference,” and their “right to national independence and sovereignty.” In particular the resolution, “Emphasizes that full respect for and the

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1 General Comment 12, (1984). The right of peoples to self-determination is guaranteed in Common Article 1 of the International Covenant of Civil and Political Rights and the International Covenant of Economic, Social and Cultural Rights which state: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.” Similarly Article 1 of the UN Charter places special importance upon the right to self-determination viewing the mission of the UN as: “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.”
realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine."

Regretably, through the continuation of the occupation, the building of the Separation Wall, the construction of illegal settlements, the illegal blockade of Gaza and the imprisonment of democratically elected members of the Palestinian Legislative Assembly along with thousands of others, Israel continues to violate this most fundamental of human rights.

3. The Rights of Refugees

With the establishment of Israel in 1948 approximately 750,000 Palestinians were made refugees. This number was then supplemented in 1967 when Israel conquered the West Bank resulting in at least a further 200,000 Palestinians being driven from their homes. Today registered Palestinian refugees number 4.8 million, many continuing to live in refugee camps in Lebanon, Syria, Jordan, the West Bank and Gaza. Unofficial estimates put the total number of Palestinian refugees at over 7 million.

Refugees have numerous rights under international law, foremost amongst them is the right to return to their own country. Article 13 of the Universal Declaration of Human Rights states, “Everyone has the right to leave any country, including his own, and to return to his country.” And indeed the UN has recognised that Palestinian refugees have the right to return to their own country, whether that country be now constituted as the State of Israel or the Occupied Palestinian Territories. UN General Assembly Resolution 194, passed in 1948 and reaffirmed every year since, explicitly “Resolves

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3 Figure given by United Nations Relief and Works Agency (UNRWA)
http://www.unrwa.org/etemplate.php?id=85
4 UNRWA states, “More than 1.4 million refugees, around one third of the total, live in 58 recognised camps,” http://www.unrwa.org/etemplate.php?id=47
5 According to the Badil Resource Centre for Palestinian Residency and Refugee Rights: “By the end of 2008, at least 7.1 million (67 percent) of the entire, worldwide Palestinian population of 10.6 million were forcibly displaced persons. Among them were at least 6.6 million Palestinian refugees and approximately 427,000 IDPs (internally displaced persons),” Survey of Palestinian Refugees and Internally Displaced Persons, 2008-09, p. 56.
that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date." Israel has never recognised and has consistently denied Palestinian refugees this basic right. For Palestinians however, the Right of Return remains at the very heart of the conflict, and failure to implement it is likely to ensure the conflict continues indefinitely.

4. The Right to Freedom of Movement

Article 13 of the Universal Declaration of Human Rights states, “Everyone has the right to freedom of movement and residence within the borders of each state,” whilst Article 12 of the International Covenant of Civil and Political Rights states: “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.” These are rights that Israel’s policies with regard to the illegal blockade of Gaza, the illegal West Bank Wall

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9 http://www2.ohchr.org/english/law/ccpr.htm#art12
and the accompanying checkpoint, permit and closed military zone regimes violate on a daily basis.

In one form or another Israel has blockaded the people of Gaza since 2001. In 2005 the Israeli Centre for Human Rights in the Occupied Territories, B’Tselem stated: “For the past four and a half years, Israel has severely restricted freedom of movement to and from the Gaza Strip. These restrictions further strangled the Gaza Strip, so much so that the area resembles one gigantic prison. Israel has reduced many human rights – among them the right to freedom of movement, family life, health, education and work – to ‘humanitarian gestures’ Israel sparingly provides.”

Since 2007 the imposition of this blockade has become almost total, and this despite the 2005 EU Agreement on Movement and Access, an agreement that Israel refuses to comply with. A consequence of this policy is that the Palestinian population of Gaza has been effectively imprisoned, a view most recently endorsed by the British Prime Minister David Cameron who described the area as “a prison camp.”

