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Report of the Special Committee to Investigate Israeli
Practices Affecting the Human Rights of the Palestinian
People and Other Arabs of the Occupied Territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan

Report of the Secretary-General

Summary

The present report has been prepared by the Office of the United Nations High Commissioner for Human Rights, pursuant to General Assembly resolution 65/104, in which the Assembly requested the Secretary-General to report to the Assembly at its sixty-sixth session on the implementation of the resolution. The period covered by the report is September 2010 to July 2011. The report should be read in conjunction with the previous reports of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan (A/65/365, A/64/516 and A/63/519).

The report addresses the continuation of Israeli settlement construction in occupied Arab territories and its impact on the human rights of the residents, including violence by Israeli settlers against Palestinians and their property and the lack of accountability for settler violence.

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I. Introduction

1. In its resolution 65/104, the General Assembly expressed grave concern about the continuation by Israel, the occupying Power, of settlement activities in the Occupied Palestinian Territory, including East Jerusalem, in violation of international humanitarian law, relevant United Nations resolutions, agreements reached between the parties and obligations under the Quartet road map. The General Assembly also expressed its grave concern about the rising incidents of violence, harassment, provocation and incitement by armed Israeli settlers in the Occupied Palestinian Territory, including East Jerusalem, against Palestinian civilians, including children, and their properties. The General Assembly reaffirmed that settlements in the Occupied Palestinian Territory and in the occupied Syrian Golan are illegal and an obstacle to peace and economic and social development.
2. In the same resolution, the General Assembly called upon Israel to strictly comply with its obligations under international law, including international humanitarian law, with respect to the alteration of the character, status and demographic composition of the Occupied Palestinian Territory, including East Jerusalem. It reiterated its demand for the immediate and complete cessation of all Israeli settlement activities in all of the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan, and for the full implementation of all relevant resolutions of the Security Council. The General Assembly reiterated its call for the prevention of all acts of violence and harassment by Israeli settlers, especially against Palestinian civilians and their properties, and for the implementation of Security Council resolution 904 (1994), in which the Council called for measures to be taken to guarantee the safety and protection of the Palestinian civilians in the occupied territory.
3. The present report, as requested in resolution 65/104, addresses progress made in the implementation of the resolution. The report should be read in conjunction with the previous reports of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory and the occupied Syrian Golan (A/65/365, A/64/516 and A/63/519). The previous reports provided a historical background on the issue of Israeli settlements, as well as updates on settlement construction and highlighted emerging concerns, including the confiscation of land, the wall, the bypass and prohibited roads and checkpoints. Other relevant issues referred to in the resolution are also covered by the report of the Secretary-General on Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory pursuant to General Assembly resolution 65/105 (A/66/356), including the continued construction of the barrier and the situation of Bedouin communities.
4. The present report provides updated information regarding the expansion of Israeli settlements in the occupied territory. It seeks to underscore the discriminatory nature of the Israeli policy and practice of promoting settlements in the West Bank, including East Jerusalem. While illegal settlement expansion continues to take place in the West Bank, restrictions on Palestinian construction and the demolition of Palestinian homes have been on the rise. The report also addresses settlers' violent acts against Palestinians and their properties during the reporting period and the discriminatory treatment of Israeli settlers and Palestinians in law enforcement. The involvement of Israel Defense Forces in acts of violence, either through their participation or inaction to prevent the acts, is discussed as a growing concern. It is important to note that the present report is not an exhaustive overview of all instances of discrimination against Palestinians in the occupied territory and, rather, is limited to those involving settlements and settlers.

II. Legal background

5. The most relevant international humanitarian law standards concerning Israel's responsibilities in the occupied territory are set out in the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War and in the Hague Regulations, which are recognized as part of customary international law.¹ Article 49 of the Fourth Geneva Convention explicitly prohibits an occupying Power from transferring its civilian population into occupied territory. Israel's continued settlement activities flagrantly violate this provision, as confirmed by the International Court of Justice in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. A number of United Nations resolutions, including General Assembly resolution 65/104, have confirmed that conclusion. In addition to the construction of the settlements themselves, other settlement-related activities, such as the confiscation of land, destruction of houses and orchards, the construction of roads for Israeli settlers only and the exploitation of natural resources within the occupied territory and altering the character and status of the occupied territory, are also prohibited by international law.

6. In addition to those provisions of international humanitarian law, Israel has obligations under the international human rights treaties it has ratified, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. In its advisory opinion on the wall, the International Court of Justice affirmed that the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child were applicable in respect of acts carried out by Israel in the occupied territory.² Similarly, a number of United Nations human rights treaty bodies also reaffirm that as a party to international human rights instruments, Israel continues to bear responsibility for implementing its human rights obligations in the occupied territory.³

III. Discriminatory practices underlying Israeli settlement expansion and law enforcement in the West Bank

7. Israeli settlement policies and practices, namely construction of settlements, land confiscation, zoning and planning regime, forced evictions and demolitions, and the preferential treatment of settlers perpetrating violent acts against Palestinians, are discriminatory and violate Israel's international human rights obligations.⁴ Such policies cause tremendous hardship for Palestinians, while providing generous benefits and infrastructure for Israeli settlements. Such differential treatment lacks any security rationale and is solely based on national origin. In its consideration of Israel in July 2010, the Human Rights Committee concluded that Israel was in violation of articles 2 and 26 of the International Covenant on Civil and Political Rights, non-discrimination and equality before the law and equal protection of the law, in its treatment of the Palestinian population of the occupied territory, including the Bedouins. Specifically, the Committee concluded that Israel's policy and practice of demolition, zoning and planning (particularly in Area C and East Jerusalem), access to water and sanitation for Palestinians, and forced eviction of the Bedouin population are discriminatory.⁵

A. Expansion of settlements and restrictions on Palestinian construction

8. Despite the repeated calls from the international community and the illegality of settlements, the State of Israel is continuing to expand settlements in the Occupied Palestinian Territory, including East Jerusalem, in violation of its international legal obligations. The expansion of Israeli settlements throughout the West Bank is associated with a complex system of policies that negatively affect the rights of Palestinians. Severe restrictions in place specifically target Palestinian construction and, in addition to the perpetuation of violations, are blatantly discriminatory.

