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A Threshold Crossed: Documenting HRW'S "Apartheid" Fabrications

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NGO Monitor's mission is to provide information and analysis, promote accountability, and support discussion on the reports and activities of NGOs claiming to advance human rights and humanitarian agendas.

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All these [apartheid] reports have been issued. Have you seen in the public sphere one fact disputed? Have you seen any of our conclusions challenged in a meaningful way? Other than to name call or build strawmen?

- Omar Shakir, Israel and Palestine Director of HRW & lead report author¹

Introduction

In April 2021, Human Rights Watch ("HRW") released a 217-page publication titled "A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution." HRW asserted that Israel is an apartheid state both within its pre-1967 territory as well as in the West Bank and Gaza.² The title of the report and its contents assert that recent events and actions have created a situation where Israel has "crossed a threshold" into apartheid. The fact that HRW and other NGOs have campaigned intensively to promote the apartheid label for more than 20 years is not mentioned. HRW's goal is clear, as evidenced by the report's narrative and recommendations: end the existence of Israel as the nation-state of the Jewish people,

¹ International Centre of Justice for Palestinians, Video May 31,2022; See <https://www.youtube.com/watch?v=60i2GW0YYcY> (see at 9:10 minutes)

² HRW makes the inane assertion that it does not argue that Israel is an "apartheid state" but only that Israel commits "crimes against humanity of apartheid." This distinction is effectively meaningless and for all intents and purposes, HRW's report is seen by readers, key media outlets and politicians as simply calling Israel an "apartheid state." For example, when Amnesty issued its report, B'Tselem put out a press release titled: "B'Tselem welcomes Amnesty International's new report, calling the Israeli regime what it is: apartheid";

https://www.btselem.org/press_releases/20220201_btselem_welcomes_amnesty_internationals_report_calling_the_israeli_regime_what_it_is_apartheid. Prominent journalist Mehdi Hasan led off a show shortly after the HRW report, with Omar Shakir of HRW and Hagai El-Ad as guests, clearly stating: "Your organization, Human Rights Watch, did the same as B'Tselem this year, calling Israel an apartheid state"; <https://twitter.com/mehdirhasan/status/1397370001254985731>. Other examples: *Middle East Eye* titled an article that rights groups like HRW "call Israel an apartheid state"; <https://www.middleeasteye.net/news/israel-apartheid-state-amnesty-becomes-latest-rights-group>. *The Nation* titled an article written in reaction to the HRW report "Yes, Israel is Obviously an Apartheid State"; <https://www.thenation.com/article/world/israel-hrw-apartheid-state/>. NPR titled an article: "Israel is an apartheid state, Amnesty International says"; <https://www.npr.org/2022/02/01/1077291879/israel-apartheid-state-amnesty-international>.

Congresswoman Rashida Tlaib called Israel an "apartheid regime," she did not explain the supposed nuance that Israel is not an apartheid state but commits crimes of apartheid; <https://www.thenationalnews.com/world/us-news/2021/09/23/rashida-tlaib-calls-israel-apartheid-regime-as-congress-votes-on-iron-dome-funding>

allow all Palestinians worldwide to freely enter Israel, open the borders between Israel and Gaza and the West Bank, and convert the area into a Palestinian majority state.³

As documented below in great detail, the HRW publication is fundamentally flawed, using lies, distortions, omissions, and blatant double standards to construct a fraudulent and libelous narrative demonizing Israel. A careful examination of the text shows that HRW conducted almost no primary research. Rather, the text is bloated with cut-and-paste phrases, and quotes and conclusions taken from third-party sources – notably, other political NGOs participating in the same “apartheid” campaign against Israel. In fact, more than half of all the citations in the report are from these NGOs. HRW’s references are glaringly thin on primary documents, such as official Israeli government reports and statistics, Palestinian documents, court documents, Knesset transcripts, and interviews from leading officials, and much of the data is outdated, often well over a decade old. The omissions are even more egregious than the errors and misrepresentations, rendering HRW’s report as nothing more than propaganda.

In preparing this report, we examined and critically assessed every line of HRW’s publication and closely read the sources and citations provided. We divided the material into four categories: Errors, Misrepresentations, Omissions, and Double Standards. This systematic review conclusively shows, contrary to HRW’s claims, that the allegations of Israeli “apartheid” have no substance or merit.

Background

HRW’s “Israel apartheid” report and accompanying campaign followed a similar document by the Israeli NGO B’Tselem published in January 2021 and preceded a parallel report by Amnesty International (“Amnesty”) in February 2022. The three reports, all published within about a one-year period, were part of a coordinated assault to delegitimize Israel that repeated and amplified themes that have been used against Israel since the 1950s.⁴ Beginning with anti-Zionist Soviet propaganda, the purpose of the apartheid label is to characterize the right of Jews to sovereign equality

³ Recommendations by HRW include that Israel should repeal laws that state that Israel is the nation-state of the Jewish people, and grant the so-called “right of return” to Palestinian “refugees.” These moves would effectively end the status of Israel as a Jewish state, and Jews would furthermore become a minority.

⁴ Joshua Kern and Anne Herzberg, “False Knowledge as Power: Deconstructing Definitions of Apartheid that Delegitimise the Jewish State,” NGO Monitor, December 09, 2021; <https://www.ngo-monitor.org/reports/apartheid-report/> and Joshua Kern and Anne Herzberg, “Neo-Orientalism: Deconstructing claims of apartheid in the Palestinian-Israeli conflict,” March 21, 2022; <https://www.ngo-monitor.org/reports/apartheid-report-2022/>.

in their historic homeland as a violation of the international legal order.⁵ The overarching political objective is to erase and subsume the nation-state of the Jewish people into a single state of Palestine. During the Cold War, the Soviet Union and non-aligned states advanced the apartheid narrative in UN frameworks and other international fora, often based on antisemitic tropes, as reflected in the 1975 UNGA resolution labeling Zionism as a form of racism. At the UN Durban Conference in 2001, NGOs embraced this decades-old delegitimization campaign by promoting a new and unique definition of apartheid reserved exclusively for Israel. Indeed, the Final Declaration of the conference's infamous NGO Forum referenced "Israel's brand of apartheid" and Israel's "new form of apartheid." As described in the declaration, the new definition was aimed at embracing a "policy of complete and total isolation of Israel."⁶

Supporters of the apartheid label, including HRW, claim that there is a "consensus" among human rights groups and NGOs that Israel is an apartheid state.⁷ However, in reality it is a fabricated thesis held by a tight knit circle of like-minded activists who share information and work together to create a false impression of broad-based agreement. In fact, not a single Western nation or leader has endorsed the apartheid designation, and many have specifically repudiated it as a false characterization of the Israeli-Palestinian conflict.⁸

Since the mid-1990s, HRW has been a leader in the campaigns to demonize Israel based on exploiting the frameworks and institutions of human rights and international law,⁹ and their apartheid report is an extension of this record. Although this publication claims to present a new situation, reflected in the title "A Threshold Crossed," an examination of HRW's activities over the past two decades demonstrates the repeated use of the "apartheid" label. In their narrative, Israel is a criminal state that, since its inception, pursued a goal of "Jewish domination" and "subjugated" Palestinians simply because they are Palestinians. The cruelty of the Israeli state is such that, according to HRW, Palestinians suffer "severe deprivations"

⁵ Gerald M. Steinberg and Anne Herzberg, "The Role of International Legal and Justice Discourse in Promoting the New Antisemitism," *Anti-Zionism and Antisemitism: The Dynamics of Delegitimization*, Alvin Rosenfeld, Editor, Indiana University Press, 2019; Kern and Herzberg, "False Knowledge as Power".

⁶ Ibid.

⁷ For example, see this Tweet: <https://twitter.com/saribashi/status/1506633391676002308> and <https://twitter.com/btselem/status/1488450106793897994>

⁸ For example, German Chancellor Olaf Scholz rejected the label in August 2022; <https://www.dw.com/en/germanys-scholz-rejects-use-of-apartheid-to-describe-israel/a-62828146>; and President Biden in July 2022; <https://www.foxnews.com/politics/president-biden-democrats-believe-israel-apartheid-state-wrong>. The Canadian government rejected the apartheid label as well; <https://thecjn.ca/news/canada-is-dismissing-amnesty-internationals-report-that-israel-is-an-apartheid-state/>; other nations whose leaders have specifically rejected the apartheid label include U.K, Australia, and France.

⁹ Gerald M. Steinberg, "Human Rights Watch's anti-Israel Agenda", *Israel Affairs*, 27:1, 2021 pp. 34-56

that amount to crimes against humanity of apartheid. Some of the various "grave abuses" and "inhumane acts" committed by Israel include "boxing" and "pushing" Palestinians into dense and crowded enclaves, the creation of "ghettos" for Palestinians, "mass suspension" of their "basic civil rights," keeping Palestinians "trapped" inside their homes, limiting access to "sufficient water" and a range of intentional war crimes. As described below, even heavy traffic in Arab towns is blamed on Jewish apartheid. As in the past, HRW again portrays Israel as the worst human rights violator on the planet.

A number of HRW's introductory statements are revealing and consistent with key themes discussed in their document. In particular, in explaining the objective of the report, HRW tells readers that it explicitly and deliberately sets the objective of singling out Israel among all the nations in the world: "The report does not set out to compare Israel with South Africa under apartheid or to determine whether Israel is an 'apartheid state'—a concept that is not defined in international law." HRW admits that: "Few courts have heard cases involving the crime of persecution and none the crime of apartheid, resulting in a lack of case law around the meanings of key terms in their definitions." When confronted with the obvious inapplicability of South African apartheid to Israel, Omar Shakir, HRW's anti-Israel "researcher" and the lead author of the report, made the inherently absurd claim: "that's not what we're arguing"¹⁰ – as if apartheid has any other meaning. With no clear definitions of these terms and a lack of case law, why does HRW insist on using the term apartheid at all? How is it reasonable to argue that there is no need to compare the first and only nation in history to be called apartheid, South Africa, to only the second country in history to be called apartheid? HRW asserts that it applies rigorous international law to label Israel as apartheid, but ignores one of the most basic rules of legal analysis: precedent. The reason is obvious - precedent would show that the notion of apartheid in Israel is preposterous.

A critical read of HRW's report shows that it is essentially a random collection of allegations about Israel, often regarding policies that are common and normal worldwide, accompanied by the claim that these somehow constitute systematic crimes against humanity. HRW intensely focuses on limitations on movement by Palestinians within the West Bank, the fact that Israel does not open its borders to Gaza, limitations on spousal citizenship and certain residency rights, and not permitting Palestinians to construct illegally – whether in Bedouin settlements in the Negev or in Area C of the West Bank. These themes and others are discussed dozens of times in the report, always omitting any mention of terrorism, in what quickly becomes a repetitive narrative. For example, the report mentions the restriction of movement on Gazans on 27 separate pages of the report. The situation related to

¹⁰ See Endnote 1, at about 9:20 minutes

Bedouins is discussed on 18 separate pages, and the error-filled comparison between Nazareth Illit (now known as Nof Hagalil) and Nazareth receives a 10-page treatment. However, in this same report, HRW does not write any of the following words even once: terrorism, suicide bombing, Arab-Israeli, Clinton, Arafat; the report never mentions that Palestinians have ever committed acts of terrorism; never notes that Hamas is considered a terrorist organization by the EU, US and many others; and never discusses how Palestinians rejected two separate offers of full statehood from Israeli prime ministers.

Despite numerous rebuttals, many based on pointing out key factual error and omissions,¹¹ a "meta lie" quickly emerged from HRW and its supporters – namely, that those who oppose their publications cannot actually refute the claims.¹² Omar Shakir, the report's author, made exactly this point as quoted at the beginning of this document and in other statements.¹³ The purpose of this rebuttal document is to specifically address the false notion that "no one can show where HRW is wrong" by examining the specific evidence in HRW's report and exposing the massive errors and other flaws that underpin their argument.

After uncovering and compiling more than 300 examples of flaws in the report, the conclusion that emerges is that HRW has written a modern-day libel. This is not exaggeration or hyperbole. Based on their deliberately falsified narrative, HRW has accused every Jewish leader since 1948 and the institutions that comprise the State of Israel of the worst set of crimes against humanity – in other words, since inception the Jewish state is the leading human rights abuser in the world. In fact, HRW's narrative asserts that the crime of apartheid began from literally the moment Israel proclaimed its independence as a Jewish state. The distortion of the true nature of the State of Israel, what actually occurs on a daily basis inside the country, and the causes of the conflict with Palestinians is so massive, that the HRW report effectively portrays the Jewish people of Israel in a fantasized version of evil, a medieval-style caricature. HRW also liberally uses the term "Jewish domination" to refer to Israel's policies and the intention of Israeli leaders, a concept that directly recalls antisemitic tropes of Jews seeking to wield power over others. In HRW's view, this "Intent to Maintain Domination" is driven by purely racial motives, with Jews seeking to control and subjugate Palestinians, simply because they are Palestinian – *no other reason is*

¹¹ CAMERA, "Human Rights Watch Report Maligns Israel With Lies On Top of Lies," Alex Safian, April 27, 2021;

<https://www.camera.org/article/human-rights-watch-report-maligns-israel-with-lies-on-top-of-lies/> and The International Legal Forum, "Response to Human Rights Watch Report"; <https://www.ilfngo.org/hrwlies>

¹² For example, see tweet at <https://twitter.com/JKSteinberger/status/1396497718185451528> and <https://twitter.com/NathanThrall/status/1386895332668235776>

¹³ Tweet by Omar Shakir: <https://twitter.com/OmarSShakir/status/1413522829530869767>

considered for any of Israel's actions since its formation in 1948. When these accusations are made by relying on hundreds of lies and misrepresentations, mixed in with gross application of double standards and stunning omissions, it is akin to historic libels of the Jewish people.

Methodology

Rebutting the HRW report in detail was a time-consuming process since HRW created an extensive document with 867 footnotes. The report's length, numerous references, and two-year effort may give the impression that accurate and rigorous analysis was employed; for example, *Foreign Policy* asserted that the report was "thoroughly researched and documented."¹⁴ However, among the most notable weaknesses is HRW's extensive reliance on dozens of reports issued by other NGOs and self-declared human rights organizations, primarily in the sections where the "evidence" against Israel is outlined. NGO sources comprise more than half of the total body of evidence cited against Israel.¹⁵ HRW cites itself approximately 175 times – an amazing 20% of all citations, B'Tselem about 70 times, and 20 to 40 times each from Peace Now, Adalah, Gisha, Ir Amim, Peace Now, and HaMoked.

As we examined and critically assessed every line of the HRW report and followed up on every source and every footnote, we documented four categories of faults. There is some level of overlap and subjectivity in how each flaw was classified, but in the end, they are all serious flaws that in aggregate render the report to be mendacious and its authors, incompetent.

ERRORS: Errors refer to incorrect facts and figures, mistaken or falsified quotes and statements, and erroneous conclusions. Errors are typically items that can be easily verified as false with no subjectivity in making the determination of falsehood. HRW commits errors for several reasons: simple mistakes; copying incorrect information from third party reports that HRW did not bother to verify; and copying information from obsolete sources. While many errors are simply due to the shoddiness of the research, given the scale and nature of many of the errors, they cannot be anything but a deliberate pattern of falsification by HRW. In some cases, they are not simply errors, but deliberate fabrication or manipulation of information. For example, in HRW's section titled "Intent to Maintain Domination," we expose more than 20 quotes where HRW falsifies or alters their true meaning.

¹⁴ *Foreign Policy*, "Israel's Apartheid Doesn't Make a Difference," Steven Cook, May 6, 2021; <https://foreignpolicy.com/2021/05/06/israels-apartheid-doesnt-make-a-difference/>

¹⁵ We counted approximately 450 citations from NGOs, including HRW itself and self-references to HRW's report

MISREPRESENTATIONS: Misrepresentations occur when HRW manipulates facts or events to fit its fabricated apartheid narrative. Examples are false conclusions inferred from certain data, the deliberate manipulation or removal of certain critical information that would materially modify or nullify the point HRW is making, using isolated incidents to make broad conclusions, and presenting information out of context. Misrepresentations also occur when HRW relies on obsolete data or on third party sources that themselves do not provide evidence. Errors and misrepresentations are similar in intent and effect, and a large number are deliberate, which is to say they are similar to lies.

OMISSIONS: While errors and misrepresentations may seem to be the most important flaws in the report, it is omissions that ultimately render the report as useless propaganda. HRW deliberately and carefully omits an incredible number of key aspects of the Israel-Palestine conflict. Any information or argument that may contradict the apartheid libel or provide the reader with further context is not included by HRW. Another set of omissions are the completely one-sided history of the conflict that makes no mention of any violence perpetrated by Arabs against Israel and erases the entirety of the Arab-Israeli conflict. A subset of the Omissions category is the dismissal of any legitimate security needs that Israel may have. HRW presents all Israeli actions that are purported to be for security as shams, fabricated excuses and covers for Israel to implement its cruel policies of apartheid against Palestinians simply because they are Palestinian.

DOUBLE STANDARDS: HRW consistently holds Israel to what this document calls a "perfection standard," where any disparity between Arabs and Jews is seen by HRW as a result of and evidence of apartheid. For example, higher poverty rates for Arabs versus Jews is seen as part of deliberate apartheid, even if these poverty rate differences are far better than those of minorities in many Western nations. Differences in cherry-picked minutiae like number of classrooms and playgrounds are seen as apartheid. HRW deliberately presents all data in a vacuum since any comparison to other nations would contradict the apartheid narrative. The double standard is exposed by comparing the position of Arabs in Israel to minorities worldwide, like Muslims in the UK or France, Aboriginal people in Australia and Canada, or Blacks in the U.S. An honest assessment would show that Arabs in Israel are better off than these minorities in nearly every category discussed by HRW, destroying the apartheid argument. Another key double standard is that HRW does not allow Israel to act on sovereign rights that all nations legally enjoy, such as the right to solely determine who can become a citizen of the state or enter its borders.

Overall, our analysis uncovered 303 total flaws: 105 errors, 136 misrepresentations, 37 omissions, and 25 double standards.

One aspect of the HRW report that this document does not delve into is the manipulation of international law to redefine apartheid and then apply this invented definition to Israel only. HRW's falsification of the legal definition of apartheid and its application under international law, which it performs over some 15 pages of its report, goes hand-in-hand with the falsified evidence it uses against Israel to fit this newly created definition of apartheid. HRW's deliberate errors in its analysis of "apartheid" in international law is well covered in two reports authored by legal experts Joshua Kern and Anne Herzberg and published by NGO Monitor, "False Knowledge as Power: Deconstructing Definitions of Apartheid that Delegitimise the Jewish State" (December 2021) and "Neo-Orientalism: Deconstructing Claims of Apartheid in the Palestinian-Israeli Conflict (March 2022)."¹⁶

¹⁶ See <https://www.ngo-monitor.org/reports/apartheid-report/>

Executive Summary

Our deep analysis of HRW's report and the uncovering and documenting of more than 300 flaws reveals some key assumptions, biases, and massive distortions of reality that underpin HRW's entire thesis of Israeli apartheid:

1. Jews are always the oppressors and Arabs/Palestinians are always the victims, therefore:
 - The 1948-49 war was entirely Israel's fault; Palestinians were innocently living in their homes until Israel attacked them and expelled them
 - Palestinian terrorism does not and has never existed, thus any Israeli action purporting to be fighting terrorism is always illegal
 - There are no Palestinian terrorist groups, and none has ever existed
 - There is some minor Palestinian violence, but it is inconsequential, thus any Israeli response to such violence is always illegal
 - Israel does not have any serious security needs; any such claim is a pretext to take away the civil and basic rights of all Palestinians
 - All military conflicts in Gaza were initiated by Israel simply to oppress Palestinians and are criminal
 - Arab nations never initiated any hostility towards Israel
2. Jews oppress Palestinians simply because of who they are: Palestinian – *there is no other reason*
3. Defining a state as Jewish is inherently racist and by itself a key feature of apartheid
4. Any comment by an Israeli official that describes or endorses the concept of Israel as a Jewish state is evidence of apartheid
5. A law that allows Jews from around the world to obtain automatic Israeli citizenship is apartheid
6. Any comment by a Jew or effort by Israel to settle Jews anywhere in the Holy Land, from inception of the state until today, is evidence of apartheid
7. It is absolutely certain that millions of Arab refugees from the 1948-49 have a legal right to enter Israel and reclaim their homes; any hindrance of this right is apartheid
8. Arab-Israelis do not exist; all Arabs in the region are Palestinians
9. Arabs in Israel have citizenship and participate in all areas of society, but they are still fully victims of apartheid
10. Any disparity between Jews and Arabs is due to inhumane acts of apartheid
11. Israel does not have the right to enforce zoning or building permitting laws; any hindrance to Arab construction by Israel is an inhumane act of apartheid

12. Israel does not have the right to enforce citizenship and residency laws; any hindrance to Arab non-citizens seeking to acquire these benefits is an inhumane act of apartheid
13. Israel must maintain open borders with Gaza and the West Bank; any hindrance on movement for Palestinians is an inhumane act of apartheid
14. Israel is required to deliver into Gaza anything Gazans desire regardless of their use; any hindrance or limitation of goods is an inhumane act of apartheid
15. Israel has never agreed to any Palestinian statehood; offers for statehood never occurred
16. The Oslo Accords, agreed upon by Israel and the Palestinians Authority, and witnessed by the international community, are irrelevant and a cover for Israeli apartheid
17. Words and concepts essential for understanding or assessing the Israel-Palestine conflict and which would place HRW's apartheid label into doubt must be erased: Camp David, Clinton Parameters, terrorism, Yom Kippur War, Khartoum Resolution, Arab-Israeli conflict, Yasser Arafat, Hezbollah, Islamic Jihad, suicide bombing, martyrs payments, Arab-Israeli, antisemitism

The above list, especially the underlying assumption that Jews are always the oppressors and Arabs/Palestinians are always the victims, simply because of who they are, is starkly confirmed in the Recommendation section of HRW's report. HRW lists thirteen broad recommendations for the Israeli authorities to undertake. Palestinian authorities are given only two recommendations; the first is to cease coordination with the Israeli army to ensure that it does not contribute to apartheid against Palestinians, and the second is to incorporate apartheid into its criminal law statutes. Thus, while HRW "recommends" that Israel allow free movement of people from Gaza, it does not "recommend" that Hamas stop building rockets or tunnels. While HRW recommends that Israel dismantle portions of the security barrier, it does not recommend that Palestinians halt all activities that promote terrorism, such as the so-called "martyrs payments" or naming schools after coastal road massacre terrorist Dalal Mughrabi.¹⁷ While HRW "recommends" that "All States" condition arm sales to Israel on its ending apartheid, it does not recommend that they condition aid to Gaza on Hamas ending construction of rockets and tunnels. Finally, the greatest hypocrisy and double standard, which demonstrates HRW's hostility to the Jewish right to self-determination: While HRW recommends that Israel repeal its Nation-State Law and the Jewish "right to self-determination," it does not recommend that the Palestinian Authority change its constitution calling itself part of the "Arab nation" or that "Islam is the official religion of Palestine" or that "Islamic Shari'a" is the principal source of

¹⁷ *i24News*, "Belgium ends cooperation with PA education over school named for terrorist," Ellie Stern, September 15, 2018; <https://www.i24news.tv/en/news/middle-east/palestinian-territories/184247-180915-belgium-ends-funding-to-palestinian-education-over-school-named-for-terrorist>

legislation. (Note: Palestinians would become the majority in the region assuming Israel follows another recommendation to allow all "refugees" to "enter Israel and reside in the areas where they or their families once lived.")

The effort to document HRW's falsehoods was extensive and thus results in a lengthy document. For those readers that prefer a shorter read, we have compiled a list of "Top 25" examples in this Executive Summary that encapsulate the incredible and vicious dishonesty of the HRW report. These 25 flaws represent some of the most critical findings of our rebuttal, as well as a broad sample of errors and misrepresentations that are found throughout HRW's report. The more than 300 examples discussed in the full report are based on what we were able to easily research and document, therefore, if a section of the HRW publication is not debunked or discussed in this rebuttal, it should not be construed as accurate.

1. ERROR: HRW calls all Arab-Israelis "Palestinian" even though a small minority identify as such

The first error may appear minor but HRW's falsification here is a keystone of its apartheid thesis. HRW, like other anti-Israel groups, consistently and deliberately refuse to acknowledge that the vast majority of the 2 million Arab citizens of Israel *do not consider themselves Palestinian*. This is one of several fatal flaws of the report as HRW deliberately erases Arab-Israeli identity by fabricating the notion that Arab citizens of Israel see themselves as "Palestinian." HRW's 217-page report does not use the term "Arab-Israeli" even once, despite referring to Arabs living inside Israel throughout the document.¹⁸ HRW claims that: "Jewish Israelis and Palestinians are regarded as separate identity groups that fall within the broad understanding of 'racial group' under international human rights law" (p. 37). However, a 2020 poll showed that only 7% of Arabs in Israel self-identify as Palestinian - 51% said Arab-Israeli, 23% Israeli, 15% Arab and 4% other or no answer.¹⁹ Even a source known to be hostile to Israel (*+972 Magazine*, a source referred to six times by HRW) showed that as of 2019, only 14% of Arabs in Israel consider themselves "Palestinian."²⁰ Notably,

¹⁸ The term "Israeli Arabs" occurs twice in the report but only within quotes as said by third parties (once by Benjamin Netanyahu and once by analyst Shaul Arieli). HRW never uses the term even once.

¹⁹ *The Jerusalem Post*, "Only 7% of Israeli Arabs define themselves as 'Palestinian,'" Idan Zonshine, April 21, 2020;

<https://www.jpost.com/arab-israeli-conflict/only-7-percent-of-israeli-arabs-define-themselves-as-palestinian-625285>; The article refers to 2020 poll which can be found here:
<http://jppi.org.il/en/article/index2020/>

²⁰ *+972 Magazine*, "Poll: Jews, Arabs much less divided than Israeli politics lets on," Dahlia Scheindlin, April 3, 2019;

<https://www.972mag.com/poll-israelis-positive-view-jewish-arab-relationships/>; another poll from 2017 by the NGO Shaharit offered four categories in a poll given to Arabs in Israel to identify themselves, Arab, Palestinian, Israeli or by religion (Muslim, Christian, Druze) – 14.8% chose Palestinians, see "Characteristics of the Arab Society"; <https://www.shaharit.org.il/survey-of-arab-citizens-of-israel/?lang=en>

the self-identification of Arabs in Israel as "Palestinian" has significantly dropped in recent years from about 25%-30% in polls reviewed from around 2014-15. The problem HRW faced in crafting its apartheid thesis is that Arab-Israelis are active in every aspect of Israeli society such as parliament, leading schools, every major profession, top judges, sports and media, and are not subject to any type of "segregation" policies or "inhumane acts" that are fundamental to apartheid. The fact that the vast majority of Arabs inside Israel do not see themselves as Palestinian contradicts HRW's neat portrayal of Israeli apartheid as a racial conflict of "Jewish Israelis" intentionally dominating and oppressing "Palestinians" simply "on account of their being Palestinian." If Arab-Israelis are acknowledged truthfully as a group who consider themselves *separate from Palestinians*, then HRW's thesis completely falls apart. HRW decided to solve this logical problem through a discriminatory and complete erasure of everything related to Arab-Israelis, even how they self-identify. Relatedly, HRW artificially and inaccurately conflates Palestinians, Bedouin residing in the Negev region, and Bedouin residing in Area C of the West Bank. These are in fact distinct groups with distinct identities which HRW lumps into one group.

2. DOUBLE STANDARD: Israel's citizenship policies favoring Jews from other countries

One of the foundational double standards that underpins HRW's apartheid thesis is Israel's Law of Return. HRW considers Israel's Law of Return, which essentially allows Jews around the world to gain Israeli citizenship, a core feature of Israeli apartheid. HRW claims that this "two-track citizenship structure treats Palestinians unequally to Jews" (p. 17). HRW repeats this charge on page 147: "Israel maintains a two-track citizenship structure that treats Palestinians unequally as compared to Jews." The distinction HRW deliberately omits is that the two-track structure treats *non-citizen* Jews unequally compared to all other non-citizens. The International Convention on the Elimination of All Forms of Racism (ICERD), which HRW quotes often in manipulating its definition of apartheid, makes clear that "State Parties" can make decisions on "nationality, citizenship or naturalization" even for "the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms..."²¹ If there ever was a group of people intended for this exact clause it is Jews, who suffered a genocide that wiped out 40% of their population only 77 years ago. They remain to this day a tiny minority of 14 million people (still lower than in 1939) still facing high levels of antisemitism worldwide. Numerous nations offer special citizenship privileges to their diaspora even for persons with generations-old or

²¹ UN Human Rights, "International Convention on the Elimination of All Forms of Racial Discrimination," December 21, 1965; <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

tangential connections to the country (e.g., Italy, Denmark).²² It is the height of hypocrisy and dishonest manipulation for HRW to consider Israel's citizenship laws favoring Jews in the diaspora as apartheid when this common practice worldwide is legal and never raises concerns about racism. But HRW treats the Jewish state differently, in what can only be called blatant discrimination – it cannot exercise sovereign rights common to all nations.

3. DOUBLE STANDARD: Israel's Nation-State Law versus similar laws from dozens of nations

The second foundational double standard that HRW relies upon is treating Israel's self-identification as a Jewish state as a crime. HRW considers Israel's "Nation-State Law," which enshrines Israel as the "nation-state of the Jewish people" as the absolute embodiment of Israeli apartheid. The law is mentioned numerous times in their report and is the first evidence cited of Israel's "Intent to Maintain Domination" (p. 6). While it is certainly legitimate to deeply criticize the law (as many Israelis and Jews did) and strive for a world where there is no religion or nationality enshrined in any document, it is a gross double standard to present Israel's Nation-State Law, which does not change the Basic Law preserving equality for all citizens of Israel, as an element of apartheid when dozens of states, including many democracies, enshrine a particular religion or ethnicity in a governing national document with no apparent criticism. According to one study, 43 nations (22% of UN member-states) have an official state religion and another 40 specifically prefer a religion where government policies clearly favor one religion with legal, financial or other benefits.²³ Nine European nations are officially Christian with special rights for this chosen religion. Here are several examples:

- Denmark – Part I of their constitution says: "The Evangelical Lutheran Church shall be the Established Church of Denmark, and as such, it shall be supported by the State." The constitution adds that "legislative power shall be vested in the King" who shall "be a member of the Evangelical Lutheran Church." Unlike Israel, Denmark reserves its top role to one religion.
- U.K. – The Church of England is the official church of the nation and of the English people.²⁴ Unlike Israel's statement about being a Jewish state, this is

²² Italian Dual Citizenship, "Italian Citizenship by Descent (Jure Sanguinis)"; <https://www.italiandualcitizenship.net/italian-citizenship-by-descent/>

²³ *The Guardian*, "More than 20% of countries have official state religions – survey," Harriet Sherwood, October 3, 2017; <https://www.theguardian.com/world/2017/oct/03/more-than-20-percent-countries-have-official-state-religions-pew-survey>. Also see Pew Research Center, "Many Countries Favor Specific Religions, Officially or Unofficially," October 3, 2017; <https://www.pewresearch.org/religion/2017/10/03/many-countries-favor-specific-religions-officially-or-unofficially/>

²⁴ UK Parliament, "Parliament, Church and Religion"; <https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/religion/overview/church-and-religion/>

not just symbolic. The second chamber of Parliament, the House of Lords, reserves 26 seats exclusively for Christian Bishops. Thus Muslims, Jews and all other religions are legally prohibited from certain key roles in government. There is nothing even remotely as discriminatory in Israel's laws. Can one imagine the outrage if Israel reserved 26 seats in the Knesset for Jews only?

- Egypt – Officially known as an "Arab Republic". It states in its constitution that it is an "Arab nation," and Article 2 affirms that: "Islam is the religion of the state and Arabic is its official language. The principles of Islamic Sharia are the principle source of legislation." Israel does not enshrine Judaism or Jewish law as the principle source of legislation.
- Jordan – Article 1 states that Jordan is an "Arab State" and that the Jordanian people are part of the "Arab Nation." Article 2 states that "Islam is the religion of the state and Arabic is its official language." The throne is reserved only for a Muslim individual.
- Greece – This nation's constitution begins with the words: "In the name of the Holy and Consubstantial and Indivisible Trinity," a specific reference to Christianity. Indeed, Article 3 states: "The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ."

