

Shadow Report on Human Rights in Israel and the Occupied Palestinian Territories

submitted to the State Board of Investment

by Minnesota Break the Bonds Campaign

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Members of the Minnesota Break the Bonds Campaign (MN BBC) reviewed documented findings of respected human rights organizations in order to evaluate Israel according to six criteria which the Minnesota State Board of Investment (SBI) uses in its quadrennial country categorization. The six criteria are: (1) Freedom from Political or Extrajudicial Killing or Disappearance, (2) Freedom from Torture, (3) Right to a Fair Public Trial and Due Process, (4) Freedom of Speech and Press, (5) Right of Citizens to Change Laws, Officials and Government, and (6) Freedom from Discrimination based on Race, Religion, Sex or Social Status. The country categorization process is used as one of the factors in investment decisions. Theoretically, investments in Group Two countries should face increased scrutiny, since there are problems with the human rights within that country. Investments in Group Three countries should be prohibited, since due to the poor human rights record of those countries, the investments are a great deal riskier and the State's pension funds are put at risk.

Based on the findings of this report, Israel should be categorized as a Group Three country. In each of the six criteria Israel's human rights record is dismal.

(1) The Israeli Defense Forces (IDF) have killed many Palestinian civilians and have stood by while illegal settlers kill and wound others. They have detained thousands in prisons within Israel, making the prisoners inaccessible to their families. The three military incursions into Gaza in the past six years have killed more than three thousand civilians, including many women and children.

(2) Detained prisoners are regularly tortured as a means of extracting confessions. Defence for Children International reports that the IDF uses torture even against children as young as twelve.

(3) Israel regularly detains Palestinians in what is known as "administrative detention," for periods up to 180 days and renewable indefinitely, without charge or trial.

(4) Journalists and media outlets are frequently targeted for attack, and Israel denies journalists access to Gaza.

(5) Laws within Israel diminish the power of non-Jewish voting blocs. In the occupied territory Palestinians do not have to right to choose representation from the power that occupies and controls all aspects of their lives – Israel.

(6) There are over 50 laws within the Israeli legal system which discriminate against non-Jewish citizens, making the Palestinian minority within Israel into second-class citizens.

Based on these criteria, Israel should be categorized as a Group Three country. Investments in Group Three countries should be prohibited.

I. FREEDOM FROM POLITICAL OR EXTRAJUDICIAL KILLING OR DISAPPEARANCE

A. Freedom from Killing

Although the six categories of human rights considered by the State Board of Investment in its Country Categorization process imply actions by the State toward civilians, we include here actions by civilian citizens of Israel against civilian Palestinians as well as actions by the Israeli military (Israeli Defense Forces, or IDF) against civilian Palestinians. The reason for this inclusion is that according to the UN Human Rights Committee, “settlers are not prosecuted or punished for their violent acts at Palestinians”¹. The Israeli human rights organization, Yesh Din, reports, “The number of convictions for settler violence has not increased and still remains shockingly low.”²

Article 6.1 of the International Covenant on Civil and Political Rights states, “Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.” (ICCPR, Article 6.1) The state not only has a duty not to arbitrarily deprive citizens of their lives but also to protect civilians from the arbitrary deprivation of life perpetrated by other, private actors.

Settler Violence

According to a 2012 report from the Palestine Liberation Organization (PLO) Negotiations Affairs Department³, in 2011 three Palestinian civilians were killed and 183 were injured from attacks by illegal Israeli settlers. The number of violent attacks by settlers against Palestinian civilians increased from 2007 to 2011 by 315%. According to Yesh Din, of the 938 reports of settler violence between 2005 and 2013, only 8.5% resulted in prosecution.⁴

Killing of civilians by the Israeli Defense Forces (IDF)

¹ UN Human Rights Committee, *List of Issues Prior to the Submission of the 4th Periodic Report of Israel*, CCPR/C/ISR/Q/4, 31 Aug. 2012, para. 18.

² Yesh Din, *Law Enforcement on Israeli Civilians in the West Bank*: < <http://www.yesh-din.org/infoitem.asp?infocatid=393>>, 24 July 2013.

³ “Settler Violence and Israeli Incitement: A Culture of Hate” by the Palestine Liberation Organization, Negotiations Affairs Department: <http://www.nad-plo.org/userfiles/Settlers%20Violence%20and%20Israeli%20Incitement%20Book.pdf>

⁴ Yesh Din, *Law Enforcement on Israeli Civilians in the West Bank*, < <http://www.yesh-din.org/infoitem.asp?infocatid=393>>, 24 July 2013.

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In February 2014, Amnesty International issued its report “Trigger-Happy: Israel’s Excessive Use of Force in the West Bank”⁵. In this report, Amnesty International details the use of live ammunition against civilians, including children, in the Occupied West Bank. The use of live ammunition has increased steadily each year, resulting in 41 deaths between January 2011 and December 2013. “... in all of the cases of killings described [in the report], Israeli forces opened fire with live ammunition on Palestinians who, the available evidence indicates, were posing no imminent threat to the lives of the soldiers or others.” This constitutes a breach of the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials.

The IDF’s use of weapons other than live ammunition

It has been well known for many years that rubber-coated metal bullets are, contrary to popular belief, lethal ammunition. In 1998, the Israeli human rights organization B’Tselem, wrote a report describing the use of this ammunition and the deaths that had resulted due to it.⁶ The report states that from 1987 to 1998 at least 57 Palestinians were killed and hundreds more wounded with this type of bullet.