9. During the reporting period, settlements in the Occupied Palestinian Territory, including East Jerusalem, continued to expand. The most recent figures available indicate that 296,586 Israeli settlers live in the West Bank, not including those in East Jerusalem, in at least 123 settlements and approximately 100 "outposts"⁶ scattered throughout the West Bank.⁷ In East Jerusalem, 50,000 residential units in at least 12 Israeli settlements are occupied by almost 192,000 Israeli settlers.⁸ That brings the total number of settlers living in Israeli settlements in the Occupied Palestinian Territory to nearly half a million. Immediately after the end of the 10-month partial moratorium on settlement construction in September 2010, Israeli settlement activities resumed in the West Bank.⁹ That included approval and construction of hundreds of new housing units in various settlements as well as confiscation and clearing of Palestinian-owned land in preparation for settlement expansion.¹⁰ An interim report published by the Israeli non-governmental organization Peace Now in May 2011 indicated that, immediately after the end of the partial moratorium, Israeli settlers started the construction of 2,000 previously approved housing units in 75 different settlements and "outposts", one third of them in settlements east of the barrier. Meanwhile, the Israeli Government approved the planning and marketing of at least 800 new units in 13 settlements.¹¹ Peace Now has also documented a dramatic increase in the number of new illegal buildings in the settlements since the end of the partial moratorium. In most cases the construction is proceeding according to plans that were never approved by the Israeli Minister of Defense. At least 507 unapproved housing units are currently being built in 29 settlements (9 of which are "outposts", where there are 35 unapproved structures under construction).¹² In July 2011, Israel revealed plans for construction of 900 new housing units in East Jerusalem.¹³ The Israeli Government continued to promote settlement expansion through a variety of benefits and incentives offered to settlers in spheres of construction, housing, education, industry, agriculture and tourism. Recent public statements by senior Israeli officials are indicative of the Government's intention to continue expanding settlements in the West Bank, including East Jerusalem.¹⁴

B. House demolitions and discriminatory planning and enforcement policies in the West Bank

10. While Israeli settlements expand, Israel has continued to impose restrictions on land allocation and planning for Palestinian construction. Israel's discriminatory planning restrictions result in the lack of building permits for the Palestinian population in the West Bank forcing them to build without permits and live under the constant threat of eviction and demolition.

The Human Rights Committee, in its consideration of Israel, concluded that the planning systems in the West Bank, particularly in Area C and in East Jerusalem, are discriminatory and that they disproportionately favour the Israeli population of those areas.¹⁵

11. There was a sharp increase during the reporting period in demolition of Palestinian structures by Israeli authorities.¹⁶ Between August 2010 and June 2011, the Israeli authorities demolished 149 residences in Area C of the West Bank, displacing 820 people, including 374 children. Another 23 residences were demolished in East Jerusalem during the same period, displacing 117 persons, including 64 children. Estimates indicate that at least 2,000 Palestinian homes have been demolished since 1967.¹⁷ Demolitions are exercised mostly against Palestinian structures. Moreover, in many cases, demolitions of Palestinian homes are frequently linked to settlement expansion. Office for the Coordination of Humanitarian Affairs-Occupied Palestinian Territory reports that settlement developments in the Jordan Valley accounted for half of the structures demolished through June 2011.¹⁸

12. Israel's discriminatory planning policy has severely and negatively impacted the development and growth of Palestinian towns and villages in the West Bank. In addition, as a result of discriminatory enforcement practices, house demolitions exercised exclusively against Palestinians have displaced thousands of families, while neglecting to enforce the planning laws on Israeli settlers.

1. East Jerusalem

13. Since 1967 and the occupation of East Jerusalem, more than one third of East Jerusalem has been expropriated for the construction of Israeli settlements. Israeli authorities have since planned and zoned only 13 per cent of East Jerusalem — most of which is already built up — for Palestinian construction. Even in those areas, Palestinians need to go through a complicated and costly process to obtain an Israeli building permit. The remainder of East Jerusalem has been designated as a “green area”, where construction is not allowed, or has been designated for public infrastructure or has not yet been zoned, meaning that Palestinians are not able build on it.¹⁹

14. A myriad of requirements needs to be fulfilled before a building permit is granted to Palestinians in East Jerusalem. They include the availability of an approved plan of the area and the existence of adequate private infrastructure, the responsibility for which lies with the Israeli municipal authorities. While the requirements are similar for construction in West Jerusalem, underinvestment by the Jerusalem Municipality in public infrastructure and the inequitable allocation of budgetary resources in East Jerusalem make obtaining a building permit virtually impossible for Palestinians wishing to build on land they own.²⁰ With respect to the provision of services and infrastructure by the Jerusalem Municipality to the Palestinian population, non-governmental organizations describe a blatant neglect of services and infrastructure, deficient sanitation services and dilapidated sewage and drainage infrastructures²⁰ hindering any prospects for meeting the Israeli set criteria to grant building permits. For instance, despite being entitled to the same services as Israeli citizens, at least 160,000 out of the 300,000 Palestinian residents of East Jerusalem are not connected to the municipal water supply.²⁰

15. The application cost for building permits is prohibitive for many Palestinians, and the process can take several years with no guarantee that a permit will be granted. The Jerusalem Municipality explained to the Office for the Coordination of Humanitarian Affairs that between 2003 and 2007 between 100 and 150 permits were granted each year allowing for the construction of 400 housing units per year. During 2006 and 2010 the trend remained the same. Only 55 per cent of permits were approved, providing for an average of about 400 housing units per year.²¹ However, the growth of the Palestinian population of Jerusalem requires the construction of 1,500 units each year.²²