HRW also omits the continual denial of all Jewish history by Palestinians as a factor in the passage of the Nation-State Law. Palestinian state media is filled with statements from leading officials that Jewish history is fabricated, there never existed a Jewish temple, etc. HRW never mentions or considers that this constant denial may have resulted in a reaction by Israel to assert its identity as a Jewish state. HRW generously quotes Israeli officials purporting to show "Jewish domination," but never Palestinian Authority President Mohammad Shtayyeh who to this day calls Jewish history a forgery.²⁵

4. OMISSION: Palestinian terrorism does not exist; the word "terrorism" does not appear even once

The primary willful, shameful, and egregious omission in HRW's report is the refusal to mention Palestinian terrorism. In fact, the word "terrorism" does not appear in the

²⁵ MEMRI TV, "Palestinian Prime Minister Mohammad Shtayyeh: There is no Connection Between Israelis and the Jews," July 6, 2021; <https://www.youtube.com/watch?v=BtVlwCEUv8I&t=3s>; MEMRI TV from Al-Jazeera Network, "Palestinian Authority Prime Minister Mohammad Shtayyeh: Despite Several Archeological Digs Under The Al-Aqsa Mosque, Israel Was Never Able To Find Proof Of The Existence Of A Jewish Temple," June 7, 2021; <https://www.memri.org/tv/palestinian-pm-mohammad-shtayyeh-despite-archeological-digs-under-al-aqsa-mosque-israel-found-no-proof-of-jewish-temple>

report.²⁶ In the entire 217-page document, HRW does not acknowledge that a Palestinian has ever committed an act of terrorism against a Jew or an Israeli. Although Gaza and Hamas are discussed throughout the report, HRW never reveals that Hamas is considered a terrorist organization by the EU, US, Japan, Canada, UK, and others. HRW never mentions that Hamas is responsible for rocket attacks against Israel.²⁷ HRW never mentions that Hamas has built attack tunnels that crossed the border into Israel (one was found in August 2022). HRW discusses the "separation barrier" on 25 separate pages of its report as an Israeli act of oppression, but never once writes the words "suicide bombing" or refers to the estimated 170 such attacks that killed 800 Israeli civilians and injured nearly 1,000. These attacks traumatized the nation and informed many of the security measures taken by Israel, including the security barrier.²⁸ These incredible omissions are critically necessary to portray all Israeli actions, such as checkpoints, limitations on movements, military actions in Gaza, closure of borders, sea blockade of Gaza, restrictions on residency for foreign spouses – as nothing more than cruel apartheid perpetrated by Jews seeking domination over oppressed Palestinians simply because of who they are. This omission is perhaps the worst element of HRW's fabricated narrative of Israeli wrongdoing, and alone renders HRW's report as nothing more than libelous propaganda.

5. MISREPRESENTATION: HRW cites high traffic levels in Nazareth as evidence of apartheid

HRW blames Jewish domination and apartheid for all of Arab society's ills. One full paragraph is devoted to discussing how a survey from 2013 showed that in the city of Nazareth, which HRW portrays as an oppressed city embodying Israeli apartheid, "86.6 [percent] of residents identified traffic" as a "very serious" problem. The same section also explains how the city has a "lack of space for parking." HRW does not compare the traffic and parking situation in Nazareth to other areas in Israel. Traffic and congestion are well-known problems throughout Israel, since "there are more cars

²⁶ There are four places where some form of the word "terror" is mentioned. Page 72 quotes the Israeli cabinet that it built the security barrier to "reduce the entry of terrorists"; Page 168 quotes the former mayor of Nazareth Illit who apparently called the city of Nazareth a "nest of terror"; Page 173 quotes Israeli authorities that said they want to minimize travel between the West Bank and Gaza to prevent transferring "a human terrorist infrastructure"; Page 174 quotes Israeli authorities who justify freedom of movement in the West Bank given that Palestinians "carried out... hundreds of deadly terrorist attacks." In these four cases where some form of the word "terror" is used, it is notable and deliberate on the part of HRW that the word is only within a quotation of words said by Israeli officials. HRW itself never writes the words terror or terrorism or presents terrorism as anything a Palestinian has ever done or any Palestinian group as a terrorist organization, such as Hamas, despite this designation by many nations.

²⁷ We acknowledge that HRW has in the past documented and called Hamas rocket fire war crimes, but does not see a need to mention that Hamas specifically fires rockets at Israel in this report. Instead, it mentions in the report nebulous "Palestinian armed groups" as firing rockets as opposed to the governing power in Gaza, Hamas.

²⁸ *The New York Times*, "The One Thing No Israeli Wants to Discuss," Matti Friedman, September 9, 2019; <https://www.nytimes.com/2019/09/09/opinion/israel-election-netanyahu.html>

than ever before on Israeli roads" with car density in 2020 per 1,000 residents increasing to 400 from 300 only five years ago.²⁹ A recent article in *The Jerusalem Post* explained: "The situation on the roads in Israel has become unbearable. With way more vehicles on the country's highways and inner cities than the infrastructure can handle, traveling from place to place has become an exercise in frustration."³⁰ It is preposterous to claim that high traffic levels and lack of parking in an Arab city evidence apartheid. HRW could have at least attempted to show that traffic in Arab areas is materially and systematically higher than traffic in Jewish areas. But that would have required actual research, not quoting from a nearly decade-old survey.

6. ERROR: HRW claims Arabs in Israel are "hemmed in" with "density problems" – Jews live more densely

A key aim of the HRW report is to show that Arab-Israelis suffer from apartheid despite their citizenship and the equal rights that they are afforded, but HRW struggles to provide evidence. One of the report's focus areas is the notion that Arabs in Israel do not have enough space to live, are "hemmed in" or "crowded" by Israeli policies and thus live in unacceptably high density. The narrative seeks to evoke the South African Bantustans as if Arab-Israelis are relegated to dense "enclaves." HRW claims that within Israel, the government "largely confine[s] Palestinians to dense population centers" (referring to Arab-Israelis) (p. 53), in some areas "pushing them into crowded population centers" (p. 57) and enforces "restrictions" that "create density problems" in Arab-Israeli communities (p. 153). In fact, HRW mentions terms like "hemming in," "concentrating," "dense enclaves," "no space to grow," or "crowded" on at least 18 separate pages in the document (8% of the total), referring specifically to Arabs within Israel.³¹ Incredibly, but not surprisingly, HRW does not provide *any density statistics* for Arab localities in Israel, or comparative statistics for predominantly Jewish areas, to prove that Israeli apartheid has resulted in "hemming in" and thus high density and crowding. The reason for the lack of statistics is clear – Jews live far more densely than Arabs and HRW does not want the reader to know this. Official density statistics published by the Israeli Central Bureau of Statistics³² show only nine cities with density greater than 10,000 persons per sq km, and all are Jewish towns: El'ad, Bnei Brak, Bat Yam, Giv'at Shemuel, Givatayim, Holon, Tzur Yitzhak, Kiryat Ye'arim, and Kiryat Motzkin – these cities have a combined population

²⁹ *The Times of Israel*, "It's the errands, not the commute: What's really driving Israel's traffic crisis," Carrie Keller-Lynn, December 8, 2021; <https://www.timesofisrael.com/its-the-errands-not-the-commute-whats-really-driving-israels-traffic-crisis/>

³⁰ *The Jerusalem Post*, "Israel stuck in neutral on fixing traffic crisis," Editorial, August 4, 2021; <https://www.jpost.com/opinion/israel-stuck-in-neutral-on-fixing-traffic-crisis-editorial-675856>

³¹ See HRW report pages 7, 13, 24, 53, 57, 66, 124, 146, 152, 153, 160, 164, 167, 168, 196, 197, 199, 200

³² Israel Central Bureau of Statistics, Population and Density Per Sq Km in Localities with 5,000 Residents and More on 31.12.2019; <https://www.cbs.gov.il/en/publications/Pages/2020/Population-Statistical-Abstract-of-Israel-2020-No-71.aspx>

of about 722,000. Tel-Aviv, with 461,000 persons, has a density of 8,894 persons per sq km and adjacent cities that effectively comprise one metro area have similar densities (e.g., Ramat Gan with 164,000 persons at 9,971 density). Population density for the 16 largest Arab cities in Israel, with a combined population of approximately 600,000: Nazareth 5,465, Rahat 2,203, Umm al-Fahm 2,161, Tayibe 2,325, Shefa-Amr 2,147, Tamra 1,155, Sakhnin 2,749, Baqa al-Gharbiyee 3,355, Tira 2,237, Ar'ara 2,745, Arraba 3,075, Kafr Qasim 2,559, Maghar 1,108, Qalansawe 2,753, Kafr Kanna 2,262, Kafr Qara 2,434 – the average density is about 2,550 persons per sq km. The ultra-Orthodox city of Bnei Brak is actually the densest city in Israel with about 205,000 persons (with a larger population than the three largest Arab cities in Israel combined) at a whopping density of close to 30,000³³ – listed in Wikipedia as the fifth densest city on the planet!³⁴ The entire high density and “hemming in” narrative of Arab municipalities in Israel is one of the most egregious and deliberate lies delivered throughout HRW’s report. HRW’s falsehood on this subject is absolutely deliberate since HRW admits that it has reviewed the same density statistics for calendar year 2019 published by the Israel Central Bureau of Statistics (cited in footnote 658 of the report).

7. OMISSION: HRW criticizes Israel for not allowing Gazans free movement into Israel on 27 separate pages, but never mentions that Hamas is a terrorist organization & calls to destroy Israel

HRW obsesses over the fact that Israel does not have open borders with Gaza and maintains a broad restriction on the ability of Gazans to enter Israel in order to travel abroad or to other places like the West Bank. HRW mentions these travel restrictions on 27 separate pages of the report,³⁵ more than 10% of the total – this restriction is a central element of HRW’s apartheid thesis, which HRW calls an “inhumane act.” Incredibly, in none of these 27 pages or anywhere else in the report does HRW disclose that Hamas, which rules Gaza, is a terrorist organization, designated as such by the EU, US, UK, Japan, and others. HRW does not disclose that Hamas has assembled a rocket arsenal in the tens of thousands and has fired them regularly at Israel. HRW does not disclose that Hamas has continued to build attack tunnels that cross the border into Israel for terrorist acts (one such tunnel was found in August 2022).³⁶ HRW does not disclose that Hamas does not accept Israel’s right to exist and

³³ *The Jerusalem Post*, “What is the most densely populated city in Israel?,” Jerusalem Post Staff, February 20, 2019; <https://www.jpost.com/israel-news/what-is-the-most-densely-populated-city-in-israel-581181>

³⁴ Wikipedia, List of cities proper by population density, https://en.wikipedia.org/wiki/List_of_cities_proper_by_population_density

³⁵ See HRW report pages 7, 14, 15, 18, 51, 71, 74, 75, 76, 128, 130, 131, 134, 135, 137, 138, 143, 144, 145, 146, 172, 173, 175, 176, 187, 191, 205

³⁶ *The Times of Israel*, “IDF says it foiled Hamas attack tunnel with two branches along northern Gaza border,” Emanuel Fabian, August 15, 2022; <https://www.timesofisrael.com/idf-says-it-foiled-hamas-attack-tunnel-with-two-branches-along-northern-gaza-border/>

regularly calls to "wipe out Israel"³⁷ and for the murder of Jews.³⁸ HRW does not disclose that Hamas operatives have and continue to seek to infiltrate Israel³⁹ and the West Bank⁴⁰ to commit terrorist acts. HRW does not disclose that Hamas has used Gazans entering Israel for humanitarian reasons as a cover to funnel funds to its operatives in the West Bank.⁴¹ HRW does not disclose Hamas attempts to bring in heavy weaponry into Gaza by sea, such as the "Victoria" ship that was intercepted in 2011 with 50 tons of weaponry on board.⁴² Incredibly and without shame, none of this is mentioned in HRW's report, let alone factored into HRW's analysis of why Israel may impose broad restrictions on Gazans entering Israel. HRW does acknowledge that Gaza has a border with Egypt that Israel does not control, but only as an afterthought, and certainly not as a factor that might absolve Israel of committing crimes against humanity.

8. ERROR: HRW says only "100s" of Gazan merchants enter Israel each year; 127,000 entered in 2019

Throughout the document HRW cherry-picks, modifies, misrepresents, and outright fabricates numbers and statistics to promote its false narrative. In this example, HRW seeks to show that Israel's tight restrictions with its border with Gaza is an "inhumane" act. HRW states that in addition to entry permits through the Erez Crossing for "exceptional humanitarian cases," Israel "also grants permits each year to hundreds of Gaza residents eligible on other grounds, such as high-level businesspeople and merchants" (p. 172). In fact, the number is not in the "hundreds" each year but in the tens-of-thousands. According to data by NGO Gisha, which HRW cites often in its report, 127,000 Gazan merchants entered Israel in 2019 and 56,000 in 2018.⁴³ In the first six months of 2022, the number reached the highest level in at least

³⁷ *The Times of Israel*, "Hamas chief: We won't discuss recognizing Israel, only wiping it out," Dov Lieber, October 19, 2017; <https://www.timesofisrael.com/hamas-chief-we-wont-discuss-recognizing-israel-only-wiping-it-out/>

³⁸ Israel's Foreign Affairs Ministry, "Hamas calls for mass-murder of Jews worldwide," July 16, 2019; <https://www.youtube.com/watch?v=azEgBsU6Mi8>

³⁹ *AP News*, "Israeli military hits Hamas sites in Gaza after infiltration," May 23, 2018; <https://apnews.com/article/4fd5b97d45574c55a429652c6b62cd03>

⁴⁰ *The Times of Israel*, "Hamas has infiltrated PA security forces, recruited officers as spies – report," TOI Staff, April 23, 2019; <https://www.timesofisrael.com/hamas-infiltrated-pa-security-forces-recruited-officers-as-spies-report/>; *The Times of Israel*, "Israel busts major Hamas cell in West Bank, arrests 50 members," Judah Ari Gross, November 22, 2021; https://www.timesofisrael.com/liveblog_entry/israel-busts-major-hamas-cell-in-west-bank-arrests-50-members/

⁴¹ *The Jerusalem Post*, "Hamas funneled terrorism funds through Gazans with Israeli entry permits," Tzvi Joffe, September 29, 2022; <https://www.jpost.com/middle-east/article-718511>

⁴² Israeli Missions Around the World, "Israel Navy uncovers weaponry on-board cargo vessel," March 15, 2011; https://embassies.gov.il/MFA/FOREIGNPOLICY/Terrorism/Palestinian/Pages/Israel_Navy_uncovers_weaponry_cargo_vessel_15-Mar-2011.aspx

⁴³ Gisha, "Exits by Palestinians via Erez Crossing to Israel, the West Bank, and abroad," July 3, 2022; <https://gisha.org/en/exits-by-palestinians-via-erez-crossing-to-israel-the-west-bank-and-abroad/>

a decade at more than 148,000, which annualized would represent 15% of the entire Gazan population. Entries in recent years are much higher than in the past, for example in 2010 about 3,500 merchants entered Israel and about 13,000 in 2011, the earliest in which Gisha provides data. HRW presents a thesis that Israel has "crossed a threshold" into apartheid, but as is the case for many of the statistics HRW presents purporting to show a trend toward apartheid, the opposite is true.

9. DOUBLE STANDARD: HRW expects Israel to use clairvoyance to know who is a security threat

HRW's irrational standards of behavior for Israel is embodied in these sentences: "Israeli authorities have also imposed onerous restrictions on freedom of movement in the West Bank that they justify based on 'substantive security reasons'... Israeli policies, however, restrict the movement of all Palestinians, *not just those whom authorities deem to present a security threat*" [emphasis added] (p. 174). HRW does not seem to be aware that terrorists do not make themselves known in advance, and despite Israel's intelligence skills, they can never know for sure who may be planning an attack. HRW also inane does not seem to be aware that security checks can *prevent* terrorists from attempting attacks. For example, airport security measures are required of all passengers from the elderly to children, not just those "deemed a security threat," to discourage terrorists from even attempting to bring a weapon on an airplane. HRW also deliberately ignores a long history of Palestinian terrorists disguising themselves or hiding weaponry, which makes it challenging to spot in advance. For example, Ahlma Ahmad al-Tamimi, who helped carry out a suicide bombing at Sbarro restaurant in 2001 causing 15 fatalities, disguised herself as a Jewish tourist.⁴⁴ More recently, in November 2021, a Hamas terrorist disguised himself as an Orthodox Jew and killed a civilian in Jerusalem.⁴⁵ The importance of checkpoints was starkly demonstrated in August 2022 when three Palestinian women were stopped at a checkpoint and found with a makeshift submachine gun.⁴⁶ In HRW's view, Israel is prohibited from taking measures against terrorism if they inconvenience people.

⁴⁴ *The Jerusalem Post*, "Female terrorist hosts talk show on Hamas TV," Khaled Abu Toameh, March 1, 2012;

<https://www.jpost.com/middle-east/female-terrorist-hosts-talk-show-on-hamas-tv>

⁴⁵ *Haaretz*, "One Dead, Four Injured After Gunman Opens Fire in Jerusalem's Old City," Ido Efrati, Nir Hasson and Josh Brenner, November 21, 2021; <https://www.haaretz.com/israel-news/2021-11-21/ty-article/jerusalem-old-city-attack-one-israeli-dead-four-injured-palestinian-gunman-opens-fire/0000017f-ed98-d4cd-af7f-edf8a7f30000>

⁴⁶ *Times of Israel*, "3 Palestinian women arrested at West Bank checkpoint with makeshift submachine gun," Emanuel Fabian, August 20, 2022; <https://www.timesofisrael.com/3-palestinian-women-arrested-at-west-bank-checkpoint-with-makeshift-submachine-gun/>

10. MISREPRESENTATION: Focus on revocation of residency of 18 Palestinians out of 359,000

A notable aspect of HRW's report is the massive exaggeration of relatively minor events and the extrapolation of some possible or confirmed "bad things" to charge the entire nation of apartheid and war crimes. A good example is the multiple pages devoted to the revocation of residency status for Arabs in East Jerusalem. HRW see these revocations as an "inhumane act" that seeks to "push" Palestinians to leave their city, as well as the war crime of "forcible transfer," and of course apartheid (p. 192-93). But the statistics supporting this assertion are laughable. HRW itself reports that these deportations affected 14,701 Palestinians between 1967 and 2020 – in other words about 275 per year, and 10,376 of the total (about 200 per year) were due to the persons relocating themselves abroad, hardly the inhumane cruelty HRW ascribes to Israel.⁴⁷ Footnote 805 acknowledges that in 2021, Israel revoked the residency of *18 East Jerusalem Palestinians* – out of a total of 358,800 persons in the city! – and only 40 in 2019 and 13 in 2018.⁴⁸ The Palestinian population in East Jerusalem has soared over the decades, up about 33% since 2009 (nearly a 90,000 person increase), thus the notion of specific policies intended to "push out" residents is a fabrication. Yet the situation affecting an amount that is not even a small rounding error is seen as nothing less than broad policies of "forcible transfer" and apartheid. This same mindset permeates HRW's report – who also did not explain that the UK stripped citizenship from more people than Israel in 2020 and hundreds in the last decade, primarily targeting Muslims.⁴⁹

11. OMISSION: No mention of statehood offers by Barak & Olmert to Palestinians

In what has now become standard practice in anti-Israel discourse,⁵⁰ the statehood offers by Ehud Barak and rejections by Yasser Arafat, as well as the offer by Ehud Olmert and rejection by Mahmoud Abbas, are completely exorcised from the historical record. At the start of the report, HRW asserts that one of several mistaken but "widely held assumptions" is that the Israeli occupation is "temporary" (p. 2). This is a gross fabrication which relies on deliberately omitting the offers for statehood by

⁴⁷ B'Tselem, "Statistics on Revocation of Residency in East Jerusalem," Updated April 7, 2021; https://www.btselem.org/jerusalem/revocation_statistics

⁴⁸ Hamoked, "Ministry of Interior data: 18 East Jerusalem Palestinians were stripped of their permanent residency status in 2020 as part of Israel's "quiet deportation" policy; 10 of them women," March 9, 2021; <https://hamoked.org/document.php?dID=Updates2224>; Also see ACRI, "East Jerusalem Facts and Figures 2021"; https://www.english.acri.org.il/post/___283

⁴⁹ *The Guardian*, "Hundreds stripped of British citizenship in last 15 years, study finds," Diane Taylor, January 21, 2022; <https://www.theguardian.com/uk-news/2022/jan/21/hundreds-stripped-british-citizenship-last-15-years-study-finds>

⁵⁰ *Fathom*, "The erasure from historical memory of Israeli statehood offers and Palestinian rejections is badly distorting today's debate about Middle East peace," Salo Aizenberg, July 2021; <https://fathomjournal.org/the-erasure-from-historical-memory-of-israeli-statehood-offers-and-palestinian-rejections-is-badly-distorting-todays-debate-about-middle-east-peace/>

Prime Minister Ehud Barak in 2000 and 2001 and Prime Minister Ehud Olmert in 2008. In all these cases, the offers would have ended Israeli control of 100% of the West Bank and Gaza (with land swaps for about 5-6% of the area), which means that Israel fully intended to end its control of these territories. In all these cases, Palestinian leadership rejected the plans through non-responses and insistence on maximalist demands.⁵¹ The omission of the various statehood offers from 2000-2008 is deliberate and egregious, but understandable. An honest accounting of this period would demolish HRW's entire claim that since 1948 all Israel has sought to do is control and dominate Palestinian land and people.

12. ERROR: Falsifying and misrepresenting a quote from Ehud Barak in three ways

HRW claims that all Israeli leaders acted with the intention to maintain Jewish domination, which is central to apartheid, but provides no analysis of each leader and their actions. Instead, HRW reduces the entire legacies of all Israeli prime ministers to quote snippets. The example of Ehud Barak is particularly egregious and dishonest. HRW states as its only evidence regarding Barak – the only reference to Barak in the entire report – that: "Ehud Barak, when he was prime minister, equated a 'Muslim majority' with 'destruction of Israel as a Jewish state'" (p. 47). HRW's dishonesty here is threefold. First, the quote comes from an interview held with Barak in 2002,⁵² when he was out of office, so it is plainly false to claim that he stated these words when he was prime minister. Second, the interview was specifically about the *offers for statehood* that Barak made to Yasser Arafat and the Palestinians, which Arafat ultimately rejected. HRW dishonestly cites Barak in an interview where he discusses his intention to hand over the West Bank and Gaza for Palestinian statehood to prove Barak's intent all along was to "maintain domination." Finally, HRW's dishonesty is compounded by not mentioning anywhere in the entire 217-page document how Barak offered statehood to the Palestinians twice – of course, since this one event undermines the entire apartheid narrative.

13. ERROR: HRW falsified a quote by Shimon Peres by removing a key phrase

HRW's falsification and misrepresentation of quotes is rampant throughout the report, as already shown in the prior point (we identified more than 20 examples). HRW does it again in a quote by Shimon Peres from 2012 purporting to show that he too sought to maintain Jewish domination. The quote from Peres as cited by HRW: "Israeli settlements in [parts of the West Bank] densely populated with Arabs... can lead to a threatening demographic change" and "places a Jewish majority in the state of Israel

⁵¹ HonestReporting, "In Depth: Arafat Rejected Peace in 2000," Salo Aizenberg, July 11, 2021; <https://honestreporting.com/in-depth-arafat-rejected-peace-in-2000/>

⁵² *The New York Review*, "Camp David and After: An Exchange (1. An Interview with Ehud Barak)," Benny Morris, June 13, 2022; <https://www.nybooks.com/articles/2002/06/13/camp-david-and-after-an-exchange-1-an-interview-wi/>

at risk" (p. 47-48). However, looking at the original source shows that HRW deliberately removed a key part of the quote to obfuscate the full meaning. The full quote from Peres as reported in *The Jerusalem Post*: "Israeli settlements in territories densely populated with Arabs, which followed their attack on us, can lead to a threatening demographic change. It places a Jewish majority in the state of Israel at risk."⁵³ The actual meaning as reported was vague, but clearly refers to the risk that Jews face in locations where there has been a *history of Arab attacks on Jews*. The misuse of Peres' quote is a clear violation of proper rules of research and an egregious falsification.

14. OMISSION: HRW considers Israel's encouragement of Jewish immigration as evidence of apartheid

HRW cites as evidence of apartheid that: "[Israeli] authorities and quasi-state institutions have for years actively sought to boost Jewish immigration to Israel" (p. 51). A core aspect of HRW's thesis is that the very existence of a Jewish state constitutes the crime of apartheid – but not the dozens of other nations that identify as Christian or Muslim. With this comment, HRW makes clear that even the act of encouraging Jewish immigration to Israel is a crime. Following World War II and in the early 1950s, the new state of Israel took in about 200,000 Jewish Holocaust survivors and approximately 800,000 Jews expelled or compelled to leave several Arab countries. HRW considers this evidence of apartheid. HRW cites in footnote 107 a 2014 article from *Haaretz* that illustrates how the Israeli government unveiled incentives to encourage Jewish immigration from France.⁵⁴ However, HRW conveniently omits the reason stated in the same article for why Jews were leaving France: "rising anti-Semitism." A 2018 article in *The New York Times* discussing the "new antisemitism" in France noted the "explosion" of anti-Semitic acts in France" and how this has led to thousands of French Jews moving to Israel.⁵⁵ Once again, HRW considers Israeli actions to encourage certain forms of immigration – a right that all nations on earth unequivocally enjoy – as criminal.

15. MISREPRESENTATION: HRW cites disparity in playgrounds in one location as evidence of apartheid

HRW consistently cherry-picks statistics, misrepresents data, and makes broad claims of Israeli evil based on minor incidents and minutiae. This example discusses charges

⁵³ *The Jerusalem Post*, "Peres: Settlement Building Threatens Jewish State," Tovah Lazaroff, July 10, 2012; <https://www.jpost.com/Diplomacy-and-Politics/Peres-Settlement-building-threatens-Jewish-state>

⁵⁴ *Haaretz*, "Israel Unveils New Incentives to Lure French Jews," March 18, 2014; <https://www.haaretz.com/jewish/2014-03-18/ty-article/.premium/new-incentives-for-french-olim/0000017f-efee-da6f-a77f-ffee55c50000>

⁵⁵ *The New York Times*, "'They Spit When I Walked in the Street': The 'New Anti-Semitism' in France," Adam Nossiter, July 27, 2018; <https://www.nytimes.com/2018/07/27/world/europe/france-new-anti-semitism.html>

of "playground apartheid." HRW claims: "Israeli authorities sharply discriminate in the provision of resources and services between Palestinians and Jewish Israelis in Jerusalem" (p. 115). The *first* specific evidence to back this charge is the fact that in 2016, there were two playgrounds in the Arab Jerusalem neighborhoods of Shuafat and Beit Hanina with a combined population of 60,000, compared to nearby Jewish neighborhoods with a playground for every 1,000 residents. HRW cites an article in *Haaretz* discussing how the Jerusalem District Court ordered the construction of playgrounds in response to a lawsuit filed by two East Jerusalem residents in these specific neighborhoods.⁵⁶ The rest of the news story reveals key information that HRW ignores. The Court acknowledged the contention by the City that one could not compare older Arab neighborhoods to newer, planned neighborhoods that incorporated space for playgrounds. Indeed, it was shown that playground density in Arab neighborhoods was *similar to ultra-Orthodox Jewish neighborhoods*, contradicting the notion of "playground apartheid" favoring Jews over Arabs. The municipality also demonstrated efforts to build playgrounds in these Arab neighborhoods but explained "that most of the appropriate land for such playgrounds is in private hands, and arrangements must be reached with the owners."⁵⁷ Despite these explanations, the Court ordered the City to build playgrounds in these two Arab neighborhoods, evidence that the government-run courts consistently apply laws that *contradict* apartheid.

16. ERROR: HRW falsifies quote by Netanyahu claiming he expected Palestinians to remain "subjects"

HRW presents a graphic on page 59 that falsifies a quote by Benjamin Netanyahu. Netanyahu is quoted: "We are the ones dictating security rules... they will remain Palestinian subjects." The comments are cited in a May 2020 article in *Haaretz* discussing the Trump statehood plan and Netanyahu's talks of West Bank annexation.⁵⁸ HRW egregiously combined and altered two quotes by Netanyahu into one to fabricate a narrative that somehow Netanyahu intended to dominate Palestinians as "subjects." The first actual quote discussed that if Israel annexed part of the West Bank, Palestinians residing in the Jordan Valley would remain citizens of a future Palestinian entity. Netanyahu said: "You don't need to impose sovereignty over them, they will remain Palestinian subjects if you want." HRW deliberately falsifies the

⁵⁶ *Haaretz*, "Jerusalem Must Plan Playgrounds for Palestinian Neighborhoods, Court Orders," Nir Hasson, January 10, 2016; <https://www.haaretz.com/israel-news/2016-01-10/ty-article/.premium/court-jerusalem-must-plan-playgrounds-for-palestinians/0000017f-e8f7-dea7-adff-f9ff88340000>

⁵⁷ *Haaretz*, "Suit Claims City Has Not Provided Playgrounds in East Jerusalem," Nir Hasson, April 2, 2015; <https://www.haaretz.com/2015-04-02/ty-article/.premium/city-has-not-provided-playgrounds-in-e-jlem/0000017f-da7e-d432-a77f-df7f93880000>

⁵⁸ *Haaretz*, "Netanyahu Says Palestinians in Jordan Valley Won't Get Citizenship After Annexation," May 28, 2020; <https://www.haaretz.com/israel-news/2020-05-28/ty-article/.premium/netanyahu-says-palestinians-in-jordan-valley-wont-get-citizenship-after-annexation/0000017f-db5d-d3ff-a7ff-fbfda6b80000>

meaning of the modifier to the word "subjects" as if Palestinians were to remain under the control, or domination, of Israel. In fact, Netanyahu was clear that Palestinians would remain "subjects" of a *future Palestinian entity*. The second part of the quote, several paragraphs later into the discussion, is as follows: "[The Palestinians] have to recognize that we are the ones dictating security rules over the entire territory. If they agree to all of this, then they will have their own entity that President Trump defines as a state." HRW's alteration and combination of separate quotes by Netanyahu grossly violates all rules of citation, and furthermore fabricates the entire meaning and intent of Netanyahu's words.

17. MISREPRESENTATION: "Apartheid if you do, apartheid if you don't" – moving Jews out of Gaza

HRW demonizes Israeli actions throughout its report, considering virtually any action taken as apartheid. We call this phenomenon "apartheid if you do, apartheid if you don't," where either one of two or more actions taken by Israel would be considered by HRW as a crime of apartheid. We found at least six examples of this phenomenon in HRW's report. In this example, HRW criticizes the removal of Jewish settlers out of Gaza, related to the 2005 Gaza disengagement and permanent closure of these settlements, into locations within Israel in the Negev as "Judaizing" the region and therefore apartheid. In HRW's section on how Israel is nefariously seeking to "Judaize the Galilee and Negev" (p. 57-58) it cites as evidence a 2004 article from *Haaretz* titled "People and Politics Come Settle in the Negev," which specifically discusses "The plan to transfer settlers from the Gaza Strip to the Negev region" as part of the planning for the "disengagement" in Gaza.⁵⁹ To HRW, Jews leaving Gazan settlements and moving back inside Israel is a crime of "Judaization" and evidence of apartheid. Israeli settlements in Gaza and the West Bank are also considered by HRW war crimes and apartheid. HRW does not inform the reader where these Jews should live so as not to commit crimes of apartheid.

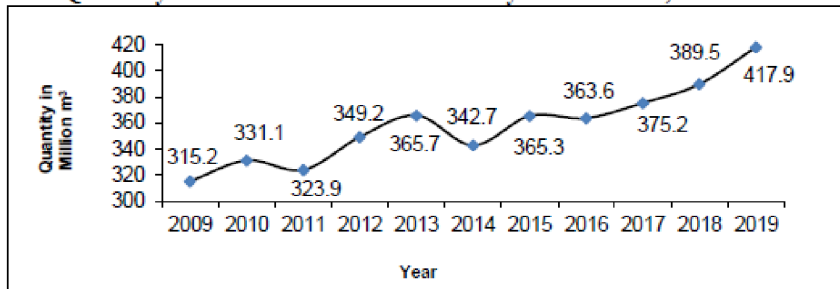
18. ERROR: HRW claims water supply in West Bank stayed flat since Oslo; it has actually increased

HRW and all anti-Israel NGOs consistently fabricate and misrepresent the water situation in the West Bank and Gaza, providing the impression that Palestinians are suffering from lack of sufficient water. While problems certainly exist, the fact is that in both Gaza and the West Bank, Palestinians obtain daily water at the upper end of WHO recommended ranges (as discussed further below). In this example, HRW claims: "While the Oslo Accords of 1995 included provisions that promised to increase Palestinian access to water, Palestinian extraction levels have largely remained at

⁵⁹ *Haaretz*, "People and Politics Come Settle in the Negev," Akiva Elder, June 1, 2004; <https://www.haaretz.com/2004-06-01/ty-article/people-and-politics-come-settle-in-the-negev/0000017f-e59a-da9b-a1ff-edff2ee80000>

pre-Oslo levels while the population has increased" (p. 96). Footnote 307 cites two sources: an Al-Haq report that states "Palestinian water supplies have dropped from 118 mcm per year pre-Oslo to 98 mcm in 2010"⁶⁰ and a World Bank report that states, "Water actually abstracted by Palestinians in the West Bank has dropped – from 138 MCM in 1999 to 113 MCM in 2007." First, as is rampant throughout HRW's report with its near total reliance on third-party NGO reports for data, this information is more than a decade old. Second, while it may be true that amounts "abstracted" by Palestinians fell through 2010, the total amount of water Palestinians obtain comes from several sources, such as Israeli allocations agreed upon under Oslo and natural springs and wells. Data published by the Palestinians themselves shows that from 2010 to 2018 "Annual pumped quantity from groundwater wells" rose from 72 MCM to 97 MCM – a 35% increase.⁶¹ In fact, the total amounts of water available to Palestinians from all sources have steadily risen in the last decade. The chart below appears in a report titled "Palestine in Figures 2020" published by the State of Palestine: Palestinians Central Bureau of Statistics in March 2021, page 92.⁶² As clearly indicated, total water available to Palestinians has risen by about 33% in the last ten years, completely contradicting HRW's contention that "Palestinian access to water" has decreased since Oslo.