The denial of the right to movement is not a mere inconvenience, for many it is a denial to take up career or educational opportunities, and in extreme cases, a denial of the right to life. For example the World Health Organisation (WHO) reports that:

“Many specialized treatments, for example for complex heart surgery and certain types of cancer, are not available in Gaza and patients are therefore referred for treatment to hospitals outside Gaza. But many patients have had their applications for exit permits denied or delayed by the Israeli Authorities and have missed their appointments. Some have died while waiting for referral. 1103 applications for permits for patients to cross Erez were submitted to the Israeli Authorities in December 2009. 21% had their applications denied or delayed as a result of which they missed their hospital appointments and had to restart the referral process.”

11 http://www.bbc.co.uk/news/uk-politics-10774159
“Two patients died recently while awaiting referral, one in November and one in December. 27 patients have died while awaiting referral since the beginning of the year.”

In the West Bank the situation is hardly better. The illegal Wall cuts off the Palestinian capital from the rest of the West Bank with the result that more than 90% of Palestinians are denied access to their capital; unsurprisingly the Palestinian economy of East Jerusalem has collapsed with a 2008 report by the Association for Civil Rights in Israel recording that 67 percent of Palestinian families and 77.2 percent of Palestinian children in East Jerusalem live beneath the poverty line.

The remaining area of the West Bank is further dissected by the Wall, closed military zones, checkpoints, settlements and Israeli only roads. A July 2010 report found that 42 percent of the West Bank is controlled by the settlements and their associated infrastructure, and are thus effectively off limits to Palestinians. The Israeli NGO Bimkom – Planners for Planning Rights further found that the Wall, “almost totally ignores the daily needs of the Palestinian population” and is “focused almost exclusively on the desire to maintain the fabric of life of Israeli settlers.”

For Palestinians living in the so called ‘Seam Zone’ (the area between the Wall and the West Bank’s internationally recognised boundary with Israel) the position is particularly bad; residents generally have no access to Israel and only limited access to the West Bank. They require a permit to live in their homes and outsiders require a permit to visit. Access to these communities is via gate that is locked at nightfall, effectively imprisoning the residents. This has consequently had a devastating impact on residents ability to access health services, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) reports for example that in the village of Azzun ‘Atma:

“To ensure access to proper medical care, most [pregnant] women leave the village a month before delivery and relocate to relatives.”

14 B’Tselem, By Hook or by Crook: Israeli Settlement Policy in the West Bank: Comprehensive Report, (July 2010)
15 http://www.informationclearinghouse.info/article16249.htm
homes outside the community, often returning during the day to look after their families. Between January and early June 2009, 33 babies were born: 20 were delivered outside Azzun ‘Atma. The remaining 13 babies were delivered at home, none attended by a trained midwife or a doctor16.”

The future of these communities and others similarly trapped between illegal Israeli infrastructure is very much at risk. In total, Save The Children report approximately 260,000 Palestinians living in 81 communities will be trapped in the ‘Seam Zone’ when the Wall is completed17. Whilst Ma’an Development Centre reports a further 98 communities comprising 312,810 people are surrounded by the wall, settlements or other illegal Israeli infrastructure. It further describes the effect of these policies:

“The West Bank is in the process of being carved into three main cantons and over 95 sub-cantons18.”

A final consequence of this system of restrictions and closure is that farmers in many of these enclosed communities are often unable to access their land, and subsequently their land is often confiscated under the Israeli Cultivation of Barren Land Law19.

5. The Right to Development

The right to development is explicitly guaranteed under UN General Assembly Resolution 41/128; Article 1 of which states:

“The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”

Unfortunately, with regard to the Occupied Palestinian Territories not only is this right not being fulfilled, but in actual fact, many of Israel’s policies, especially as regards Gaza, the Jordan Valley and the Seam Zone, are, in the analysis of Harvard Professor Sara Roy, bringing about a process of de-development.

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This is most obvious in the case of Gaza. With the blockade still in place despite the ICRC declaring it an illegal collective punishment\textsuperscript{22}, most resources required to meet the health, educational, housing, power and even nutritional needs of the population are unavailable.