16. The above factors result in a situation where Palestinians are forced to build without official permits and subsequently face the risk of demolition, heavy financial fines and displacement.²³ The Office for the Coordination of Humanitarian Affairs estimates that 32 per cent of Palestinian homes in East Jerusalem were built without the required Israeli permit, putting at least 86,500 Palestinians at risk of displacement, should the Israeli authorities decide to demolish all “illegal” structures.²⁴ Official figures suggest that the majority of illegal construction is carried out in Israeli neighbourhoods (80 per cent) rather than in the Palestinian neighbourhoods of Jerusalem (20 per cent). Yet, the percentage of enforcement action is reversed, with the Israeli authorities taking action against the Palestinian “violations” in 92 per cent of the cases and against only 20 per cent of the violations in Israeli neighbourhoods.²⁵

17. When the Jerusalem Municipality notices unauthorized construction, the owner must pay steep fines and still risk the demolition of the home. In a case documented by UNRWA, a Palestinian refugee was forced to demolish his own house at the end of a long battle with the Israeli legal system. Since completing construction of his house in 1999, Mahmoud Aramin had been heavily fined and twice sentenced to community service because he lacked the required Israeli building permits, which he had unsuccessfully sought to obtain. In February 2011, after months of having to pay heavy fines to the Jerusalem Municipality, an Israeli court warned Mahmoud Aramin that if he did not demolish the house himself, the Jerusalem Municipality would carry out the demolition, in which case Mahmoud Aramin would not only have to pay an exorbitant fine but would also have to cover the costs incurred by the Municipality for undertaking the demolition. Mahmoud Aramin consequently demolished his house on 28 May 2011, thereby displacing his brother, who resided in the house, the brother's wife and their daughter. The forced demolition came just days after the Israeli authorities authorized the construction of a 50-unit Jewish settlement in the Ras al-Amoud neighbourhood of East Jerusalem, near the home of Mahmoud Aramin.

18. Plans of the Israeli municipality of Jerusalem for the demolition of Palestinian structures in East Jerusalem demonstrate the link between the policy of demolition and that of settlement expansion in the city. Not only do policies and practices of zoning and planning make it virtually impossible for Palestinians to build to meet the natural growth of their communities, contrary to what is accorded to Israeli settler communities,²⁶ but demolition of Palestinian structures built without permits is at times followed by building new or expanding existing Israeli settlements. In a recent example, the historical Shepherd Hotel in Sheikh Jarrah was demolished in January 2011 to make way for the construction of a new Israeli settlement.²⁷ In Silwan, nearly 1,000 Palestinians are at risk of being displaced due to Municipality's plans for demolition of their homes, which were built without Israeli permits, to make way for a “biblical park”.²⁸

2. Area C

19. The Government of Israel applies a zoning regime in Area C, comprising 60 per cent of the West Bank, which further benefits the establishment and growth of settlements while denying the natural growth and development of Palestinian communities. It effectively prohibits Palestinian construction in some 70 per cent of Area C, approximately 44 per cent of the West Bank, allocated for the use of Israeli settlements or the Israeli military.²⁹ In the remaining 30 per cent a range of restrictions make it virtually impossible for Palestinians to obtain a building permit for any building of homes or infrastructure like water pipes or electrical lines. In practice, Israeli authorities allow Palestinians to build only within the boundaries of a plan approved by the Israeli Civil Administration, which covers less than 1 per cent of Area C, much of which is already built up. As a result, Palestinians are forced to build without Israeli building permits, risking the demolition of their structures and subsequent displacement. From 1998 to 2009, approximately 2,450 Palestinian structures in Area C were demolished by the Israeli authorities for lack of building permits.³⁰ In addition to zoning and demolitions, Israeli authorities have practically prohibited Palestinians from having any access to the Jordan River through drilling wells to service settlements that have dried up Palestinians' water sources, cutting Palestinian water lines, and confiscating Palestinian water tankers, tractors, sheep, and other property.³¹ During the period from August 2010 through June 2011, the Office for the Coordination of Humanitarian Affairs recorded that the Israeli authorities demolished 149 Palestinian residences in Area C of the West Bank, displacing 820 people, including 374 children. The Office for the Coordination of Humanitarian Affairs also reports a marked increase in the demolition of Palestinian structures.³² In the first half of 2011, 342 Palestinian-owned structures, including 125 residential structures and 20 rainwater collection cisterns, were demolished by the Israeli authorities. A total of 656 people, including 351 children, lost their homes in the first half of 2011, almost five times more than within the same period last year. One third of these people were displaced in June 2011 alone. Over 3,000 demolition orders are outstanding, including 18 targeting schools.³² Most demolitions in 2011 affected livelihood structures, negatively affecting the sources of income and living standards of some 1,300 people.³² Many communities in Area C have suffered multiple waves of demolitions.³²

20. While Israeli authorities have heavily restricted Palestinian construction in Area C, they have established preferential practices for Israeli settlements and “outposts”. Although they have failed to sufficiently plan for Palestinian villages in Area C, they have approved detailed plans for almost all Israeli settlements located in the West Bank.³³ The planned expansion area of about 135 Israeli settlements in Area C is nine times larger than their built-up area.³⁴ Moreover, while Israeli authorities act assertively against Palestinian violators of the planning system, they fail to take action against unapproved construction in settlements. According to the Israeli State Comptroller, more than 2,100 cases of unapproved construction in the settlements were brought to the attention of authorities and no action was taken in 77 to 92 per cent of the cases.³⁵ While the Israeli authorities have not allowed Palestinian communities to participate in the preparation of plans, the approval process or the issuance of building permits,³⁶ Israeli settlers participate fully in planning and zoning activities and are generally

responsible for enforcement activities within settlement areas.³⁷ Further, settlers in Area C receive significant state support.³⁸

C. Settler violence and discrimination in law enforcement in the West Bank

21. Acts of violence perpetrated by Israeli settlers against Palestinians and their properties continue to threaten the livelihood and security of Palestinians in the West Bank, including East Jerusalem. Many of these incidents have been overtly violent acts targeting Palestinian individuals and communities with live ammunition, destruction and denial of access to property, physical assault and the throwing of stones. Some incidents have led to the killing and injury of Palestinians. The incidents in most cases appear to aim at intimidating the Palestinian population and asserting “settler dominance” over specific geographic locations.³⁹ Many incidents of settler violence occur as part of the so-called “price tag” strategy, whereby Israeli settlers attack Palestinians and Israeli security forces in response to Israeli authorities’ attempts to evacuate settlement “outposts”. From September 2010 to May 2011, 5 deaths (including three children) and more than 270 cases of injury of Palestinians by Israeli settlers were recorded.⁴⁰