Quantity of Water Available Annually in Palestine, 2009-2019



*Data excluded those parts of Jerusalem which were annexed by Israeli Occupation in 1967.

19. ERROR: HRW claims Israeli authorities "almost never" demolish homes of Jews in Jerusalem, even when there are violations; in fact about 1/3 of all demolitions are of Jewish homes

HRW states that Israeli authorities demolished 786 homes of Arabs in East Jerusalem from 2009-2020 (or about 65 per annum), but: "By contrast, Israeli authorities almost

⁶⁰ Al Haq, "Water for One People Only," April 2013, pp. 36-38.

⁶¹ State of Palestine, Palestinians Central Bureau of Statistics, "Selected Indicators of Water Statistics in West Bank, 2010-2018"; https://www.pcbs.gov.ps/Portals/_Rainbow/Documents/water/%e2%80%8f%e2%80%8fWater-E-selected-indicator-in-West-Bank.html

⁶² State of Palestine, Palestinians Central Bureau of Statistics, "Palestine in Figures," March 2021, p. 92; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjakN-1g975AhWhMikFHeg3BakQFnoECA4QAQ&url=https%3A%2F%2Fwww.pcbs.gov.ps%2FDownloads%2Fbook2557.pdf&usg=AOvVaw2M7d_9Xu5WmseacWWgsmk7

never demolish the homes of Jewish Israelis in Jerusalem, even where there are building violations" (p. 114-15). Footnote 400 cites an Ir Amim report titled "A Layman's Guide to Home Demolitions," which states: "While most (about 66%) of the building violations documented by Israeli authorities are located in the Israeli sector, generally 66%-70% of demolitions are in the Palestinian sector. Municipal officials will respond, with some justification, that the violations in the Israeli sector are usually 'minor' (e.g. an illegal extension), while the Palestinian violations are 'major' (e.g. entire buildings) and therefore cannot be overlooked."⁶³ HRW changed the statistic that about 1/3 of demolitions are in the "Israeli sector" (about 370 demolitions) to "almost never" and provides no further context on the reasons for the disparities. These subtle modifications and misrepresentations of given statistics permeate HRW's report.

20. ERROR: HRW does not consider chemicals, fertilizers, gas tanks, construction products and drilling equipment as legitimate dual-use items that could be used by Hamas for rockets and tunnels

HRW devotes a paragraph critical of Israel's limitations on the entry of "dual use" goods – those that could be used for military purposes such as tunnels – into Gaza (p. 137-38). HRW claims that Israel's "dual use" list is too broad and cites examples such as construction products, fertilizers and chemicals, gas tanks, and drilling equipment. The notion that these items could not be used for military purposes is preposterous. One does not need to be a military expert to know that fertilizers and chemicals can be used to make explosives. It is well known that Hamas uses massive quantities of cement to build its tunnel complex, which it openly boasted about in a June 2021 *Al-Jazeera* video report.⁶⁴ An article from *The New York Times* describes how thousands of tons of concrete have been smuggled into Gaza and diverted for tunnel construction, which can be 90 feet deep and reinforced with concrete.⁶⁵ *Al-Jazeera* noted that one tunnel was 66 feet deep and used 800 tons of concrete.⁶⁶ Yet HRW believes that "construction products" and "drilling equipment" cannot be used for the construction of these complex and deep tunnels. HRW also fails to mention that Israel delivered 104,000 truckloads of goods, food, medical equipment, fuel, and gas to Gaza in the prior year.⁶⁷

⁶³ Ir Amim, "A Layman's Guide to Home Demolitions," March 2009, p. 5;

<https://www.ir-amim.org.il/en/report/layman%E2%80%99s-guide-home-demolitions>

⁶⁴ MEMRI TV, "Al-Jazeera Report on Hamas's Tunnel Complex in Gaza: Tunnels Suffered Only Limited Damage," June 7, 2021; <https://www.youtube.com/watch?v=A6eFAIrkDk0>

⁶⁵ *The New York Times*, "Getting From Gaza to Israel, by Underground Tunnels," July 22, 2014; <https://www.nytimes.com/2014/07/23/world/middleeast/gaza-israel-hamas-tunnels.html>

⁶⁶ *Al-Jazeera America*, "Gaza's underground: A vast tunnel network that empowers Hamas," Ben Piven, July 23, 2014

(<https://www.gov.il/en/departments/news/cogat-summary-2021-2-feb-2022>).

⁶⁷ Ministry of Foreign Affairs, "COGAT summary of activities 2021," February 2, 2022; <https://www.gov.il/en/departments/news/cogat-summary-2021-2-feb-2022>

21. ERROR: HRW claims it takes hours to cross Qalandiya checkpoint; since 2019 it only takes minutes

HRW's use of obsolete sources and heavy reliance on anecdotal information is starkly demonstrated by its discussion of the Qalandiya checkpoint from the West Bank into Israel. HRW cites a 2017 news article and a phone call from a lawyer (see footnotes 466 & 467) that it "can take up to two or three hours during morning and evening commutes to pass through the area around the checkpoints" (p. 126-27; on page 124, HRW also writes that at the checkpoint waits "often take an hour or more"). HRW missed that the Qalandiya checkpoint was completely overhauled, and a new facility opened in 2019 that cut the commute to minutes. As reported in *The Times of Israel* regarding Qalandiya: "Israel invested tens of millions of shekels in constructing the new checkpoint, which [an Israeli official] described as 'much quicker' and more 'comfortable' than the old one."⁶⁸ Similar upgrades are in process in other checkpoints. Even an official from NGO Machsom Watch admitted: "the new checkpoint was a significant improvement in relation to the old one... Qalandiya now works very nicely, it is good for the people and everybody is really delighted about it." West Bank resident Yousef Jabareen was quoted by *The Times of Israel*: "It used to take about an hour to pass through the old one. Now it only takes a few minutes, which means that I get about an extra hour of sleep." A 2019 news report by *AP News* corroborated the massive improvements at Qalandiya: "Thanks to the upgrades, crossing through Qalandia takes roughly 10 minutes, even during the early morning rush hour, and has the feel of an airport terminal."⁶⁹

22. ERROR: HRW claims that no Arab city in Israel has a "government administrative building"

HRW's narrative is riddled with preposterous assertions of Israeli wrongdoing, in this section seeking to show how Arab towns in Israel (which HRW erroneously calls "Palestinian municipalities") are discriminated against versus Jewish towns. HRW claims that "not a single Palestinian municipality has... government administrative buildings in it" (p. 157). HRW cites in footnote 617 the source as "Sikkuy email to Human Right Watch." Many cities, including Arabs ones in Israel, have a city hall (e.g., Nazareth City Hall) or a similar municipal government building, not to mention post offices and numerous other kinds of administrative offices and buildings as simple Google searches show.

⁶⁸ *The Times of Israel*, "Israel opens new Qalandiya checkpoint, phasing out inadequate crossing," Adam Ragson, April 25, 2019; <https://www.timesofisrael.com/israel-opens-new-qalandiya-checkpoint-phasing-out-inadequate-crossing/>

⁶⁹ *AP News*, "Israel invests in high-tech upgrades at West Bank Crossings," Ilan Ben Zion, July 29, 2019; <https://apnews.com/article/israel-ap-top-news-international-news-jerusalem-west-bank-705e2ffbea5342bc96d3fe88e307c24f>

23. ERROR: HRW claims it's "virtually impossible" for Palestinians to obtain building permits in East Jerusalem; many thousands have actually been granted, more to Arabs than Jews in 2018

HRW consistently fabricates assertions assuming the reader will not check. HRW writes: "Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in East Jerusalem" (p. 183). HRW does not provide any evidence or statistics to back up its claim; instead it merely cites one of its own earlier reports. In fact, it is not "virtually impossible" for Arabs to obtain permits in East Jerusalem. In 2018, for example, Arabs were granted 841 permits for construction in East Jerusalem, exceeding the 740 granted to Jews – hardly evidence of apartheid.⁷⁰ Figures published by the group Peace Now, based on data from the Jerusalem Municipality, shows that from 1991 to 2019, in East Jerusalem, Arabs/Palestinians received 9,536 construction permits while Jews received 21,834.⁷¹ These figures are proportional with the demographic breakdown of Jerusalem's population.

24. MISREPRESENTATION: Israel gave Nazareth priority tourist designation only in 1993; still apartheid

A notable portion of HRW's report is the ten pages it devotes to comparing Nazareth to Nazareth Illit (Upper Nazareth, now known as Nof Hagalil), two adjacent cities in northern Israel. HRW's thesis, which relies on numerous errors, misrepresentations and preposterous claims, is that Israel favors the Jewish Nof Hagalil while deliberately allowing Arab Nazareth to deteriorate under apartheid. HRW writes: "Although widely known as Jesus' hometown and home to a key church in the Christian tradition, authorities historically invested little in Nazareth's tourism infrastructure and, as a result, the city benefitted little from the flocks of religious tourists that visit" (p. 165-66). The first item of evidence provided is that: "[Israeli] Authorities only in 1993 granted Nazareth the status of 'National Priority A' in tourism a status that qualifies the city to receive grants and tax breaks." The second item of evidence: "The first commercial chain hotel in Nazareth did not open until the late 1990s." Despite about thirty years with the proper tourism designation and more than twenty with a "commercial chain hotel" (which has nothing to do with the Israeli government anyhow), Israel is *still* not absolved of crimes of apartheid related to this matter. Of course, HRW does not provide the reader evidence from this century, nor any statistics that shows how Nazareth "benefitted little from the flocks of religious tourists."

⁷⁰ *The Times of Israel*, "Palestinians see bump in East Jerusalem building permits, still lag behind Jews," Jacob Magid, September 12, 2019; <https://www.timesofisrael.com/palestinians-see-bump-in-east-jerusalem-building-permits-still-lag-behind-jews/>

⁷¹ Peace Now, "Jerusalem Municipal Data Reveals Stark Israeli-Palestinian Discrepancy in Construction Permits in Jerusalem" September 12, 2019; <https://peacenow.org.il/en/jerusalem-municipal-data-reveals-stark-israeli-palestinian-discrepancy-in-construction-permits-in-jerusalem>

25. MISREPRESENTATION: HRW claims Nazareth has no industry, ignoring large high-tech presence

HRW compares the supposedly strong industrial zone in Nof Hagalil, the Jewish town purported to be favored with industrial growth, to Nazareth, the town purported to be neglected by Jewish supremacists. HRW writes: "Nazareth, by contrast, has two small industrial zones, one consisting of carpentry workshops in the Old City and the other of car repair shops" (p. 165). This sentence is meant to convey the impression that Arab Nazareth is impoverished, with some old workshops as its only industry. HRW seems to be unaware that the key driver in the Israeli economy is the high-tech industry. The willful ignorance about Nazareth is even more egregious since in recent years the city has become one of the leading high-tech centers in an Arab sector, and is a model for the advancement of Arabs in Israel – the diametric opposite of apartheid. According to an article in *The Jerusalem Post*, Nazareth is considered the "capital of Arab tech in Israel with dozens of companies – including multinationals – active in the city."⁷² *USA Today* profiled the city in 2015 where it stated that Nazareth has 600 Arab software developers, up from just 40 in 2008.⁷³ As of 2019, there were 40 high-tech companies operating in Nazareth with more than 1,300 engineers (double the number in 2015), a quarter of them women.⁷⁴ A 2019 article in *The Jerusalem Post* titled "Innovation: Nazareth – a holy city and a hi-tech haven" discusses Nazareth-based venture capital fund NGT3 that recently raised its second fund of \$92 million.⁷⁵ According to Managing Partner Nizar Mishael, "Nazareth has become a hub of hi-tech in the Arab sector." More than 30% of the employees in the fund's 20 portfolio companies are Arab. The *USA Today* article quotes Arab venture capitalist Aiman Saif, who explained how the government invested \$45 million to ignite the Arab tech sector in Israel, and that "in the last month, we've approved seed funding for 11 Arab-led start-ups in Nazareth." In 2016, Microsoft launched an R&D center in Nazareth (located on Paulus ha-Shishi Street), its fourth in Israel.⁷⁶ In 2018, multinational company Regus opened a \$13 million high-tech shared workspace in the

⁷² *The Jerusalem Post*, "Israel to build first tech park for Arab sector," Daniel Sonnenfeld, November 21, 2021;

<https://www.jpost.com/israel-news/israel-to-build-first-tech-park-for-arab-sector-685209>

⁷³ *USA Today*, "Biblical Nazareth goes high-tech thanks to Arab push," Kate Shuttleworth, February 15, 2015;

<https://www.usatoday.com/story/tech/2015/02/18/nazareth-tech-sector/22459503/>

⁷⁴ *Business Facilities*, "Personetics Opens New R&D Center in Israel," July 22, 2019;

<https://businessfacilities.com/2019/07/personetics-opens-new-rd-center-nazareth-israel/>

⁷⁵ *The Jerusalem Post*, "Innovation: Nazareth – a holy city and a hi-tech haven," Eytan Halon, December 6, 2019; <https://www.jpost.com/jpost-tech/innovation-nazareth-a-holy-city-and-a-hi-tech-haven-610028>; also see

The Capital Quest, "Israel's NGT3 raises second fund for health-tech bets," Aman Malik, March 14, 2022; <https://thecapitalquest.com/2022/03/14/israels-ngt3-raises-second-fund-for-health-tech-bets/>

⁷⁶ *The Times of Israel*, "Microsoft opens R&D center in Nazareth to reach Arab engineers," Shoshana Solomon, June 6, 2016; <https://www.timesofisrael.com/microsoft-opens-rd-center-in-nazareth-to-reach-arab-engineers/>

city's downtown.⁷⁷ In 2019, Salesforce.com, with an \$188 billion market capitalization, also opened a R&D center in Nazareth with plans for 100 developers.⁷⁸ Several other major high-tech companies have offices in Nazareth, including Amdocs and Broadcom. In November 2021, Israel announced the construction of a high-tech park in Nazareth, a 10-acre park for an expected 200 workplaces in the high-tech area.⁷⁹ HRW's section about the supposed depressed and oppressed industry and economy of Nazareth is a microcosm of its entire report: filled with blatant errors, gross omissions and misrepresentations, shoddy research, willful ignorance, obsolete data, fabricated narratives and specious conclusions.

The final omission discussed in this Executive Summary is not specific to any section of the report but an overall omission by HRW regarding the broader context of the Israeli-Palestinian conflict. HRW does not mention in 217 pages anything about the decades-long Arab-Israeli conflict. Nothing about the Arab rejection of the partition plan in 1947, attacks against Jews both by Arabs within the Palestine Mandate and invasion by Arab nations, refusal to make peace with Israel post war, and continued hostilities with unabated aggressive talk of destroying Israel. Never does HRW mention the raw hostility of the broader Arab and Muslim world to Israel and Jews, for certainly the 30-year period between the formation of the state and the peace treaty between Egypt and Israel. HRW does not explain the background of how the West Bank and Gaza came to be under Israeli control. The 1973 war, where Israel's position was precarious and many thought it was the end for the Jewish state, is not mentioned by HRW. None of these factor into HRW's analysis of why Israel may have taken special measures to strengthen the Jewish state and protect its Jewish citizens in the decades following 1948 that may not have met HRW's "perfection standard." An article about the HRW report by Daniel Kurtzer, former U.S. Ambassador to Egypt and Israel, and Aaron David Miller, former Middle East negotiator for several U.S. administrations, sums up this glaring omission:⁸⁰

But to read the HRW report, one might think that occupation practices take place in a vacuum, and that Israeli security doesn't matter, or that

⁷⁷ *Haaretz*, "TechNation: Nazareth, Israeli-Arab High-tech Center, Gets Its First Shared Workplace," *The Marker*, December 11, 2018; <https://www.haaretz.com/israel-news/business/2018-12-11/ty-article/technation-nazareth-israeli-arab-tech-hub-gets-first-shared-workplace/0000017f-f978-d880-a7ff-ff7ce9a20000>

⁷⁸ *Calcalist*, "Salesforce Opens Nazareth Development Center," Meir Orbach, March 6, 2019; <https://www.calcalistech.com/ctech/articles/0,7340,L-3757742,00.html>

⁷⁹ *The Jerusalem Post*, "Israel to build first tech park for Arab sector," Daniel Sonnenfeld, November 21, 2021; <https://www.jpost.com/israel-news/israel-to-build-first-tech-park-for-arab-sector-685209>

⁸⁰ *Newsweek*, "Injecting 'Apartheid' Into the Israeli-Palestinian Conflict Will Make It Worse," Daniel Kurtzer and Aaron David Miller, May 4, 2021; <https://www.newsweek.com/injecting-apartheid-israeli-palestinian-conflict-will-make-it-worse-opinion-1588559>

Israeli proposals since the 1990s to break the negotiations deadlock don't matter. This is false. The Israeli-Palestinian conflict isn't a morality play pitting the forces of good against evil, the powerful against the powerless. Palestinian terrorism and violence have been a constant feature throughout Israel's history, starting in the pre-state period when the Arabs rejected Zionist aspirations and continuing until today. Israel has also faced a wall of Arab state rejection until the 1979 peace treaty with Egypt and the 1994 peace treaty with Jordan. And while recent normalization agreements with Arab states on the periphery of the region help, they do nothing to diminish the threats to Israel from Iran and its Shia proxies in Iraq and Syria, and from Hezbollah, Hamas, and Palestinian Islamic Jihad on its borders. It is this context that the report leaves out.

Errors, Misrepresentations, Omissions & Double Standards

The remainder of this document lists in page order flaws in HRW's report under the previously listed categories. The number count continues from the 25 items listed in the Executive Summary.

26. MISREPRESENTATION: In the introductory pages of the report, HRW provides a map of "Israel and the Israeli-occupied Palestinian Territory, made up of the West Bank, including East Jerusalem, and the Gaza Strip, as well as the Israeli-occupied Golan Heights" (p. i). While many NGOs routinely use the same terminology, it is a misrepresentation to characterize the West Bank and areas in East Jerusalem, such as the Western Wall and the Jewish section of the Old City, as "Palestinian Territory." There is currently no sovereign Palestine or territory that belongs to "Palestine." While HRW may believe that all the West Bank including all of East Jerusalem should in the future be placed under the sovereignty of a "State of Palestine," that is not the reality today, nor has any of this territory ever been recognized by any other country or the UN as "Palestinian Territory." HRW's characterization reflects its well-telegraphed wishes, not an accurate representation of the actual political reality, either now or in the past.

27. ERROR: HRW lists under what it calls incorrect "widely held assumptions" that Israel "is an egalitarian democracy inside its borders" (p. 2). However, HRW does not provide any evidence in its report that Israel is not an egalitarian democracy, instead simply showing instances where Arabs are not completely equal to Jews in various metrics. HRW does not assess anywhere in the report any of the elements that

comprise an "egalitarian society" such as freedom of religion, LGBTQ rights, women's rights, freedom of the press, right to vote, and numerous other similar factors. HRW could have compared Israel to other democracies, but such a comparison would show HRW's contention to be unsupported by any evidence. Actual assessments of Israel's democracy by respected third party organizations shows HRW's assertion to be false. Widely respected Freedom House rates Israel as "Free" and states that "Israel is a multiparty democracy with strong and independent institutions that guarantee political rights and civil liberties for most of the population."⁸¹ *The Economist's* Democracy Index ranked Israel 23rd out of 165 countries. Israel's score of 7.97 out of 10 ranked right behind France at 7.99.⁸² An honest assessment of Israel's democracy "inside its borders" demands comparison to other nations considered democracies; instead, Israel is evaluated in a complete vacuum, which is standard practice in anti-Israel discourse.

28. ERROR: HRW claims: "For the past 54 years, Israeli authorities have facilitated the transfer of Jewish Israelis to the OPT..." (p. 2). This is incorrect in two ways. First, Israel has never "transferred" or facilitated the "transfer" of Jews to the West Bank or Gaza. Israelis have voluntarily moved to new homes that they purchased in these locations. No Israeli was ever forced, transferred, or compelled in any way to move to these areas, and these same residents have the ability to freely sell their homes and move to any location in Israel at any time. The term "transfer" has been deliberately inserted by HRW to falsely tie Israeli settlements to Article 49 of the Geneva Convention, which states: "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."⁸³ The Geneva Convention in this context referred to forced population transfers, not the voluntary movements of persons to purchased homes.⁸⁴

29. ERROR: HRW's claims, in its summary discussion regarding the definition of apartheid, that "The international community has over the years detached the term apartheid from its original South African context" (p. 3). HRW notably does not provide any evidence or references to back up its assertion that "the international community" (which HRW does not define) has modified its connection of apartheid to South Africa "over the years." Not one shred of evidence is provided despite nearly 900 footnotes; this is simply the sole opinion of HRW and its partner NGOs that also claim Israel is

⁸¹ Freedom House, "Israel"; <https://freedomhouse.org/country/israel>

⁸² *The Jewish Chronicle*, "Israel ranks above Spain, Italy and US for democracy in new global index," David Rose, February 17, 2022; <https://www.thejc.com/news/israel/israel-ranks-above-spain-italy-and-us-for-democracy-in-new-ranking-5thm78K0h6XhdVKV066TwE>

⁸³ International Committee of the Red Cross, "Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949"; <https://ihl-databases.icrc.org/ihl/WebART/380-600056>

⁸⁴ Embassy of Israel, "Israeli Settlements and International Law"; <https://embassies.gov.il/tokyo-en/AboutIsrael/the-middle-east/Pages/Israeli-Settlements-and-International-Law.aspx>

guilty of apartheid. In fact, there is no actual international law or nebulous "international community" that has "detached" apartheid from South Africa.

30. MISREPRESENTATION: HRW presents a graphic titled "Integrating Jews / Separating Palestinians" purporting to show how Jews are separated from Palestinians in where they can live as a racial policy of apartheid (p. 11). The graphic claims that 6.8 million "Jewish Israelis" are "Free to live throughout Israel, East Jerusalem & most of the West Bank" – in fact, all 9.2 million Israeli citizens of any religion or race enjoy the same rights (with flaws, like any democracy). HRW purposely and erroneously presents factors applying to "Jews" only when they really apply to all Israeli citizens of any race, religion, or ethnic background. This deliberate dishonesty is one the key flaws of the entire report – the insistence on presenting differences between *Israeli citizens and non-citizens* as a racial conflict pitting evil Jews against oppressed Palestinians.

31. ERROR: HRW falsely claims in the same graphic that "Palestinian Citizens of Israel" are "concentrated on about 3% of the land" (p. 11). As shown above in Point 6, Jewish Israelis live far more densely than Arab Israelis. Jewish Israelis privately own about 3.5%-4.0% of the total land in Israel while Arabs own about 3.0%-3.5%. Municipal land is additional to privately owned land, so the 3% figure attributed to "Palestinian Citizens of Israel" is also incorrect.

32. MISREPRESENTATION: HRW states in the same graphic that: "West Bank ID Holders" are "Barred effectively from building in the majority of the West Bank" (p. 11). HRW obsesses over the fact that Palestinians are not permitted to build freely in Area C of the West Bank, which comprises 60% of the territory. There are three key misrepresentations here. First, this arrangement was agreed upon between Israel and the Palestinian Authority under the Oslo Accords, but somehow HRW still presents elements of this bilateral agreement as a violation of international law. Second, while technically true that Area C comprises the majority of the West Bank, it is composed of largely uninhabited areas by design, and holds only about 5% of the Palestinian population of the West Bank. Third, HRW does not reveal anywhere in the document that 95% of Palestinians reside in Area A & B, which were created precisely to grant nearly all Palestinians in the West Bank self-rule, and can build freely and without Israeli say anywhere in these areas. In fact, thousands of these building permits are granted as described below in Point 264.

33. MISREPRESENTATION: HRW writes: "When Israel annexed East Jerusalem in 1967, it applied its 1952 Law of Entry to Palestinians who lived there and designated them as 'permanent residents,' the same status afforded to a non-Jewish foreigner who moves to Israel" (p. 16). Israel did not apply the 1952 Law of Entry specifically to

Palestinians or anyone else, or deny its application to others. HRW falsely constructs this sentence as if Israel deliberately implemented separate laws for *Palestinians*. After the 1967 war, Israel annexed areas of East Jerusalem which then became integral parts of Israel – all Israeli laws now applied equally to these areas of East Jerusalem, just like all of Israel, to all people of any ethnicity or religion.

34. ERROR: HRW writes: "Israeli authorities justify many of the policies documented in this report as responses to Palestinian anti-Israeli violence." The first example that HRW claims Israel uses security as a pretext is: "denial of building permits in Area C, East Jerusalem, and the Negev in Israel" (p. 18). In fact, Israel has not stated that security concerns are central to the denial of building permits in these areas. Statements by numerous officials and more importantly, the large number of court cases related to these land disputes, demonstrate that Israeli is simply enforcing land ownership, zoning, and building permitting rules like any sovereign nation that follows the rule of law. The Oslo Accords make clear that Palestinians do not have a right to build freely in Area C – yet HRW continues to ignore this fact and claims that adherence to this internationally recognized agreement that remains valid is criminal. As usual, HRW obsesses over the small minority of building disputes, ignoring the many thousands of building permits Palestinians obtain in the West Bank (see Point 264) and East Jerusalem (see Point 23).

35. OMISSION: HRW devotes a long paragraph to the claim that: "[Israeli] Officials sometimes claim that measures taken in the OPT are temporary and would be rescinded in the context of a peace agreement," but that "a range of officials have made clear their intent to maintain overriding control over the West Bank in perpetuity, regardless of what arrangements are in place to govern Palestinians" (p. 18-19). As the only evidence, HRW cites a falsified quote by Prime Minister Levi Eshkol (see next point) and a quote by Prime Minister Benjamin Netanyahu. HRW deliberately does not disclose, let alone analyze, the offers for full Palestinian statehood that would have fully ended Israeli control of the West Bank made by Prime Ministers Ehud Barak and Ehud Olmert. As discussed in Point 11, these events are totally erased by HRW since they would totally contradict a central element of the apartheid narrative, the intent to perpetually occupy.

36. ERROR: HRW falsifies the meaning and intent of a quote by Levi Eshkol from 1967. HRW claims that Eshkol indicated with these words that he never considered the possibility of ending control of the West Bank, meaning perpetual occupation: "I see only a quasi-independent region [for Palestinians], because the security and land are in Israeli hands" (p. 18-19, and the same distorted quote is repeated on p. 66). In fact, this comment was part of a broader discussion by Eshkol about proposals "between Palestinian autonomy and an independent state in the West Bank." The

quote comes from a 2007 *Haaretz* article that HRW cites (see footnote 182), but HRW leaves out critical context that changes the entire meaning and intent of Eshkol's words. The article notes: "In cabinet meetings after the end of the Six Day War, the proposals from the majority of ministers fluctuated between Palestinian autonomy and an independent state in the West Bank, with those who set the tone - prime minister Eshkol, defense minister Moshe Dayan, labor minister Yigal Allon and information minister Yisrael Galili - all in favor of the Palestinian option."⁸⁵ The words "The security and the land are in Israeli hands" were taken from a longer group of sentences as follows: "I see only a quasi-independent region because the security and the land are in Israeli hands. I don't care if they eventually want representation in the United Nations. I started with an autonomous region, but if it turns out that this is impossible, they will get independence." The discussion that HRW cites as the *first evidence* that supposedly proves Israeli intention to *perpetually occupy* the West Bank states the exact opposite – ways for Israel to end control of the West Bank following the war with specific intentions for eventual Palestinian statehood.

37. OMISSION: HRW cites a comment by Eshkol in July 1967, immediately after the Six-Day War and Israeli capture of the West Bank and Gaza, as evidence that Israel intended to perpetually occupy these territories (p. 18-19). We have already shown the falsification of Eshkol's comment. Moreover, HRW omits key information from this same time period that contradicts its thesis of intention to perpetually occupy. After the war Israel attempted to trade the newly acquired territories for peace with its Arab neighbors. It quickly became clear that the Arab nations had no intention of recognizing Israel or agreeing to a peace agreement in exchange for land.⁸⁶ The culmination of the Arab response was the statement issued at the Khartoum Resolution in September 1967: "no peace with Israel, no recognition of Israel, no negotiations with it..." Somehow HRW only found space for a mauled Eshkol quote to describe post-Six Day War events and Israeli thinking at the time.

38. OMISSION: HRW writes that the Oslo Accords created the "Palestinian Authority (PA) to manage some Palestinian affairs in parts of the OPT for a transitional period" (p. 25). The omission in this case is that HRW does not mention the PA again in its report.⁸⁷ HRW pretends that Israel governs the day-to-day life of all Palestinians in the West Bank, yet the fact remains that Palestinians have had a functioning government for more than two decades that manages nearly every aspect of their lives. This government is recognized worldwide and has observer status in the UN, and its leaders are treated like other heads of state. While it is true that the PA

⁸⁵ *Haaretz*, "The 'Jordanian Option,' the Plan That Refuses to Die," Reuven Pedatzur, July 25, 2007; <https://www.haaretz.com/1.4954947>

⁸⁶ Michael Oren, *Six Days of War*, 2003, pp. 305-27

⁸⁷ The PA is given two recommendations at the very end of HRW's report

does not have official statehood and is still limited in its rule, HRW deliberately ignores the broad functioning of the PA and the 95% of West Bank Palestinians who live under this authority. The PA regulates all building permitting in the areas it manages without Israeli intervention. The PA regulates newspapers and media without Israeli intervention. Like the erasure of 95% of Israeli Arabs, HRW erases the experience of the vast majority of Palestinians under the PA. Instead, HRW obsesses over small groups of Bedouins and the tiny minority of Palestinians who reside in Area C to weave a false narrative of Israeli crimes.

39. OMISSION: HRW writes: "The parties [Israel & the PLO] did not reach a final status agreement by 2000 and have not in the two decades since, despite off and on negotiations primarily mediated by the US" (p. 25). Like all anti-Israel reports, the statehood offers are deliberately excised from the historical record. HRW's history in this section alludes to these 2000 events in this one sentence, jumps to 2007 when Hamas took over Gaza and skips to 2020 and President Trump's "Peace to Prosperity" Plan. HRW devotes a few lines to criticizing the Trump plan, but somehow when mentioning the "decades-long peace process" (p. 26) cannot find room to discuss Camp David, the Clinton Parameters or Olmert's offer in 2008.

40. ERROR: HRW calls Fatah and Hamas "Palestinian political parties" (p. 25). In fact, Hamas is not simply a "political party" but considered a terrorist organization by the EU, US, and others. HRW's whitewashing of Palestinian terrorism and terrorist groups is total and complete in its report.

41. MISREPRESENTATION: HRW writes: "The decades-long 'peace process' has neither significantly improved the human rights situation on the ground nor altered the reality of overall Israeli control across Israel and the OPT. Instead, the peace process is regularly cited to oppose efforts for rights-based international action or accountability, and as cover for Israel's entrenched discriminatory rule over Palestinians in the OPT" (p. 26). HRW ignores that the Oslo Accords granted Palestinians significant self-rule that certainly improved the lives of Palestinians. Once again HRW completely dismisses Israeli offers for statehood that were rejected by Palestinians and grossly distorts these serious Israeli offers as nothing more than "cover" for Israeli discriminatory rule. HRW does not provide any explanation or evidence for how prior offers for full statehood was in reality part of a devious plan for Israel to maintain rule.

42. ERROR: HRW writes: "the government of the state of Israel, has primary control across both [the OPT and Israel]. That authority governs all Jewish Israelis in Israel and the OPT under a single body of laws (Israeli civil law) and, to ensure their domination... against Palestinians" (p. 27). As is common throughout its report, HRW claims that certain laws apply to "Jewish Israelis" when they actually apply to *all*

citizens of Israel regardless of race, religion, or ethnicity. The "single body of laws" referred to here apply to all Israeli citizens including Arabs which HRW also calls "Palestinians." By insisting on grouping Arab-Israelis and Palestinians in the West Bank and Gaza as one racial group (Palestinians), HRW runs into logical flaws that undermine its entire argument.