Amnesty International’s report on the IDF’s excessive use of force states, “Several Palestinians have died in recent years and others have sustained serious injuries due to the apparent misuse by Israeli forces of lethal force other than live firearms ammunition. The weapons used have included rubber-coated metal bullets, and “less lethal” means of crowd control, such as tear gas.”⁷

IDF’s use of targeted assassinations

In addition to using live ammunition to break up non-violent demonstrations, Israel has a policy of targeted assassinations. Frequently these assassinations result in collateral killing of relatives, associates or bystanders of the target. An article by Mustafa Barghouti, Palestinian physician, human rights activist and candidate for President from the Palestinian National Initiative party, says “Since September 2000 [article written in 2007], more than 400 Palestinians have been murdered in

⁵ Amnesty International Ltd, “Trigger-Happy: Israel’s Excessive Use of Force in the West Bank”, February 2014.

⁶ A Death Foretold: Firing of “Rubber” Bullets to Disperse Demonstrations in the Occupied Territories, November 1998
November 1998, Summary.

http://www.btselem.org/publications/summaries/199805_a_death_foretold.

⁷ *Ibid* “Trigger-Happy”, p. 36.

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extrajudicial executions. Nearly half were innocent bystanders and at least 44 were children. These extrajudicial executions are war crimes.”⁸

During the cease fire between Hamas and Israel from June 18, 2008 until the start of Operation Cast Lead in November 2008, at least 10 Palestinians were killed, either in targeted assassinations, as bystanders, or frequently, as civilians attempting to carry on their lives (one 67-year old man was collecting firewood, 2 children playing in Rafah, a 65-year old woman in her home, and many others).⁹

Military incursions into Gaza

In recent years Israel has attacked Gaza in three separate and devastating incursions: Operation Cast Lead in 2008-2009, Operation Pillar of Defense in 2012, and Operation Protective Edge in 2014. In each attack on Gaza the vast majority of the victims were civilian. Cast Lead had a total of 1,391 Palestinian deaths, of which 1,007 were non-combatants¹⁰; in Pillar of Defense 160 Palestinians died, of which 103 were civilians¹¹, and in Protective Edge 2,192 Palestinians were killed, of which 1,523 were civilians¹².

Unexploded Ordnance

In addition to the direct killing of civilians by the military or illegal settlers in occupied territories, there have been reports of unexploded ordnance causing the death of civilians following Israel’s incursions into Gaza in 2008-2009, 2012, and 2014. Following the 2014 attack on Gaza, 7 civilians were killed and 14 injured by unexploded ordnance (as of October 27, 2014).¹³

B. Freedom from Disappearance

While there are no “disappearances” of Palestinians in the sense that a person is spirited away or killed without knowledge of the victim’s family, many

⁸ “Targeted Killings Won’t Bring Peace” by Mustafa Barghouti, June 8, 2007 (<http://ifamericansknew.org/stat/tk.html>)

⁹ Report of the United Nations Fact-Finding Mission on the Gaza Conflict, Human Rights Council, 25 September 2009.

¹⁰ B’tselem: note that over 300 civilian police officers were killed on the first day of the incursion. According to the UN, civilian police officers are classified as civilians.

¹¹ UN estimate

¹² UN Office of Coordination of Humanitarian Affairs (UNOCHA) – Palestine.

¹³ UN Office of Coordination of Humanitarian Affairs (UNOCHA) – Palestine:

http://www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2014_10_27_english.pdf

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Palestinians from the West Bank and Gaza are held in prisons within Israel, meaning that their relatives have no access or reduced access to see them, sometimes for many years. Information found on the website for Addameer, the Prisoner Support and Human Rights Association, states:

Palestinians from the OPT [Occupied Palestinian Territories] are currently held in a total of four interrogation centers, four military detention centers, and approximately 17 prisons. While the four military interrogation centers are located inside the OPT, all the interrogation centers and prisons—except for one prison, Ofer—are located within the 1948 borders of Israel, in violation of international humanitarian law. The location of prisons within Israel and the transfer of detainees to locations within the occupying power’s territory are illegal under international law and constitute a war crime. The Fourth Geneva Convention explicitly states that “Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein” (Article 76).¹⁴

The website goes on to state that administrative detainees, that is, those prisoners who are held without charge or trial, are held under the jurisdiction of the Israeli Prison Service and not the military. Therefore, they are not separated from other prisoners (for example, those convicted of a crime such as theft or rape), and do not have culturally or religiously appropriate facilities. They are severely restricted in their rights to education, communication with families and medical treatment. Palestinian children who are held in administrative detention, can lose up to a whole school year in addition to being denied family visits.¹⁵

In October 2014 Addameer reported that over 6,000 Palestinian political prisoners are currently being held in Israeli prisons. Family visits are “routinely, and often arbitrarily” restricted, in contradiction to Israel’s obligations under the Fourth Geneva Convention (Article 114), the Standard Minimum Rules for the Treatment of Prisoners, the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the European Prison Rules, and, in relation to child detainees, the Convention on the Rights of the Child.¹⁶

The difficulties that Palestinians from the West Bank have in visiting imprisoned family members are compounded for Palestinians from Gaza. Since the 2006

¹⁴ <http://www.addameer.org/etemplate.php?id=302>

¹⁵ Defence for Children International – Palestine: Child Detainees: <http://www.dci-palestine.org/content/child-detainees>.

¹⁶ <http://www.addameer.org/etemplate.php?id=728>

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Palestinian elections and the imposition of the siege on Gaza, it has been almost impossible for anyone from Gaza to visit an imprisoned family member inside Israel. Restrictions on visiting were relaxed briefly in 2014 and then re-imposed during Israel's assault on Gaza. To date, restrictions on prisoner family visits have not been eased again.