22. As reported in the Secretary-General’s previous report, lack of accountability for Israeli settlers persists. In 1981, an Israeli government committee headed by then Deputy Attorney General Yehudit Karp was appointed by the Attorney-General to look into law enforcement in the West Bank, in particular to examine the investigation of offences committed by Israeli civilians against Palestinians. The committee’s report (Karp Report) highlighted serious concerns with law enforcement against Israeli civilians in the West Bank. First, the police launched investigations only where a complaint was filed — although, as the report noted, Palestinians often refrain from filing a complaint owing to concern for their safety or for lack of confidence in the Israeli law enforcement system. The closure of investigation on the grounds of “perpetrator unknown” — which applied to 50 per cent of the cases examined — was “exceptional and unreasonable”. The report noted a direct link between inadequate investigations and the high number of cases closed and marked “perpetrator unknown”. Of the investigations examined, only 20 per cent led to the transfer of the file to the prosecution with recommendations that suspects be indicted.⁴¹ Two subsequent Israeli government-mandated reports, in 1994 and 2005, noted the continuing failure of the Israeli law enforcement system to reform based on the recommendations of the Karp report. The 1994 report confirmed that there had been no real improvement in the situation since the Karp report.⁴² In 2005, Advocate Talia Sasson, commissioned by the Israeli Prime Minister to look into Israeli “outposts” in the West Bank, also concluded that Israel Defense Forces soldiers were ignorant of their law enforcement responsibilities in the West Bank, and noted that “the attitude towards law breaking settlers is mostly forgiving”.⁴³ Non-governmental organizations support the conclusions of these reports.⁴⁴

23. During the reporting period for the present report, impunity for settlers perpetrating violent attacks continued. The Israel Defense Forces not only failed to protect Palestinians, there are documented instances of their direct involvement in violence perpetrated against Palestinians. The following cases monitored by OHCHR are illustrative of the violence that Palestinians suffer at the hands of Israeli settlers in the West Bank.

24. On 7 March 2011, a group of at least 12 settlers from the “outpost” of Esh Kodesh in the northern West Bank attacked Palestinians from the adjacent village of Qusra. Three of the settlers were armed with a handgun and two rifles while the rest were carrying baseball bats and metal bars. One of the settlers had a dog. The settlers hurled stones at the Palestinians and fired guns in the air, before physically assaulting the Palestinians. Israel Defense Forces soldiers reached the scene 30 to 45 minutes later, but the Israel Defense Forces personnel acted only in support of the settlers. Ten Palestinians were injured, including five by live ammunition. One of the Palestinians injured with live ammunition stated that he was shot in his left wrist by a settler, while he was being chased by a group of at least four settlers who were shooting at him. Another victim was shot in the leg from a distance of some 30 metres by an Israel Defense Forces soldier. Once on the ground he was shot again from close range in the other leg by the same Israel Defense Forces soldier. While trying to flee, the victim was hit in the leg and kicked in the face by a settler with a wooden stick, in the presence of the Israel Defense Forces soldier who had just shot him. Another Palestinian was hit in the head by an Israel Defense Forces soldier with the butt of his rifle. Once the victim fell on the ground, a settler and the Israel Defense Forces soldier started kicking him, injuring at least one costal cartilage according to his medical report. Ten days after the incident, bruises remained clearly visible on the victim’s face, chest and upper body. All the witnesses described the group of settlers and Israel Defense Forces soldiers as one group advancing in the same line towards the Palestinians. According to one of the witnesses, settlers were initially shooting in the air and only started shooting at the Palestinians once the Israel Defense Forces arrived. The Israel Defense Forces soldiers fired tear gas canisters towards the Palestinians, rubber bullets, injuring one Palestinian, and then live ammunition. All victims and witnesses concurred that all live ammunition injuries occurred after the arrival of the Israel Defense Forces. No arrests were made by the Israeli police and the Palestinians were told to file a complaint at the police station in the settlement of Binyamin. Most of the victims of this attack spent two weeks in the hospital and require close medical attention.

25. In another case, on 13 January 2011, a Palestinian farmer was working his land southeast of Qusra in the north of the West Bank when a group of 40 to 50 Israeli settlers appeared and moved towards him shouting. Some of the settlers were armed and fired in the air. A group of younger settlers walked closer to the farmer and started throwing stones at him injuring him in the head. Palestinians were also gathering after hearing the gunfire. Shortly after, Israel Defense Forces soldiers and Israeli police arrived at the scene and forced the settlers to walk back in the direction of Shilo settlement. The soldiers also fired warning shots in the air to disperse the Palestinians, as well as several tear gas canisters and finally used their batons against some Palestinians to force them to leave their own land.

26. On 27 January 2011, an 18-year-old Palestinian grazing his goats on his land was shot dead at point blank range by a settler on Palestinian land south of the village of Iraq Burin.⁴⁵ Footage of the killing captured by a security camera appeared in various media.⁴⁶ On 15 February 2011, an 18-year-old Palestinian from the village of Jalud south of Nablus, which is surrounded by six Israeli settlements and “outposts”, was shot in his stomach with live ammunition by one of three settlers from a distance of about 40 metres. The settlers then fled towards Kida settlement. Because of the frequent attacks by Israeli settlers against Palestinians from this village, Palestinians usually work their lands only after coordinating with the Israel Defense Forces, which is often neither efficient (since it is cumbersome and time-consuming) nor successful (the permission to access land is often refused).