43. MISREPRESENTATION: The entire section of "Intent to Maintain Domination" (p. 44-78) is a gross misrepresentation and fabrication. For example, in the section on the Galilee and Negev, the mere thought of Jews living in these locations is seen as an "inhumane act... carried out in the context of systematic oppression pursuant to that intent to maintain domination," all of which comprises the "crime against humanity" of apartheid. The only evidence of this terrible crime are apparent Israeli desires to "Judaize" the Galilee and Negev. Over this roughly five-page section discussing this evil intent in the Galilee and Negev (p. 57-62), HRW cites comments from about 10 different Israeli politicians and officials about their desire to increase the Jewish population in these areas. The entire body of evidence to charge Israel with an "intent to dominate" Palestinians in these areas completely relies upon these statements and in apparent planning documents over the years that stated a goal for Jews to live in certain areas. For example, one official, Jacob Edery, is quoted: "We have to do everything we can to boost the Jewish population in the Galilee" (p. 59). HRW does not explain how statements like this evidence a goal of "domination." While one can argue that there should have been no commentary regarding a goal for Jews to live in certain locations, it is inane to claim that this is evidence of an "intent to dominate." Proving an intent to dominate another people requires far more than simply finding words from some officials, many obscure, saying Jews should live in certain areas, certainly if charging "crimes against humanity." HRW does not provide *any evaluation of how these supposed goals and efforts ended up* and no information about any actual acts of "Judaization" that back up these comments. What the data show is that the Arab population grew both in numbers and as percentage of the total, in areas such as the Galilee and Jerusalem, where Israel is accused of seeking to "dominate." For example, data shows the "Arabization" of the Galilee, with Jews comprising 18% of the population of the Galilee in 2005 but declining to 15% in 2020. The Jewish population remained stagnant at about 98,000. In the same period the Arab population jumped from 441,000 to 577,000.⁸⁸

44. MISREPRESENTATION: HRW makes clear throughout its report that Israel's definition as a Jewish state is inherently racist and key evidence of the Jewish intent to dominate Palestinians. HRW cites a line from Israel's Proclamation of Independence

⁸⁸ *Jewish News Syndicate*, "Losing the Galilee: Why are Jews a declining minority in this key area?," David Isaac, May 19, 2022; <https://www.jns.org/losing-the-galilee-why-are-jews-a-declining-minority-in-this-key-area/>

that proclaims "the establishment of a Jewish state in Eretz-Israel" as the *first evidence* of Israel's "intention to dominate" as a crime of apartheid (p. 45). Even the proclamation's narration of "the history of the Jewish people" is problematic according to HRW. HRW does not disclose that the UN General Assembly Resolution 181, otherwise known as the Partition Plan, specifically intended to create one "Jewish state" and one "Arab state."⁸⁹ Does HRW suggest that the UN and the 33 nations that voted in favor of the plan in 1947 were creating an apartheid regime? Of course not, since the concept of a Jewish state, like numerous states identified by a certain religion or ethnicity, was and remains common and hardly evidence of racism or apartheid.

45. DOUBLE STANDARD: HRW writes: "Israel's Basic Laws, which have constitutional status in the absence of a full constitution, re-enforce that the state is Jewish, rather than belonging to all its citizens" (p. 45). This double standard is similar to the one detailed in Point 3, but HRW invents another concept here, that somehow the definition of Israel as a "Jewish" state means that it does not "belong" to all of its citizens. HRW does not explain what "belonging" here means – is this intended as a legal definition? Does Greece "belong" to all of its citizens who are not Christian? After all, Greece's constitution says: "The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ" and affirms this designation over three clauses. Would HRW accuse Greece of an "Intention to Dominate" and commit apartheid against its Muslim community that dates back to Ottoman times? Do the dozens of Muslim states that identify as Islamic not "belong" to their non-Muslim citizens and therefore commit crimes of apartheid?

46. DOUBLE STANDARD: HRW continues its assault on Israel's identification as a Jewish state, discriminating against Israel alone as the one country on earth that cannot identify with a particular group. As part of the evidence of Jewish "Intent to Maintain Domination," HRW cites the fact that Israel's Basic Laws says: "no candidate can run for the Knesset if they expressly or implicitly endorse 'negation of the existence of the State of Israel as a Jewish and democratic state'" (p. 45). We have not reviewed constitutions worldwide, but maintaining the character of the state as set out in a constitution or similar document is hardly apartheid. In fact, 30 countries mandate that the heads of state must belong to a certain religion including 17 Muslim states and democracies such as Mexico and Costa Rica.⁹⁰ As noted in Point 3, the second chamber of the UK Parliament, the House of Lords, reserves 26 seats exclusively for Christian Bishops. Seventy-nine countries, including almost 50 Islamic nations, have

⁸⁹ United Nations General Assembly Resolution 181, accessed from The Avalon Project , Yale Law School; https://avalon.law.yale.edu/20th_century/res181.asp

⁹⁰ Pew Research Center, "In 30 countries, heads of state must belong to a certain religion," Angelina E. Theodorou, July 22, 2014; <https://www.pewresearch.org/fact-tank/2014/07/22/in-30-countries-heads-of-state-must-belong-to-a-certain-religion/>

blasphemy laws where punishments can range from fines to capital punishment.⁹¹ Even leading democracies like Finland have blasphemy laws – its law specifically cites in its penal code offending or defaming “a church.”⁹² None of these nations are seen as racist or intending to dominate persons of other religions.

47. MISREPRESENTATION: HRW writes: “Within Israel’s pre-1967 borders, Jews currently represent about 81 percent of the population, as compared to about 19 percent of Palestinians” (p. 46). HRW cites in footnote 85 data from the Israel Central Bureau of Statistics. However, the source cited does not refer to Palestinians, instead only referring to “Arabs.”⁹³ HRW insists on fabricating a Palestinian identity for the Arab citizens of Israel.

48. MISREPRESENTATION: HRW relies on quote snippets to summarize the lifetime views of Israeli leaders. Instead of analyzing the broad body of commentary and actions by Israeli Prime Ministers and other leaders, HRW reduces their entire thinking to a few words, mostly taken out of context. In this example HRW offers a quote snippet from former Prime Minister Netanyahu purporting to show apartheid: “Israel is not a state of all its citizens [but rather] the nation-state of the Jewish people and only them” (p. 46). The snippet was actually part of a broader response to actress Rotem Sela related to a question about the Nation-State Law. The full comment from Netanyahu: “Dear Rotem, an important correction: Israel is not a state of all its citizens. According to the Nation-State Law that we passed, Israel is the nation-state of the Jewish People – and them alone. As you wrote, there’s no problem with the Arab citizens of Israel – they have the same rights as us all and the Likud government has invested in the Arab sector more than any other government.”⁹⁴ While inelegant, and several Israeli politicians rebuked Netanyahu, HRW misrepresents the full quote and context, because the other portion of the comment contradicts the notion of apartheid.

⁹¹ Pew Research Center, “Four-in-ten countries and territories worldwide had blasphemy laws in 2019,” Virginia Villa, January 25, 2022; <https://www.pewresearch.org/fact-tank/2022/01/25/four-in-ten-countries-and-territories-worldwide-had-blasphemy-laws-in-2019-2/>; Council on Foreign Relations, “Understanding Sharia: The Intersection of Islam and the Law,” Kali Robinson, December 17, 2021; <https://www.cfr.org/background/understanding-sharia-intersection-islam-and-law>; End Blasphemy Laws, “Europe”; <https://end-blasphemy-laws.org/countries/europe/>

⁹² End Blasphemy Laws, “Finland: Parliamentarians fail to support repeal of blasphemy, according to survey,” July 15, 2021; <https://end-blasphemy-laws.org/2021/07/finland-parliamentarians-fail-to-support-repeal-of-blasphemy-according-to-survey/>

⁹³ Israel Central Bureau of Statistics, “Localities (1) and Population, By District, Sub-District, Religion and Population Group,” September 15, 2020; https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/st02_16x.pdf

⁹⁴ *The Jerusalem Post*, “Netanyahu to Rotem Sela: Israel is not a country of all its citizens,” Amy Spiro, March 10, 2019; <https://www.jpost.com/israel-news/benjamin-netanyahu/netanyahu-hits-back-at-israeli-actress-after-she-criticizes-miri-regev-582959>

49. MISREPRESENTATION: HRW again misrepresents Netanyahu through quote snippets. The former Israeli leader is cited from statements he made in 2003 that if Israeli-Arabs ever reach 35-40% of the population there will not longer be a Jewish state (p. 47). But in the same set of comments at a conference, Netanyahu added that to maintain the "state's democratic fabric," "policy needs to balance relations" with Arabs and the state's Jewish character.⁹⁵ Netanyahu also said that: "The Palestinians would under all circumstances rule themselves and administer their own affairs." Like the prior point, Netanyahu consistently makes clear that maintaining the country's democratic principles remains paramount, even if Israel is the Jewish state, and the goal is to allow Palestinians self-rule. HRW deliberately omits these points in order to support its fabrication of "Jewish domination."

50. ERROR: HRW claims that Israel's security barrier was "ostensibly erected to enhance Israel's security" and in reality was built for demographic reasons. (p. 47) HRW, like most anti-Israel NGOs, scoff at the notion that Israel's actions might be related to security. The dismissal of the security needs that led to the construction of the security barrier is particularly appalling. Of course, HRW cannot find room in its 217-page report to say the words "suicide bombing." Israel built the security barrier to put an end to over 100 suicide bombings that killed many hundreds of Israeli civilians perpetrated by Palestinian terrorists, especially in the 2001-2003 period before the barrier was constructed, mostly originating from the West Bank. The security barrier was highly effective in reducing and eventually virtually eliminating such attacks, as easily seen by the data on suicide bombings. For example, an analysis from 2004, soon after the completion of the barrier, explained that from 2000 through the date of the completion of the barrier, thirty-five successful suicide terror attacks that killed 156 Israeli civilians originated in the northern West Bank (mainly from Jenin and Nablus), but during the first half of 2004 not a single attack was successful.⁹⁶

51. MISREPRESENTATION: Once again HRW cherry-picks quote snippets from Israeli leaders to misrepresent their intentions. HRW cites Ehud Olmert from 2003, several years before he became prime minister, that the "formula for the parameters of a unilateral solution are: to maximize the number of Jews; to minimize the number of Palestinians" (p. 47). In the same discussion, Olmert specifically discussed that he preferred "a negotiated agreement [for two states]" and made pronouncements on

⁹⁵ *Haaretz*, "Netanyahu: Israel's Arabs Are the Real Demographic Threat," Gideon Alon and Aluf Benn, December 18, 2003; <https://www.haaretz.com/2003-12-18/ty-article/netanyahu-israels-arabs-are-the-real-demographic-threat/0000017f-e3c1-d9aa-afff-fbd9f8d50000>

⁹⁶ The Washington Institute for Near East Policy, "Israel's Security Fence," July 7, 2004; <https://www.washingtoninstitute.org/policy-analysis/israels-security-fence-effective-reducing-suicide-attacks-northern-west-bank>

"Palestinian statehood."⁹⁷ Indeed, in 2008 as prime minister, Olmert made a far reaching proposal for Palestinian statehood that was rejected by the Palestinians, but HRW does not find it useful to mention this important event. In fact, the only mention of Ehud Olmert in the entire 217-page report is this one quote snippet, ignoring that he proposed a solution that was the opposite of "Jewish domination" and permanent occupation. A broader and honest review of Olmert's legacy is deliberately ignored by HRW since it totally undermines the apartheid narrative.

52. MISREPRESENTATION: HRW continues to claim that successive Israeli prime ministers sought to maintain Jewish domination. To prove this was the case for Yitzhak Rabin, HRW reduces the entire thoughts and actions of this leader to two quote snippets, the first one on page 48: "the red line for Arabs is 20% of the population; that must not be gone over... I want to preserve the Jewish character of the state of Israel." Despite the importance of this assertion, HRW did not bother to locate the actual source for this quote, verify it and place it in context. Instead, it lifts the quote from a book titled *Birth of the Nation: Strategies of Palestinian Women in Israel* by Rhoda Ann Kanaaneh from 2002. On page 50 of the book, the author reproduces the same line by Rabin and cites *al-Ittihad*, an Arabic newspaper, from November 1, 1995. Rabin's legacy was much broader than 21 words, separated in two parts, that HRW could not bother to track down to its original source (we were not able to either) and is an English translation from an Arabic translation of Rabin's original Hebrew words. This same recycled two-part and twice translated quote several steps removed from its original source has become "canon" in anti-Israel discourse, similarly picked up by Amnesty in their apartheid report – as have all of the quotes cited above from Netanyahu, Olmert, Barak, and Peres.

53. DOUBLE STANDARD: HRW writes: "While states are sometimes associated with a religious or ethnic identity, a states' prerogative to define its own identity and promote it is not unlimited; it is not a license to violate the fundamental rights of others. Laws and policies adopted by the Israeli government to preserve a Jewish majority have afforded benefits to Jews at the expense of the fundamental rights of Palestinians" (p. 48). HRW acknowledges that other states have religious or ethnic identities, but of course to HRW only Israel's identification as a Jewish state violates the fundamental rights of others. HRW does not assess Israel versus other nations nor establish consistent criteria to make this kind of evaluation. HRW's assertion that only Israel's identification as part of a religion is somehow a violation of rights is unsupported by any evidence and is thus a discriminatory application of a double standard.

⁹⁷ *Haaretz*, "Maximum Jews, Minimum Palestinians," David Landau, November 13, 2003; <https://www.haaretz.com/2003-11-13/ty-article/maximum-jews-minimum-palestinians/0000017f-ed37-ddba-a37f-ef7fef10000>

54. ERROR: HRW claims that 5.7 million Palestinian refugees, which is based solely on the UNRWA definition of refugees, have "the right to live in Israel and the OPT" and that such right "is guaranteed to them under international human rights law" (p. 48, and also repeated in p. 202-03). There in fact is no such law that compels Israel, against its wishes, to allow Palestinian refugees, however they are defined, to "live in Israel." General Assembly resolutions are often cited as evidence, but these are not codified as international law, rendering the so-called "right of return" as merely a desire, not actual law. HRW falsely presents the "right of return" as indisputable and settled international law, but this characterization is false.

55. MISREPRESENTATION: HRW presents a full page graphic titled "Born Unequal Abroad," purporting to show discrimination that rises to the level of apartheid in how a Jewish American born in the U.S. and a Palestinian refugee born in Lebanon are treated (p. 49). This graphic has several misrepresentations: (1) HRW states that the Jewish American can visit Israel and may "find programs that may help fund your trip." The fact is that any American, including a Palestinian American, can visit Israel based on the rules of their American citizenship. (2) Second, alluding to "programs" that can fund the trip is inane, as it is hardly relevant to an apartheid analysis that some private American organizations fund trips for American Jews to visit Israel. Nothing precludes other charities from funding trips for Americans of all backgrounds to visit Israel (our Google search located Christian charities subsidizing trips to Israel as well). (3) HRW conveniently omits the fact the Lebanon joined the Arab nations in attacking the new Jewish state in 1948 and remains in a formal state of war with Israel to this day. Lebanon has never made moves to end its state of hostility with Israel, and is under the heavy influence of Hezbollah, designated as a terrorist organization by many nations. Incredibly, HRW does not find any of these facts about Lebanon relevant to its evaluation of why Israel may restrict entry of people born in this hostile state versus those born in the United States. (4) HRW notes that the Jewish American can gain citizenship, but the Palestinian does not have such right – this is the crux of HRW's argument showing that Israel is a discriminatory state. As noted in Point 2, it is quite clear under international law and common practice that nations can favor certain groups of people for citizenship.

56. DOUBLE STANDARD: HRW continues to vilify Israel's citizenship laws as evidence of apartheid, in this case on how Israel limits citizenship by marriage (p. 50). HRW ignores the reasoning behind these rules – Palestinians in the West Bank have abused family reunification laws to enter Israel to carry out terror attacks, with several examples recounted in a court ruling on the matter. HRW cites a letter that it wrote to the Knesset on the law (footnote 99), which says: "Israel's legitimate security concerns cannot justify the sweeping scope of this law which violates the basic human rights of

thousands of citizens and permanent residents." In fact, the Shin Bet presented data in a Knesset hearing that between 2001 and 2021, 48 persons granted family reunification were involved in terror activities.⁹⁸ HRW condescendingly believes that it understands Israel's security needs. HRW again ignores the fact that every sovereign nation decides who can and cannot become a citizen and spousal laws can be strict. It may not always seem fair, but it is not apartheid.

57. MISREPRESENTATION: HRW's hypocritical outrage against Israel's citizenship laws related to marriage is starkly demonstrated in the same *Haaretz* article HRW cites in footnote 102 to support its thesis (p. 50). HRW quotes an Israeli official stating that the law is driven by demographic concerns but ignores what the article also reveals. The article begins: "The National Security Council head is proposing restrictions on granting citizenship to foreign residents on the basis of marriage to Israeli Arabs – similar to the harsh immigration laws in Denmark and the Netherlands." Later the article adds: "The plan is to revise thoroughly the Citizenship Law itself in February 2006, and to legislate it anew along the Danish and Dutch lines. Both of these countries passed restrictive immigration laws in the past two years, which reduced the number of immigrants by 60 percent."⁹⁹ As has already been discussed, all nations are entitled to unilaterally decide who can and cannot become a citizen based on rules that it alone decides, and for whatever purpose it chooses. Israel specifically modeled its laws on this matter from Denmark and Netherlands, but these countries are not considered racist nations due to their harsh citizenship laws. HRW discriminates against Israel by denying it sovereign rights normal to all countries.

58. DOUBLE STANDARD: HRW's continues to misrepresent the rights of nations to determine citizenship laws, however they see fit, with another quote by Netanyahu, as reported in *Haaretz*: "Instead of making it easier for Palestinians who want to get citizenship, we should make the process much more difficult, in order to guarantee Israel's security and a Jewish majority in Israel" (p. 50). HRW deliberately omits the first sentence of Netanyahu's comment: "Israel is threatened by terror and by the right of return."¹⁰⁰ HRW neglects to mention that Palestinian leaders have specifically discussed the concept of converting Israel into a majority Palestinian state through the so-called "right of return" and other demographic factors. For example, former Palestinian leader Yasser Arafat was widely quoted as saying that "the womb of the

⁹⁸ *The Times of Israel*, "After coalition battle, Knesset reauthorizes ban on Palestinian family unification," Aaron Boxerman, March 10, 2022; <https://www.timesofisrael.com/after-coalition-battle-knesset-reauthorizes-ban-on-palestinian-family-unification/>

⁹⁹ *Haaretz*, "Eiland Proposes Citizenship Limitations for Palestinians," Yuval Yoaz, March 3, 2005; <https://www.haaretz.com/2005-03-03/ty-article/eiland-proposes-citizenship-limitations-for-palestinians/0000017f-e9a5-dea7-adff-f9ff06750000>

¹⁰⁰ *Haaretz*, "Cabinet Okays Limits on Citizenship for Palestinians," Gideon Alon, May 16, 2005; <https://www.haaretz.com/2005-05-16/ty-article/cabinet-okays-limits-on-citizenship-for-palestinians/0000017f-e3ad-d75c-a7ff-ffadf4910000>

Palestinian woman... is the strongest weapon against Zionism.”¹⁰¹ To HRW, the Palestinian goal of a demographic makeover of the region to create a majority Palestinian state under its current constitution that enshrines Muslim Sharia law is not seen as racist, and not a legitimate factor in Israel seeking to protect the Jewish nature of the only Jewish state in the world. The same *Haaretz* article (referred to in footnote 103) again highlights the hypocrisy of HRW’s criticism of Israel’s citizenship rules. The article explains that Justice Minister Tzipi Livni, who drafted the proposed rules, explained: “Israel has the right to set principles that deal with entry into the country. European countries also put limits on citizenship after marriage. What's good for them is certainly appropriate for us, given the sensitive security situation in which we find ourselves. This is not about harm to the principle of equality, because this is not about limiting the civic right to marriage. Rather, it is about limiting the granting of citizenship to a spouse who is not an Israeli citizen.” Again, clear evidence that HRW holds Israel to a standard not expected of European democracies, and relies on these unique set of criteria to claim Israel practices apartheid.

59. ERROR: HRW continues to obsess about Israeli citizenship laws, claiming that: “The Interior Ministry continues to erect bureaucratic hurdles, in particular for Palestinians of East Jerusalem” (p. 51). The evidence for this statement is a 2019 article in *Haaretz* (footnote 106) noting that many families have filed appeals for their residency status “that have bogged down due to the office’s heavy caseload.”¹⁰² The article notes that there are about 600 family unification requests to the office in East Jerusalem, and in most cases one spouse lives in the West Bank or Jordan. The article does not provide any evidence that the ministry “continues to erect bureaucratic hurdles,” which HRW fabricates, but merely recounts how the office is backlogged and processing times are lengthy. In fact, the article notes that: “The authority said it has hired the services of an outside consultant firm to help it deal with the workload and has submitted a proposed timeline that would include handling of all requests by the end of this year that were filed by the end of 2017” – the opposite of erecting hurdles.

60. OMISSION: NGOs like HRW purport to know better than Israel what constitutes legitimate security measures. In the worldview of HRW, Israel does not have legitimate security needs and thus all actions that affect Palestinian freedom of movement are all simply criminal acts of apartheid. HRW discusses restrictions on Palestinian residency and movement in a paragraph on the population registry. In the

¹⁰¹ *The New Arab*, “Wombs of the Revolution: Palestinian women’s contribution to the national project,” Emad Moussa, March 24, 2022; <https://english.alaraby.co.uk/features/how-palestinian-women-are-womb-national-project>

¹⁰² *Haaretz*, “Israel Seeks to Block All East Jerusalem Family Reunification Hearings Over ‘Workload,’” Nir Hasson, May 1, 2019; <https://www.haaretz.com/israel-news/2019-05-01/ty-article/.premium/israel-seeks-to-block-all-e-jerusalem-family-reunification-hearings-over-workload/0000017f-f7a6-d460-aff-ffe6e4640000>

concluding sentence HRW writes: "These restrictions are implemented in so sweeping a fashion that it is difficult to see them as motivated primarily by security – rather than demographic – considerations" (p. 51). It is a condescending comment that deliberately ignores the trauma experienced by Israel from decades of terrorism. This attitude fits well with HRW's refusal to mention the word terrorism even once in the entire document. More recently in 2022, 19 Israeli civilians were murdered by terrorists on the streets of Israeli cities. But to HRW, this is not a justification to restrict movement of Palestinians in and out of Gaza and the West Bank – it is only about demographics.

61. MISREPRESENTATION: HRW makes a sweeping statement of Israeli racism claiming: "Some Israeli laws provide benefits on the basis of criteria other than nationality, but the purpose remains privileging Jews over Palestinians. These laws often are not discriminatory on their face, using proxies to mask discriminatory intent, even as in some cases officials extoll the demographic logic" (p. 51). In effect, HRW claims that Israel's masks its apartheid practices with laws that hide their true discriminatory nature. To back this broad claim of wrongdoing, HRW cites *one* example of a law related to child allowances passed in 2002 – about 20 years prior to the report date. The details of this law are discussed below, but the fact that a sole example from two decades ago evidences laws that are "often" masking their discriminatory intent is a gross misrepresentation.

62. ERROR: The law that supposedly "masks" Israel's discriminatory intent from the prior point was passed in 2002 and cut allowances for children of parents who have not served in the army by 24%. HRW claims the law intentionally targeted "Palestinians" (i.e., Arab-Israelis) as the vast majority do not serve in the army. HRW cites its own report from June 2002 regarding this law (p. 51-52). HRW acknowledges that the cuts also affected the children of Jewish ultra-Orthodox parents who also overwhelmingly do not serve in the military but asserts that they are eligible for extra subsidies, so the cuts were not as significant. HRW does not provide any analysis of the economic impact on ultra-Orthodox Jews to back up the assertion that the impact on Jews was seen as irrelevant, thus proving that the goal of the law was intended specifically to harm Arabs. HRW writes that: "Statements by Israeli officials at the time make clear the discriminatory intent behind this move," but then does not cite any examples of such statements. In fact, the data shows that these cuts affected Jews by nearly 2 to 1 versus Arabs; *Haaretz* reported that of those affected only 30% were Arabs and 36% were new immigrants, who are overwhelmingly Jewish and have not served in the military.¹⁰³ Statements from ultra-Orthodox leaders contradict HRW's assertion that the impact on these Jews was not material and offset by other

¹⁰³ *Haaretz*, "Lower Child Allowances Will Hit Over 40% of Young Families," Ruth Sinai, October 10, 2022; <https://www.haaretz.com/2002-10-10/ty-article/lower-child-allowances-will-hit-over-40-of-young-families/0000017f-db78-d856-a37f-fff878990000>

subsidies. *Haaretz* reported in October 2002, when the law was frozen by the Supreme Court, that Shas Chairman Eli Yishai “welcomed the High Court decision and said he hoped that the court would completely overturn the legislation.”¹⁰⁴ Member of Knesset Yaakov Litzman from United Torah Judaism said: “he was satisfied with the temporary freeze order issued by the court and described the attempt to cut child benefits for parents who did not serve in the army as scandalous,” totally contradicting HRW’s notion that this law did not deeply affect Jews. In fact, the law was passed as part of austerity measures in the budget and the rationale was that those who served in the army provided years of service to the country, foregoing income, and deserved higher allowances. HRW then provides statistics from 2003 and 2004 showing that birthrates fell, which may in part be due to cuts on the allowances, as evidence that the law targeted Arabs. But the *Haaretz* article cited by HRW once again demonstrates that the ultra-Orthodox Jewish sector remained deeply unhappy with the cuts in allowances. Shas Chairman Eli Yishai said in 2005: “The truth is that it is the Jews who are having fewer births, and that is the Finance Ministry’s contribution to the state. The Bedouin are continuing to have the same number of children as before. They don’t care about allocations. If you live in in a tent, you don’t have the same expenses as someone in a city.”¹⁰⁵ HRW’s assertion that the child allowance cut was in fact a devious law to harm Arabs is stated without any evidence, and a review of the actual data and statements by Jewish officials shows the complete opposite. In fact, the law affected more Jews than Arabs and there is no evidence that ultra-Orthodox Jews did not see the cuts as deeply painful nor offset by other sources. As noted in the prior point, this misrepresented law on child allowances remains the *only evidence* cited by HRW to claim that Israel “often” passes laws that “mask” a discriminatory intent against Arabs.

63. ERROR: HRW falsifies the meaning of a statement by former Supreme Court Chief Justice Aharon Barak and his ruling in the prominent Ka’adan v. Israel Land Administration matter in 2000 in what is simply another attack on Israel’s Law of Return. The ruling in the case, as HRW acknowledges, makes clear that Arabs in Israel could not be barred from living in a town that ostensibly was for earmarked for Jews (p. 52). As *The New York Times* reported, Justice Barak wrote: “The state is not allowed to discriminate directly on the basis of religion or nationality in allocation of state

¹⁰⁴ *Haaretz*, “Court Freezes Cut in Child Allowance Benefits for Parents Not Serving in IDF,” Ruth Sinai, October 14, 2002; <https://www.haaretz.com/2002-10-14/ty-article/court-freezes-cut-in-child-allowance-benefits-for-parents-not-serving-in-idf/0000017f-f953-d884-a17f-fdd7a08f0000>

¹⁰⁵ *Haaretz*, “Arab Birthrate Drops for First Time in Years,” Nehemia Shtrasler and Ruth Sinai, January 24, 2005; <https://www.haaretz.com/2005-01-24/ty-article/arab-birthrate-drops-for-first-time-in-years/0000017f-e628-da9b-a1ff-ee6fcfd60000>

lands.”¹⁰⁶ Instead of focusing on this ruling that completely contradicts apartheid, HRW highlights another statement by Justice Barak in the ruling and mistakenly claims this evidences “the favored legal status of Jewish Israelis when it came to acquiring residency.” This is the statement by Justice Barak cited by HRW: “it is true, members of the Jewish nation were granted a special key to enter (see the Law of Return-5710-1950), but once a person has lawfully entered the home, he enjoys equal rights with all other household members.” Justice Barak specifically asserts that the Law of Return is a “special key” that allows *Jews from other countries* to enter Israel, but that once inside Israel all citizens enjoyed equal rights. Similar writings by Barak confirm his clear meaning on this matter. In a paper titled “The Values of Israel as a Jewish and Democratic State” Justice Barak explains: “It is true, the Jewish people have a special key to enter the home that is called The State of Israel. That is the point of Zionism and that is the point of our Jewish heritage...[but] giving the right of immigration to Jews does not discriminate against non-Jews.” HRW fabricates the notion that Justice Barak’s comments favors “Jewish Israelis,” but in fact Barak cites the Law of Return which only allows *non-Israeli Jews* to enter Israel and gain citizenship.

64. MISREPRESENTATION: HRW cites Ben-Gurion from February 1948 to prove that Israeli authorities from the very beginning sought to “ensure Jewish control over the land and natural resources of Israel and the OPT” as well as “land domination” and to “confine Palestinians to dense population centers” (p. 53). The quote in question was said, according to HRW, after the Palestinians from the village of Lifta “fled or were expelled from their homes”:

When you enter the city through Lifta and Romema, through Mahaneh Yehuda, King George Street and Me’ah She’arim – there are no Arabs. One hundred per cent Jews... What happened in Jerusalem and in Haifa – can happen in large parts of the country. If we persist it is quite possible that in the next six or eight months there will be considerable changes in the country, very considerable and to our advantage. There will certainly be considerable changes in the demographic composition of the country.

This quote from Ben-Gurion is one of the “go-to” anti-Israel quotes (it was also included in the Amnesty apartheid report). The quote notes the progress in the war and does not evidence any a priori intent of Jewish control, domination or confinement of Palestinians, which cannot be found in Ben Gurion’s broader words or writing. HRW neglects to explain that this quote came early in the midst of the actual war at a time

¹⁰⁶ *The New York Times*, “Israeli Court Rules Arab Couple Can Live in Jewish Area,” Joel Greenberg, March 9, 2000; <https://www.nytimes.com/2000/03/09/world/israeli-court-rules-arab-couple-can-live-in-jewish-area.html>

when the outcome was far from certain, and HRW does not provide a broader analysis of Ben-Gurion's thoughts on the matter. While Lifta is mentioned by HRW as a key example of supposed wrongdoing by Israel that apparently evidences apartheid today, the story of Lifta is more complex and shows that the events in this village were war related, which is what Ben Gurion referred to, not part of a nefarious Jewish plan of domination and confinement. Lifta was located on a strategic road from Jerusalem to Tel-Aviv, which was important to both sides. Benny Morris explains: "Almost from the start of hostilities frontline Arab communities began to send away their dependents. For example, already on 3-4 December 1947 the inhabitants of Lifta, a village on the western edge of Jerusalem, were ordered to send away women and children (partly in order to make room for incoming militiamen)."¹⁰⁷ Thus Lifta was not a defenseless village filled with innocent civilians but a strategic site on a key road that was specifically set up by the Arabs as a site for its fighters. Many civilians were asked to leave in advance. The eventual depopulation of the village was a direct cause of the war and its use by the Arabs as a battle site along an important route used to enforce a highly effective blockade of the Jewish population of Jerusalem. Actual research on Ben Gurion and his actions and thinking over many decades would show the opposite of an "intent to maintain domination."

65. ERROR: HRW writes this paragraph with a demonizing narrative of Israeli wrongdoing riddled with errors and lacking evidence: "Israeli authorities have pursued an explicit policy of ensuring Jewish control over geographic areas with strategic importance where there are concentrations of Palestinians across Israel and the OPT. Judaization of these areas contributed to facilitating Israeli government control over Palestinian population centers, dividing communities, and blocking the establishment of larger, contiguous Palestinian municipal areas in locations that Israeli authorities covet or consider particularly strategic. This strategy also contributes to generally diluting the Palestinian population in some areas and pushing them into crowded population centers" (p. 57). Arabs do not live in "crowded population centers" and there are no "concentrations of Palestinians" as debunked in Point 6, so the whole premise of this paragraph is false. The notion that Israel is "pushing" Palestinians is a particularly egregious charge, without any evidence – does HRW mean "pushing" in a literal sense? In a serious document supposedly relying on international law, this word is meaningless. HRW does not provide any evidence or examples of communities "divided" by Israel or evidence of "Judaization" of "areas of strategic importance." As discussed in Points 10 and 43, Arabs comprise a growing proportion of the Galilee and East Jerusalem, areas where HRW claims "Judaization." Finally, the usage of the word "covet" clearly evokes antisemitic tropes of greedy Jews, which further undermines the seriousness of HRW's document.