Addameer concludes the report on prisoners by stating that Israel has detained approximately 750,000 since 1967 and this has had a "devastating and immeasurable impact on Palestinian society."¹⁷

¹⁷ *Ibid.*

II. FREEDOM FROM TORTURE

According to numerous reports by reputable human rights organizations, Israel uses torture regularly and systematically on Palestinians in Israeli military custody to extract information and coerce cooperation. Since Israel is the occupying power over the Palestinian territories, Palestinians are subject to Israeli military rule and are tried under military law, not civilian law, in all cases regardless of their nature. Israel regularly detains Palestinians for security reasons and many are kept under administrative detention without trial for months and even years. Presently there are 6,500 Palestinian detainees in Israeli custody, including 500 under administrative detention and 182 children, including 19 under the age of 16. Israel considers any person over the age of 16 to be an adult, and Palestinians are routinely denied access to their legal representation.

Under Article 1 of the UN Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with consent or acquiescence of a public official or other person acting in an official capacity.” Israel signed the UN Convention against Torture on October 22, 1986 and ratified it on October 3, 1991.

However, the Israeli Security Authority (ISA) routinely continued to use methods of torture against Palestinian detainees as allowed by the Landau Commission of 1987 which legally sanctioned the use of “psychological pressure” and “moderate degree of physical pressure” in cases of “hostile terrorist activity;” despite the fact that Article 2 of the UN Convention against Torture states that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” In 1999, the policies sanctioned by the Landau Commission were challenged and overturned by the Israeli High Court ruling in *The Public Committee Against Torture in Israel v. Government of Israel*, against the use of physical means of interrogation that are not “reasonable and fair” and that cause the detainee to suffer. However, they did rule that discomfort or unpleasantness resulting from simple interrogation could be considered legal if only a “side effect,” and not the intention of the interrogation to tire out or “break” the detainee. The court also ruled that the Israeli Security Authority is held to the same standards of an Israeli police officer, who is beholden to the Basic Law of Human Dignity and Liberty, violations of which are punishable under the law. Nonetheless, the court still held that officers could claim that any physical pressures

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exerted during interrogation were necessary for their own defense, therefore creating a large loophole for accountability in instances of torture. According to B'Tselem - The Israeli Information Center for Human Rights in the Occupied Territories, "The High Court aggravated matters by failing to carefully delineate those "proper circumstances" in which the necessity defense is available, leaving an opening for broad interpretation by the ISA and its legal advisors, and for the slippery slope leading to an increase in torture and ill-treatment."

Despite these limited legal protections for Palestinians under Israeli detention, first-hand testimonies from hundreds of Palestinian political prisoners and dozens of reports by Israeli, Palestinian, and international human rights organizations indicate that physical and psychological abuse and torture as a means of coercion is the actual law of the land. In 2008, Amnesty International prepared a report for the Committee on Torture in light of its consideration of Israel's fourth periodic report on its implementation of the Convention against Torture to address what it outlined as "Israel's failure to implement the Convention against Torture particularly in the Occupied Palestinian Territories (OPT), and the intensification of measures amounting to cruel, inhuman or degrading treatment or punishment against Palestinians through indefinite administrative detention without trial, prolonged incommunicado detention, demolitions of homes, gross restrictions on freedom of movement, and denial of necessary medical care."

The report outlines several types of mental and physical abuse used by Israeli Security Authority and Israeli military officers against Palestinians in detention. These include "prolonged beatings and sharp painful blows to the head or stomach and having handcuffs tightened to the extent that the detainees have said that they fear losing their hands or arms. In addition, [...] there are three particularly painful forms of stress positions in use by the GSS; all positions are often with tightened handcuffs or shackles and accompanied by blows.

1. the "banana" position, in which the detainee is placed sidewise on a chair with their back unsupported; interrogators press their torso back over the edge of the chair while fixing their feet on the other side causing stretching of the abdominal muscles and hyperextension of the spine and consequently severe pain in the back and stomach; this treatment is often accompanied by heavy pressure applied to the chest;
2. the "frog" position, in which the detainee is forced to squat on their heels for up to 45 minutes;
3. a position involving the detainee being made to stand on tiptoes for prolonged periods.

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Additionally, Amnesty International's 2008 report outlines uses of torture or other cruel, inhuman, or degrading treatment outside interrogation, such as beatings, often with gun butts, and humiliation carried out against Palestinians who come into contact with Israeli soldiers at checkpoints and during house searches, immediately after a Palestinian is arrested and then thrown on the floor of a jeep, where they lie during the journey under the boots of soldiers. "It may also involve the use of dogs in an aggressive manner, painful shackling (if related to an arrest) or humiliating or degrading treatment."

According to Addameer, the Palestinian Prisoner Support and Human Rights Association, "Israel's ill-treatment and abuse of Palestinian detainees is widespread and systematic and typically starts from the moment of arrest. Most detainees, including children, report being beaten, kicked, threatened, having their property illegally searched and confiscated and their family home destroyed." Addameer also reports uses of solitary confinement where "either physical or psychological cruel, inhuman or degrading treatment" regularly takes place, including "sleep deprivation by means of continuous and prolonged interrogation sessions, excessive use of handcuffs for extensive periods and their tightening to cut off circulation; beatings; slapping; kicking; verbal abuse and intentional humiliation; and the use of threats directed at the detainee or a family member, including threats of arrest of a family member, threats of sexual assault against the detainee or his/her family member, threats of house demolitions, and threats of killing." Special methods also known as military interrogation techniques have included "the use of painful stress positions, where the detainee is bent backwards over the seat of a chair causing back pain, or forced to stand for prolonged periods against a wall with bent knees; pressure on different parts of the body; strong shaking of the detainee; strangulation and other means of suffocation.