27. Settlers also attack and destroy Palestinian property, including homes, schools, cars and olive trees — vital to the livelihood of Palestinian agricultural communities. On 10 October 2010, 55 olive trees belonging to a Palestinian farmer west of Hawwara village were chopped down. In the early morning of 27 January 2011, a Palestinian from the village of Einabus south of Nablus realized that his car, which was parked outside, was on fire. The man called the Palestinian Authority Liaison Officer District Coordination Office. About an hour later Israel Defense Forces troops and Israeli police arrived and started inspecting the scene. They took note of the car set on fire, barbed wire torn apart and Hebrew graffiti reading “the holy man organization, you just paid the bill” in what is commonly known as a “price-tag” attack. While being interviewed by the police, the Palestinian saw two of the Israel Defense Forces soldiers seemingly attempting to destroy evidence of the crime by erasing the writings on the outer walls of his house. In another incident, on 26 February 2011, settlers from the “outpost” of Givat Aroseh broke into a Palestinian property in Burin village, set the landlord’s vehicle on fire, stoned the house and fled. In 2010, the Palestinian family residing in the property was victim to 10 similar incidents. The family had filed a complaint after each incident, but as of the finalization of the present report, it had not received any information regarding the results of any investigation.

28. During this reporting period, there was an increase in the number of incidents of settler violence against mosques. In October 2010, a group of Israeli settlers broke into a mosque in Beit Fajjar, in the south of the West Bank and set it ablaze. On 3 May 2011, another group of Israeli settlers broke into a neighbourhood in Huwwara town and burned part of Huwwara secondary school used for prayers by Palestinians residing in that neighbourhood. During the night of 6 June 2011, a third Palestinian mosque in Al Mughayyir village in the centre of the West Bank was set on fire by Israeli settlers.

29. Some of the victims of Israeli settler violence contemplate filing complaints with the Israeli police, which is responsible for investigating such incidents. To do so, however, they must enter a settlement, as most Israeli police stations are located inside settlements, thus making access difficult for Palestinians. Owing to the trauma many sustain as a result of violent attacks by settlers, entering the settlements can be an intimidating experience. Palestinians also need special permits to enter settlements because of authorities’ restrictions on Palestinian movement.⁴⁷ Those who do make it inside and file a complaint are still not certain that their complaint will result in an investigation. In many cases followed by OHCHR, Palestinians preferred to report the case to the Palestinian Liaison Officer District Coordination Office. Depending on the gravity of the case, the Palestinian District Coordination Office might report the case to his Israeli counterparts. However, such reporting is not based on any formal agreement between the Israel Defense Forces and the Palestinian District Coordination Office, and is therefore not done on a systematic basis. Moreover, follow-up of complaints remains inadequate. Yesh Din, an Israeli non-governmental organization, noted, based on its monitoring of hundreds of investigations, that police rarely collect evidence from the crime scene, attempt to verify alibi claims or conduct live lineups.⁴⁸ In February 2011, Yesh Din found that 90 per cent of investigations in cases of settler violence monitored by the organization were closed on the following grounds: “offender unknown” and “lack of evidence”, which raises doubts about the methods and procedures used by Israeli investigators.⁴⁹

30. According to a letter sent to Yesh Din by an Israel Defense Forces spokesperson, responsibility for law enforcement in the West Bank is divided between the Israel Defense Forces and the Israeli police.⁵⁰ In incidents where advance information of a possible incident is available, law enforcement responsibility lies with the police and the Israel Defense Forces will only assist in securing the area. In cases where information is not available, the Israel Defense Forces will carry out law enforcement pending the arrival of the Israeli police. The response added that “in the absence of police presence, soldiers of the Israel Defense Forces are responsible, yet they must, to the extent that it is possible, refrain from entering the scene and must disperse all parties present in order to preserve the evidence intact until the police arrive (...) if necessary, Israel Defense Forces forces are authorized, as well as obligated, to detain and even arrest those suspected of criminal activity”.⁵¹ In many cases monitored, both the Israel Defense Forces and the police have failed in their duty to protect the Palestinians in the West Bank. In particular, the involvement of the Israel Defense Forces in supporting settler attacks against Palestinians is a grave concern and brings into question the understanding

31. The problem of discrimination is most apparent in the markedly different justice systems to which Palestinians and settlers are subjected. When violence is committed or is suspected to have been committed by Palestinians against Israeli settlers in the West Bank, the Israeli authorities often mobilize vast resources to apprehend the perpetrator. Large-scale arrest and detention campaigns are often carried out by the Israel Defense Forces throughout the West Bank, and the Israeli police and Border Police in specific neighbourhoods of East Jerusalem. Curfews on Palestinian towns and villages are also often imposed.⁵³ The Office for the Coordination of Humanitarian Affairs reports that between September 2010 and June 2011, Israeli forces carried out 3,791 search-and-arrest operations during which 2,760 Palestinians were arrested.⁵⁴ Most of those arrested will be tried through the Israeli military justice system, contrary to Israeli civilians who, when arrested, are tried by civilian courts. Israeli civil courts provide more protections to the defendants in a number of areas, including the right to see a lawyer, the length of detention before being brought before a judge and the maximum penalty allowed.⁵⁵ Settlers are de facto given impunity for violent acts against Palestinians and their property in the occupied West Bank while substantial resources are devoted to the prosecution of Palestinians accused of engaging in violence against settlers. The result of the situation is an overtly discriminatory system against Palestinians, both in law and in practice.

32. An illustrative case followed by the OHCHR shows the steps taken by the Israeli authorities in situations where attacks against settlers in the West Bank occur. Following the killing of five Israeli settlers, including three children, from Itamar settlement in the West Bank on 11 March, residents of the adjacent Palestinian village of Awarta were awoken in the early hours of the following day by the Israel Defense Forces, declaring that a curfew was imposed on the entire village. During the four-day curfew, residents of Awarta were not allowed to leave their homes. All males between 15 and 40 years of age were detained in the village's school, and fingerprints were collected from most males. Houses were occupied by Israel Defense Forces soldiers and used as watchtowers. Between 8 and 10 houses were turned into temporary places of detention. House-to-house searches took place and resulted in damages to private property.⁵⁶ More than 50 persons were arrested during the four-day operation.⁵⁷

33. In East Jerusalem, the Israeli authorities allocate considerable financial resources to the protection of the Israeli settlers currently living in "outposts" throughout East Jerusalem. Around-the-clock armed private security guards protect, escort and transport Israeli settlers. Available estimates indicate that security arrangements cost 54 million Israeli New Shekels in 2010 and more than 70 million in 2011.⁵⁸