In addition the Israeli assault on Gaza of 2008-09, Operation Cast Lead, targeted and destroyed many civilian institutions, including schools, hospitals, clinics, mosques, homes, the university and a sewage plant\textsuperscript{23}. Due to continuing restrictions on the import of construction materials the vast majority of these have not been rebuilt. United Nations Relief and Works Agency (UNRWA) spokesman Christopher Gunness has described the effects of Israeli attacks and the blockade:

"You could say that Israel has bombed Gaza back into the mud age because that's what they're building their houses out of now — mud\textsuperscript{24}."

Similarly, \textit{Time} magazine, collating information from human rights organisations, reported that a year after Operation Cast Lead:

“Without parts to replace machinery damaged in the war, 97\% of Gaza's factories have shut down, raising unemployment higher than 43\%. With scarce sources of income, many Gazans would probably starve if not for food handouts from the U.N. and other agencies. More than 40,000 Gazans have no electricity; 10,000 have no running water in their homes; and because Israel bans entry of the spare parts needed to run Gaza's sewage-treatment plant, every day 87 million liters of sewage are dumped into the Mediterranean\textsuperscript{25}.”

In fact the situation is actually worse than \textit{Time} describes. UNRWA reports that due to the blockade and ongoing attacks, children and young people are giving up hope,

\textsuperscript{22} ICRC, \textit{Gaza Closure: Not Another Year!} (14 June 2010) \url{http://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm}
\textsuperscript{23} For full details of destruction wrought during Operation Cast Lead see the Palestinian Centre for Human Rights, 23 Days of War, 928 Days of Closure \url{http://www.time.com/time/world/article/0,8599,1950180,00.html}
\textsuperscript{24} \url{http://www.time.com/time/world/article/0,8599,1950180,00.html}
\textsuperscript{25} \textit{ibid.}
educational standards are falling and 90 percent of UNRWA schools are running on double shifts with an average class size of 38\textsuperscript{26}.

UNICEF have similarly highlighted what they describe as “an education crisis,” noting that school enrolment has fallen, with those who do enrol being “forced to work in catastrophic conditions, without heat or electricity\textsuperscript{27}.” However, these children can be considered the lucky ones for at the beginning of the 2010-11 school year UNRWA had to turn away 40,000 eligible children because of a lack of construction materials to build 100 schools\textsuperscript{28}.

Indeed the vindictiveness of Israel’s blockade of Gaza is well illustrated in the petty bans it implemented on school books, toys, paper and pencils. These bans were only lifted in an attempt to deflect criticism following the illegal killings of nine human rights activists aboard the \textit{Mavi Marmara} on May 31\textsuperscript{st} 2010.

The health service in Gaza is also at the point of collapse. During Operation Cast Lead,
according to the World Health Organisation (WHO), more than half of Gaza’s 27 hospitals were damaged by Israeli bombs; two clinics completely destroyed and 44 damaged. In addition 16 Palestinian medical staff were killed and 25 wounded. Since then the continuing blockade has only made matters worse. Head of mission for Médecins Sans Frontières, John Locke, has commented:

“The siege and the closure of the crossings has had serious implications for the health sector and the medical services provided to citizens due to a lack of medical supplies, medicines and fuel. There are about 100 varieties of medicines not available in the central pharmacy of the Ministry of Health, not to mention the impact of power cuts on hospitals and primary care centres because of a lack of fuel.”

He then added that even new born babies are subject to collective punishment. Similarly, the World Health Organisation reports:

“15%–20% of essential medicines commonly out of stock. Certain types of medical equipment, such as X-ray equipment and electronic devices have proved very difficult to bring in, and there are often shortages of essential spare parts, with the result that clinical staff frequently lack the medical equipment they need. Medical devices are often broken, missing spare parts, or out of date.”

Perhaps even more worrying than this however is the collapse of the water service. B’Tselem reported in August 2010 that 95 percent of water in Gaza is contaminated and not fit to drink. Similarly it reports that Israel prevents the Palestinian Water Authority (PWA) from importing the goods needed to repair the failing treatment system. A consequence of this policy, according to the PWA, is that almost 40 percent of the incidence of disease in Gaza is related to polluted drinking water.