A 2010 joint report by Btselem and HaMoked, Center for the Defence of the Individual, entitled "Kept in the Dark: Treatment of Palestinian Detainees in the Petah Tikva Interrogation Facility of the Israel Security Agency" is a case study of the conditions and treatment of detainees in the Petah-Tikva detention center from testimony taken in 2009. The report covering 2009 shows that detainees in the Petah-Tikva facility are held in inhuman conditions, with the objective of physically and psychologically breaking them. The detainees are held in windowless, narrow cells, sometimes moldy and stinking, constantly lit with artificial lighting painful to the eyes. Some detainees reported being held in total isolation. Some reported exposure to temperatures that are too high or too low, and sleep deprivation. The hygiene in the cells is shameful; among other things, the prison authorities did not allow detainees to shower, to change clothes, or even use toilet paper. The food is poor in quality and quantity, and detainees lose weight during their time in the facility. In the interrogation room, interrogators force them to sit on a chair, hands tightly bound and

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unable to move their bodies, for hours and even days. The interrogators threaten the detainees, including threats regarding relatives, and also use violence against them.”

Israel has also been known to use sexual violence as a method of coercion for obtaining testimony or confessions. We have seen this in the case of Rasmia Odeh who was convicted and imprisoned for 10 years as an Israeli political prisoner because of a false confession she gave after being raped and tortured by Israeli security forces. She was recently prosecuted in the United States for failing to report this conviction on her application for naturalization in the U.S.

Whereas Article 15 of the UN Convention against Torture states that “each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.” According to Addameer, Israel regularly uses confessions made as a result of physical coercion as primary evidence against the detainees, “regardless of whether or not they actually committed the offence they are being accused of. In addition, Palestinian detainees held for interrogation are routinely made to sign confessions written in Hebrew, a language few of them understand, and which further restricts their right to a fair trial.”

According to numerous human rights reports, there is little accountability or punishment for Israeli perpetrators of torture, in violation of Articles 4-14 which stipulate that victims of torture have a right to seek accountability for torture committed against them, that torture must be a punishable offense under the law. However, as Amnesty International outlined in its 2008 report, “The Israeli authorities continue to allow acts which amount to torture or other cruel, inhuman or degrading treatment or punishment to go un-redressed.” Since 2000 there have been 550 investigations into torture allegations which have resulted in only four disciplinary actions, and not one prosecution. Israeli officials regularly justify the uses of physical and psychological pressures as “necessary defense,” leading to widespread impunity. Additionally, Amnesty International points out that most reviewers of allegations of torture are former security agents, therefore there is no independent perspective seeking justice for torture. Addameer also points to the lack of proper mechanisms for accountability for torture within the Israeli government.”

Criminal investigation of members of the security forces who commit offenses against Palestinians and their property in the West Bank, ranging from manslaughter to abuse to looting, is under the responsibility of the Military Advocate General (MAG), the Military Police Criminal Investigation Department (MPCID) and the Department for the Investigation of Police Officers in the Ministry of Justice. These law enforcement agencies have been under severe criticism for their

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investigation of suspects and prosecution of members of the security forces accused of committing such offenses. According to Yesh Din, during the second intifada, 90 percent of MPCID investigations ended with the files being closed and without indictments being filed. The Israeli Occupying Forces (IOF) have largely failed to investigate and indict soldiers involved in criminal offenses against Palestinian civilians in the [occupied Palestinian territory (oPt)]. In justifying this policy, the MAG's office contends that since the beginning of the al-Aqsa intifada, an armed conflict has been taking place in the oPt, and that the IOF, therefore, is not automatically required to investigate every attack on civilians. If a complaint is filed, investigations are confidential and led by an ISA inspector under the authority of the State Attorney General. Complaints of torture are routinely closed by the Attorney General and steps are never taken against interrogators. When complaints are filed against an ISA officer, they can typically be referred to two different bodies, both under the authority of the Attorney General. The first is the Mavtan Unit, which is the Department of Investigations of Police Officers (DIPO) at the Ministry of Justice. According to the Ministry of Justice, the head of the Mavtan is an individual directly appointed by the Ministry. The second is the Inspector of Interrogees' Complaints, a high-ranking ISA officer with previous experience in conducting interrogations, who is required to report directly to the Attorney General's Office. Although both avenues are available for the conduct of criminal investigations into allegations of torture and ill-treatment, in practice, complaints are usually referred directly to the inspector rather than the DIPO. What's more, according to the Public Committee Against Torture in Israel (PCATI), the recourse to DIPO has not been used once in recent years. The inspector, a former ISA officer himself, is thus responsible for investigating both his ISA colleagues and the detainee who registered the complaint. The conflict of interests in this matter is clear and undermines a detainee's right to an independent and impartial investigation.

As thoroughly detailed in this report, Israel systematically uses practices of mental and physical abuse against Palestinian arrestees and detainees in its custody, both as a method of extracting information and a means of control. Palestinians have few options for addressing this and seeking justice. However, the Israeli military system protects accused torturers and does not seek accountability for allegations of torture.

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SOURCES

UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, <http://www.un.org/documents/ga/res/39/a39r046.htm>

<http://www.btselem.org/torture>

<http://www.amnesty.org/en/library/info/MDE15/040/2008/en>

http://www.btselem.org/publications/summaries/201010_kept_in_the_dark

<http://www.addameer.org/etemplate.php?id=294>

III. RIGHT TO FAIR PUBLIC TRIAL AND DUE PROCESS

Israel's judicial system is presided over by the High Court of Justice (HCJ). In a recent study by Al-Haq, a legal advocacy organization in Israel and the Occupied Palestinian Territory, the procedural and structural deficiencies of the HCJ, which provides moral weight and legal justification to the illegal Israeli policies implemented in the Occupied Palestinian Territory, were examined. The study highlighted the HCJ's often perverse application of international legal standards and the Court's role as a rubber-stamping tool of Israel's occupation as well as a forum which allows for occasional pyrrhic victories won by individual Palestinian petitioners when they are actually afforded rare access to the courts. Al-Haq, *"Legitimizing the Illegitimate? The Israeli High Court of Justice and the Occupied Palestinian Territory."*

One example of denied access for Palestinians arises for those seeking compensation for injuries caused by the Israeli military and police. Under Israel's Civil Wrongs Law, Palestinians who reside in a "zone of conflict" as designated by Israel may not seek compensation in Israeli courts for injury caused by Israeli forces. Since the vast majority of Palestinians reside in so-called zones of conflict, their only remedy for seeking compensation is through a special committee appointed by the Minister for Defence, which will only recommend compensation in "exceptional circumstances." This restriction on access to the courts has been upheld by the HCJ. In stark comparison, Israel regularly compensates Israeli settlers who are removed from outposts and settlements in zones of conflict.