IV. Settlements in the occupied Syrian Golan

34. Since the occupation of the Syrian Golan in 1967 and its purported annexation in 1981 by the passing of the Golan Heights Law, the Government of Israel has continued its settlement expansion, despite renewed resolutions calling upon Israel to refrain from doing so.⁵⁹ The estimated Israeli population in the occupied Syrian Golan is about 19,000, with some 6,400 living in the town of Katzrin and the rest dispersed among 32 small settlements throughout the Golan Heights.⁶⁰ Settlement activity, including expropriation of resources for the exclusive use of settlers in the occupied Syrian Golan is ongoing. During the reporting period, a new campaign to encourage additional Israeli settlement in the occupied Syrian Golan began, aiming to recruit 140 new families during 2011.⁶¹ Meanwhile, the Syrian population of Golan continues to be banned from visiting family members in the Syrian Arab Republic.⁶² It is estimated that the number of Israeli settlers in the Occupied Golan will increase by 15,000 by 2012, doubling the population of the indigenous Syrians.⁶²

V. Recommendations

35. The Government of Israel should bring its policies and practices into compliance with its international legal obligations and its commitments in the Road Map, as well as the repeated calls of the international community to immediately cease the transfer of its civilian population into occupied territory and to completely freeze all settlement activities in the West Bank, including in East Jerusalem, and to immediately dismantle all "outposts".

36. The Government of Israel should end its discriminatory policies and practices against Palestinians, in particular those that violate Palestinians' right to adequate housing. Non-discriminatory planning policies that take account of natural growth of Palestinians should be developed and implemented as a matter of urgency. The current situations in Area C and East Jerusalem merit priority action by the Government in this regard.

37. The Government of Israel should take all necessary measures to prevent attacks by Israeli settlers against Palestinian civilians and their property in the West Bank, including East Jerusalem. In this respect, there is an urgent need for a comprehensive training programme for Israel Defense Forces and other Israeli security forces deployed in the West Bank on applicable international legal standards. The Government of Israel may consider requesting technical cooperation from the Office of the United Nations High Commissioner for Human Rights to design and deliver such a training programme.

38. The Government of Israel should ensure that all serious allegations concerning criminal acts committed by settlers or the Israel Defense Forces are subject to independent, impartial, effective, thorough and prompt investigations, in accordance with international standards.

39. The Government of Israel should ensure that, in line with its international legal obligations, all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In particular, it should ensure that all judicial guarantees and procedural safeguards, including fair trial and due process, are guaranteed for all.

40. The General Assembly and the international community should more actively seek the implementation of their decisions, resolutions and recommendations, as well as those of the Security Council, the International Court of Justice and the United Nations human rights mechanisms, including treaty bodies and special procedure mandate holders, in relation to the situation of human rights and international humanitarian law in the Occupied Palestinian Territory.

Notes

¹In its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory of 2004* (see A/ES-10/273 and Corr.1), the International Court of Justice concluded that the Fourth Geneva Convention was applicable in the Palestinian territories which before the 1967 conflict, lay to the east of the Green Line and which, during that conflict, were occupied by Israel. Since then a significant number of the United Nations resolutions have reaffirmed the applicability of the Fourth Geneva Convention, the most recent being Human Rights Council resolutions S-9/1, 10/18 and 13/7 and General Assembly resolutions 63/96, 63/97, 63/201, 64/93 and 65/103. In its advisory opinion, the Court recalled that while Israel was not a party to the Hague Convention Respecting the Laws and Customs of War on Land of 18 October 1907 (Convention IV), to which the Hague Regulations are annexed, the provisions of the Hague Regulations had become part of customary international law.

²See A/ES-10/273 and Corr.1, paras. 102-113.

³An examination of the concluding observations of different United Nations treaty bodies confirms this view. See CCPR/C/ISR/CO/3, para. 5; CERD/C/ISR/CO/13, para. 32; CRC/C/15/Add.195; CAT/C/ISR/CO/4, para. 11.

⁴See International Covenant on Civil and Political Rights, arts. 2 (1) and 26; International Covenant on Economic, Social and Cultural Rights, arts. 2 (2) and 3; International Convention on the Elimination of All Forms of Racial Discrimination, arts. 1 (1), 2 (1), 3 and 5; Convention on the Rights of the Child, arts. 2 and 30.

⁵CCPR/C/ISR/CO/3.

⁶The term "outpost" refers to Israeli settlements that have not been authorized by Israeli authorities. Notwithstanding their status under Israeli law, it should be noted that all Israeli settlements in the Occupied Palestinian Territory are contrary to international law.

⁷Peace Now, *West Bank and Jerusalem Map*, "The Settlements: the Biggest Threat to a Two-State Solution", January 2011, available from <http://peacenow.org.il/eng/content/west-bank-and-jerusalemmap> 2011.

⁸Ibid.

⁹The moratorium did not apply to those settlements for which permits had already been issued and whose foundations had been laid as well as certain public buildings. Settlements in East Jerusalem, 2,500 apartments already under construction, and 455 housing units whose construction was authorized in September 2009 remained unaffected by the moratorium (see A/65/365).

¹⁰On 30 June 2011, the Office for the Coordination of Humanitarian Affairs reported that the Israeli forces handed over an order for declaring 189 dunums as State land in the village of Qaryut (Nablus). The order gives the opportunity for objection during 45 days of distributing the order. According to the village council, about 30 farmers own the land (see Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Protection of Civilians Weekly Report", 29 June-5 July 2011, available from www.ochaopt.org/documents/ocha_opt_protection_of_civilians_weekly_report_2011_07_08_english.pdf). For a detailed description of the process through which land is confiscated, see report by B'Tselem, *Land Grab: Israel's Settlement Policy in the West Bank* (May 2002), available from www.btselem.org/download/200205_land_grab_eng.pdf (chapter III). See also B'Tselem, "Yovel Outpost: Israel retroactively approves theft of private land" (14 July 2011), available from www.btselem.org/topic-page/14-july-11-yovel-outpost-israel-retroactively-approves-theft-private-land.