¹⁰⁷ Benny Morris, *1948: A History of the First Arab-Israeli War*, p. 96

66. MISREPRESENTATION: HRW's key evidence that Israel seeks to "Judaize the Galilee and Negev regions" as part of a goal to dominate is the apparent fact that: "The Israeli government has a ministry focused on the 'development' of the Galilee and the Negev, has invested significantly in these areas, and has considered it a major government priority for much of the past two decades" (p. 57). In HRW's world view, the mere desire by the Israeli government to invest in growth in certain regions is a criminal act of "Judaization." To further back its narrative, HRW links to a report from 2005 and discusses budgets for development proposed by the Sharon government in 2004 – HRW's research team could not be bothered to find more recent budgets or data about development in the Galilee and analyzing how Jews and Arabs were impacted.

67. MISREPRESENTATION: HRW cites 15-year-old NGO reports and articles to highlight the Israeli government's plans to develop new towns in the Galilee and Negev, such as a January 2007 report by NGO Adva Center titled: "Current Plans for Developing the Negev: A Critical Perspective" (p. 58, footnote 146, five sources in this one page range 13 to 18 years old). Despite being only proposals for development, HRW presents these plans as a nefarious plan of Judaization. Nowhere in the report does HRW actually provide updated information on these plans, if any actual development occurred as a result, and if they disadvantaged Arabs – yet these plans are evidence of Jewish intent to maintain domination.

68. MISREPRESENTATION: HRW claims that: "While Israeli authorities use non-discriminatory language of seeking to 'develop' or 'populate' these regions, the Israeli rights group Sikkuy wrote in 2005 that 'it is clear to everyone the plan is intended for Jewish residents'" (p. 58). HRW acknowledges the so-called "Intention to Dominate" is simply inferred from statements about developing certain areas, but throughout this section continues to deliberately omit any data to show how these apparent plans have proceeded and if in fact disadvantaged Arabs. As shown in Point 43, there has actually been an "Arabization" of the Galilee in recent decades. There have been no "land grabs" or "pushing" out of Arabs in these areas to boost the Jewish population, as HRW purports.

69. MISREPRESENTATION: HRW cites Shimon Peres from 2005 to support the fabricated narrative of evil Judaization of the Galilee and Negev. HRW quotes how Peres described the development of the Negev and Galilee as a "battle for the future of the Jewish people" (p. 58). However, HRW grossly and deliberately misrepresents this quote snippet ignoring the broader context of Peres' comments. The 2005 article in *Forward* cited by HRW notes that: "Peres said that Israel's plan to shift its priorities from building Gaza and West Bank settlements to developing the Galilee and the Negev — Israel's respective northern and southern peripheries — signifies a

recognition of past misguided policies and a return to the original Zionist vision."¹⁰⁸ Peres added that Israel is "waking up from baseless dreams to a new reality" that requires rolling back the Jewish settlement enterprise in the territories. Nothing in Peres' comments evidences any disadvantaging of Arabs in Israel or anywhere else, but a goal of halting settlements in the West Bank and Gaza – which HRW also sees a crime. Once again, the mere act of Israel developing the Negev and Galilee, sovereign Israeli territory, and the mere possibility that Jews could live there, is construed as a crime by HRW.

70. MISREPRESENTATION: HRW cites another obscure quote snippet, this one from about 20 years ago, to evidence evil Judaization plans for the Galilee and Negev. In this example, Shai Hermesh, the treasurer of the Jewish Agency, apparently said that plans to build in these regions included a program to maintain a "Zionist Majority" (p. 58). HRW omits that Hermesh also added that the plans for development were "for the benefit of non-Jews who have shown their commitment to the state, including the Druze and those in the Bedouin community who have shared the security burden."¹⁰⁹ Once again, HRW provides no updates or data on these plans, instead relying on a quote snippet from an unknown and minor official reported in a news article decades ago as critical evidence.

71. MISREPRESENTATION: HRW provides a half-page graphic purporting to show Israel's "Intent to Dominate" based on more quote snippets from Israeli officials going back to 1984 (p. 60). As is common in anti-Israel reports, there is a heavy reliance on random quotes from officials instead of actual analysis of their actions over decades. In most cases these quotes are altered or taken out of context. Several examples can be found in this one graphic. HRW cites a quote attributed to Shimon Peres: "We are disengaging from Gaza because of demography." Footnote 214 reveals the source – An opinion piece from 2005 in *The Irish Times* where apparently Peres said these words in an interview on *Newsnight* with no further information.¹¹⁰ These eight words are presented as evidence that Peres supported Israel's "Intent to Dominate." Peres's entire life work is reduced by HRW to quote snippets from an undocumented interview in Ireland (the interview transcript is not available) with no context provided. As shown in Point 13, Peres was far more nuanced in his language than the isolated words HRW cites.

¹⁰⁸ *Forward*, "Peres Asking U.S. Jewry to Push Aid For Galilee," Ori Nir, August 5, 2005; <https://forward.com/news/2500/peres-asking-us-jewry-to-push-aid-for-galilee/>

¹⁰⁹ *Haaretz*, "Jewish Agency Readies Plan to Foster a Zionist Majority," Yair Sheleg, October 28, 2002; <https://www.haaretz.com/2002-10-28/ty-article/jewish-agency-readies-plan-to-foster-a-zionist-majority/0000017f-dbe0-d3ff-a7ff-fbe0ba900000>

¹¹⁰ *The Irish Times*, "Sharon Maintains Control in Face of Demographic Shift", Opinion, 20 August 2005; <https://www.irishtimes.com/opinion/sharon-maintains-control-in-face-of-demographic-shift-1.482484>

72. MISREPRESENTATION: The quote snippet from Peres from the prior point purported to show how the Gaza disengagement was intended as a way to "dominate" Palestinians. HRW offers no explanation of how the disengagement plan furthered that goal. HRW writes in the graphic next to Peres' words: "Israeli policy seeks to isolate Gaza from the West Bank and effectively remove its 2+ million inhabitants from the demographic balance sheet..." (p. 60). This is another case of "apartheid if you do, apartheid if you don't." Maintaining the occupation of Gaza with settlements is certainly seen as a crime, but leaving Gaza, removing settlements, and granting it self-rule is also presented as a crime.

73. ERROR: In the same graphic on Israel's "Intent to Dominate" Bedouins, HRW claims that Israel: "regularly demolishes Bedouin homes to make land available for Jewish settlement" (p. 60). Israel has only removed Bedouin encampments that were built illegally, and none of these actions have led to making "land available for Jewish settlement." HRW does not provide any evidence or specific instances of "Jewish settlement" on areas where Bedouin structures were previously removed. This is a fabricated charge by HRW.

74. MISREPRESENTATION: In the same graphic HRW provides another recycled quote (appearing in both Amnesty's apartheid report and a B'Tselem report from 1997) attributed to former mayor of Jerusalem Teddy Kollek from 1984: "I am worried about... Arab growth within and around Jerusalem." The full quote is: "Like all of us here, it seems to me, I am worried about the balance of power and about Arab growth within and around Jerusalem." The source is minutes of a Jerusalem Council meeting from June 17, 1984 (Report 11, p. 8). Without any other context or information, HRW claims that Israel has an "Intent to Dominate" Jerusalem based on several words from the former mayor from nearly forty years ago. What HRW does not reveal anywhere in its report is that the Arab proportion of Jerusalem has increased steadily since 1967 – from 26% in 1967, 30% from 1970-1985, and 35% in 2009.¹¹¹

75. ERROR: The same graphic titled "Intent to Dominate" says that in the Galilee, there have been "decades of land grabs" by Israel. HRW does not define the crude term "land grab" nor provide any specific instance of such "grabbing" over the "decades" in the Galilee. If HRW implies that Israel has stolen private property, no evidence is provided.

76. ERROR: HRW truncates a quote and explains it out of context to demonstrate that Israel planned to Judaize the Galilee as part of its "intent to dominate." HRW

¹¹¹ Jerusalem Center for Public Affairs, "Demography, Geopolitics, and the Future of Israel's Capital: Jerusalem's Proposed Master Plan," Nadav Shragai, 2010, p. 11; jcpa.org/wp-content/uploads/2012/04/Jerusalem-Master-Plan.pdf

quotes a "senior Israeli official" that in HRW's view was "worrying that Palestinians" would: "invade all areas we neglect, strike footholds and establish new roots" (p. 60). Here is the actual full quote from IDF Colonel Aharon Harsina who wrote in 1953: "[After 1948] it was clear to us that the war was not over and that we would not be in control of the country in its entirety until all land within it was settled and cultivated. It was clear to us that Arabs, from both within the country and across the borders, would invade all areas we neglect, strike footholds, and establish new roots."¹¹² The entire context of the quote has been deliberately and egregiously obscured by HRW, violating all norms of citation. After the 1948-49 war the Arab states surrounding Israel refused to make peace and made clear that a state of war remained. Soon after the war, the Arab population that remained, that just months ago supported the destruction of the new Jewish state, was still seen as potentially threatening. Israel's position was certainly perilous and the economy was weak, and Israel was rightly worried about deadly border incursions which were common in the 1950s. Israel was not simply worried about "Palestinians" as HRW contends, but by attacks from four hostile nations on its borders. The next paragraph of the same document cited by HRW makes clear that the quote by Colonel Harsina was not about the "intent to dominate" but about protecting the precarious borders of the new state of Israel. The paper cites an Israeli government committee assessing the need for the continuation of the military government: "The state cannot maintain its borders by means of the military alone. Jewish settlement ensures that territory will remain in Israel's possession." It is clear that a Jewish presence in periphery areas was seen as necessary to protect against future invasion as a military presence was not seen as sufficient on its own. Harsina's quotes evidence an "intent to survive" not an "intent to dominate." HRW's entire narrative surrounding this quotation is a complete fabrication.

77. MISREPRESENTATION: The reliance on short quotes from Ben Gurion to make broad statements about nefarious Israeli intentions is common in anti-Israel discourse (see Point 64). HRW's report is no different with the same quotes recycled from NGO report to NGO report with the same errors and misrepresentations each time. HRW reduces the entire legacy of this Israeli leader to out of context quotes with no broader analysis of his actions or thinking on the matters discussed. Based on these quotes alone HRW evidences apartheid by Israel's first leader. One of the quotes cited discusses military rule following the 1948 war. HRW writes that Ben Gurion told the Knesset that the imposition of military rule was aimed: "to protect the right of Jewish settlement in all parts of the state" (p. 60-61). HRW does not explain how wanting to protect this right meant "dominating Palestinians." Footnote 158 cites a 2018 book, but the original source is *Knesset Debates* vol. 36 p. 1217 (February 20, 1963). HRW

¹¹² Jeremy Forman, "Military Rule, Political Manipulation, and Jewish Settlement: Israeli Mechanisms for Controlling Nazareth in the 1950s," *Journal of Israeli History*, 25:2 (2006); p. 348.

certainly did not look at the original document but evidences a key contention with just a few words from an unknown context in a 1960s parliamentary debate, twelve years after the 1948 war. A broader review would show that military rule was imposed after the 1948 war because of the refusal by the Arab nations to sign peace agreements, their clear indication that they considered hostilities ongoing, and frequent border incursions into Israel in the 1950s. Hundreds of "Fedayeen" attacks from bases in Egypt, Lebanon and Jordan resulted in 1,300 Israelis killed or wounded from 1949-56. A Jewish presence in periphery areas was seen as necessary to protect against these ongoing hostilities, which continued immediately after the 1948-49 war. HRW omits this critical context.

78. ERROR: HRW writes that: "Concentrating Palestinian Bedouin communities on limited pieces of territory remains at the heart of Israeli government plans for the Negev" (p. 62). HRW continues with unfounded allegation of "pushing," "confining," and "concentrating" Arabs despite no evidence that Arabs have been forced to live in concentrated areas. HRW reduces a complex situation regarding people with a semi-nomadic lifestyle into a fabricated narrative where Israel seeks "concentrate" them. Israel has arranged for alternative living solutions and encouraged Bedouins to move from illegally built encampments to modern towns. For instance, *Haaretz* reported in 2019 on a new town to be built with 500 housing units for Bedouins.¹¹³ The Bedouin town of Rahat is not "concentrated" but a thriving city with one-quarter the density of Tel Aviv. While announced after the publication of the HRW report, the Israeli cabinet in March 2022 approved a massive NIS 5 billion five-year plan to strengthen Bedouin communities.¹¹⁴ HRW also ignores the fact that other nations also struggle with policy challenges of semi-nomadic communities like Roma in several nations in Europe – in none of these cases are there accusations of apartheid.

79. MISREPRESENTATION: HRW quotes Ariel Sharon from December 2000 supposedly showing that he wanted to "suppress" the Palestinian population and maximize Jewish settlement in the Negev (p. 62). Part of this same quote is shown in a graphic on page 60: "They [the Bedouin population] are gnawing at the country's land reserves" (p. 60). The full quote describes how Sharon considered as a problem that 900,000 dunams (about 350 square miles) of *government land* was in the "hands of the Bedouin population." The full quote, which HRW truncates with several ellipses, clearly notes that the large area of land in question is legally owned by the government, not by the Bedouins, and this illegal use of land is a problem – as it would

¹¹³ *Haaretz*, "Bedouin Communities Oppose Israel's Plan for New Negev Town," Almog Ben Zikri, May 15, 2019; <https://www.haaretz.com/israel-news/.premium-israel-approves-new-town-to-house-bedouins-from-unrecognized-villages-1.7245066>

¹¹⁴ *Haaretz*, "Cabinet Approves Five Billion Shekel Five-year Plan for Bedouin Citizens," Nati Yefet, March 14, 2022; <https://www.haaretz.com/israel-news/2022-03-14/ty-article/.premium/cabinet-to-review-five-billion-shekel-5-year-plan-for-bedouin-citizens/00000180-5b8c-d718-afd9-dfbcac920000>

be in any nation. Sharon believed that this illegal use of land needed to be addressed more urgently by the government. HRW cites an Adalah newsletter from 2006 as the source for Sharon's quote. For its part, Adalah cites a December 2000 article written by Ariel Sharon titled "Land as an Economic Tool for Developing Infrastructure and Significantly Reducing Social Gaps" published in Hebrew in a journal called *Karka* (50:10-21). The article discusses how Israel can improve social gaps, not about confiscating Arab land or maximizing Jewish settlement.

80. MISREPRESENTATION: The entire section on Israel's "intent to dominate" in Jerusalem (p. 63-66) relies on obscure decades-old quotes. HRW provides no analysis of actual activities in Jerusalem and population figures, no actual legislation that indicates such intent, and no analysis of recent comments or events. Notably, in this section on Jerusalem HRW quotes officials from 1975 (Israel Kimhi), 1984 (Teddy Kolleck), and a deputy mayor who served from 1971-78 (Meron Benvenisti) as the key evidence for "intent to dominate." An actual analysis would show that Israel has invested massively in the Arab sector of Jerusalem completely contradicting the intent to dominate. For example, in May 2018, Israel announced what *Haaretz* called "an unprecedented investment in East Jerusalem – two billion shekels (\$550 million) over five years," much of it for education.¹¹⁵ A report one year later noted that NIS 100 million had already been invested and that "The goal of the five-year plan approved by the Israeli government is to improve the quality of life and environs for residents of the Arab neighborhoods of Jerusalem and to strengthen the integration of East Jerusalem residents into the Israeli society and economy in the capital."¹¹⁶ In March 2019 the Netanyahu-led government "signed an agreement in the framework of construction of 23,000 new housing units in Jerusalem with an investment of one billion shekel (\$276 million)."¹¹⁷ While occurring after the publication of the HRW report, another \$10.3 billion was allocated by the government to the Arab community in what was seen as an unprecedented investment.¹¹⁸ Actual population figures shows that Arabs had grown in both numbers and as a percentage of the total in Jerusalem, again completely contradicting the fabricated narrative of intention to dominate.

¹¹⁵ *Haaretz*, "Israel Promises 'Revolution' for East Jerusalem Schools. Palestinians Say It's 'Brainwashing,'" Nir Hasson, August 29, 2018; <https://www.haaretz.com/israel-news/2018-08-29/ty-article/premium/critics-five-year-plan-for-e-jlem-focuses-on-israelization/0000017f-f593-d887-a7ff-fdf789e20000>

¹¹⁶ *Israel Today*, "Israel Investing Billion in Jerusalem's Arab Neighborhoods," Israel Today Staff, July 3, 2019; <https://www.israeltoday.co.il/read/israel-investing-billions-in-jeruselems-arab-neighborhoods/>

¹¹⁷ *Andalou Agency*, "Israel to construct 23,000 buildings in East Jerusalem," Afra Aksoy and Hamdi Yildiz, March 12, 2019; <https://www.aa.com.tr/en/middle-east/israel-to-construct-23-000-buildings-in-east-jerusalem/1415360>

¹¹⁸ *The Times of Israel*, "As unprecedented billions planned for under-served Arabs, devil's in the details," Aaron Boxman, October 8, 2021; <https://www.timesofisrael.com/as-unprecedented-billions-planned-for-under-served-arabs-devils-in-the-details/>

81. MISREPRESENTATION: HRW claims that Israel's formal policy for Jerusalem seeks to "limit the number of Palestinian residents" (p. 63). HRW cites the so-called "Jerusalem Outline Plan 2000" as evidence, referred to several times, but does not provide a deeper analysis of the plan other than to state that it had a target percentage for Jews and Arabs in the city. As is the case in much of HRW's report, the reference to this plan is recycled from prior NGO reports but at this point has become obsolete and does not inform the reader of the current situation. Has the Jerusalem 2000 plan, which dates back to the late 1990s, been implemented? How much construction has taken place under the plan, in light of what is written on its website: "The new master plan for Jerusalem, called Plan No. 2000, is not yet deposited but constitutes the planning policy in the city. This plan does not have the power to issue building permits or permits."¹¹⁹ The plan appears to be something that a committee created but hardly acting policy, evidenced by the fact that after more than two decades nothing seems to have advanced under the plan. As is the case throughout the report, HRW makes broad conclusions using obsolete information, not providing context or comparison, and not providing information on the current situation.

82. MISREPRESENTATION: HRW attributes to Former Deputy Mayor of Jerusalem Meron Benvenisti a quote about "absurd" borders for Jerusalem annexed after the 1967 war with a goal to include "a maximum of land with minimum Arabs" (p. 64). Footnote 171 links to two sources; the first is an article in *Haaretz* from 2011, but it does not allude to this quote. The second source is a book by Benvenisti titled *Intimate Enemies: Jews and Arabs in a Shared Land* written in 1995. While the seven-word quote appears in the 236-page book, the discussion on the annexation of Jerusalem is much broader. The book explains: "The [Jerusalem] city limit was determined by military-tactical considerations, since the sense was that sooner or later, the rest of the West Bank would end up under the rule of another country." The book shows that Israel expected that only the annexed portion of Jerusalem would remain under Israeli control while eventually the rest of the West Bank would not. The book adds that: "Army officers demarcated the border so that it would 'remove the city from the dangers of artillery shelling.'¹²⁰ As usual, HRW does not analyze the context of the decision making in 1967 when Arab nations remained hostile to Israel, refused to negotiate peace, and remained an active military threat. Israel did not expect that the West Bank would remain under its control for long after 1967. HRW falsely reduces this comment and Israel's decision making in 1967 to an "intent to dominate" when the country was mainly operating under an "intent to survive" at a time when Arab nations were aggressively seeking to destroy Israel militarily. They nearly succeeded a few years later in 1973.

¹¹⁹ Municipality of Jerusalem, "Jerusalem Outline Plan – No. 2000"; <https://www.jerusalem.muni.il/en/residents/planningandbuilding/cityplanning/masterplan/>

¹²⁰ Meron Benvenisti, *Intimate Enemies: Jews and Arabs in a Shared Land*, 1995, p. 53

83. MISREPRESENTATION: HRW writes: "Israeli officials, soon after taking control of East Jerusalem in 1967, confiscated land and established several settlements, including Ramat Eshkol, Ma'alot Dafna, Givat HaMivtar, and French Hill to establish a 'bolt,' in the parlance of the Israeli government, connecting West Jerusalem and Mount Scopus, which was effectively a Jewish island encircled by East Jerusalem before 1967" (p. 64). HRW suggest that Israel stole land from private owners to build new neighborhoods in this portion of Jerusalem held by Jordan following the 1948 war. Footnote 172 cites a book titled *The Triumph of Israel's Radical Right* by Ami Pedahzur. On page 40, Pedahzur writes that Israel "engage[d] in the massive expropriation of land from Arabs and Jews. The neighborhoods of MaAlot Dafna, Ramat Eshkol, French Hill, and Givat HaMivtar were all built on these lands in the late 1960s and early 1970s." The author does not offer a source for this statement nor characterize the details of the supposed expropriation. There were no Jews present in East Jerusalem from 1949-67 following their expulsion by Jordan, so it is unclear how Jews owned land in these locations unless Pedahzur grants historic ownership to Jewish land that came under Jordanian control. The land for these neighborhoods were in fact primarily Jordanian controlled or municipal land, not privately owned. For example, as explained in a *The Jerusalem Post* article: "From 1948 to 1967, [Givat Hamivtar] was a fortified Jordanian position, one of a series of such fortifications meant to block the way from west Jerusalem to the enclave on Mount Scopus in the eastern Jordanian part of Jerusalem. Givat Hamivtar in Hebrew means 'cut' or 'bisected hill,' because that stronghold cut off Mount Scopus from Jewish Jerusalem."¹²¹ What HRW describes as "confiscated land" was mainly part of Jordanian positions deliberately intended to isolate Mount Scopus, the location of the Hebrew University and Hadassah Hospital. Jordan violated the terms of the armistice agreement which required open access to Mount Scopus (as well as the Western Wall), effectively shutting down these institutions. None of this history factors into HRW's analysis, which once again relies solely on one quote from a third-party source.

84. MISREPRESENTATION: HRW quotes Israel Kimhi, the director of planning policy at the Interior Ministry in 1975, as apparent evidence of an intent for Jewish domination in Jerusalem. Besides the absurdity of relying on an old quote from an obscure official for anything important (which HRW lifts from a report by NGO Bimkom, not the original source), Kimhi hardly reveals a goal of Jewish domination. HRW writes that according to Kimhi: "one of the cornerstones in the planning of Jerusalem is the demographic question" adding that "the growth of the city and the preservation of the demographic balance" would serve as "one of the yardsticks for the success of the solidification of Jerusalem's status as the capital of Israel" (p. 64-

¹²¹ *The Jerusalem Post*, "Changing Populations," John Benzaquen, August 2, 2012; <https://www.jpost.com/in-jerusalem/city-front/changing-populations>

65). The full quote according to Bimkom: "one of the cornerstones in the planning of Jerusalem is the demographic question. The growth of the city and the preservation of the demographic balance between the ethnic groups therein were a subject for decision by the government of Israel. This decision regarding the growth rate of the city today serves as one of the yardsticks for the success of the solidification of Jerusalem's status as the capital of Israel." HRW breaks up the quote into three parts and does not explain how seeking to preserve a demographic balance in a city is evidence of a Jewish "intent to dominate." Kimhi does not even use the word Jewish or Jew in his comment. Absurdly, to HRW, the mere discussion of demographics and seeking to maintain a balance is evidence of apartheid.

85. MISREPRESENTATION: In order to prove Israeli "intent to dominate" in the West Bank, HRW quotes Prime Minister Levi Eshkol after the 1967 war discussing the West Bank after its capture in 1967: "The security and the land are in Israeli hands" (p. 66). This quote was shown to be distorted in Point 36. In the same paragraph HRW further quotes Prime Minister Eshkol from July 1967 saying that Israeli authorities "covet the dowry, not the bride" and claims this is "an apparent reference to wanting the West Bank without the Palestinians who live there" (p. 66). Is this actually what he "apparently" meant? The earlier point shows that Eshkol leaned towards the concept of Palestinian independence. Can HRW honestly convey the intent of Eshkol based on a six-word quote and use this as evidence in a chapter showing Israeli "intent to dominate" Palestinians? HRW cites in footnote 183 a 2018 book titled *The ABC of the OPT*, page 519, for this Eshkol quote. The book states that "Like many unhappy marriages, Israel entered its relationship with the occupied Palestinians in 1967, coveting 'the dowry but not the bride.'" This book cites yet another book, *The Carrot and the Stick* for this quote, which cites the quote as: "you covet the dowry, not the bride." Ultimately no source is provided for the *original quote*, which seems to change subtly each time, but these few words spoken only a month after the Six-Day War is presented as key proof of Israeli intent to dominate.

86. ERROR: HRW repeats the altered and falsified quotes attributed to Netanyahu in the section on "Intent to Dominate" in the West Bank, see Point 16. HRW is even more explicit here and doubles down on the falsification of the quote by claiming that Netanyahu described West Bank Palestinians as "subjects," clearly alluding to the notion of Israel dominating its Palestinians subjects (p. 66). In fact, Netanyahu was clear that Palestinians would remain "subjects" of a *future Palestinian entity*—the exact opposite of domination by Israel. This falsification is egregious and demonstrates a deliberate pattern by HRW.

87. MISREPRESENTATION: HRW quotes Labor Minister Yigal Allon from an essay he published in 1976 purporting to show an Israeli intention to dominate Palestinians

in the West Bank. Allon wrote of the necessity of “absolute Israeli control over the strategic zone to the east of the dense Arab population, concentrated as it is on the crest of the hills and westward” (p. 66-67). Footnote 186 cites the essay, which is titled: “Israel: The Case for Defensible Borders.” HRW deliberately ignores the actual thesis of the article to cherry-pick one quote that does not mean what HRW claims. The essay begins by explaining the “asymmetry” of the Arab and Israeli territories: “the Arab League States 8,500,000 square miles; of Israel, including presently administered areas, about 28,500.”¹²² Allon adds: “Whereas the Arab states seek to isolate, strangle and erase Israel from the world's map, Israel's aim is simply to live in peace and good relations with all its neighbors... Israel's war aims have been confined to repelling the offensives of the Arab armies as determined by strategic and political circumstances, whether by reactive counter-offensives such as those of 1948 and 1973 or by preemptive counter-offensives as those of 1956 and 1967.” When discussing the borders Allon makes clear that the *only goal is to make them defensible* – nothing about dominating Palestinians. He explains: “The gravest problem is on the eastern boundary, where the entire width of the coastal plain varies between 10 and 15 miles, where the main centers of Israel's population, including Tel Aviv and its suburbs, are situated, and where the situation of Jerusalem is especially perilous. Within these lines a single successful first strike by the Arab armies would be sufficient to dissect Israel at more than one point, to sever its essential living arteries, and to confront it with dangers that no other state would be prepared to face. The purpose of defensible borders is thus to correct this weakness, to provide Israel with the requisite minimal strategic depth, as well as lines which have topographical strategic significance.” In describing security control in the Jordan Valley, Allon makes clear that “this type of solution would leave almost all of the Palestinian Arab population of the West Bank under Arab rule.” HRW ignores that in 1976 Israel remained in a state of war with Egypt and Jordan and still felt vulnerable to attack after nearly losing in 1973. The discussion on borders had absolutely no connection to an “intent to dominate” but again only to an “intent to survive.” Allon even says as much: “To our deep regret, this is the first imperative facing us, the imperative to survive.” The gross and deliberate misrepresentation of Allon's comments and essay by HRW is egregious, but typical of its entire report.

88. MISREPRESENTATION: HRW continues to misrepresent Allon's plan outlined in his essay claiming that Allon's plan “effectively divided Palestinians in the West Bank into three enclaves,” again evoking the concept of isolated Bantustans (p. 67). In fact, Allon's plan envisioned an end of conflict “peace settlement,” which “would give up the large majority of the areas which fell into its hands in the 1967 war” and that to attain peace “a deliberate territorial compromise can be made.” The plan required

¹²² *Foreign Affairs*, “Israel the Case for Defensible Borders,” Yigal Allon, October 1976; <https://www.foreignaffairs.com/israel/israel-case-defensible-borders>

security concessions, which is the focus of the plan due to the fact that at the time Egypt and Jordan remained hostile states. Allon effectively advocated for Palestinian statehood, as the solution he proposed “would leave almost all the Palestinian Arab population of the West Bank under Arab rule.” The concept of a single Jordanian-Palestinian state is also mentioned in the essay as a possibility. Allon adds: “Of course, when the peace for which we strive is achieved, the borders will not divide the two peoples but be freely open to them.” HRW again fabricates the notion that Allon’s plan was to “dominate” Palestinians when the plan was for the exact opposite – peace with the Palestinians who would live in a sovereign entity not controlled by Israel. HRW doubles down on its falsified narrative about Allon’s plan in the next paragraph, stating that a plan to “safeguard the security of Israel” cannot be pursued through a strategy of “seeking to dominate Palestinians, maintaining a discriminatory system, and engaging in tactics that either have an insufficient security justification or otherwise violate international law.” There are only two possibilities: HRW did not read Allon’s full essay or knowingly fabricated the entire narrative surrounding the Allon plan confident that no one would check.

89. MISREPRESENTATION: HRW provides a quote from 1985 by then Defense Minister Yitzhak Rabin to demonstrate his “intent to dominate” Palestinians. Rabin apparently said: “There will be no development [for Palestinians in the OPT] initiated by the Israeli Government, and no permits will be given for expanding agriculture or industry [there], which may compete with the State of Israel” (p. 70). In footnote 197, HRW cites a 1997 book via Google Books (which only allows a limited view of certain pages of a book) titled *The Scarcity of Water, Emerging Legal and Policy Responses*. The book, which focuses on water scarcity and policies around the world, includes this Rabin quote in a chapter on “Israeli Water Politics with Respect to the West Bank.” The authors cite in footnote 24 a 1989 article titled “Water Rights in the Occupied Territories” from the *Journal of Palestine Studies*. This article on page 64 includes the same Rabin quote and in footnote 135 cites the *Report on Israeli Human Rights Practices in the Occupied Territories for 1985* published by the Palestine Human Rights Campaign and American-Arab Anti-Discrimination Committee. The report took Rabin’s words from a *Jerusalem Post* article from February 1985 – which neither of the multiple sources bothers to provide further detail about, and HRW certainly did not track down. But this same quote offered with no context, three degrees away from HRW’s source, is recycled ad infinitum (e.g., Amnesty relied on the same exact quote and sourcing) as certain evidence of Rabin’s intent to dominate Palestinians. None of Rabin’s later statements or actions, which are far more associated with the legacy of Rabin, are cited or analyzed.

90. MISREPRESENTATION: HRW writes: “Israeli authorities have taken a variety of steps to limit the numbers of Palestinians in the West Bank, including denying

residency rights to Palestinians for being abroad when the occupation began in 1967" (p. 71). HRW presents this denial of residency rights for Palestinians "being abroad" after the 1967 war as if they left for a vacation and were then denied entry back into the West Bank. In reality, Israel did not allow Palestinians living in enemy states like Lebanon and Jordan to enter the West Bank after Israel took control of the area from Jordan in 1967. Israel was under no obligation to allow residents of enemy states to enter territory now controlled by Israel and this is not a violation of international law.

91. OMISSION: HRW writes: "While [Israeli] officials have sometimes maintained that measures taken in the occupied West Bank are temporary, the government's actions and policies over more than a half-century make clear the intent to maintain their control over the West Bank in perpetuity" (p. 72). It is a deliberate policy by all anti-Israel NGOs to pretend that the statehood offers by Barak and Olmert never occurred. It is clear that these offers of statehood contradict an intent by Israel to maintain control over the West Bank in perpetuity.

92. MISREPRESENTATION: HRW again scoffs at the notion that the security barrier was built as a security measure, instead focusing on statements by some Israeli officials that the barrier may be a future border. HRW writes: "while the Israeli government formally declared that it built the separation barrier in the early 2000s 'to reduce the entry of terrorists from Judea and Samaria to carry out terror attacks in Israel,' senior Israeli officials have openly spoken about the barrier facilitating the takeover of land" (p. 72). The fact that the barrier incorporated some settlements across the Green Line hardly contradicts the notion of a security need for the barrier. See Point 50, which highlights HRW's incredible and deliberate refusal to mention the wave of more than 100 suicide bombings that killed many hundreds of Israeli civilians, and their near total cessation after the security barrier was built.

93. MISREPRESENTATION: HRW claims: "Withdrawal [from Gaza] effectively took the large Palestinian population there off Israel's demographic balance sheet and allowed Israeli authorities to consolidate a solid Jewish majority in their books across Israel and the remainder of the OPT that they intended to retain, while maintaining control of Gaza via other means" (p. 73). HRW does not explain what it means to take a population off the "balance sheet," a term and concept that it simply made up. Removing settlements, which HRW considers illegal and one of the key criticisms of Israel worldwide, is now also a crime to HRW, just another tool for Israel to "consolidate its Jewish majority in their books." The message from HRW is that Jewish residence anywhere in the region is unacceptable.