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A statistic that is brought into horrific relief by a 2009 UN study that estimated diarrhoea was the cause of 12 percent of children’s deaths in Gaza and that the lack of potable drinking water is liable to cause malnutrition in children and affect their physical and cognitive development\textsuperscript{32}.

This and further effects of the blockade can indeed be seen in the WHO report that 65.5 percent of children suffer from anaemia and 10.2 percent have chronic malnutrition. Additionally 37.5 percent of pregnant women also suffer from anaemia. Indeed, overall 71 percent of Palestinians in Gaza receive food assistance and 56 percent are classed as being “food insecure\textsuperscript{33}.”

Given that Gaza is the fifth most densely populated territory on earth\textsuperscript{34} and that over 50 percent of its population is under 18\textsuperscript{35}, if the current restrictions on Gaza remain in place the current situation is likely to deteriorate further and at an increasingly accelerated rate.

6. The Right of Residency

As already noted, Article 13 of the Universal Declaration of Human Rights recognises that everyone has the right of residency “within the borders of each State\textsuperscript{36}.” However, for Palestinians in the West Bank and in particular the Jordan Valley and East Jerusalem this right is increasingly under threat.

6.1 Residency in ‘Area C’

Under the Oslo Agreements the West Bank was split into three: areas A, B and C. Areas A and B have limited Palestinian self-rule, Area C however, around 61 percent of

\begin{thebibliography}{9}
\bibitem{32} \url{http://www.btselem.org/English/Gaza_Strip/20100823_Gaza_water_crisis.asp}
\bibitem{33} World Health Organisation, \textit{Health conditions in the occupied Palestinian Territories including East Jerusalem and the Syrian Golan Heights}, (May 2010), \url{http://apps.who.int/gb/ebwha/pdf_files/WHA63/A63_28-en.pdf}
\bibitem{34} The Central Intelligence Agency, \textit{The World Fact Book} 2011, accessed at \url{http://www.photius.com/rankings/geography/population_density_persons_per_sq_km_2011_0.html}
\bibitem{36} \textit{supra} 8.
\end{thebibliography}
the West Bank, remains under full Israeli military control. Palestinians living in this
area are subject to increasingly draconian measures that jeopardise their ability to
continue to reside in their own homes.

Measures taken against this population not only include the travel restrictions, land
confiscation, the permit regimes and the illegal Israeli settlements and infrastructure
already described, but also include a discriminatory legal framework; a discriminatory
planning regime; home demolitions and water restrictions.

In Area C two legal systems operate side by side. The illegal Israeli settlers,
approximately 500,000 in number, live under Israeli civil law, Palestinians however
live under Israeli military law.\(^{37}\)

Israeli military law consists of old Ottoman, British and Jordanian Law and is further
supplemented by Israeli Military Orders (IMOs). Although enforced in full in Area C,
it is worth noting Israeli Military Law, including IMOs, supercedes Palestinian civil
law and so is arbitrarily applied in Areas A and B whenever it suits Israeli forces to do
so.\(^{38}\)

The legal basis of IMOs was proclaimed in Military Order Number 2, 7 June 1967, the
newly appointed Military Governor declaring:

“All powers of government, legislation, appointment and administration in relation to
the Region and its inhabitants shall hence forth vest in me alone…\(^{39}\)”

\(^{37}\) For difference in treatment and legal status see, Human Rights Watch, Separate and Unequal: Israel’s
Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories, 19 December 2010,

\(^{38}\) Sharon Weill notes that limits to the territorial jurisdictional of Israeli Military Law are not recognised
by the Israeli military despite the Oslo Accords establishing limited Palestinian autonomy in Areas A and
B. With regard to the arrest and abduction of Palestinians from Area A she records: “the territorial
borders are not perceived as strictly binding, and as Israel holds much more power than the PA, Israel
encounters virtually no obstacles to the arrest or abduction of Palestinians in area A; the entire army is
available to assist in this mission. During the legal procedure, complaints of abductions are not
considered seriously and do not in any case have any impact on the legal process, as the doctrine male
captus, bene detentus has been recognized and applied by Israeli civil and military legal systems.”
Sharon Weill, “The judicial arm of the occupation: the Israeli military courts in the occupied territories,”