Another example is administrative detention. Administrative detention without trial is the most extreme measure that international humanitarian law allows an occupying power to use against residents of occupied territory. It cannot be used in a sweeping or discriminatory manner and basic rules must be followed, including a fair hearing. There must be a public emergency justifying its use and it must be ordered on a case by case basis.

Israel regularly uses administrative detention in violation of international law, claiming that it has been under a continuous public emergency since 1948. It is used to circumvent criminal proceedings when insufficient evidence exists to try a suspect and almost exclusively against Palestinians. Over the last decade, on average Israel has held 300-700 Palestinians in administrative detention, including members of the Palestinian Legislative Council. Interns are regularly denied family visits and deported from occupied territory into Israel for detention. Some detainees have been locked up for years without trial.

The Right To Demonstrate:

Security forces have used violence to disperse peaceful demonstrators protesting the Separation Barrier in the West Bank, according to B'Tselem. Jerusalem and Tel Aviv have enacted new regulations making it exceedingly difficult to initiate demonstrations and set up protest tents.

Freedom for News Media:

Reporters Without Borders in 2013 included the Israeli Defense Force in its list of "Predators of Freedom of Information." According to Reporters Without Borders, "Israeli Defense Forces during the 2012 Operation Pillar of Defense intentionally attacked journalists and buildings where media connected to Hamas had premises." During "Operation Protective Edge" this past summer, Israel fired indiscriminately on press targets with clear "Press" markings, including vehicles and buildings, killing a number of journalists. Israeli politicians have justified these attacks by claiming the journalists and press offices were biased. According to Amnesty International, Israel maintains effective control over Gaza's telecommunications. Journalists have been prevented, by Israel, from entering Gaza.

Internet Freedom:

Palestine does not have a direct connection to the Internet infrastructure, and Israel requires all Internet services an Israeli service provider, according to OpenNet Initiative.

Freedom of Speech:

Hanin Zoabi, the only female Arab member of the Israeli Knesset (parliament), in mid-2014, was banned from speaking in the Knesset.

Whistleblowers:

Mordechai Vununu, who blew the whistle to the British press about Israel's secret nuclear weapons facility at Dimona, was kidnapped by Israeli intelligence and held in solitary confinement for nearly 20 years. He remains under house arrest in Israel and is prohibited from speaking to foreigners and the press.

International Investigations:

On Nov. 13, 2014, Israel denied entry to representatives of the U.N. Human Rights Council who were investigating potential war crimes committed during Israel's 2014 attack on the Gaza Strip.

Right to Change Government:

Jewish citizens of Israel (about 80% of the population) have their rights established under the “Basic Law,” since Israel has no constitution.

Non-Jewish citizens of Israel (about 20% of the population) are also under the “Basic Law,” but they face about 50 laws that explicitly discriminate against anyone who would not be eligible to immigrate to Israel under the laws of aliyah, meaning any non-Jew. The Israeli civil rights group *Adalah* comments as follows on recent discriminatory laws:

These new laws and bills, which continue to surface on a near weekly basis, seek, inter alia, to dispossess and exclude Arab citizens from the land; turn their citizenship from a right into a conditional privilege; undermine the ability of Arab citizens of Israel and their parliamentary representatives to participate in the political life of the country; criminalize political expression or acts that question the Jewish or Zionist nature of the state; and privilege Jewish citizens in the allocation of state resources.¹⁸

While non-Jewish citizens have the right to vote, the political rules are organized to limit their power: as a result of recent elections, the Knesset had 12 Arab members out of a total of 120; the cabinet had no Arabs, and only one member of the Supreme Court (out of 15) was Arab, even though more than 20% of Israeli citizens are Arabs. Arab members of the Knesset have been attacked, especially Balad party members Azmi Bishara, who was accused of spying for Hamas (which he denies¹⁹) and Hanin Zoabi, who was accused of undermining “the State of Israel” and openly inciting “against the government, its institutions and IDF soldiers” as well as negating “Israel's existence as a Jewish and democratic state.” The election commission disqualified her from running for office, but the Israeli High Court overturned the disqualification. The Knesset then passed a law making it more difficult for the High Court to reverse commission decisions in the future²⁰.

There were also calls to ban the Balad Party from the Knesset.

According to the U.S. State Department:

Political Parties: The Basic Law prohibits the candidacy of any party or individual that denies the existence of the State of Israel *as the state of the Jewish people* or the democratic character of the state, or that incites racism [emphasis added].

Jewish citizens living in West Bank settlements are formally under military orders of the Israel Defense Force, but in practice are judged in Israeli courts in Israel under Israeli civil law. They have frequently been accused of attacking Palestinians, their homes and fields, but prosecutions have been rare. IDF soldiers in the presence of settler attacks on Palestinians fail to protect the Palestinians, but rather protect the settlers.