94. ERROR: HRW continues to see Israel's removal of settlements as nefarious, claiming that: "Israeli officials at the time acknowledged the demographic objectives

behind the move" (p. 73). In fact, officials did not assert that Israel withdrew from Gaza simply "for demographic objectives," but as Ariel Sharon said as reported in *The New York Times*: "This is a decision that is good for the security of Israel, its diplomatic status, its economy and is good for the demography of the Jewish people in Israel."¹²³ All of these considerations are typically cited by experts and media, with security and international status most often mentioned.¹²⁴ In a televised speech where Ariel Sharon addressed the nation about the disengagement, he cited reasons such as reducing day-to-day friction with Palestinians and allowing Israel to focus economic resources away from settlements and to fight poverty inside Israel.¹²⁵ But HRW only cited demography to support its fabricated narrative. Somehow to HRW, Israel's handing over control of Gaza to full day-to-day Palestinian control is still seen as part of Israel's "intent to dominate" Palestinians. Apartheid if you do, apartheid if you don't.

95. MISREPRESENTATION: HRW claims that after leaving Gaza, Israel planned on redirecting resources into "strengthening Jewish Israeli control over parts of Israel and the West Bank," specifically in the Galilee and Negev (p. 74). As evidence, HRW cites in footnote 215 a quote from Sharon (relayed by an advisor who said this is what Sharon said) that he "reached the conclusion that following the enormous investment in settling the territories, it is now necessary to settle the Galilee and the Negev." HRW continues to view any move to construct homes that Jews may live in inside Israel as criminal. In fact, the same news story in *Haaretz* cited by HRW discussing development plans stated: "The government official stressed that the plan is not meant to prevent Arab villages from growing, and said that the Arab citizens of Israel have a right to live in the Galilee just like the Jewish citizens" – the stark opposite of apartheid, which HRW does not disclose in its fabricated narrative.¹²⁶

96. OMISSION: HRW simply mentions that Hamas "wrested" control of the Gaza strip from the PA in 2007. HRW deliberately omits the well reported events behind this "wresting" of control (p. 74). Hamas seized control of Gaza from the PA in a bloody coup that left over 100 Palestinians dead. Hamas' employed brutal tactics, such as throwing rival Palestinians from rooftops, burning the main police station, and

¹²³ *The New York Times*, "Sharon Wins Approval to Prepare for "Disengagement,"" James Bennet, June 6, 2004;

<https://www.nytimes.com/2004/06/06/international/middleeast/sharon-wins-approval-to-prepare-for-disengagement.html>

¹²⁴ Israel Ministry of Foreign Affairs, "Israel's Disengagement from Gaza and North Samaria (2005)"; <https://mfa.gov.il/mfa/aboutisrael/maps/pages/israels%20disengagement%20plan-%202005.aspx>

¹²⁵ *C-Span*, "Israel Disengagement from Gaza," August 15, 2005; <https://www.c-span.org/video/?188483-1/israeli-disengagement-gaza>

¹²⁶ *Haaretz*, "PMO Issues Rush Order for 30 New Towns in Negev, Galilee," Zafir Rinat, July 20, 2003; <https://www.haaretz.com/1.5347089>

detonating a bomb under the Fatah military headquarters.¹²⁷ This is in line with HRW's deliberate whitewashing of violence committed by Palestinians, and Hamas in particular, as Gazans are only portrayed as innocent victims of apartheid.

97. OMISSION: HRW scoffs at the fact that after Hamas's takeover of Gaza, Israel declared the Gaza Strip a 'hostile territory' (p. 74). HRW never explains anywhere in the document about Hamas' rockets and attack tunnels crossing into Israel, nor its clearly stated intentions to destroy Israel, and omits the fact that Hamas is designated as a terrorist organization by many entities including the US, EU, and UK.

98. ERROR: HRW claims that after the Hamas takeover and declaration of Gaza as "hostile territory," Israel "took a range of measures aimed at, among other things, weakening the economy" (p. 74). As evidence, in footnote 216 HRW cites a legal case titled "Albassiouni v. Prime Minister, HCJ 9132/07." The case says nothing at all about an aim to "weaken the economy," a point that HRW fabricates, but only about efforts to halt terrorist attacks by Hamas. The main discussion is about the amount of fuel that Israel should deliver to Gaza. The case document, which it seems HRW did not actually read, begins with the following: "The background to the petition is the belligerent actions that have taken place in the Gaza Strip for a long period, and the ongoing campaign of terrorism directed against the citizens of Israel. The terrorist attacks have intensified and worsened since the Hamas organization took control of the Gaza Strip. These attacks include the continuous firing of rockets and mortar shells at civilian targets in the territory of the State of Israel, as well as terrorist attacks and attempted attacks targeting civilians and IDF soldiers at the border crossings between the Gaza Strip and the State of Israel, along the border fence and in the territory of the State of Israel. The respondents' decision to limit the supply of fuel and electricity to the Gaza Strip was made in the framework of the State of Israel's operations against the ongoing terrorism."¹²⁸ – Nothing at all about weakening the economy. The final ruling concluded: "In conclusion, we reiterate that the Gaza Strip is controlled by a murderous terrorist organization, which acts relentlessly to inflict harm on the State of Israel and its inhabitants, violating every possible rule of international law in its violent acts, which are directed indiscriminately at civilians - men, women and children. Despite this, as we said above, the State of Israel is committed to fighting the terrorist organizations within the framework of the law and in accordance with the provisions of international law, and to refrain from intentional harm to the civilian population in the Gaza Strip. In view of all of the information presented to us with regard to the

¹²⁷ *The New York Times*, "Hamas seizes control in Gaza, ousting Fatah," June 15, 2007; <https://www.nytimes.com/2007/06/15/world/africa/15iht-mideast.4.6161020.html>;

The New York Times, "Hamas Seizes Broad Control in Gaza Strip," Steven Erlanger, June 14, 2007; <https://www.nytimes.com/2007/06/14/world/middleeast/14mideast.html>

¹²⁸ Jaber Al-Bassiouni Ahmed and others v. 1. *Prime Minister*. 2. Minister of Defence; *HCJ 9132/07*; <https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed%20v.%20Prime%20Minister.pdf>

supply of electricity to the Gaza Strip, we are of the opinion that the amount of industrial diesel that the State said it intends to supply, as well as the electricity that is continually supplied through the power lines from Israel, are capable of satisfying the essential humanitarian needs of the Gaza Strip at the present."

99. ERROR: HRW devotes several paragraphs claiming that Israel maintains a "policy of separation" between Gaza and the West Bank, which is part of its "intent to dominate" (p. 74). HRW seems to forget that that the West Bank and Gaza were separated following the 1947-49 war and each remained under the separate control of two countries still at war with Israel, Jordan and Egypt. HRW also does not seem to be aware that Hamas and the PA are effectively enemies, and the two territories operate de facto as separate territories under separate rule.¹²⁹ It is these two groups that have been unable to reconcile in well over a decade and at minimum have a unified government in both territories. The separation of the two areas was not enacted by Israel and was never part of an official policy.

100. OMISSION: HRW obsesses over the fact that Palestinians cannot easily travel or move their residence between the West Bank and Gaza (p. 75-76). HRW can't seem to imagine why Israel may be concerned about movement of people from Gaza to the West Bank. This document highlights in many points below the terrorist actions of Hamas, including efforts to recruit terrorists in the West Bank, which has caused Israel to consider Gaza a hostile entity. It is normal worldwide to bar movement of persons from hostile entities into your territory. Of course, none of this factors into HRW's thinking because it would lead to the obvious conclusion that Israel's actions are not racially motivated.

101. ERROR: HRW writes the following regarding the supposed separation policy between the West Bank and Gaza: "These policies pressure Palestinians to leave the part of the OPT that authorities covet for Jewish settlement—the West Bank—for the Gaza Strip, and join the more than 2 million Palestinians who are effectively off the demographic balance sheet in the lands where Jews reside" (p. 76). HRW does not provide any evidence that Israeli policies "pressure" Palestinians to move from the West Bank to Gaza. HRW does not provide numbers to support this contention, such as persons from the West Bank who moved to Gaza. Statistics cited by HRW from various reports by NGO Gisha and HaMoked (footnotes 222-224) shows negligible numbers related to movement of Palestinians from the West Bank to Gaza, out of a population of about 3 million in the West Bank. For example, a HaMoked document cited (footnote 223) explains that 1 to 4 persons per year from 2011 to 2015 were

¹²⁹ *The Jerusalem Post*, "PA's Abbas, Hamas's Haniyeh meet for first time in nearly six years," Ben Zion Gad, July 6, 2022; <https://www.jpost.com/middle-east/article-711315>

"deported from the West Bank to the Gaza Strip due to their registered address."¹³⁰ The West Bank population has soared by about 1 million persons in the last 20 years, so the notion of "pressuring" residents to leave is preposterous. This section highlights a key tactic of the HRW report: magnifying minor and isolated incidents to the level of broad policies and actions.

102. DOUBLE STANDARD: HRW concludes its 35-page section on "Intent to Maintain Domination" with the following paragraph: "The pursuit by Israeli authorities of the objective of maintaining Jewish Israeli control vis-avis Palestinians over demographics and land in Israel and the OPT amounts to a 'purpose' or purposes 'of establishing and maintaining domination by one racial group of persons,' as set out in the Apartheid Convention... These policies, practices, and statements collectively establish a discriminatory intent by Israeli authorities to maintain systematic domination by Jewish Israelis over Palestinians" (p. 77-78). There is a simpler way of saying this: The pursuit by Jews of living in a Jewish state in the Middle East is apartheid. The Palestinian desire, clearly articulated by the vast majority of Palestinians and their leaders, to create a Palestinian state in the same territory is somehow not seen by HRW as a purpose or intention of domination by one racial group. This point is both a gross misrepresentation of Israeli actions and their intent, which is not to "dominate" but to maintain a democratic and Jewish state in their historic homeland in a region surrounded by numerous Arab and Muslim states, and a double standard as similar goals of maintaining a state defined by an ethnicity or religion is not seen as racism or apartheid by any other nation or people on earth. HRW's evidence, as debunked from Points 43 to 101, primarily relies upon a series of isolated quotes which in almost every case is misrepresented or simply falsified, as well as numerous other errors and misrepresentations. HRW cherry-picks these few quotes, many from minor officials, to establish intent but cannot provide any other evidence of true intent to dominate such as actual Knesset legislation, court rulings, or specific actions that "push" out Palestinians or specifically seek to "dominate" Arabs.

103. ERROR: The next group of points covers the section of HRW's report titled "Systematic Oppression and Institutional Discrimination." HRW asserts that Israel enacts different rules for Jews and Palestinians on either side the Green Line, stating: "By contrast to the differences in the treatment of Palestinians, Israeli authorities grant all Jewish Israelis the same rights and privileges regardless of which side of the Green Line they live on" (p. 80). This is incorrect, as Israel does not enact separate rules for Israelis based on their religion. It would be correct to say "all Israelis" in this sentence – Jewish, Arab, or otherwise – but not simply "Jewish Israelis." HRW fabricates a false

¹³⁰ Hamoked, "Military data reveals: sharp rise in the number of people deported by the military from their West Bank homes to the Gaza Strip, due to their out of date addresses in the Israeli copy of the population registry," December 20, 2017; <https://hamoked.org/document.php?dID=Updates1942>

narrative of apartheid pitting Jews against Palestinians, but the reality is far more complex, where differences are actually based on Israeli citizens and non-citizens as well as the political situation between Israel and the PA.

104. MISREPRESENTATION: HRW asserts that the settlements in the West Bank are "in violation of the Fourth Geneva Convention's prohibition against the transfer of an occupying power's civilian population to occupied territory." (p. 81) While many nations and groups consider Israel's settlements illegal, there is no consensus and notably, the United States does not consider the settlements illegal in a recent shift in opinion.¹³¹ This rebuttal is not going to delve deeper into international law, but it is clear that HRW's statement of fact is merely an opinion.

105. MISREPRESENTATION: HRW writes: "Israeli authorities treat the more than 441,000 Israeli settlers and 2.7 million Palestinians who reside in the West Bank, excluding East Jerusalem, under distinct bodies of law. They also treat the two population groups unequally on a range of issues, including protection of civil and political rights; methods of law enforcement; freedom of movement; freedom to build; and access to water, electricity, infrastructure, and other resources and services" (p. 81). HRW misrepresents the situation in the West Bank, as under the Oslo Accords, the Palestinian National Authority was created and granted broad autonomy in Areas A & B, governing approximately 95% of the Palestinian population. Of course, there are two "distinct bodies of law" as a key goal of the agreement was to grant Palestinians self-rule. If laws governing Palestinians under the Palestine Authority are unequal to those of Israel, it is not the fault of Israel, as HRW implies. HRW deliberately omits a discussion of the Oslo Accords throughout its report as it starkly undermines its narrative.

106. ERROR: HRW provides a map of Area C in the West Bank and writes that: "Israeli settlements and other restrictions effectively concentrate Palestinians in the occupied West Bank into clusters of enclaves" (p. 82). This phrasing is part of HRW's fabricated narrative of Israel "pushing" and "concentrating" Palestinians into tight areas of living, which has already been shown to be a fabrication in Point 6. In fact, the vast majority of the population in the West Bank is urban, and their living locations were never determined or "concentrated" by Israel. Area A was specifically outlined to incorporate where the vast majority of Palestinians *were already living* and Area C was specifically outlined to include areas where the majority of Palestinians did not live. This made perfect sense if the goal was to establish areas where the vast majority of Palestinians would live under nearly total self-rule. HRW's display of Area

¹³¹ *The New York Times*, "In Shift, U.S. Says Israeli Settlements in West Bank Do Not Violate International Law," Lara Jakes and David Halfinger, November 18, 2019; <https://www.nytimes.com/2019/11/18/world/middleeast/trump-israel-west-bank-settlements.html>

C with a caption contending that this was designed to concentrate Palestinians is a gross falsehood.

107. MISREPRESENTATION: HRW is critical of the fact that "Palestinians and Jewish Israelis living in the West Bank hold different legal statuses." It notes that Palestinians in the West Bank do not have Israeli citizenship while "Jewish Israelis living in the West Bank are Israeli citizens who cannot lose that status..." (p. 83). First, HRW mistakenly refers to "Jewish Israelis" when the laws of Israel apply to all Israelis of any religion. There are non-Jewish citizens, including Arabs, living in the West Bank, and they are treated exactly the same as Jewish citizens living in the West Bank. This fact shatters the narrative that the distinction of Israelis versus Palestinians in the West Bank is based on race, but simply based on citizenship. The entire wording of this section makes clear that unless Israel grants citizenship to all Palestinians, it is committing the crime of apartheid, thereby ignoring a broad consensus of nations that a two-state framework remains the best outcome for the region.¹³²

108. OMISSION: HRW criticizes checkpoints set up by Israel in the West Bank which can "turn a short commute into an hours-long, humiliating journey" and contrasts with Israeli settlers and others who have a greater freedom of movement. First, as shown in Point 21, checkpoint waiting times have been reduced to minutes in certain key locations and plans are to improve all of them in a similar fashion. Second, like the whitewashing of Hamas' terrorist designation and actions, HRW does not mention the reason checkpoints remain in the West Bank: continued terrorism. Israel maintains documentation of hundreds of such attacks from 2015-21.¹³³ HRW may choose to dispute these attacks, but not mentioning them as the main rationale for Israel's actions in the West Bank is negligent. It is not only Israel that is aware of Palestinian terrorist activity. The EU has officially listed several Palestinians groups present in the West Banks as terrorist organizations¹³⁴ including Al-Aqsa Martyrs' Brigade and PFLP. HRW also does not mention that Israeli settlers cannot enter Area A of the West

¹³² *Reuters*, "In Israel, Biden repeats U.S. support for two-state solution," July 14, 2022; <https://www.reuters.com/world/middle-east/israel-biden-repeats-us-support-two-state-solution-2022-07-14/>; Permanent Mission of France, "The two-state solution is the only way to bring a sustainable peace to the region," Statement by Mr. Nicolas de Rivière, Permanent Representative of France to the United Nations Security Council – 23 April 2020; <https://onu.delegfrance.org/The-two-state-solution-is-the-only-way-to-bring-a-sustainable-peace-to-the>

¹³³ Israel Ministry of Foreign Affairs, "Wave of Terror 2015-2022," September 22, 2022; <https://mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/wave-of-terror-october-2015.aspx>

¹³⁴ European Union Law, "Council Decision (CFSP) 2021/142 of 5 February 2021 updating the list of persons, groups and entities subject to Articles 2, 3 and 4 of Common Position 2001/931/CFSP on the application of specific measures to combat terrorism, and repealing Decision (CFSP) 2020/1132"; https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2021.043.01.0014.01.ENG&toc=OJ%3AL%3A2021%3A043%3AFULL

Bank, so their freedom of movement also has certain limitations based on the political reality of the region – not based on racial apartheid.

109. ERROR: HRW again incorrectly assesses the reasoning behind Israel's security barrier, condescendingly writing: "Israel ostensibly built the separation barrier for security purposes, starting in 2002 during the second *Intifada*" but claims that it instead was built to "accommodate the growth needs of the settlements" (p. 84). HRW's pretend analysis of the security barrier is inane, as nowhere in the document does it use the words "suicide bombing" or even allude to them. While the barrier did incorporate some settlements on the other side of the Green Line, it was to offer these communities the same protections from Palestinians terrorists.

110. ERROR: HRW writes: "Israeli authorities apply in parallel different bodies of laws to Palestinians and Jewish Israelis" (p. 84). HRW's insistence on calling all Arab citizens of Israel "Palestinians" leads to some logical minefields such as in this sentence. This statement is an error, as Israel applies the same laws to all of its citizens whether they be Arab (however they self-identify), Muslim, Druze, Jewish etc. Even if referring specifically to Palestinians in the West Bank (which is not what is implied), HRW is still mistaken, as the laws that apply to Israelis in the West Bank apply to all citizens of Israel regardless of their religion. This not so subtle "wordplay" by HRW ends up being central to its entire thesis of racial apartheid but necessarily leads to logical flaws when HRW tries to make sweeping statements about "Palestinians," including those who are citizens of Israel.

111. MISREPRESENTATION: HRW writes: "The Israeli army governs the West Bank under military law... While governing Palestinians under military law, the Israeli army has issued military orders that stipulate that Israeli civil and administrative law shall apply to settlements" (p. 84). In fact, about 95% of Palestinians in the West Bank are under the exclusive jurisdiction of the Palestinian Authority and subject to the Palestinian Authority's legal system.¹³⁵ Second, Palestinians are only tried in military court for security related offenses. Third, under the law of occupation, which HRW clearly asserts Israel must follow,¹³⁶ Israel is required to administer the territory under a military system. This is another case of "apartheid if you do, apartheid if you don't." If Israel does not follow international law related to occupation, then it is a war crime; but the application of military law as required under occupation is also seen as a crime. In fact, application of Israeli law in the West Bank and Israel is according to citizenship, not race or nationality.

¹³⁵ The International Legal Forum, "Response to HRW Apartheid Smear," paragraph 8; https://www.ilfngo.org/_files/ugd/3445b6_5be4f0805cf04c8ca8f95967b16ef4a0.pdf

¹³⁶ For example, on page 129 HRW claims that as it related to Gaza, "Israel remains bound to provide them with the rights and protections afforded to them by the law of occupation, as the ICRC and UN have both determined."

112. DOUBLE STANDARD: HRW writes: "Israeli authorities try Palestinians charged with crimes in military courts, where they face a conviction rate of nearly 100 percent" (p. 85). The implication is that Israel's courts are a sham, as would be expected in an apartheid regime. But is this conviction rate high or low? Of course, HRW only considers Israel in a vacuum. All courts are generally mandated only to being cases to trial that are certain to be won – and this is even more so the case in military courts. Pew Research Center data shows that in 2019 US federal prosecutors had a 99.6% conviction rate for about 80,000 cases.¹³⁷

113. ERROR: HRW attempts to prove that Israel's criminal justice system treats Arabs and Jews differently. HRW writes: "The Association for Civil Rights in Israel (ACRI) found in a 2014 report that 'since the 1980s, all Israeli citizens brought to trial before the military courts were Arab citizens and residents of Israel'" (p. 85). The error here is particularly egregious and is evidence of incompetent research capabilities and willful falsification of events. HRW cites as evidence for this statement in footnote 250, page 37 of an ACRI report from 2014 titled "One Rule, Two Legal Systems: Israel's Regime of Laws in the West Bank." ACRI's report states: "since the 1980s, all Israeli citizens brought to trial before the military courts were Arab citizens or residents of Israel." (HRW mistakenly quotes ACRI with "and" instead of "or"). ACRI's source in its footnote 67 says: "In the 1970s, Israeli demonstrators from left-wing organizations were brought to trial before the military courts, and in the 1980s, demonstrators who protested the evacuation of the Sinai Peninsula were brought to trial in these courts." ACRI indicates that this comment came from a 2007 report by NGO Yesh Din titled "Backyard Proceedings: The Implementation of Due Process Rights in the Military Courts in the Occupied Territories." We tracked down the Yesh Din report and on pages 57-58 it says the following: "The IDF has not always refrained from trying Israeli citizens before the Military Courts. During the 1970s, Israeli demonstrators from leftist organizations were tried in the Military Courts; in 1982, demonstrators at the time of the Sinai Peninsula evacuation were also tried before the Military Courts. However, the IDF has not done so since. When initiatives to resume trials of Israelis before the Military Courts have arisen, the IDF has stood vigorously opposed." HRW's errors and misrepresentations here are threefold: (1) The original Yesh Din report that is cited by ACRI does not mention that the Israeli citizens tried in Military Courts were Arabs – it does not specify Arab or Jew. Both ACRI, and then HRW, *falsely insert* "Arab" into their narrative. It seem highly unlikely that Arabs protested the Israeli evacuation of Sinai for its return to Egypt, but the Yesh Din report does not specify

¹³⁷ Doar Rieck Kaley & Mack, "What you should know about the federal government's conviction rate," 2021; <https://www.doarlaw.com/blog/2021/04/what-you-should-know-about-the-federal-governments-conviction-rate/>

either way. (2) The events being discussed occurred 40 years ago, so to imply that these are current actions of the Israeli military courts (HRW simply writes "since the 1980s") is a gross misrepresentation. (3) The Yesh Din report makes clear that the IDF has not tried an Israeli citizen in Military Court since 1982. HRW makes a serious charge of raw discrimination in the courts against Arabs, but it is a blatant lie that relies on obsolete and falsified information.

114. ERROR: HRW claims that Israel has created "dual bodies of laws... where two people live in the same territory, but only one enjoys robust rights protection. Settlers, for example, enjoy freedom of speech... Palestinians, meanwhile, can face up to ten years in prison for attempting to influence public opinion in a manner that 'may' harm public peace or public order" (p. 86). It is preposterous to claim that Palestinians in the West Bank do not have freedom of speech or cannot influence public opinion. PA state media, on a daily basis, rails against Israel, claims that Israel "surpasses German Nazism,"¹³⁸ denies Jewish history in the region,¹³⁹ glorifies terrorists,¹⁴⁰ and talks about how "Palestine will return to its people."¹⁴¹ Any restrictions on freedom of speech are due to PA rules and regulations, not Israeli. In fact, it is the PA that violently cracked down on demonstrations against the death of Palestinian activist Nizir Banat.¹⁴² HRW points to one of its own reports as evidence that Israel limits things like freedom of speech and assembly. One example HRW recounts is the administrative detention of Khalida Jarrar based on her "political activism with the Popular Front for the Liberation of Palestine (PFLP), a group that includes both a political party and an armed wing that has attacked Israeli soldiers and civilians."¹⁴³ HRW does not reveal that the PFLP is designated as a terrorist organization by the EU, US, Japan, Israel, and others. In another example HRW recounts the detention of Palestinian artist Hafez Omar for involvement with a group that operates under "the auspices of the Hezbollah organization," which HRW simply calls a "Lebanese Shi'ite Islamist Group." In fact, Hezbollah is similarly designated as a terrorist organization by the EU and most member states of the Arab League, among others. Thus, the examples cited by HRW

¹³⁸ Palestinian Media Watch, "PA: Israel is 'reenacting the Nazi Holocaust,' Zionism is 'Nazism,' Israelis are the 'new Nazis,'" Itamar Marcus, April 27, 2022; <https://palwatch.org/page/31227>

¹³⁹ Palestinian Media Watch, "PA leaders continue to deny existence of Jewish Temples," Itamar Marcus, August 4, 2021; <https://palwatch.org/page/26049>

¹⁴⁰ Palestinian Media Watch, "Fatah openly supports 'the pure and heroic' Tel Aviv / Bnei Brak terrorists who murdered 8," Nan Jacques Zilberdik, May 25, 2022; <https://palwatch.org/page/31564>

¹⁴¹ Palestinian Media Watch, "PA: 'The history is written in blood... Palestine will return to its people,'" Nan Jacques Zilberdik, February 24, 2022; <https://palwatch.org/page/30442>

¹⁴² *Al Jazeera*, "Palestinian journalists claim pressure by PA amid crackdown," August 11, 2021; <https://www.aljazeera.com/news/2021/8/11/palestinian-journalists-claim-pressure-by-pa-amid-crackdown>

¹⁴³ Human Rights Watch, "Born Without Civil Rights," December 17, 2019; <https://www.hrw.org/report/2019/12/17/born-without-civil-rights/israels-use-draconian-military-orders-repress>

of Israel limiting Palestinian freedom of speech are related to people involved with worldwide designated terrorist groups.

115. MISREPRESENTATION: HRW continues to criticize as apartheid the distinction between Israeli settlers living in the West Bank and Palestinians living in the West Bank. In this example, HRW writes: "Conducting a search of a settler requires a warrant or meeting very restrictive conditions, none of which apply to searching a West Bank Palestinian" (p. 86). HRW falsely presents these differences as a reflection of racial discrimination, but in fact it is only based on citizenship. All citizens of Israel of any religion and wherever they reside would be treated the same way as the "settler" cited by HRW. For example, in Ariel, a settlement in the West Bank, there are 573 Arab residents.¹⁴⁴ These Arab settlers would be treated the same way as Jewish settlers, since they are both Israeli citizens.

116. MISREPRESENTATION: HRW writes as supposed evidence of discrimination: "ACRI found in 2017, based on government data from 2015, that authorities kept 72 percent of Palestinian children from the West Bank in custody until the end of proceedings, but only 17.9 percent of children in Israel." The March 2017 ACRI reported, cited in footnote 263 and titled "Arrest and Detention of Palestinian Minors in the Occupied Territories: 2015 Facts and Figures," cites this data on page 9 from a report titled "Children in Israel 2015" by the Israel National Council for the Child." Contrary to HRW's statement that the ACRI figures are sourced from government data, they in fact come from a report produced by this independent NGO funded by the Bernard van Leer Foundation. This minutiae – length of time held in custody during proceedings from seven years ago – is meaningless without context. Why were these children held in custody? There are numerous examples of Palestinians teenagers involved in terrorist activity¹⁴⁵ while few Israeli teenagers are involved in similar activity of murderous attacks on civilians. Without additional context and analysis, this data point is meaningless.

117. MISREPRESENTATION: HRW provides a graphic showing the differences between a Jewish citizen of Israel born in an Israeli settlement and a Palestinian born in a village in Area C to show how they are "born unequal" (p. 88). HRW once again conflates differences between citizenship (Israelis and non-Israelis) with a racial conflict of Jews versus Palestinians. HRW states that the Palestinian in this graphic cannot build a home in Area C while the Jewish Israeli can. HRW does not disclose that according to the Oslo Accords Palestinians can build without restriction in Areas

¹⁴⁴ Israel Central Bureau of Statistics, Regional Statistics by locality, 2020; <https://www.cbs.gov.il/en/subjects/Pages/Population-in-Localities.aspx>

¹⁴⁵ *The Jerusalem Post*, "NGO Defense For Children distorts reports of Palestinian youth attacks on Israelis," Daniel Segal, December 25, 2021; <https://www.jpost.com/opinion/article-689750>

A and B where 95% of Palestinians live, while by agreement, Area C remains under Israeli control. While HRW may consider the Oslo Accords unfair, the rules were agreed upon in an internationally recognized treaty that still remains in effect, and were not based on racism or apartheid policies. There still remains a territorial and national dispute that Oslo attempted to solve. The rules that apply to the "Jewish Citizen of Israel" in the chart apply to *any Israeli citizen* regardless of religion or race. HRW narrows down the chart to compare a "Jewish citizen of Israel" with a "Palestinian ID Holder" from Area C to promote its false narrative as the chart would not work comparing an "Israeli" to a Palestinian from Area A & B. In this case only the Palestinian could build in Area A & B while the Arab or Jewish Israeli citizen could not.

118. DOUBLE STANDARD: As an example of "Systematic Oppression," HRW writes: "Israeli authorities have incarcerated hundreds of thousands of Palestinians for what it deems 'security offenses' since 1967" (p. 89). Footnote 264 cites a 2014 Addameer report that says 800,000 Palestinians have been detained since 1967 but notably offers no citation, and there seems to be no reliable source for this number going back 55 years. This 800,000 has been copied and recopied in anti-Israel reports and articles for years as a simple Google search shows, but actual evidence is never provided. The number apparently was stated by Palestinian Prime Minister Salam Fayyad in 2012 but no evidence was provided.¹⁴⁶ It was later reported by Palestinian media (Ma'an News Agency) in 2014¹⁴⁷ and NGO Addameer picked up the number where it has generally been quoted by other NGOs like HRW and Amnesty. No group has ever provided evidence – it seems incarcerations for each year since 1967 adding up to 800,000 would seem to be basic information that other NGOs could research to back up this number. We remain highly skeptical of this figure issued by a Palestinian official a decade ago. But even assuming the number is accurate, the figure is deliberately cited as an aggregate total since the annual rate of perhaps 17,000 per year out of millions is not alarming given the thousands of terrorist attacks attempted and committed against Israel.¹⁴⁸ In the next sentence HRW admits that only 4,323 Palestinians are in custody as of April 2021 or about 0.15% of the West Bank population. Once again HRW assesses these numbers in a vacuum. The U.S. Black

¹⁴⁶ *Saudi Gazette*, "Israeli forces arrested 800,000 Palestinians since 1967," Mohammed Mar'i, December 12, 2012; <https://web.archive.org/web/20140103234457/http://www.saudigazette.com.sa/index.cfm?method=home.regcon&contentid=20121212145756>

¹⁴⁷ *Haaretz*, "Over 800,000 Palestinians Imprisoned by Israel Since 1967, Says Erekat," April 17, 2014; <https://www.haaretz.com/2014-04-17/ty-article/.premium/800-000-palestinians-jailed-since-67/0000017f-e114-d38f-a57f-e756f5d00000>

¹⁴⁸ Israel Ministry of Foreign Affairs, "Wave of Terror 2015-2022," September 22, 2022; <https://mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/wave-of-terror-october-2015.aspx>

incarceration rate of 1.1% is more than 7 times the rate of Palestinians.¹⁴⁹ Australia's incarceration rates for aborigines is among the highest in the world for a minority population with about 12,456 in prisons in 2020, which comes to a rate of approximately 1.6% -- more than *10 times the rate of Palestinians*.¹⁵⁰ In fact, the story on Palestinian incarceration rates should be that they are remarkably low given the nature of the multi-year conflict, hundreds of actual and attempted terrorist attacks per year emanating from the West Bank, all of which does not exist in the U.S. or Australia.

119. OMISSION: HRW compares Palestinians held for security offenses versus Israelis to evidence "Systematic Oppression." HRW writes: "Israeli authorities, as of March 1, 2021, held no Jewish Israelis for 'security offenses' and, over nearly 54 years of occupation, have held not more than a handful of Jewish Israelis in total in administrative detention" (p. 89). HRW omits in its discussion that very few Jews have been involved in or accused of terrorist attacks, such as killing civilians on streets, suicide bombing attempts, knifing of individuals, or ramming cars at checkpoints, etc. The Israel government maintains a database of terrorist attacks, recording over 1,000 incidents (ranging from firebombs to small arms fire) in 2022 killing 19 civilians and injuring many more.¹⁵¹ There were also over 1,000 attacks in 2020, the year prior to the HRW report, with three killed and over 43 injured. A comparison of detention to show "systematic oppression" must include an analysis of the events that caused the detention, but we know HRW will never offer this information.