\(^{39}\) Proclamation Two, 7 June 1967, Clause 3 (a).
Since then over 2,500 Military Orders have been issued covering all areas of Palestinian life.\(^{40}\)

Military Orders come into effect immediately and can only be challenged in the Israeli Supreme Court: an expensive, time consuming and apart from exceptional cases, usually fruitless venture. IMOs thus constitute a basic denial of democratic rights and the right to effective remedies. In their sole application to Palestinian residents of Area C they also violate the non-discrimination principle of the Convention on the Elimination of Racial Discrimination in all its Forms (CERD), which declares:

“States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.\(^{41}\)”

What this discrimination means in practice can be seen in many forms but will be illustrated here with regard to the right to build and the right to water.

Area C includes all Israel’s illegal settlements, currently numbering over 200. At the same time as settlement building expands it is rarely noted that the Palestinian right to build is severely impeded. For example, the UNOCHA reports that 94 percent of all Palestinian building applications for Area C are denied and that those few that are granted are restricted to an area of just 1 percent.\(^{42}\) In the Jordan Valley, an area that is almost amounts to almost 40 percent of the West Bank, the situation is particularly bad. Severe building restrictions coupled with land confiscations and chronic water restrictions mean Palestinians are effectively being driven out of the area.

Following a fact-finding tour of the area, former Vice-President of the European Parliament, Luisa Morgantini declared:

\(^{40}\) Addameer, Prisoners’ support and Human Rights Association, “The Israeli Military System,”
http://addameer.info/?p=498

\(^{41}\) International Convention on the Elimination of All Forms of Racial Discrimination, Article 3,
http://www2.ohchr.org/english/law/cerd.htm

\(^{42}\) UN OCHA, The Planning Crisis in East Jerusalem, April 2009,
“If Area C, 60 percent of the occupied West Bank, is a synonym for expulsion and annexation for Israeli colonization, in the Jordan Valley all this is greatly intensified. A silent displacement is being carried out by Israel, through demolitions, evictions, land confiscation, and denied access to water resources. These policies have promoted the establishment of over 30 illegal settlements.\(^{43}\)"

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Palestinian children in front of newly demolished classroom, Dkakia, Jordan Valley, 12 January 2011, © 2011 Anne Skaarsdal

The application of systematic and deliberate discrimination is embedded into this governing system. For example, in the Tubas Governate, water consumption for Palestinian residents is around 30 litres per person a day (70 litres less than the World Health Organisation recommended minimum\(^{44}\)), whilst in the nearby illegal settlement


of Beka’ot it is around 400 litres. And over all throughout the area settlers use six times as much water as Palestinians\(^\text{45}\).

The situation is in fact so discriminatory that whilst the Israeli Water Authority, Mekorot, frequently drills new wells for the settlements it prevents Palestinians from doing the same meaning that as the water table falls due to Israeli over exploitation Palestinians are left literally high and dry. Indeed, Amnesty International have reported that not only have soldiers and settlers destroyed Palestinian wells, cisterns and water pipes, but they have even prevented Palestinians from gathering rain water, overall Amnesty concludes:

> “In rural areas, Palestinian villagers are continuously struggling to find enough water for their basic needs, as the Israeli army often destroys their rainwater harvesting cisterns and confiscates their water tankers. In comparison, irrigation sprinklers water the fields in the midday sun in nearby Israeli settlements, where much water is wasted as it evaporates before even reaching the ground.”\(^\text{46}\)”

Consequently Palestinian residents have to ship in water in trucks at a cost of $9 per cubic metres, around four times more than settlers pay for domestic use and their swimming pools\(^\text{47}\).

Commenting further upon the situation Morgantini reflected:

> “It's appalling to think that the people living on this land feel the water - a public resource, a basic human right - flowing under their feet but they can't drink it, they can’t water their cows and sheep, their sole means for the survival of communities that want to continue grazing their animals.”\(^\text{48}\)”


\(^{48}\) Ibid.
Similarly, access to power supplies is also limited; whilst Palestinians can see electricity lines running above their heads they are prevented from hooking up to them.