¹⁸ <http://adalah.org/eng/Articles/1771/Discriminatory-Laws>

¹⁹ http://en.wikipedia.org/wiki/Azmi_Bishara#Resignation_from_Knesset

²⁰ http://en.wikipedia.org/wiki/Haneen_Zoabi#Attempted_disqualification

V. RIGHT OF CITIZENS TO CHANGE LAWS, OFFICIALS AND GOVERNMENT

Arab non-citizens in East Jerusalem cannot take part in Israeli elections, although they can participate in Jerusalem municipal elections. Most Palestinians in East Jerusalem are non-citizens with permanent residency—a residency that can be lost in various ways. With regard to Palestinian elections, the U.S. State Department reports²¹:

Although the Israeli government and the PA followed mutually agreed guidelines for Palestinians residing in Jerusalem to vote in 2005 and 2006, Israeli authorities did not allow all Palestinians in Jerusalem to vote, and those who could vote were required to do so via post offices (of which there were few), thereby complicating their ability to vote.

Arab non-citizens in the West Bank may be living in area A, B, or C. In area A, they are subject to the civil laws of the Palestinian Authority, although the Israeli army frequently invades these areas to arrest Palestinians. In Area B, the Palestinian Authority is responsible for civil services, such as garbage collection, but security is under Israeli control. Israel exercises complete control in Area C, Palestinians there are governed under Israeli military orders, which they have no political power to change, and they have no role in the government that rules them.

Arab non-citizens in Gaza are under Palestinian control, originally of the Palestinian Authority and currently of Hamas, but the territory is under blockade by Israel and Egypt, making normal import, export, economic activity, and travel impossible. Israel routinely attacks targets in Gaza from the air, the sea, and the land.

In the most recent Palestinian elections (2006), the United States pressured Hamas to participate as a political party. Israel restricted the free movement of candidates, interfering with their campaigning. The U. S. State Department comments:

In 2006 the 132-member PLC was elected in a process under the Basic Law that international observers concluded generally met democratic standards in providing citizens the right to change their government peacefully. Hamas-backed candidates participated in the 2006 PLC elections as the “Reform and Change Movement” and won 74 of 132 seats. Fatah won 45 seats, and independents and candidates from third parties won the remaining seats.²²

Although Hamas won a clear majority of seats, and Hamas and Fatah negotiated a coalition government, the US and Israel refused to accept the results. Hamas became aware of a planned coup d’etat by Fatah in Gaza, and reacted by seizing control of the territory itself. Israel then instituted the blockade which has continued to the present, with minor exceptions.

Palestinian refugees outside of Israel and the Occupied Territories are not eligible to vote in Palestinian elections, and are barred from returning to their previous homes in Palestine despite the fact that Israel promised to let them return as a condition for its membership in the United Nations. They have no voice in Palestinian government.

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http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=220358&year=2013#wrapper

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http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=220358&year=2013#wrapper

V. RIGHT OF CITIZENS TO CHANGE LAWS, OFFICIALS AND GOVERNMENT

The U.S. State Department 2013 Report on Human Rights makes the following statements²³:

Countries that fail to uphold human rights can face economic deprivation and international isolation. . . . Too many governments continue to tighten their grasp on free expression, association, and assembly, using increasingly repressive laws, [and] politically motivated prosecutions . . .

Unfortunately, these reports describe new and existing legislative restrictions . . . that continue to curb civil society and political opposition and target marginalized populations, including religious and ethnic minorities . . . a state-directed crackdown on activists and suppression of political dissent and public advocacy. . . . [and] increased pressure on civil society, journalists, and protesters calling for government accountability.

The reports also cover setbacks to freedom of assembly around the world, . . . where governments used excessive force to quell peaceful protests and dissent.

Governments that commit human rights abuses and fail to hold perpetrators accountable are not only acting against their best interest, but against our own. In countries where human rights are denied, violent extremism and transnational crime take root, contributing to instability, insecurity, and economic deprivation. . . .

We at the Department of State will continue to press governments to uphold fundamental freedoms. We remain committed to advocating on behalf of civil society and speaking out for the protection of human rights for all individuals.

²³ <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>

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Israel is a “flawed democracy.” Economist Intelligence Unit.

“Individuals are not viewed as people entitled to equal rights, but on the basis of their ethnicity, gender or class. [. . .] Real change requires transformation at the most basic levels of society – from the political echelon through to the government bureaucracy, the courts, the media and the education system - all in order to reinforce the basic notions of equality, human rights and democracy. (Sharon Abraham-Weiss, Executive Director, Association for Civil Rights in Israel, July 8, 2014).

1948 campaign of ethnic cleansing: “[O]n a cold Wednesday afternoon, 10 March 1948, a group of eleven men, veteran Zionist leaders together with young military Jewish officers, put the final touches to a plan for the ethnic cleansing of Palestine. [. . .] Once the decision was taken, it took six months to complete the mission. When it was over, more than half of Palestine’s native population, close to 800,000 people, had been uprooted, 531 villages had been destroyed, and eleven urban neighborhoods emptied of their inhabitants. The plan decided upon on 10 March 1948, and above all its systematic implementation in the following months, was a clear cut case of an ethnic cleansing operation, regarded under international law as a crime against humanity.” Ilan Pappé, *The Ethnic Cleansing of Palestine* (2006).

On May 1, 1948, Golda Meir declared: "The Jews should treat the remaining Arabs 'with civil and human equality', but 'it is not our job to worry about the return [of those who have fled]". A Transfer Committee and a policy of *faits accomplis* were set up to prevent a refugee return. By July of 1948, it had become official policy. On December 11, 1948, the UN General Assembly passed Resolution 194. Article 11 states: "the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible." On November 22, 1974, UN General Assembly Resolution 3236, declared the right of return to be an "inalienable right". Not only has Israel never honored UN GA Resolutions 194 and 3236, it has thwarted implementation of these two resolutions to this day with a system of laws designed to keep Palestinian refugees from returning to their land and to dispossess them of the ownership of that land.