¹¹Peace Now, "Interim Report: Settlement Activity since the End of the Moratorium" (20 May 2011), available from <http://peacenow.org.il/eng/content/interim-report-settlement-activity-end-moratorium-0>.

¹²Ibid.

¹³*The Palestine Telegraph*, "Israel to construct 900 housing units in Jerusalem" (5 July 2011), available from www.paltelegraph.com/palestine/west-bank/9559-israel-to-construct-900-housing-units-in-jerusalem.html.

¹⁴See e.g., "Lieberman rules out settlement freeze, 'even for three hours'", *Haaretz*, 10 May 2011, available at <http://www.haaretz.com/news/diplomacy-defense/France-24-Israeli-Defence-Minister-Ehud-Barak-Talks-to-FRANCE-24>, 17 June 2011, available from www.france24.com/en/20110617-ehud-barak-talks-france-24-annette-young-israel-palestinians-settlements-peace-process; see also Peace Now, "Interim Report: Settlement Activity Since the End of the Moratorium" (see footnote 11); *Ynet news*, "PM to victims' family: They murder, we build", 13 March 2011, available at <http://www.ynetnews.com/articles/0,7340,L-4041757,00.html>.

¹⁵CCPR/C/ISR/CO/3, para. 17.

¹⁶B'Tselem, "Planning and building: Israel demolishes dozens of Palestinian homes in Jordan Valley and southern Hebron Hills", 21 June 2011, available at <http://www.btselem.org/topic-page/21611-israel-demolishes-dozens-palestinian-homes-jordan-valley-and-southern-hebron-hills>.

¹⁷International Peace and Cooperation Centre, 2007, Jerusalem Strategic Planning Series — *Jerusalem on the Map III*.

¹⁸Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *The Monthly Humanitarian Monitor*, June 2011, available from www.ochaopt.org/documents/ocha_opt_the_monthly_humanitarian_monitor_2011_07_20_english.pdf.

B'Tselem reports that by the end of 2010, the Israeli Government had approved funding for the construction of dozens of housing units in two settlements in the northern Jordan Valley close to the sites of three demolitions in 2011 (Ein al-Hilwa, Hammat al-Maleh al-Maiteh and al-Farisiya). B'Tselem *Dispossession and Exploitation: Israel's Policy in the Jordan Valley and Northern Dead Sea* (May 2011).

¹⁹Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *East Jerusalem: Key Humanitarian Concerns* (Special Focus: March 2011).

²⁰The Association for Civil Rights in Israel, *Facts and Figures about East Jerusalem* available from www.acri.org.il/en/?p=500.

²¹Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, see footnote 17. It is important to note that the application fee is the same for Palestinians and Israelis in Jerusalem. However, Palestinian construction is generally small-scale, carried out by an individual or a small group of families, with limited resources, rather than the larger-scale housing projects typical of West Jerusalem or of Israeli settlements in East Jerusalem. As a result, there are fewer people to share the permit costs. Furthermore, because of the manner in which fees are structured, applications for permits for smaller buildings (typical of East Jerusalem) have higher per square-metre fees than larger buildings.

²²Ir Amim, *A Layman's Guide to Home Demolitions in East Jerusalem*, March 2009, p. 4, available from [www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/HomeDemolitionGuideEng\(1\).doc](http://www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/HomeDemolitionGuideEng(1).doc).

²³See footnote 19 (explaining in detail the phenomenon of illegal construction). See also *A Layman's Guide*.

²⁴See *East Jerusalem: Key Humanitarian Concerns*, p. 36 (explaining that the figure is conservative and the percentage could be as high as 48 per cent, with 130,000 potentially at risk of displacement).

²⁵Americans for Peace Now, *Settlements in Focus*, March 2006, available from <http://peacenow.org/entries/archive2292>.

²⁶The Jerusalem Municipality master plan known as "Local Outline Plan 2000" — although not formally adopted, is in force de facto in Jerusalem — further allows limited housing opportunities for Palestinian residents yet adding 5,000 dunums (or 5 km²) for the expansion of Israeli settlements (see *Settlements in Focus*).

²⁷Ir Amim, "Israeli settlement slated to replace the Shepherd Hotel can still be thwarted", available at: <http://www.ir-amim.org.il/Eng/Uploads/dbsAttachedFiles/news.htm>.

²⁸*East Jerusalem: Key Humanitarian Concerns*.

²⁹Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank" (Special Focus: December 2009) available from www.ochaopt.org/documents/special_focus_area_c_demolitions_december_2009.pdf. See also Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "'Lack of Permit' Demolitions and Resultant Displacement in Area C" (Special Focus: May 2008) available from www.ochaopt.org/documents/Demolitions_in_Area_C_May_2008_English.pdf.

³⁰Information released by the Israeli State Attorney's Office in December 2009 and reported by Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory in *Restricting Space*.

³¹Human Rights Watch, "Separate and Unequal", www.hrw.org/reports/2010/12/19/separate-and-unequal.

³²Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, Humanitarian Factsheet on Area C of the West Bank, July 2011, see http://ochaopt.org/documents/ocha_opt_Area_C_Fact_Sheet_July_2011.pdf.

³³Office for the Coordination of Humanitarian Affairs, "Khirbet Tana: Large-scale demolitions for the third time in just over a year" (February 2011); available at www.ochaopt.org/documents/ocha_opt_Khirbet_tana_fact_sheet_20110210.english.pdf.

³⁴Humanitarian Factsheet on Area C of the West Bank.

³⁵See B'Tselem, *By Hook and by Crook: Israeli Settlement Policy in the West Bank*, July 2010, available at http://btselem.org/publications/summaries/201007_by_hook_and_by_crook.