The upshot of these deliberately discriminatory policies is reflected in a June 2010 report by Save The Children UK which records:

>“Israel's restrictions on Palestinian access to and development of agricultural land - in an area where almost all families are herders - mean that thousands of children are going hungry and are vulnerable to killer illnesses like diarrhoea and pneumonia. Conditions for children in Area C have reached a crisis point: 79% of communities surveyed recently in Area C don't have enough nutritious food - this is higher than in blockaded Gaza where the rate is 61%. 84% of families rely on some form of humanitarian assistance to survive.”

6.2 Residency in Occupied East Jerusalem

Occupied East Jerusalem is the capital of the Palestinian Territories, however, in 1980 Israel greatly expanded its municipal boundaries and then formally annexed it, declaring Jerusalem to be reunited and henceforth Israel’s eternal and indivisible capital. However, this annexation has never been recognised by the international community, UN Security Council Resolution 465 determining:

>“That all measures taken by Israel to change the demographic composition, institutional structure or status of occupied Palestinian territories or other Arab territories occupied since 1967, including Jerusalem, or any part thereof, have no legal validity... and also

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49 Save The Children UK, Occupied Palestinian Territory, “Children in the West Bank facing worse conditions than in Gaza,” 28 June 2010, [http://reliefweb.int/node/359490](http://reliefweb.int/node/359490)
constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.

Ignoring this, Israel has continued to push its own citizens into living in illegal settlements in East Jerusalem whilst it simultaneously cuts off the city from its natural hinterland of the West Bank. Coupled to this is a discriminatory dual legal status that is determined by ethnicity and a discriminatory planning regime that ultimately marginalises, impoverishes and excludes Palestinians from their own capital and holy city.

The basis of legal discrimination is embedded in the legal status Israel accords to the East Jerusalem population. Palestinians only have residency status whilst Israelis hold citizenship. In effect this means that Palestinian are only allowed to continue to live in their capital by Israel’s good grace and not by right. Their residency can be revoked at any time and for a variety of reasons, including a lack of loyalty to the state that occupies them but denies them citizenship. Since 1967 over 13,000 Palestinians have had their right of residency revoked, a particularly high profile recent example being the Bishop Suheil Dawani, the Anglican Bishop of Jerusalem who had his residency revoked in August 2010.

Further to this Israel has followed policies within the city that are not only plainly illegal and discriminatory but which make the lives of Palestinian residents increasingly difficult. Perhaps foremost amongst these is the denial of the right to build. Since 1967 Israel has built over 90,000 homes in East Jerusalem for Jewish settlers and none for Palestinians. Indeed, Palestinians face a chronic housing shortage of around 25,000 units yet they find it almost impossible to get permission to build new homes, the Israeli Committee Against House Demolition reporting that only between 50-100 permits are granted annually. As a result of this, many have no option but to build their homes without planning permission and take the risk that their homes may be demolished.

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subsequently be demolished. Since 1967 2,000 Palestinian homes in the city have suffered this fate whilst an estimated 20,000 have outstanding demolition orders\textsuperscript{52}.

The Palestinian areas of East Jerusalem are also deliberately denuded of infrastructure and investment, only around 7 percent of the municipal budget being allocated to around 30 percent of the whole of Jerusalem’s population\textsuperscript{53}. One result of this deliberate under spending can be seen in the city’s education system, the Association for Civil Rights in Israel reporting that the Palestinian districts of the city have a shortfall of 1,000 classrooms and a consequent high school dropout rate of 50 percent\textsuperscript{54}.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{home_demolition.jpg}
\caption{A home demolition, East Jerusalem, 2009 © The Israeli Committee Against House Demolitions}
\end{figure}

\textsuperscript{52} The Israeli Committee Against House Demolitions, “East Jerusalem Demolitions,” \url{http://www.icahd.org/?page_id=5374}
\textsuperscript{53} EU Heads of Mission report on East Jerusalem, 10 January 2011, \url{http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/10_01_11_eu_hom_report_on_east_jerusalem.pdf}
Finally, the city’s detachment from the rest of the Palestinian Territories through the blockade of Gaza and the West Bank Wall has had huge social and economic costs. As already noted, well over 90 percent of all Palestinians are forbidden from even visiting, never mind living in their capital city, and this prohibition has brought about a fracturing of social and economic structures with a corresponding alarming increase in poverty.