120. MISREPRESENTATION: HRW claims that: "Israeli authorities have for decades mistreated and tortured Palestinian detainees, using tactics rarely utilized against Jewish detainees" (p. 90), but the charge of broad-based torture is inaccurate. HRW acknowledges that in 1999 the Israeli Supreme Court forbade the use of torture in most circumstances but still asserts that torture continues, based on the fact that: "About 1,300 complaints of torture against Israeli authorities have been filed with Israel's Justice Ministry between 2001 and June 2020, which have resulted in one criminal investigation and zero prosecutions." These complaints are unverified and based on reports from the Public Committee Against Torture in Israel (PCATI), but PCATI has a history of issuing unverified allegations of torture, which HRW has picked up in its report. For example, in 2013 it issued a report that Israel placed prisoners,

¹⁴⁹ The Sentencing Project, "The Color of Justice: Racial and Ethnic Disparity in State Prisons," Ashley Nellis, October 13, 2021; <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>

¹⁵⁰ *The Guardian*, "Indigenous prison population continues to increase, while non-Indigenous incarceration rate falls," Elias Visotnay, January 21, 2021; <https://www.theguardian.com/australia-news/2021/jan/22/indigenous-prison-population-continues-to-increase-while-non-indigenous-incarceration-rate-falls>

¹⁵¹ Israel Ministry of Foreign Affairs, "Wave of Terror 2015-2022," September 22, 2022; <https://mfa.gov.il/mfa/foreignpolicy/terrorism/palestinian/pages/wave-of-terror-october-2015.aspx>

including children, in iron cages, which was unproven and is wholly inaccurate.¹⁵² Historical use of torture appears to have occurred to deter "ticking time bomb" terrorist situations, but "Jewish detainees" have not been involved in terrorist situations of this type.¹⁵³

121. MISREPRESENTATION: HRW criticizes the fact that: "[Israeli] Security forces also frequently raid populated Palestinian areas in the West Bank, even Area A, where Israeli authorities ostensibly charged the PA with fully managing civil and security affairs" (p. 90). Again, HRW ignores the many thousands of attempted and successful terrorist attacks against Israeli civilians emanating from the West Bank. These raids are all carried out to stop terrorist attacks before they happen. The Oslo Accords (see Article XIII) specifically allows Israel to act in Area A "for the purpose of protecting Israelis and confronting the threat of terrorism." For example, in June 2022 Israeli forces entered Jenin to capture terrorists involved in a deadly wave of attacks that killed 19 Israeli civilians earlier in the year. Gun battles broke out where several Palestinian terrorists were killed; Hamas admitted that one of its field commanders was killed and Islamic Jihad said three of its members killed.¹⁵⁴ If these terrorists did not base themselves inside civilian cities in Area A, there would be no Israeli raids in these areas. However, in HRW's fabricated narrative, Palestinian terrorism has not and does not exist, so all Israeli actions related to security are considered criminal of apartheid.

122. MISREPRESENTATION: HRW claims that "Israeli forces routinely use excessive force, including live ammunition, against Palestinian demonstrators, rock-throwers, suspected assailants, and others in policing situations when lesser means could have been deployed" (p. 90). HRW does not provide evidence of "excessive force" in relation to the situation and its assertion that "lesser means could have been deployed" is merely a statement of opinion conveniently made from the safety of HRW's offices. HRW again cites one of its own earlier reports as evidence (what we call "because we say so" proof which is common since HRW cites itself in 20% of all citations), which repeats their unsubstantiated opinion: "In many of the more than 150 cases since October 2015, in which Israeli security forces fatally shot Palestinians who allegedly attacked or tried to attack Israelis with knives, guns, or motor vehicles, video footage and/or witness accounts raise serious questions about the necessity of the use of lethal force." As expected, HRW whitewashes these 150 terrorist attacks, none of

¹⁵² NGO Monitor, Public Committee Against Torture in Israel (PCATI), December 13, 2020; https://www.ngo-monitor.org/ngos/public_committee_against_torture_in_israel_pcati/

¹⁵³ *The Guardian*, "Israeli court outlaws torture," Ilene Prusher, September 6, 1999; <https://www.theguardian.com/world/1999/sep/07/israel>

¹⁵⁴ *The Jerusalem Post*, "Three Palestinians killed in armed clashes with IDF soldiers in Jenin," Tzvi Joffre, June 17, 2022; <https://www.jpost.com/breaking-news/article-709707>

which it can admit actually happened, they are all alleged, to focus exclusively on the possibility that the Israeli response was excessive.

123. ERROR: HRW claims that the Israeli army systematically fails to intervene in cases of violence by Israeli settlers against Palestinians, but "in some cases they even join in on the attack" (p. 91). HRW cites a report by B'Tselem titled "Settler Violence = State Violence" but offers no evidence or examples where the army joined settlers in attacking Palestinians. The B'Tselem report simply makes a broad, sweeping statement of Israeli wrongdoing and evil at every level of government (even the Nature and Parks Authority): "The apartheid regime is based on organized, systemic violence against Palestinians, which is carried out by numerous agents: the government, the military, the Civil Administration, the Supreme Court, the Israel Police, the Israel Security Agency, the Israel Prison Service, the Israel Nature and Parks Authority, and others. Settlers are another item on this list, and the state incorporates their violence into its own official acts of violence. Settler violence sometimes precedes instances of official violence by Israeli authorities, and at other times is incorporated into them. Like state violence, settler violence is organized, institutionalized, well-equipped and implemented in order to achieve a defined strategic goal."¹⁵⁵ While there are certainly examples of settler violence, the notion of the army joining in the attacks is a fabrication. Israeli leaders have routinely condemned instances of settler violence, such as then Foreign Minister Yair Lapid in early 2022 who said: "I have spoken out against extremist [settler] violence and will continue to do so... It is anathema to our values, beliefs and way of life."¹⁵⁶

124. MISREPRESENTATION: HRW discusses land used by Israel for settlements in the West Bank. The report notes: "Israeli authorities have allocated 674,459 dunams of state land in the West Bank for Israeli civilian use, primarily settlements... This figure comprises 99.76 percent of the total state land that Israeli authorities have officially allocated for use by third parties" (p. 91). These figures are from third party NGO reports from Peace NOW and ACRI and are not verified, but let's assume they are accurate. HRW does not mention that this land is exclusively in Area C, not Area A & B where the PA exercises control and 95% of West Bank Palestinians live. Under the Oslo Accords that were agreed upon by the PA and Israel, Area C remained under the control of Israel. It is true that Israel has built settlements in Area C, which was not prohibited under the Oslo Accords. At the same time, 100% of Area A & B have been used exclusively by Palestinians, not Israel. While HRW may not like the Oslo Accords, adherence to them is not evidence of "Systematic Oppression" or apartheid. Even if

¹⁵⁵ B'Tselem, "Settler Violence = State Violence," November 25, 2021; https://www.btselem.org/settler_violence

¹⁵⁶ *The Jerusalem Post*, "Lapid to Jewish organizations: Don't let 'extremist minority' settler violence tarnish Israel," Lahav Harkov, February 1, 2022; <https://www.jpost.com/diaspora/article-695171>

one believes building settlements is a bad idea and hinders the chances for peace, as many Israelis do, their status today and in the future is part of a political and territorial dispute – not apartheid.

125. MISREPRESENTATION: HRW explains how “Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in Area C, the 60 percent of the West Bank under exclusive Israeli control” (p. 92). It also describes home demolitions in Area C for lack of a building permit. As discussed in the prior point, Israel is under no obligation to allow Palestinians to build in Area C and it is not illegal or a violation of the Oslo Accords to bar Palestinian construction. It can be argued that perhaps Israel should allow Palestinian construction, and one can argue that the Oslo Accords were not fair or perhaps should be renegotiated, but calling Israeli actions under this agreement apartheid is a gross misrepresentation.

126. ERROR: HRW writes: “The World Bank estimated in 2013 that discriminatory Israeli restrictions in Area C cost the Palestinian economy \$3.4 billion per year” (p. 93). HRW misstates the World Bank note which says nothing about “discriminatory” actions or restrictions by Israel, this wording was falsely inserted by HRW to lead the reader to believe that the World Bank itself characterized Israeli actions as discriminatory.¹⁵⁷ The World Bank news release notes that Area C remains restricted land that if “unleashed” could increase Palestinians GDP. This potentially massive growth is hypothetical, but in any case, there is no mention about “discriminatory” actions or restrictions.

127. ERROR: HRW writes that in the West Bank: “Israeli authorities retain primary control over resources and infrastructure and systematically privilege Jewish Israeli settlers over Palestinians in the provision of roads, water, electricity, health care, and other services” (p. 93). There are several errors and misrepresentations in these comments. First, there are no roads or other services that are earmarked for “Jewish” persons, as all Israeli citizens of any race or religion can access all roads equally. Second, the Oslo Accords outlined various responsibilities of each party, for example, services such as healthcare and education are specifically the full responsibility of the PA. By definition Israel does not “privilege” Jewish settlers with these services as the PA provides them exclusively to their people. For instance, during the COVID crisis, the PA Ministry of Health clarified that they had not asked Israel to supply it the vaccine. A PA official said: “We are working on our own to obtain the vaccine from a number of sources... We are not a department in the Israeli Defense Ministry. We have our own government and Ministry of Health, and they are making huge efforts to get the

¹⁵⁷ The World Bank, “Palestinians Access to Area C Key to Economic Recovery and Sustainable Growth,” October 7, 2013; <https://www.worldbank.org/en/news/press-release/2013/10/07/palestinians-access-area-c-economic-recovery-sustainable-growth>

vaccine.”¹⁵⁸ Third, in Area A and B, as provided for in the Oslo Accords, the Palestinians retain “primary control of resources and infrastructure.” Only in Area C, as per the agreement, does Israel retain primary control.

128. MISREPRESENTATION: HRW writes: “Israeli forces in Hebron prohibit Palestinians from walking on large sections of what used to be the central thoroughfare of the city as part of a policy of making those areas “sterile” of Palestinians...” (p. 93). The notion that Israel practices apartheid in Hebron is a common canard based on a falsification of what is actually happening in the city. Hebron is a thriving Palestinian city of over 200,000, on about 74 square kilometers, and is responsible for an estimated one-third of the Palestinian economy, with active universities, hospitals, etc. As agreed upon in the Oslo Accords, 80% of the city known as “H1” holds 170,000 Palestinians and is under full control of the PA and 20% is categorized as “H2” where about 30,000 Palestinians live alongside some 700 Jews and managed by Israeli authorities. The designation of the two zones was set up to provide security for the few hundred Jews who live in this city, which has had a Jewish presence since ancient times (except for the years following the 1929 massacre of Jewish residents). There is only several blocks of *one street*, known as Shuhada Street – out of 74 square kilometers of a city – that for security purposes was closed down due to violence by Arabs against the small number of Jews.¹⁵⁹ This street was once part of the old market of Hebron, but the market was fully relocated nearby to Ein Sarah Street, which is a bustling area, as The Excellence Center in Palestine confirms.¹⁶⁰ A video of the street can be see on a video posted by the same group which is based in Hebron.¹⁶¹ HRW exaggerates the situation in this one street by using words like “large sections” and “making those areas sterile” when again, this is only referring to a few blocks. The entire narrative of Israeli restrictions in Hebron intentionally misrepresents the actual situation where Palestinians control the vast majority of the city without hindrance and the main market thoroughfare, and where Jews are highly limited in the areas of the city where they can enter.

129. MISREPRESENTATION: HRW cites a short report by the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) regarding checkpoints and similar road obstacles that Israel has put in place in the West Bank. HRW quotes

¹⁵⁸ *The Jerusalem Post*, “Palestinians: We didn’t ask Israel for COVID-19 vaccine,” Khaled Abu Toameh, December 21, 2020; <https://www.jpost.com/israel-news/palestinians-we-didnt-ask-israel-for-covid-19-vaccine-652703>

¹⁵⁹ *Israel Hayom*, “The myth of Hebron’s Shuhada Street,” Steve France, July 25, 2019; <https://www.israelhayom.com/2019/07/25/the-myth-of-hebrons-shuhada-street/>

¹⁶⁰ The Excellence Center in Palestine, “5 Things that Stand Out on Ein Sarah Street,” January 14, 2022; <https://excellencecenter.org/5-things-that-stand-out-on-ein-sarah-street/>

¹⁶¹ The Excellence Center in Palestine, “The Location of the Excellence Center in Palestine,” April 15, 2022; <https://www.youtube.com/watch?v=n9p7dVlrlYM>

OCHA who calls the checkpoint system "an adaptable system of control" (p. 94). HRW omits and misrepresents the reason for the checkpoints, which the OCHA report actually acknowledges: "security concerns."¹⁶² The "adaptable system of control" does not refer to controlling Palestinians, which HRW implies to support a false narrative of domination and oppression, but specifically to Israel's ability to adapt its checkpoint system based on security needs. As OCHA explains: "During times of calm, these checkpoints are mostly unstaffed or security personnel carry out occasional checks on vehicles. By contrast, when tensions arise, checkpoints are mostly staffed and vehicles are stopped more frequently, generating delays. This occurred on a wide scale during the last quarter of 2015 following an escalation in Palestinian attacks and mass demonstrations..." OCHA acknowledges that checkpoints are not used to "oppress" noting that checkpoints are mostly unstaffed when threats of terrorism are low.

130. ERROR: HRW falsifies and misrepresents the subject of water usage in the West Bank over four pages of text (p. 96-98), beginning the section by claiming that: "Israeli authorities also maintain primary control over water resources in the West Bank and allocate water in a discriminatory fashion to Palestinians," and concluding that "Israel's discriminatory water policies in the West Bank enable settlers to enjoy bountiful water, while some Palestinian communities lack sufficient water to provide for their basic needs." However, according to statistics produced by the Palestinians themselves, there is not a single area in the West Bank that does not have enough water for "basic needs." UN documents make clear that: "According to WHO, between 50 and 100 liters of water per person per day are needed to ensure that most basic needs are met and few health concerns arise. Access to 20-25 liters per person per day represents a minimum, but this amount raises health concerns because it is insufficient to meet basic hygiene and consumption requirements."¹⁶³ According to the UN's Special Rapporteur on the Human Right to Safe Drinking Water: "20 liters per capita per day is a minimum quantity required to realize minimum essential levels of the right, but there remain significant health concerns. To ensure the full realization of the right, States should aim for at least 50 to 100 liters per person per day."¹⁶⁴ According to the Palestinian Authority's own numbers for 2018 (see chart below, also published on the B'Tselem website)¹⁶⁵ there is not a single area of the West Bank where Palestinians consume less than 50 liters per day and the average across the

¹⁶² UN OCHA, "Over 700 road obstacles control Palestinian movement within the West Bank," October 8, 2018; <https://www.ochaopt.org/content/over-700-road-obstacles-control-palestinian-movement-within-west-bank>

¹⁶³ UN, "Fact Sheet No. 35: The Right to Water," August 1, 2010, p. 8; <https://www.ohchr.org/en/publications/fact-sheets/fact-sheet-no-35-right-water>

¹⁶⁴ UN Human Rights, Special Rapporteur On the Human Right to Safe Drinking Water and Sanitation; https://sr-watersanitation.ohchr.org/en/rightstowater_5.html

¹⁶⁵ B'Tselem, Statistics Water Crisis, June 13, 2021; <https://www.btselem.org/water/statistics>

West Bank is 90.5 per day¹⁶⁶ – at the upper end of WHO recommendations. Actual supply is even higher at 118.9 per day, but losses from leaks and other water network issues result in lower actual consumption. Gaza consumption is 83 per day, still in the upper half of the recommended range, and also suffers from pipeline defects and theft, as actual water supplied is 95 liters per day.¹⁶⁷ Also not disclosed is that neighboring Jordan has access to only 61 liters per day (as reported by *Al Jazeera* in 2021),¹⁶⁸ 33% less than West Bank Palestinians and 27% less than Gazans. Jordan suffers from water issues, but again, its population has water above WHO minimum recommended levels.

Governorate	Daily Consumption Rate per capita (liter/capita/day)	Population End of 2018	Total Losses (million m ³)	Consumed Water (million m ³)	Supplied Water for Domestic Sector (million m ³)
West Bank ^{(1) (2)}	90.5	2,665,791	30.8	88.1	118.9
Jenin	50.2	321,950	2.3	5.9	8.2
Tubas & Northern Valleys	118.4	62,430	1.3	2.7	4.0
Tulkarm	99.3	190,169	3.2	6.9	10.1
Nablus	82.9	396,210	3.7	12.0	15.7
Qalqiliya	147.4	115,184	2.1	6.2	8.3
Salfit	155.5	77,473	1.0	4.4	5.4
Ramallah & Al-Bireh and Jerusalem ⁽¹⁾	97.3	495,268	3.8	17.6	21.4
Jericho & Al-Aghwar ⁽³⁾	268.7	50,946	1.5	5.0	6.5
Bethlehem and Hebron ⁽⁴⁾	78.5	956,161	11.9	27.4	39.3

131. ERROR: HRW writes: “Israel has used its control over parts of the Mountain Aquifer in the West Bank to serve its own citizens and settlers, in contravention of international humanitarian law which prohibits occupiers from exploiting natural resources for its own economic benefit” (p. 95). This statement is false on several levels. First, usage of water from the aquifer is regulated under the Oslo Accords and Israel has adhered to this agreement. Groundwater allocations were agreed upon under the Oslo Accords (Article 40 of Annex III),¹⁶⁹ which specifically governs water usage with specific numbers. HRW falsely claims that Israeli is violating “international humanitarian law” but deliberately ignores a legal agreement between Israel and the

¹⁶⁶ Palestine Central Bureau of Statistics, “Quantity of Water Supply for Domestic Sector, Water Consumed, Total Losses, Population and Daily Consumption per Capita in the West Bank by Governorate, 2018”; https://www.pcbs.gov.ps/Portals/_Rainbow/Documents/water-E9-2018.html

¹⁶⁷ B’Tselem, Statistics Water Crisis, June 13, 2021; <https://www.btselem.org/water/statistics>

¹⁶⁸ *Al Jazeera*, “‘Catastrophe’ faces Jordan’s water sector as climate heats up,” Melissa Pawson, November 2, 2021; <https://www.aljazeera.com/news/2021/11/2/experts-warn-of-catastrophe-facing-jordans-water-sector>

¹⁶⁹ The University of Edinburgh, Peace Agreements Database, “Annex III, Concerning Civil Affairs, Israeli Palestinian Interim Agreement on The West Bank and the Gaza Strip (Oslo II); [https://www.peaceagreements.org/wview/985/Annex%20III,%20Concerning%20Civil%20Affairs,%20Israel%20and%20the%20Gaza%20Strip%20\(Oslo%20II\)](https://www.peaceagreements.org/wview/985/Annex%20III,%20Concerning%20Civil%20Affairs,%20Israel%20and%20the%20Gaza%20Strip%20(Oslo%20II))

PA on water related matters. The Mountain Aquifer is a shared resource with an estimated 641 MCM available per annum and allocations were agreed upon and crafted in part based on proportional population needs. Israel has been following this agreement and according to statements from the Israeli administration in June 2017, Israel is providing water above the agreed upon amount.¹⁷⁰ Second, Israeli settlements in the West Bank do not use the PA allocation, they only receive the Israeli allocation, therefore the notion that settlements use "Palestinian water" is false. HRW does not provide a serious analysis of water usage and allocations per the Oslo Accords, simply parroting unsubstantiated comments from third party NGO reports written by B'Tselem and Al Haq (see footnotes 298 and 299), which also do not provide any actual analysis but hurl accusations.

132. MISREPRESENTATION: HRW writes: "80 percent of the Mountain Aquifer's water recharge lies beneath the West Bank" (p. 96) and contrasts this to the fact that Israel extracts about 90 percent of the water, thus implying unfair water usage that evidences apartheid. HRW cites this data from a 2009 book titled *Freshwater Resources and Interstate Cooperation: Strategies to Mitigate an Environmental Risk* by Frederick Gordon. However, this statement misrepresents the actual geography of the aquifer or which about 70% lies in Israel and only 30% in the West Bank. According to a twenty-three page survey of the aquifer published by the United Nations Economic and Social Commission for Western Asia: "The Western Aquifer Basin covers a total area of 9,000 to 14,167 km², depending on the definition of the aquifer's southern boundary in the Sinai Peninsula... approximately 70% lies in Israel and 30% in the West Bank."¹⁷¹ Data from The Civil Administration of Judea and Samaria corroborate these figures. The reference to "recharge" in the HRW report relates to the location where rainfall and seepage into the aquifer occurs. HRW deliberately did not report the actual size and location of the aquifer, which lies mainly under Israel, as the statistic would contradict the argument that Israel draws an outsized share of water compared to the geography of the aquifer. In any case, water from the aquifer is shared according to agreed upon amounts between the PA and Israel, which is adhered to as noted in the prior point.

¹⁷⁰ *The Times of Israel*, "West Bank water theft drains Israelis and Palestinians dry," Jacob Magid, June 9, 2017;

<https://www.timesofisrael.com/west-bank-water-theft-drains-israelis-and-palestinians-dry/>
Also see: The Civil Administration of Judea and Samaria, "Factsheet: Water in the West Bank," 2012;
<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewijLqW2Lz2AhXEIlkEHUWWA4YQFnoECAUQAQ&url=https%3A%2F%2Freliefweb.int%2Fsites%2Freliefweb.int%2Ffiles%2Fresources%2F3274.pdf&usg=AOvVaw2etxdCFC6Ptd13qZf9lvMI>

¹⁷¹ UN ESCWA, "Inventory of Shared Water Resources in Western Asia," Chapter 19, Western Aquifer Basin, 2013;
<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewid4ZLe7rz5AhVhjoKEHU56BOUQFnoECCsQAQ&url=https%3A%2F%2Fwaterinventory.org%2Fsites%2Fwaterinventory.org%2Ffiles%2Fchapters%2FChapter-19-Western-Aquifer-Basin-web.pdf&usg=AOvVaw3IUXSOKviC1qwDBqruEbaA>

133. ERROR: In the same sentence about Israel's supposed unfair exploitation of the aquifer HRW states that: "Israel directly extracts 90 percent of the water that is withdrawn from the aquifer annually, leaving Palestinians only the remaining 10 percent or so to exploit directly" (p. 96). HRW cites in footnote 305 a UN Human Rights Council Report that claims water agreements "give Israel predominance in the allocation of West Bank water resources, of which it withdraws 90 percent."¹⁷² Footnote 47 from the UN report cites as its source an April 2009 report from the World Bank titled "West Bank and Gaza Assessment of Restrictions on Palestinian Water Sector Development," paragraph 130. A review of paragraph 130 of the World Bank report does not mention any figures of any kind related to Israeli or Palestinian water usage. The World Bank simply makes a general statement that there is an "asymmetrical power balance" related to water allocation and that "the Israeli Water Authority has veto power." The UN fabricated the 90% statistic in its report (which is not surprising given the virulent anti-Israel bias in the UNHRC, especially under Agenda Item 7 under which this report originated) which was then picked up by HRW, who did not bother to review the source material or conduct any primary research. In fact, according to official Israeli statistics the Palestinians self extract 196 MCM of water per annum from the aquifer and Israel supplies additional amounts compared to annual average of 641 MCM into the aquifer.¹⁷³ (A report from the Palestine Water Authority from 2012 indicated that total abstractions from Palestinians well was 185 MCM, corroborating the Israeli estimate.¹⁷⁴) Importantly, all obligations under the Oslo Accords for Palestinian allocation of water has been met at all times and Palestinian water usage shows amounts at the upper end of WHO's recommended numbers.

134. MISREPRESENTATION: HRW writes: "In monopolizing this shared resource, Israeli authorities sharply restrict the ability of Palestinians to directly exploit their own natural resources and render them dependent on Israel for their water supply." Once again HRW fabricates and misrepresents the actual situation of water usage and sharing of resources in the West Bank, as there simply is no "monopolizing" by Israel. As already shown previously, water usage has been agreed upon in the Oslo Accords and Israel has and continues to adhere to the agreement, so the notion of nefarious actions related to water that evidence apartheid is false. Incredibly, HRW decided that

¹⁷² UN General Assembly, "Report of the independent international fact finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people," A/HRC/22/63, February 7, 2013, paragraph 81; https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-63_en.pdf

¹⁷³ The Civil Administration of Judea and Samaria, "Factsheet: Water in the West Bank," 2012; <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewijoLqw2Lz2AhXEIkEHUWWA4YQFnoECAUQAQ&url=https%3A%2F%2Freliefweb.int%2Ffiles%2Fresources%2F3274.pdf&usg=AOvVaw2etxdCFC6Ptd13qZf9lvMI>

¹⁷⁴ Palestine Water Authority, Annual Water Resources Status Report 2012, p. 14

actual figures of water usage and availability in the West Bank were not important in a multi-page narrative on the topic.

135. MISREPRESENTATION: HRW’s consistently cherry-picks statistical minutiae to support its fabricated narrative; here is another example. HRW writes: “While approving virtually all requests for Israeli-proposed projects to serve settlers, the JWC has rejected many Palestinian-initiated projects” (p. 96). The JWC refers to the Joint Water Commission which is a joint Israeli-Palestinian group that must provide approval for water projects in the West Bank. HRW’s narrative in this sentence and in the section is that the JWC is deeply unfair to the Palestinians – at a level that evidences apartheid. HRW cites an Al-Haq report and an academic study by Jan Selby published in 2013 in the journal *Water Alternatives*.¹⁷⁵ Selby studied all applications for water projects by Palestinians and Israelis to evaluate the outcome. Here are two key charts from this study, one of applications to the JWC for projects and the second of the approval rates:

Table 2. Applications by type, 1995-2008.

Project type	Palestinian	Israeli
Wells	188	3
Water supply network	394	108
Wastewater	20	24
Total	602	135

Source: JWC files.

Table 4. Approval rate by type, 1995-2008, %.

Project type	Palestinian	Israeli
Wells	30-66*	100
Water supply network	50-80 (estimate)	100
Wastewater	58**	96

Source: JWC files.

* Includes approvals on projects that were submitted before 2008 up to end 2009.

** Includes approvals up to end 2011.

The data shows that of 188 well applications by Palestinians, at least 30% were approved (and up to 66% based on some uncertainties) or 56 approvals at minimum. Palestinians submitted 394 water supply network project applications of which at least 50% or 197 were approved. For wastewater projects at least 11 were approved. In total, Palestinians received approval for 264 projects by the JWC while Israel

¹⁷⁵ Jan Selby, “Cooperation, Domination and Colonisation: The Israeli-Palestinian Joint Water Committee,” *Water Alternatives* 6(1): 1-24 (2013); <http://www.water-alternatives.org/index.php/volume6/v6issue1/196-a6-1-1/file>

received approval for 134. *In fact, Palestinians received almost 2x the number of approvals as Israel* – but somehow HRW sees apartheid in these numbers. It is true that Israeli projects had a higher approval rate of a much smaller number of applications, but without a deeper analysis into each project there is no way to know why. Perhaps Israeli planners only submitted proposals knowing a high likelihood of approval upfront and Palestinians had a broader approach to projects. One can be sure if the numbers were reversed, HRW would highlight that Israeli approvals are double those of Palestinians and ignore the percentage approved.

136. MISREPRESENTATION: In the same section on water project approvals by the JWC, HRW writes critically that Israel “can extract water without limit when it flows downstream into Israel without need for JWC approval, while Palestinians face strict extraction quotas” (p. 96-97). As the World Bank report cited notes, water naturally flows downstream from the West Bank aquifers into Israel itself, and Israel can extract this water without JWC approval. However, neither the JWC nor the Oslo Accords discussed what Israel could or could not do on its own sovereign territory. Instead, the Oslo Accords allocated a fair share of water to Palestinians in the West Bank and the JWC was formed to handle matters related to water in the West Bank. Palestinians can extract and are provided with sufficient water so the notion of “strict” quotas which results in insufficient water is false.

137. MISREPRESENTATION: HRW writes: “The JWC did not meet between 2010 and 2016; during this period, according to government data received by ACRI, Israeli authorities permitted Palestinians to build two new water wells, while demolishing 11.” Footnote 312 cites a short webpage by NGO ACRI from 2018. The sentence regarding this matter reads: “During this six year period [2010-2016] the Joint Water Committee did not meet due to objections raised by the Palestinians.”¹⁷⁶ Thus it turns out that it was the Palestinians themselves who refused to hold meetings of the JWC, which is composed of equal representatives from both sides, not Israel. Yet HRW cites this as part of its evidence of apartheid.

138. ERROR: HRW writes, based on a 2013 report from Al-Haq (see footnote 313): “Israeli authorities have almost entirely deprived Palestinians access to water from the Jordan River, the only major surface water resource in the West Bank, by diverting its flow upstream of the West Bank.” The diversion mainly refers to water that Israel historically used from Lake Tiberias, which then flows south into the lower portion of the Jordan River. Usage of water resources from sources that flow through multiple jurisdictions is an issue worldwide. However, by relying on nearly decade old reports and data, HRW is mistaken in its assertions about Israeli diversion of water from Lake

¹⁷⁶ ACRI, “Water Provision and Drillings in the West Bank 2010-2016,” June 5, 2018; <https://law.acri.org.il/en/2018/06/05/water-provision-and-drillings-in-the-west-bank-2010-2016/>

Tiberias. Already in 2018 Israel was minimizing its usage of water from Lake Tiberias for its water needs as several desalination plants provided for water needs that previously came from the lake. A 2018 article in *The Times of Israel* explained: "In previous years, the Water Authority took as much as 350 million cubic meters of water from the Sea of Galilee. With desalination, that number is down to 30 cubic meters, the minimum possible to ensure the pumps and pipes stay in working order."¹⁷⁷ By 2022 Israel was actually planning on pumping water into the lake from excess capacity from desalination plants, and *CNN* reported recently on the planned 31 kilometer pipe that would bring water to the lake.¹⁷⁸ HRW's shoddy research using decade old data from third party NGOs is evidenced by absolutely no reference to the massive desalination growth by Israel which has transformed the water situation in the region benefitting both Israelis and Palestinians.

139. ERROR: HRW writes that Israel's security barrier separates some Palestinians from wells, "as well as cutting them off from about 70 percent of the Western Aquifer Basin" (p. 97). Footnote 314 cites the Al-Haq report from the prior point, which on page 44 states: "Upon completion of the Wall, Israel will have annexed a total of 70 per cent of the West Bank's share of the Western Aquifer Basin's recharge area, which is the only area that has any significant potential for well development and increasing water extractions in the future." The Al-Haq report relies on hyperbole and propaganda, such as by referring to Israel's security barrier as the "Annexation Wall" (about 97% of the barrier is comprised of fencing) and assuming it was only built to annex West Bank land. The Al-Haq statement is preposterous on several levels. First, Israel did not annex West Bank territory upon completion of the barrier. Second, the land area between the Israeli border (Green Line) and the security barrier is relatively small, known as the "seam zone," comprising a mid-single digit percentage of total West Bank area in a thin line that follows the 700 kilometer route of the barrier. Al-Haq suggests that 70% of the "Western Aquifer Basin's recharge area," or the zone where water seeps into the more than 9,000 square kilometer aquifer that covers large areas of Israel and the West Bank, coincidentally is located in this precise seam zone area that runs in a narrow line. In fact, as Selby notes in his book (see Point 135), the recharge area where 400 million cubic meters of water seeps into the ground is majority located in a much broader area of the West Bank. Al-Haq's contention is

¹⁷⁷ *The Times of Israel*, "Desalination isn't the magic bullet, Water Authority warns Israelis," Melanie Lidman, June 5, 2018; <https://www.timesofisrael.com/desalination-isnt-the-magic-bullet-water-authority-warns-israelis/>

¹⁷⁸ *Al-Monitor*, "Israel to top up shrinking Sea of Galilee with desalinated water," Daniella Cheslow, April 15, 2022; <https://www.al-monitor.com/originals/2022/04/israel-top-shrinking-sea-galilee-desalinated-water>; *CNN*, "Lakes are drying up everywhere. Israel will pump water from the Med as a solution," Hadas Gold, August 19, 2022; <https://www.cnn.com/2022/08/19/middleeast/israel-water-desalination-climate-cmd-intl/index.html>

geographically impossible and the error unnoticed by HRW, who merely parroted the preposterous Al-Haq statement.

140. MISREPRESENTATION: HRW presents the involvement of the Israeli national water company, Mekorot, in providing water to Palestinians as another example of "apartheid if you do, apartheid if you don't." On one hand HRW is critical that apparent "[Israeli] restrictions have made Palestinians dependent on purchasing water, in large part extracted from under their land, from Mekorot" (p. 97-98). The fact that Mekorot supplies water is deliberate and falls under the agreed upon commitment by Israel under the Oslo Accords to supplement water for Palestinians in the West Bank. On the next page HRW is then critical of Mekorot: "many Palestinian communities in Area C are not connected to the water network, despite Mekorot pipes in some cases running nearby." HRW cannot decide if Mekorot involvement is good or bad.