Israel’s System of Basic Laws: Israel’s Declaration of Independence (May 14, 1948) stated that a Constitution would be formulated NLT October 1, 1948. No constitution has been formulated to date. Instead, Israel has “Basic Laws,” adopted piecemeal as part of the legislative process that outlines the nation's political structure. Several of these basic laws, in addition to other legislative enactments, have caused institutionalized discrimination and inequality both in Israel and in the Occupied Territories, either overtly or with purposeful discriminatory consequences.

A Basic Law of Human Dignity and Liberty was enacted in 1992 in order to establish in a Basic Law “the values of the State of Israel as a Jewish and democratic state.” Although the ostensible purpose of this “Basic Law” is to protect human rights

in Israel, several cardinal human rights are missing, such as Equality, Freedom of Speech, Freedom of Religion, Freedom of Protest, and others.

Examples of Active Laws That Discriminate

-Sources: Adalah and the Israel Law Resource Center

Immigration and Status

Law of Return - 1950

Allows every Jewish person to immigrate to Israel and automatically become a citizen of the state. The law also applies to the children and grandchildren of Jews, as well as their spouses and the spouses of their children and grandchildren. *No comparable law exists to guarantee the rights of Palestinians to immigrate or receive citizenship, even if they were born in the area that is now the State of Israel.*

Citizenship Law - 1952

Article 2(a) of the Citizenship Law stipulates that, "Every emigrant under the Law of Return will become a citizen of Israel as a direct result of the return."

Article 3 of the law deprives Palestinians who were residents of Palestine prior to 1948 of the right to gain citizenship or residence status in Israel based on conditions designed to deprive the Palestinian refugees of the Right to Return.

-- Every 'oleh under the Law of Return, 5710-1950(1), shall become an Israel national.

-- A person who, immediately before the establishment of the State, was a Palestinian citizen and who does not become a Israel national (as an oleh) 2, shall become an Israel national with effect from the day of the establishment of the State if -

(1) *he was registered on the 4th Adar, 5712 (1st March 1952) as an inhabitant* under the Registration of Inhabitants Ordinance, 5709-1949(2);

and

(2) he is an inhabitant of Israel on the day of the coming into force of this Law; and

(3) he was in Israel, or in an area which became Israel territory after the establishment of the State, from the day of the establishment of the State to the day of the coming into force of this Law, or entered Israel legally during that period

Amendment No. 9 (Authority for Revoking Citizenship) (2008) to Article 11 of the Citizenship Law revokes citizenship due to "breach of trust or disloyalty to the state". "Breach of trust" is broadly defined and even includes the act of naturalization or obtaining permanent residency status in one of nine Arab and Muslim states which

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are listed by the law, and the Gaza Strip. The amendment allows for the revocation of citizenship without requiring a criminal conviction.

Entry Into Israel Law - 1952

This law governs the entry into Israel of non-citizens of the state. It grants *preferential treatment* to Oleh and affords them status to enter as though they were citizens of the state and has the intended effect, combined with the Citizenship Law, of barring the return of refugee Palestinians who were forced from their homes during the *Nakba*.

--The entry into Israel of a person, other than an Israel national, shall be by oleh's visa or by a visa under this Law. (Visas granted at discretion of Ministry of Interior)

--Where a person comes to Israel and it is found that he is not permitted to enter, the Minister of the Interior may remove him from Israel.

--In respect of a person other than an Israel national or an oleh under the Law of the Return, 5710-1950, the Minister of the Interior may issue an order of deportation if such person is in Israel without a permit of residence.

--The Minister of the Interior may direct that an order of deportation shall be carried out at the expense of the person in respect of whom it has been issued or at the expense of the employer who employed him in Israel without permit.

Ban on Family Unification - 2003 (Temporary Order)

Bans family unification where one spouse is an Israeli citizen (almost all of whom are Palestinian citizens) and the other a resident of the OPT (excluding Jewish settler living in the OPT) and Gaza.

Minor exceptions to the ban were introduced in 2005 allowing the Interior Ministry to make special exceptions to the ban, including in cases where the husband is over 35 years of age or the wife over 25, in special medical or work cases, and for children under the age of 14 to live with the parent inside Israel.

The law has been repeatedly extended by the Knesset making it in effect a permanent law. Thousands of Palestinian families have been affected by the law, forced to split apart, move abroad, live in Israel in fear of constant deportation or serve as informants.

"area" - any one of the following: Judea and Samaria, and the Gaza Strip

"inhabitant of an area" - including anyone residing in the area, . . . , and excluding the inhabitant of an Israeli settlement in the area.

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Informant exception: The Minister of the Interior is entitled to grant citizenship, or provide a license to reside in Israel, to an inhabitant of *an area*, if he is convinced that he identifies with the State of Israel and its goals, and that he or a member of his family performed a significant act to promote the security, economy or some other important matter of the State, or that the granting of citizenship or provision of the license to reside in Israel, are of special interest to the State.

Land

Absentees' Property Law - 1950

Defines persons who were expelled, fled, or who left the country after 29 November 1947, mainly due to the war, as well as their movable and immovable property (mainly land, houses and bank accounts etc.), as "absentee".

Property belonging to absentees was placed under the control of the State of Israel with the Custodian for Absentees' Property. The Absentees' Property Law is the main legal instrument used by Israel to take possession of the land belonging to the internal and external Palestinian refugees.

Land Acquisition Law --1953

"Property in respect of which the Minister certifies by certificate under his hand—

(1) that on the 6th Nisan, 5712 (1st April, 1952) it was *not in the possession of its owners*; and

(2) that within the period between the 5th Iyar, 5708 (14th May, 1948) and the 6th Nisan, 5712 (1st April 1952) it was *used or assigned for purposes of essential development, settlement or security*; and .