Summarising the effects of these policies United Nations Special Rapporteur on Palestinian human rights, Professor Richard Falk, reported to the UN earlier this year:

“The continued pattern of settlement expansion in East Jerusalem combined with the forcible eviction of long-residing Palestinians is creating an intolerable situation… This situation can only be described in its cumulative impact as a form of ethnic cleansing”

7. Democratic Rights and Effective Remedies

It is widely recognised that democracy forms the cornerstone of good governance and accountability. It is viewed as particularly important because not only does it allow individuals a say in decisions that affect their lives, it is also a guarantee of effective remedies – that is the ability through petition, demonstration, lobbying, legal action or voting to effect changes in government policies. Unfortunately these rights are effectively denied to Palestinians.

The Oslo Accords allow for limited Palestinian self-rule in Areas A and B of the west Bank, consequently there is a directly elected Palestinian Legislative Assembly and directly elected President. However, the operation of both these bodies have been fatally impaired by the actions of the Israeli government.

In 2006, following internationally recognised free and fair elections the Palestinian people of the Occupied Territories elected the List for Change and Reform, the name under which the Hamas movement contests elections. In response Israel refused to

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recognise the new Palestinian unity government, imposed an economic blockade upon the territories and imprisoned 39 of the party’s MPs. Ultimately these moves denied Palestinians any possibility of peaceful democratic development and directly contributed to the split between Palestinian political groups that resulted in the political division of the West Bank from Gaza.

However, symptomatic as these moves are of the disregard Israel shows for Palestinians right to good governance, in truth the Palestinian Legislative Assembly has only very minor powers, and even what powers it does have can be, and are, abrogated when Israel decides it in its interest to do so. More representative of Israel’s contempt for Palestinian democracy is its approach to non-violent protest.

Since the commencement of the building of the illegal West Bank Wall, affected Palestinian communities have joined with Israeli and international human rights activists to protest the confiscation of their lands and demand the Wall’s rerouting. The Israeli response to these non-violent protests has been arbitrary arrests and violence in the form of beatings, tear-gas, sound bombs, rubber-coated steel bullets and at times, live ammunition.

At least 19 protestors have been killed as a consequence of protesting Israeli policies whilst thousands more have been injured or arrested.

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56 The Scotsman, “Abbas hopes new elections will see off Hamas,” 19 July 2007, http://thescotsman.scotsman.com/world/Abbas-hopes-new-elections-will.3305476.jp
58 The International Solidarity Movement, “Demonstrator killed in Bil’in protest by Israeli forces,” 17 April 2009, http://palsolidarity.org/2009/04/6185/ This article lists 18 deaths it attributes to the actions of Israeli forces. Another Palestinian died as a result of tear gas inhalation on 1 January 2011 which according to Samuel Nichols brings the total number of Palestinians killed in non-violent protests since 2005 to 21, see http://wagingnonviolence.org/2011/01/palestinians-protest-death-of-bilin-activist-return-tear-gas-canisters-to-us-ambassador/
Between June 2008 and January 2009, 32 residents of the village of Bil’in were arrested, and in the neighbouring village of Ni’lin, over a period of 18 months 94 residents had been arrested\(^59\). Those arrested are frequently held in administrative detention without charge and without access to the evidence against them. One of the most prominent activists who has been imprisoned is Abdallah Abu Rahma who, despite the fact the wall itself is illegal, was charged with organising illegal demonstrations. EU Foreign Minister Catherine Ashton accurately commented that his imprisonment “is intended to prevent him and other Palestinians from exercising their legitimate right to protest\(^60\).”

For Palestinians the reality of the situation is that their democratic voice is ignored at both national and local levels; that they have no access to a legal system that provides for effective remedies; and attempts to peacefully protest illegal Israeli actions results in their criminalisation and can lead to imprisonment, injury or even death.