³⁶Planning and construction in Area C is governed by the 1966 Jordanian Planning Law, as modified by an Israeli military order signed in 1971, Order Concerning Towns, Villages and Buildings Planning Law (Judea and Samaria) (No. 418). The military order nullified a number of provisions that allowed for community participation in the planning and zoning process. For example, under the 1966 Jordanian Law, Local Planning Committees had authority for planning over specific areas, prepared outline and detailed plans, and issued building permits in accordance with approved plans. Israeli military orders, however, annulled these committees for Palestinian villages. These functions are now performed by the Israeli Civil Administration's Local Planning and Licensing Sub-Committee, with no Palestinian representation.

³⁷Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Restricting Space".

³⁸For example in December 2009 the Israeli Knesset approved adding settlements in the Jordan Valley to a list of "national priority" communities that would receive, on average, \$260 per person in subsidies for education, employment and culture. It is noted that the Jordan Valley comprises almost half of Area C. See also Human Rights Watch, "Separate and unequal", December 2010.

³⁹Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Unprotected: Israeli settler violence against Palestinian civilians and their property" (Special Focus: December 2008), p. 2. Available at: www.ochaopt.org/documents/ocha_opt_settler_violence_special_focus_2008_12_18.pdf.

⁴⁰Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, "Protection of Civilians: Casualties Database". Available from www.ochaopt.org/poc.aspx?id=1010002.

⁴¹Yesh Din, *A Semblance of Law: Law Enforcement upon Israeli Civilians in the West Bank*, June 2006, p. 31. Available from www.ochaopt.org/documents/opt_prot_veshdin_sembance_law_june_2006.pdf.

⁴²Report of the Shamgar Commission, established in 1994 following the massacre of 29 Palestinian worshippers at the Tomb of the Patriarchs in Hebron by an Israeli settler.

⁴³"Unprotected: Israeli settler violence against Palestinian Civilians".

⁴⁴Yesh Din, *A Semblance of Law*.

⁴⁵*Al-Haq*, Press Release, 1 February 2011, available at <http://www.alhaq.org/etemplate.php?id=568>.

⁴⁶*Haaretz*, "Police: Israeli responsible for shooting death of Palestinian teen", 27 January 2011, available at: <http://www.haaretz.com/news/diplomacy-defense/police-israeli-responsible-for-shooting-death-of-palestinian-teen-1.339621>. (The footage is available at: <http://www.youtube.com/watch?v=48PhfH2zFhI>).

⁴⁷Yesh Din, *A Semblance of Law ...* (June 2006), p. 76.

⁴⁸*Ibid.*, pp. 97-101.

⁴⁹Yesh Din, Monitoring Update: *Law Enforcement upon Israeli Civilians in the West Bank* (February 2011) available at http://www.yeshdin.org/userfiles/file/datasheets/YESH%20DIN_Law%20Enforcement%20Monitoring%20Eng_2011.pdf.

⁵⁰It is noteworthy that while the Israeli authorities seem to be unable or unwilling to enforce the law in the West Bank, the Palestinian Authority, as per the Oslo Agreements, has no authority for law enforcement but in Area A, which is limited to the Palestinian cities. The majority of incidents of settler violence take place in the vicinity of settlements, in Area C, where authority in the security sphere is left with Israel. In cases of settler violence, the role of the Palestinian Authority is often limited to informing the Israeli Civil Administration of the incidents and documents the damages or injuries when possible.

⁵¹Response to the report by Yesh Din by Office of the Israel Defense Forces spokesperson dated 12 June 2006 in Yesh Din, *A Semblance of Law ...*, p. 132.

⁵²See also English translation of Talia Sasson report in Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Unprotected: Israeli Settler Violence against Palestinian Civilians*.

⁵³*Ibid.*, p. 14. According to Office for the Coordination of Humanitarian Affairs, in 2008 for example, 29,000 Palestinians in five different locations in the West Bank spent a total of 600 hours under curfew imposed by the Israel Defense Forces after Palestinians threw stones at Israeli vehicles.

⁵⁴Office for the Coordination of Humanitarian Affairs Occupied Palestinian Territory, *Monthly Humanitarian Monitor*, April 2011, available from www.ochaopt.org/documents/ocha_opt_the_humanitarian_monitor_2011_05_19_english.pdf.

⁵⁵B'Tselem, Violence by Settlers, available from www.btselem.org/settler_violence/dual_legal_system. See also Opening remarks by United Nations High Commissioner for Human Rights at a press conference in Jerusalem, 11 February 2011, available from www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10721&LangID=e.

⁵⁶A number of United Nations agencies, including Office of the United Nations High Commissioner for Human Rights, documented the cases.

⁵⁷See footnote 54. See also al-Haq, Collective Punishment in Awarta: Israel's Response to the Killing in Itamar Settlement, April 2011, available from www.alhaq.org/pdfs/CollectivePunishment+in+Awarta_22_April.pdf.

⁵⁸Peace Now, "Settlements in Palestinian Neighborhoods in East Jerusalem", available at <http://peacenow.org.il/eng/content/settlements-palestinian-neighborhoods-east-jerusalem>.

⁵⁹For example, General Assembly resolution 65/106.

⁶⁰See International Committee of the Red Cross, "Occupied Golan: nurturing ties with the rest of Syria", 15 February 2011, Operational Update available at: <http://www.icrc.org/eng/resources/documents/update/2011/golan-update-2011-02-15.htm>.

⁶¹Robert Serry, Special Coordinator for the Middle East Peace Process, Briefing to the Security Council on the situation in the Middle East, 24 February 2011. See also Palestinian Information Center, "New Jewish neighborhood to be erected in occupied Golan Heights", January 2011, available from www.palestine-info.co.uk/en/default.aspx?xyz=U6Q7k%2bcOd87MDI46m9rUxJEpmO%2bi1s7cYjteqRVchZUp1eTb9IHynSLWz6oLva66G2%2fde0j4kn8z9GD49nGEmTIRoUYXW3owUefav1ka8RliVklNeuZvYpG7iy2znAqlfKx5xhQ%3d#Page_Top.

⁶²Al-Marsad, the Arab Center for Human Rights in the occupied Syrian Golan, "Breaking Down the Fence: Addressing the Illegality of Family Separation in the Occupied Syrian Golan", April 2010, available from www.golan-marsad.org/Images/022011/Family_Separation.pdf.