(3) *that it is still required for any of these purposes--*

shall vest in the Development Authority and be regarded as free from any charge, and the Development Authority may forthwith take possession thereof.

"The owners of acquired property are entitled to compensation therefore from the Development Authority. The compensation shall be given in money, unless otherwise agreed between the owners and the Development Authority. The amount of compensation shall be fixed by agreement between the Development Authority and the owners or, *in the absence of agreement, by the Court . . .*"

Today, approximately 93% of the land in Israel (excluding the OPT) is owned by the state and the JNF. Only 3-3.5% are owned by the Arab population, as compared to 48% in 1948.

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The massive transfer of land located within the borders of the state on the eve of the establishment of the state of Israel in 1948 was executed through two primary laws, the Land Acquisition Law (1953) and the Absentees' Property Law (1950).

Through the Land and Acquisition Law (Actions and Compensation), 1.2-1.3 million dunams of land were expropriated from the Arab population. These lands were confiscated from a total of 349 towns and villages, in addition to the "built-up areas" of about 68 villages, whose precise area was not included in the expropriation orders.

Israel Land administration Law - 1960

"The Government shall establish an "Israel Lands Administration" (hereinafter referred to as "the Administration") to administer Israel lands.

The Government shall appoint an "Israel Lands Council" which shall lay down the land policy in accordance with which the Administration shall act"

According to the law the government nominates members to the "Israel Land Administration Council" that, inter alia, determines the land policy in the state. The law allocates half of the council's seats to the government, and the other half to the JNF, thereby granting this discriminatory body a substantial role in formulating Israel's land policies.

According to Israel Lands Administration rules, residents of East Jerusalem cannot take ownership of the vast majority of Jerusalem homes. Article 19 of the ILA lease specifies that a foreign national cannot lease - much less own - ILA land.

If a foreign national purchases an apartment they must show the ILA proof of eligibility to immigrate to Israel in accordance with the Law of Return. Non-Jewish foreigners cannot purchase apartments. This group includes Palestinians from the east of the city, who have Israeli identity cards but are residents rather than citizens of Israel.

Basic Law: Israel Lands - 1960

Land under the control of the state, the JNF, and the Development Authority—cannot be transferred in any manner. However, the law allows transfer of land ownership between these three entities. The JNF leases land that it owns to Jews only.

"Admissions Committees Law" - 2011

Legalizes "Admission Committees" that operate in hundreds of small community towns built on state land in the Negev and Galilee. The law gives Admission Committees, bodies that select applicants for housing units and plots of

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land, almost full discretion to accept or reject individuals from living in these towns. The Committees include a representative from the Jewish Agency or the World Zionist Organization, quasi-governmental entities. The Committees, in practice, filter out Arab Palestinian applicants and others from marginalized groups by deeming them “unsuitable to the social life of the community... or the social and cultural fabric of the town,” based on the “special characteristics” of those community towns that have defined themselves as having a “Zionist vision”.

“Yesterday, Israel’s Supreme Court (HCJ) dismissed a petition by Adalah: The Legal Center for Arab Minority Rights in Israel effectually facilitating the Judaization of more Palestinian owned land inside Israel. According to Adalah, the court’s decision holding up Israel’s Admissions Committees Law, “entrenches racial segregation; 434 small communities in Israel, or 43% of all residential areas, will be allowed to close their doors to Palestinian Arab citizens of the state.” Much of the land in question was originally confiscated from Palestinian refugees, and the court’s decision will result in the continued concentration and containment of the Palestinian population in Israel”.
- Mondoweiss, September 18, 2014

Compare: Restrictive easements and exclusionary covenants in the United States that discriminate based on race are unenforceable. Enforcement by the courts is “state action” which violates the 14th Amendment. *Shelley v. Kraemer*, 334 U.S. 1 (1948) (argued by Thurgood Marshall).

"Nakba Law" - Amendment No. 40 to the Budgets Foundations Law - 2011

The “Nakba Law” authorizes the Finance Minister to reduce state funding or support to an institution if it holds an activity that rejects the existence of Israel as a “Jewish and democratic state” or commemorates “Israel’s Independence Day or the day on which the state was established as a day of mourning.”

Palestinians traditionally mark Israel’s official Independence Day as a national day of mourning and organize commemorative events. The law violates their rights, and restricts their freedom to express their opinion, and will cause substantial harm to cultural and educational institutions and further entrench discrimination. The law causes major harm to the principle of equality and the rights of Arab citizens to preserve their history and culture. The law deprives Arab citizens of their right to commemorate the Nabka, an integral part of their history.

Occupied Palestinian Territories

The Occupied Palestinian Territories are administered by Israel under military law, except for Jewish Israeli settlements which fall under Israeli civil law. Human Rights Watch examined this discriminatory system in depth in an analysis written in 2010. See, *Separate and Unequal, Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories* (Human Rights Watch, 2010)²⁴.

²⁴ http://www.hrw.org/sites/default/files/reports/iopt1210webwcover_0.pdf

**SUMMARY OF HUMAN RIGHTS POLICIES
ISRAEL 2014**

Freedom from Killing or Disappearance: Not legally protected for all. Violations alleged.

Freedom from Torture: Not legally protected for all. Violations alleged.

Right to Fair Public Trial and Due Process: Not legally protected for all. Violations alleged.

Freedom of Speech and Press: Not legally protected for all. Violations alleged.

Right to Change Government: Not legally protected for all. Violations alleged.

Freedom from Discrimination: Not legally protected for all. Violations alleged.

Minnesota Break the Bonds Campaign