8. Conclusion and Recommendations

Human Rights and International Humanitarian Law establish minimum standards to protect the dignity of individuals and lay the groundwork for the establishment of peaceful resolution of conflicts. In particular, the Universal Declaration of Human Rights emphasises that:

“...it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law."  

Unfortunately, as this brief and partial survey illustrates, the rights of Palestinians under occupation and in exile are deliberately and systematically violated on a daily basis. The violations being particularly alarming as they are ethnically targeted, entrenched, multilayered and politically motivated.

Speaking in Cairo in 2009, President Barack Obama stated:

“Let there be no doubt: the situation for the Palestinian people is intolerable.”

This is a view with which the Ireland Palestine Solidarity Campaign (IPSC) wholly concurs. Nevertheless, it is our further opinion that throughout the course of the peace process, the human rights of Palestinians, instead of being at the forefront of negotiations leading to conflict resolution and reconciliation, have instead been made hostages to Israel’s political and strategic objectives. Ultimately then, as is evident in the current suspension of talks, this approach has not only failed to resolve the conflict, but in many ways, most notably through the establishment of Israeli ‘facts on the ground’ in the form of its illegal settlements, has made the conflict more intractable than ever.

Speaking in 2010, then Head of UNRWA in Gaza, John Ging, worried about the rise in extremism Israel’s policies are engendering and stated:

"We have run out of words to describe how bad it is here. Things are moving rapidly in the wrong direction.”

It is the view of the IPSC that if the Irish Government wishes to see a peaceful resolution of this conflict it has a responsibility to play its own part in redressing the failure of the peace process to promote human rights over the interests of political power. In particular we emphasise that General Assembly Resolution 3236:

“Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter,”

and that Common Article 1 of the Geneva Conventions places Ireland under obligation to both:

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“Respect and to ensure respect for the present Convention in all circumstances.”

Conscious of these we thus call upon the Irish Government to abide by the international standards embodied in International Humanitarian Law, the Human Rights Treaties and European Union Treaties to which it is a signatory. In particular, in light of Israel’s violations of Articles 1 and 2 of the 2000 Israel–EU Association Agreement (Euro-Med) we call upon the Government to urgently seek of a review of the continuation of this agreement.

The IPSC feels it is imperative that the Irish Government act as a defender of basic human rights and fundamental freedoms. Indeed it is our view that the continuation of the Euro-Med Agreement ultimately sends the wrong message; and whilst constructive engagement leading to reform was certainly a legitimate aspiration of its authors, experience has shown that in practice dialogue has not improved the situation but in fact has had the opposite although unintended effect of condoning human rights violations. Ultimately then, by taking this step Ireland can demonstrate it is committed to a peaceful resolution of the Israel-Palestine Conflict based on justice, dignity and the inherent and inalienable rights of individuals and peoples - a peace which will ultimately benefit all Palestinians and Israelis.

9th May 2011

Richard Irvine
Education Officer
Ireland Palestine Solidarity Campaign

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About the Ireland Palestine Solidarity Campaign

The Ireland Palestine Solidarity Campaign (IPSC) is the largest and longest established Palestine solidarity organisation on this island.

We formed in 2001 as a democratic, broad-based and multi-faceted campaign to support the human, political and national rights of the Palestinian people in the Occupied Territories, within Israel and in the Palestinian Diaspora.

We are proud to have been at the forefront in supporting the call of Palestinian civil society, churches and trade unions for Boycott, Divestment and Sanctions (BDS) against Israel until it ends its occupation and complies fully with international law.

We are a volunteer-based coalition of individuals, human rights and political activists, academics, journalists and trade unionists all committed to a just peace in the Middle East. We are independent of all Irish and Palestinian political parties and groups and rely solely on donations and member subscriptions to fund the campaign.

Together we:

- Raise awareness about the Palestinian people’s struggle for their rights through lectures, protests, film screenings, street stalls, workshops, development education and media appearances.

- Promote Boycott, Divestment and Sanctions against Israel at all levels of Irish civil society.

- Lobby Irish politicians and representatives at UN, European, national and local level.

- Promote Palestinian culture in Ireland.

- Campaign for an end to Israel’s racism, colonialism and apartheid.