141. ERROR: The contention that Mekorot supplies water to Palestinians "in large part extracted from under their land" (see prior point) is a phrase inserted by HRW without evidence to make it seem that the Israel is taking "Palestinian water" and then selling it to them (p. 97). As discussed in Point 132, the majority of the aquifer actually lies under Israeli land, and is drawn by Mekorot inside Israel and then piped into the West Bank.

142. ERROR: HRW explains that the Israeli national water company, Mekorot, supplies through its systems "almost half" of the water used by Palestinians in the West Bank (p. 97). Footnote 317 cites the UNHRC report discussed in Point 133. Paragraph 84 of the UN report claims that: "Mekorot supplies almost half the water consumer by Palestinian communities." The UNHRC report provides no source and obviously did not conduct any primary research. The Palestine Central Bureau of statistics issued data for 2020 which said that total "Available quantities of water" was 448.4 MCM and that "Annual Quantity of Water Purchased from Israeli Water Company (Mekorot)" was 90.3 MCM.¹⁷⁹ This comes to 20%. This amount is corroborated by an *Al-Jazeera* article cited by HRW in footnote 322 which says that 18.5% of water used by Palestinians is purchased from Mekorot.¹⁸⁰ In the West Bank alone the supply from Mekorot is 33% according to 2019 statistics published by the PA.¹⁸¹

¹⁷⁹ Palestine Central Bureau of Statistics, "Indicators"; https://www.pcbs.gov.ps/site/lang__en/881/default.aspx#Water

¹⁸⁰ *Al Jazeera*, "Israel: Water as a tool to dominate Palestinians," Camilla Corradin, June 23, 2016; <https://www.aljazeera.com/news/2016/6/23/israel-water-as-a-tool-to-dominate-palestinians>

¹⁸¹ PA Agricultural Census, 2021; See chart on page 111

143. MISREPRESENTATION: HRW claims that "Palestinians in many cases pay more for water than Israelis" (p. 97-98). This claim is unsubstantiated. In footnote 318 HRW cites two sources for this statement. The first is a self-published blog article by Amir Ben-David that does not provide any sources and resorts to hyperbole with statements like: "Israel imposes a severe water shortage on the residents of the West Bank and Gaza Strip" – which is contradicted by PA statistics showing water usage at the high end of the WHO recommended range. The second source is an article by Alwyn Rouyer published in a 20-year old book titled *Structural Flaws in the Middle East Peace Process: Historical Contexts*. In fact, water transferred from one side to the other is subject to a preset pricing level outlined in the Oslo Accords and is not subject to random pricing or overcharging (see clauses 18 and 19 of the Accords under the heading "Water Purchases").

144. MISREPRESENTATION: HRW is critical that "many Palestinian communities in Area C are not connected to the water network" and considers this evidence of apartheid (p. 98). It is true that parts of Area C are less developed and do not have the same level of infrastructure as Areas A & B. However, this has always been the case going back to Jordanian and British times. Area C is a relatively large area of land that holds only 5% of the Palestinian population in the West Bank, many with a semi-nomadic lifestyle often far away from settled areas. HRW omits that fact that in 1967 only 10% of Palestinians were connected to water infrastructure and today it has reached 95%. Palestinians in the West Bank have better access to water than residents of Amman and Damascus.¹⁸² As is typical in anti-Israel reports, there is an intense focus on underdeveloped areas in Area C paired with a lack of discussion of anything that happens in Area A & B where 95% of West Bank Palestinians live.

145. ERROR: HRW writes that in Area C "some families spend up to 40 percent of their income on water" (p. 98). Footnote 319 cites a 2014 article in *Haaretz* by Amira Hass that makes this claim.¹⁸³ She offers no source or detail about these costs. In the same section on water, HRW cites in footnote 322 a 2016 article from *Al Jazeera* about water in the West Bank. This article notes that "[In Area C], vulnerable households spend up to one-fifth of their salary on water."¹⁸⁴ Did costs drop in half over this two-year period? HRW also cites in footnote 319 a 2017 report by Amnesty that claims: "In some of the poorest communities, water expenses can, at times, make up half of a family's monthly income." None of these three sources cited by HRW

¹⁸² The Civil Administration of Judea and Samaria, "Factsheet: Water in the West Bank," 2012; see link in footnote 173

¹⁸³ *Haaretz*, "Just How Much Do Palestinians Rely on Israel for Water?," Amira Hass, February 13, 2014; <https://www.haaretz.com/2014-02-13/ty-article/.premium/do-palestinians-rely-on-israel-for-water/0000017f-f040-d497-a1ff-f2c087ff0000>

¹⁸⁴ *Al Jazeera*, "Israel: Water as a tool to dominate Palestinians," Camilla Corradin, June 23, 2016; <https://www.aljazeera.com/news/2016/6/23/israel-water-as-a-tool-to-dominate-palestinians>

provides any evidence of any kind for its statement. The cost figure appears simply made up and at best based on anecdotal information of certain families or situations.

146. ERROR: HRW provides a "case study" purporting to show Israeli "domination" in the Salfit governate in the West Bank. Salfit comprises 3% of the West Bank population but HRW devotes about nine pages to this area. Much of the evidence cited by HRW in this long section is based on interview with residents and other officials, without further corroboration. HRW writes that: "Israeli authorities though have effectively blocked Palestinians in Salfit from extracting water from the Aquifer, creating a water deficit in the governorate" (p. 101). According to water consumption statistics published by the Palestinians (see Point 130), residents in Salfit have among the highest rate of water consumption in the West Bank, at 155.5 l/c/d, far above the 50 to 100 recommended by the WHO. The notion of water deficits in Salfit is contradicted by actual statistics, which HRW notably does not provide. Residents of Salfit consume 250% more water than the average Jordanian citizen.

147. MISREPRESENTATION: HRW cites its own reports from 2014 and 2015 claiming that in the area of the city of Ariel in the West Bank, "Israeli authorities either confiscated or restricted their access to in order to build settlements or fences or as a result of their construction" (p. 102). The evidence cited from these reports are based on interviews with fourteen farmers who claim they privately owned this land. A review of earlier HRW reports discussing the situation explains how these farmers apparently all went to the Israeli courts to settle the land ownership issues, and the rulings were not in their favor. In other words, the notion of confiscation of privately held land with impunity is a misrepresentation by HRW. Several pages of the report claiming land confiscation are evidenced solely on interviews with the alleged landowners, without further corroboration or actual documentation. Anti-Israeli organizations typically and automatically assume that Israeli courts are a sham, any claim of land ownership by Palestinians is always accurate and proven (somehow these land ownership documents are claimed, but never reproduced by the NGOs), and any ruling against Palestinians always unjust.

148. MISREPRESENTATION: HRW notes that in areas "across the [Salfit] governorate, raw sewage and untreated industrial chemical waste from settlements and industrial zones flows into residential areas and around water sources" (p. 106). Other comments about sewage emanating from settlements are mentioned in this section. HRW gives the impression that Israel does not care about the environment and neglects sewage treatment, all part of its oppression of Palestinians. Proper sewage treatment appears to be an issue in both Palestinian areas and the settlements across the West Bank, but the fact is the vast majority of sewage from settlements is properly treated. According to a report cited by *Haaretz*, West Bank

settlements produce 17.1 million cubic meters of sewage annually, with 87% directed to sewage treatment facilities.¹⁸⁵ 13% flows directly into waterways and cesspits. The vast majority of settlement waste is properly treated and there is no evidence that the remainder or "industrial chemical waste" is being directed towards Palestinian residential areas. While the Israeli study showed many sewage treatment facilities were not up to code, and it appears improvements are necessary in some problem areas, the notion of broad and willful neglect of sewage by Israeli settlements to oppress Palestinians is a total falsehood.

149. ERROR: HRW writes: "In [Jerusalem], Israel effectively maintains one set of rules for Jewish Israelis and another for Palestinians on virtually all aspects of everyday life" (p. 108). HRW offers the reader this generalization of Israel wrongdoing, but this comment is grossly false. Israel does not maintain separate "rules" for Jews and Palestinians (which in HRW's definition necessarily includes Arab citizens who live in East and West Jerusalem) in "virtually all aspects of everyday life." HRW presents its report as serious and well researched, but often resorts to hyperbole and broad statements of demonization.

150. MISREPRESENTATION: HRW claims that Arab residents of East Jerusalem face a "precarious status" due to "their physical presence in Jerusalem" (p. 108-09). The key evidence cited is that: "the Interior Ministry has withdrawn [permanent residency status] from at least 14,701 Palestinians since 1967, largely for failing to prove a 'center of life.'" The statistics supporting the assertion of precarious status are laughable and are discussed in Point 10. The Arab population in East Jerusalem has soared over the decades, up about 33% since 2009 (nearly a 90,000 person increase). Yet the situation affecting a very small number is seen as evidence that Arabs in East Jerusalem face a "precarious" state amounting to apartheid.

151. ERROR: HRW compares the revocation of residency status of 14,701 Arabs in over 50 years to Jews: "In contrast, Jewish Israelis from Jerusalem, including settlers from East Jerusalem, are Israeli citizens and do not have to prove that they maintain connections to the city in order to safeguard their legal status" (p. 109). This same number – 14,701 or less than 300 persons per year – continues to remain central to HRW's apartheid argument. HRW falsely claims that there are rules that apply only to "Jewish" Israelis, but in fact Israeli laws apply to all *Israeli citizens* regardless of race or religion. The contention that "Jewish" citizens of Israel do not have to do something that Arab citizens of Israel are required to do is false. HRW exaggerates the very small

¹⁸⁵ *Haaretz*, "One-third of Israeli Settlements' Sewage Facilities Not Up to Code," Zafrir Rinat, June 2, 2013; <https://www.haaretz.com/2013-06-02/ty-article/.premium/state-report-one-third-of-israeli-settlements-sewage-not-properly-treated/0000017f-f098-d8a1-a5ff-f09af2680000>

number of Arabs whose citizenship is revoked (in 2020 Israel revoked the residency of 18 East Jerusalem Palestinians)¹⁸⁶ out of more than 350,000 Arabs in East Jerusalem, and falsifies the notion that Jewish citizens are exempt from certain rules, all part of HRW's effort to find apartheid where none exists.

152. ERROR: HRW acknowledges several aspects of Arab residents of East Jerusalem but fabricates other key matters. HRW writes: "A path to citizenship exists for Palestinian Jerusalemite residents, but the vast majority have chosen not to pursue it, as it recognizes Israel, the occupying power, as the legitimate sovereign" (p. 109). Yet the lack of citizenship for many of these residents is somehow blamed on Israel. HRW then claims that "the vast majority who applied did not receive citizenship." In fact, close to half of applications in the last decade have been approved. 2019 saw an unprecedented level of approvals, at 1,200 comprising 47% of applications.¹⁸⁷ While the number fell in 2020 to 934 citizenship approvals, 57% of applications were approved – starkly contradicting the contention that the "vast majority" are rejected.¹⁸⁸ The higher number is due to: "the Israeli government's expediting of the approval process following a High Court of Justice decision that criticized the inefficiency in the citizenship request system." HRW's entire discussion regarding citizenship for Arab residents of East Jerusalem is false. HRW's repetitive narrative covers the exact same topic in several paragraphs on pages 190-91, copying the same errors.

153. MISREPRESENTATION: HRW provides a graphic on page 110 showing differences in the legal status of a "Jewish Citizen of Israel Born in East Jerusalem" and a "Palestinian Resident Born in East Jerusalem" (p. 110). HRW's seeks to show how the Jew is privileged over the Palestinian. However, HRW misrepresents the differences as between Jews and Palestinians when the differences are in reality between *citizens and non-citizens*. The column showing the "Jewish Citizen of Israel" would be the exact same for an "Arab citizen of Israel" or a "Druze citizen of Israel." The fatal flaw in HRW's attempt at painting Israel as an apartheid state is that the differences it purports to show are based on *citizenship* – not on race or Jews versus Palestinians. If it was truly based on race, an oppression of Palestinians simply because they are Palestinian, then it would not make sense that Arab citizens of Israel are treated the same way as Jewish citizens of Israel.

¹⁸⁶ Hamoked, "Ministry of Interior data: 18 East Jerusalem Palestinians were stripped of their permanent residency status in 2020 as part of Israel's "quiet deportation" policy; 10 of them women," March 3, 2021; <https://hamoked.org/document.php?dID=Updates2224>

¹⁸⁷ *Times of Israel*, "Unprecedented 1,200 East Jerusalem Palestinians got Israeli citizenship in 2019," Times of Israel Staff, January 13, 2020; <https://www.timesofisrael.com/unprecedented-1200-east-jerusalem-palestinians-got-israeli-citizenship-in-2019/>

¹⁸⁸ ACRI, "East Jerusalem Facts and Figures 2021"; https://www.english.acri.org.il/post/___283

154. DOUBLE STANDARD: HRW writes: "While Palestinians and Jewish Jerusalemites are subject to the same criminal law, discrimination underlies policing in the city. Across Jerusalem, 77 percent of children arrested in 2018 were Palestinian, although Palestinians constitute less than 40 percent of Jerusalem's population" (p. 111). Even assuming the figures are correct, these arrest rates do not evidence discrimination and certainly not apartheid. Without an underlying review of why these children were arrested and the outcome of these arrests (e.g., were they convicted of crimes?), there is no way to determine the fairness of these arrest statistics. Were Jews who committed the same alleged offences as Palestinians not arrested? Neither HRW nor ACRI, who is cited for this data, provides any further information or conducts any deeper analysis. It is also worth noting that statistics of this nature are far more alarming in many other nations that hardly indicate apartheid. For example, while Muslims make up about eight percent of France's population, they comprise 60%-70% of the country's prison population.¹⁸⁹ In London 27% of prisoners are Muslim, more than double their 12% share of the population.¹⁹⁰ Australia's statistics should surely lead to charges of apartheid – 49% of all children incarcerated are Aboriginal people but comprise only 6% of the population – 8x their proportional rate.¹⁹¹ In fact, 172 Aboriginal children were incarcerated in 2021 (some as young as 11) compared to 160 Palestinians in Israel – Australia's rate is about 4x that of Israel, and not a single Aboriginal child was accused or convicted of a terrorist attack.¹⁹²

155. ERROR: HRW writes that: "B'Tselem observed that police violence 'is part of Israel's policy...to ensure Jewish supremacy in the city'" (p. 111). This statement by another NGO is merely an opinion (they "observed") and not backed by any actual evidence of a "policy." No documents or official statement exists regarding such a "policy," and the population data does not evidence any policy either. As noted previously, the Arab population in East Jerusalem has soared over the decades, up about 33% since 2009 and as a percentage of the total, contradicting B'Tselem's "Jewish supremacy" observation.

¹⁸⁹ Pulitzer Center, "In France, Muslims Face Mass Incarceration," Christopher de Bellaigue, April 8, 2016; <https://pulitzercenter.org/stories/france-muslims-face-mass-incarceration>

¹⁹⁰ Better Community Business Network, "27% of Prisoners in London Jails are Muslims"; <https://bcbn.org.uk/blog-post/post-title-date/>

¹⁹¹ *The Guardian*, "Half of Australia's youth detainees are Indigenous children, research finds," Lorena Allam, March 31, 2022; <https://www.theguardian.com/australia-news/2022/apr/01/half-of-australias-youth-detainees-are-indigenous-children-research-finds>

¹⁹² *Al Jazeera*, "Infographic: How many Palestinians are imprisoned by Israel?," Mohammed Haddad, April 17, 2022; <https://www.aljazeera.com/news/2022/4/17/infographic-how-many-palestinians-are-imprisoned-by-israel>. *Marie Claire*, "Shocking Numbers Of Aboriginal Children Are In Prison And It's A Threat To Closing The Gap," Lucy Cocoran, March 17, 2022; <https://www.marieclaire.com.au/aboriginal-children-age-of-criminal-responsibility>

156. ERROR: HRW, relying heavily on reports from B'Tselem, devotes a long paragraph to police action in the East Jerusalem neighborhood of Issawiya. Israeli police have been active in this neighborhood having over a period from 2019-20 conducted numerous raids and arrests. HRW cites a B'Tselem video that claims that Israeli authorities arrested "more than 850 Palestinian, mostly children, many who were beaten, from the neighborhood of Issawiya in East Jerusalem between April 2019 and April 2020" (p. 111). The B'Tselem video itself says that Israel arrested: "More than 850 residents, mostly minors, injured about 300," but does not say anything about police "beating" children – this was inserted by HRW without evidence. What HRW and B'Tselem present as actions "ensuring Jewish supremacy" is a total fabrication. According to the Israeli police, "heightened operations in Issawiya directly correlate with what [police] describe as increased violence emanating from the neighborhood."¹⁹³ Israeli spokesperson Micky Rosenfeld explained: "We have recently dealt with many severe incidents in Issawiya including local residents throwing petrol bombs at Route 1 and attacking police with fireworks, Molotov cocktails and stones... Our activities are a direct response to the major increase in violence that we have seen there." Indeed, a report from *The Times of Israel* from October 2019 described that: "A passerby was seriously injured overnight Monday-Tuesday after his car caught fire when it was hit by a Molotov cocktail thrown at police in the East Jerusalem neighborhood of Issawiya."¹⁹⁴ The police entered the area "after receiving reports of Molotov cocktails thrown at vehicles traveling on the Jerusalem-Ma'ale Adumim highway, which runs adjacent to the neighborhood." A report from *Ynet* from 2018 wrote: "Vandals threw stones and Molotov cocktails at border police forces in the Arab east-Jerusalem neighborhood of Issawiya."¹⁹⁵ Numerous similar reports can be found of violence directed against passenger vehicles. The B'Tselem report claims that the Molotov cocktails are a reaction to police activity, not the cause of it; however, B'Tselem omits the throwing of objects at passenger vehicles and at nearby roadways. In fact, Issawiya has long been an area where youths throw stones and firebombs at civilians – not just at the police. A report in *Ynet* from 2014 explained that there had been dozens of complaints by local citizens of stones and bricks being thrown at cars and a firebomb hurled at the watchtower of the Hadassah Hospital nearby. Based on news reports since 2020, it appears that the peak tension from 2019-20 have subsided, but a June 2022 report reported that assailant from Issawiya

¹⁹³ *The Times of Israel*, "EU expresses concern over violence in East Jerusalem's Issawiya," Adam Ragson, January 14, 2020; <https://www.timesofisrael.com/eu-expresses-concern-over-violence-in-east-jeruselems-issawiya/>

¹⁹⁴ *The Times of Israel*, "East Jerusalem man seriously injured by Molotov cocktail thrown at police," Stuart Winer, October 19, 2019; <https://www.timesofisrael.com/east-jerusalem-man-seriously-injured-by-molotov-cocktail-thrown-at-police/>

¹⁹⁵ *Ynet News*, "Stones, Molotov cocktails thrown at border police in Issawiya," Yishai Porat, January 10, 2018; <https://www.ynetnews.com/articles/0,7340,L-5069404,00.html>

hurled bricks at the vehicle of off-duty police officers in civilian clothes.¹⁹⁶ The NGO narrative that erases long standing violence emanating from Issawiya, such as the hurling of bricks at passenger vehicles, and treats all police actions as nothing more than an expression of "Jewish supremacy," is a total fabrication.

157. ERROR: HRW writes: "Since 1967 Israeli authorities have expropriated from Palestinians nearly one-third of the land in East Jerusalem, comprising at least 23,378 dunams, largely for settlements" (p. 112). Footnote 384 cites a B'Tselem website that lists various areas of land that they claim were "expropriated" by Israel, without any sources or evidence. HRW, as it does throughout its report, assumes that any land in the West Bank used by Israel was once privately owned by Palestinians. As discussed in Point 83, "Palestinian" land on which new neighborhoods were ostensibly built was in large part used for military purposes by Jordan. The B'Tselem website that HRW relies on for its statement amazingly lists the Jewish Quarter of the Old City of Jerusalem as part of the land "expropriated from Palestinians."¹⁹⁷ HRW asserts, without shame, that the Jewish quarter of the Old City of Jerusalem, which Jordan cleansed entirely of its Jewish population (which dates back to ancient times) and razed dozens of synagogues following the 1948 war, was Palestinian land that Israel expropriated. Another area that HRW and B'Tselem consider "Palestinian" according to the source data is the Jaffa Gate in the Old City. Again, considering the Jaffa Gate, which B'Tselem admits is a "public area," as privately held "Palestinian" land that Israel expropriated, is a fabrication.

158. MISREPRESENTATION: HRW claims that: "Israeli authorities have since 1967 frozen the land registration process for Palestinians in East Jerusalem, while registering land in East Jerusalem settlements throughout the entire period." Footnote 385 cites a 2015 report by Ir Amim that makes the same claim but provides no sources or further information. Ir Amim states: "Israel froze the land regularization and registration process in the West Bank – work that had begun during the British Mandate and continued during the period of Jordanian rule." HRW and Ir Amim criticize Israel for apparently ending a registration process that was nearly *50 years in the making* under two controlling nations as somehow unacceptable and a ploy to steal private land for Jews. No further information is provided to explain the situation, another example of the shoddy research conducted by HRW.

159. MISREPRESENTATION: HRW writes: "Beyond formal state confiscation, discriminatory laws and policies enable settler and settler organizations to take

¹⁹⁶ *The Times of Israel*, "Footage emerges of Palestinians assaulting off-duty cops in Jerusalem," Time of Israel Staff, June 10, 2022; <https://www.timesofisrael.com/footage-emerges-of-palestinians-assaulting-off-duty-cops-in-jerusalem/>

¹⁹⁷ B'Tselem, "Statistics on Land Expropriation in East Jerusalem," January 1, 2011; https://www.btselem.org/jerusalem/land_expropriation_statistics

possession of Palestinian homes, evict the Palestinian landowners, and transfer their property to Jewish owners in East Jerusalem neighborhoods" (p. 112). The evidence for this broad statement of Israeli wrongdoing is found in footnote 387, which cites legal actions taken in certain East Jerusalem neighborhoods such as Sheikh-Jarrah and Silwan. All of these cases are related to long standing ownership and tenant disputes that are beyond the scope of this document. The key misrepresentation is that the scale of these matters are negligible compared to the entirety of the region and population comprising more than 3 million Palestinians in the West Bank and 2 million Arabs in Israel. In Sheikh Jarrah there have been 21 home demolitions since 2009, or less than two per year, and seven more families face eviction based on lawsuits filed against them in 2008, or 14 years ago. The B'Tselem webpage cited by HRW notes that suits are underway to remove 80 families from their homes in Silwan and 62 from Sheikh-Jarrah. One might ask why a true apartheid government would wait so long to remove so few? UN data shows that various eviction actions against Arab residents in these East Jerusalem neighborhoods could affect 199 household in total and many have been dragging on for years.¹⁹⁸ In January 2021 Hamas bulldozed the homes of 23 families in Rafah without warning, more than in Sheikh Jarrah in over a decade, expropriated for commercial purposes;¹⁹⁹ HRW did not issue any reports on this incident. While it is perfectly reasonable to argue against and criticize Israeli actions in these locations, the negligible scale of the issue and the multi-decade legal entanglements hardly evidence apartheid or a goal of "Jewish domination" or the "transfer of property" to Jewish landowners, let alone "apartheid."

160. MISREPRESENTATION: HRW continues its exaggeration of events in East Jerusalem to evidence apartheid. HRW writes that an Israeli organization called Ateret Cohanim has been "trying, with the support of Israeli authorities" to evict 700 Palestinians in Silwan (p. 113). In fact, there has been scant movement in these efforts, as recent reports continue to show the same families at risk of eviction, about two decades after the effort apparently began.²⁰⁰ HRW cites the case of the Sumarin family, whom an Israeli court agreed could be evicted from a building in Silwan, following a 30-year legal battle. The case was decided against the family as a law passed in 1950 stated that property of anyone living in an enemy country was considered abandoned assets. However, as of June 2022 the eviction decision has been delayed as the Israeli court "was awaiting a reply from the Custodian of

¹⁹⁸ UN OCHA, "Palestinian family evicted from Silwan neighborhood in East Jerusalem," August 9, 2019; <https://www.ochaopt.org/content/palestinian-family-evicted-silwan-neighbourhood-east-jerusalem>

¹⁹⁹ *Al-Monitor*, "Hamas forcibly expels residents from their homes in Rafah," Rasha Abou Jalal, January 1, 2021; <https://www.al-monitor.com/originals/2021/01/gaza-hamas-rafah-expropriate-destroy-lands-homes.html>

²⁰⁰ *Al-Monitor*, "Jerusalem's Batn al-Hawa could be next Sheikh Jarrah," Ahmed Melhem, June 5, 2021; <https://www.al-monitor.com/originals/2021/06/jerusalem-batn-al-hawa-could-be-next-sheikh-jarrah>

Absentee Property on why he had declared the house as an absentee property without checking the heirs of the previous owner."²⁰¹ The minutiae of these legal matters is beyond the scope of this document, and one could probably write a full document on each of these eviction cases. HRW also scoffs at Jewish history in Silwan, writing that Jewish groups "claim" that certain homes belonged to and housed Yemeni Jews in the nineteenth century. In fact, it is well known that dozens of Jewish Yemenite families were forced out of their homes due to threats of violence during the 1936-39 Arab revolt. These types of events will never find room in an HRW report. One of the buildings that Ateret Cohanim has recovered ownership of is the old synagogue in Silwan.²⁰²

161. ERROR: HRW writes: "Israeli authorities have made it virtually impossible for Palestinians to obtain building permits in East Jerusalem, in particular outside built-up neighborhoods that make up less than 15 percent of East Jerusalem and 8.5 percent of the Jerusalem municipality" (p. 114). Footnote 395 cites an Ir Amim and Bimkom report that states: "Today, only 15 percent of the area of East Jerusalem (and 8.5 percent of the area of Jerusalem as a whole) is zoned for the residential needs of the Palestinian population." The reports do not place in context the figure of 15% of Jerusalem zoned for residential needs. Is this high or low? There is a known housing crisis throughout Israel, how does this compare to other areas and within the known issues facing housing in the nation? HRW provides no further analysis. More importantly, the notion of the impossibility of Arabs in Jerusalem obtaining building permits is demonstrably false, contradicted by another report HRW itself cites. Footnote 395 cites a Peace Now website showing Jerusalem municipal data for "Number of Construction Permits Approved in Jerusalem 1991-2018."²⁰³ In East Jerusalem, Arab neighborhoods were approved for 9,536 construction permits versus 21,834 for Jewish neighborhoods, within the proportionate range of Arabs and Jews over these roughly 30 years. In 2018, the last year of data shown, Arabs saw 52% of all construction permits for East Jerusalem. In the last five years of data shown (2014-18) Arabs received 40% of all approvals, slightly higher than their proportional share. Somehow HRW finds apartheid in these numbers.

162. MISREPRESENTATION: HRW writes: "Between 2009 and 2020, Israeli authorities demolished 1,434 structures in East Jerusalem, in more than 98 percent of

²⁰¹ *The Palestine Chronicle*, "Israeli Court Postpones Expulsion of Palestinian Family from Silwan," June 30, 2022;

<https://www.palestinechronicle.com/israeli-court-postpones-expulsion-of-palestinian-family-from-silwan/>

²⁰² Ateret Cohanim, "Yemenite Village / Shiloach";

<https://www.ateretcohanim.org/project/yemenite-village-shiloach/>

²⁰³ PeaceNow, "Jerusalem Municipal Data Reveals Stark Israeli-Palestinian Discrepancy in Construction Permits in Jerusalem," September 9, 2019; <https://peacenow.org.il/en/jerusalem-municipal-data-reveals-stark-israeli-palestinian-discrepancy-in-construction-permits-in-jerusalem>

the cases for lacking a permit, according to OCHA" (p. 114). Somehow HRW see apartheid in the removal of structures it acknowledges were built without a permit, despite this being normal practice worldwide. But HRW considers Israel's exercise of its rights as a sovereign nation and enforcement of normal laws as inherently criminal. Previous points show that Arabs have obtained a steady number of building approvals at proportional and higher levels than Jews, accommodating the rapid growth of the Arab population in Jerusalem which has burgeoned by 33% in the last roughly twelve years.

163. MISREPRESENTATION: HRW charges discrimination amounting to apartheid based on a report by Ir Amim claiming that the 2013 Jerusalem municipal budget allocates only 10% to East Jerusalem despite comprising about 37% of the city's population (p. 115). The Ir Amim analysis is questionable, and the report acknowledges that: "The Municipality generally denies the veracity of these figures, but fails to produce alternative data to support its claims." The key flaw is that the analysis, which we reviewed, treats anything that is not *specifically budgeted* for East Jerusalem as not benefitting East Jerusalem at all. There is notably no specific column for budget allocations to West Jerusalem. The analysis does adjust the numbers by removing the general municipal staff, which increases the allocation to East Jerusalem to 13%. But the same overarching flaw remains, which is not properly allocating each line item to three categories: general expenses that benefit the entire city, East Jerusalem and West Jerusalem. The problem is that the source numbers do not provide this breakdown, so Ir Amim makes its own flawed assumptions. More importantly, HRW did not bother to conduct primary research reviewing more recent city budgets, instead relying on nearly decade-old data copied from other NGO reports. Jerusalem's budget has increased by about 75% since then to NIS 7.6 billion for 2022, and investment in the Arab sector has also grown significantly; MK Mansour Abbas took credit for massive increases in allocations to the Arab sector.²⁰⁴ HRW purports to publish a groundbreaking report charging Israel of budgetary apartheid but cannot bother to obtain and analyze a more recent Jerusalem municipal budget.

164. ERROR: HRW continues to cherry-pick data to demonstrate supposed discrepancies between Arabs in East Jerusalem and other "Israelis" in West Jerusalem that evidence apartheid. In this example, HRW writes: "Ir Amim estimated in 2020 that Palestinians in East Jerusalem faced a shortage of 3,794 classrooms; while some shortages also existed in Jewish communities, in particular Orthodox communities, the group estimated that, by the end of 2022, 'the classroom shortage in Jerusalem will be confined to the Arab sector alone'" (p. 115-16). There are several errors in this section.

²⁰⁴ *The Jerusalem Post*, "Massive allocations to Israel's Arab sector here to stay – Abbas," Gil Hoffman, October 25, 2021; <https://www.jpost.com/israel-news/politics-and-diplomacy/massive-allocations-to-israels-arab-sector-here-to-stay-abbas-683025>

First, Ir Amim mistakenly states that the 3,794 shortage for calendar year 2019 is in East Jerusalem, but in fact this is the shortage *for all of Jerusalem*. According to ACRI's report "East Jerusalem: Facts and Figures 2019" – which HRW itself cites in footnote 405 – the classroom shortage for the whole city was "approximately 3,800" with "over half – 1,983 classrooms – are lacking in the Arab education system."²⁰⁵ The 3,800 figure is confirmed as the correct number; ACRI even produced a video outlining the supposed lack of classrooms in East Jerusalem specifically captioning: "About 2,000 classrooms, which is more than half of all classrooms missing in the city."²⁰⁶ These figures are further corroborated by a news article reporting the classroom shortage. An article in *The Times of Israel* stated: "According to Jerusalem Municipality figures, Arab East Jerusalem is short 1,938 classrooms, while in the Jewish sector, the ultra-Orthodox system lacks 1,419 classrooms and the state religious and secular sectors need another 505, for a total of 3,862."²⁰⁷ (It also appears ACRI mistakenly transposed the 1,938 for 1,983 in its report.) ACRI showed in its 2021 report a 1,670 shortage of classrooms in East Jerusalem, down from 1,938 in 2019.²⁰⁸ Arabs comprise about 38% of the population of Jerusalem, but Arab children comprise more than 50% of children in the city.²⁰⁹ The shortage of classrooms is about 50/50 for Arabs and Jews, and with the school population also around 50/50, HRW again cites statistics that *contradicts* apartheid. HRW's shoddy research and complete lack of primary research is further exposed in this section, where it quotes a third-party NGO report assuming accuracy.

165. MISREPRESENTATION: HRW concludes in this section that: "The discriminatory allocation of resources contributes to the starkly different realities faced by Palestinians and Jewish Israelis in Jerusalem" (p. 116). The three items of evidence to back this statement – differences in playgrounds, the 2013 municipal budget allocation, and classroom shortage – have each been shown to be mistaken or misrepresented per the points above. While the Jerusalem government could perhaps do better the notion that these disparities evidence apartheid is preposterous. As discussed, HRW applies a "perfection standard" to Israel ignoring the fact the minority populations worldwide always experience lower standards of living. It is not something we justify as acceptable – it is just not apartheid.

²⁰⁵ ACRI, "East Jerusalem Facts and Figures," May 2019; <https://www.english.acri.org.il/east-jerusalem-2019>

²⁰⁶ ACRI, "East Jerusalem Facts and Figures," May 2019, scroll to bottom, see video at 33 seconds; <https://www.english.acri.org.il/east-jerusalem-2019>

²⁰⁷ *The Times of Israel*, "Massive funding influx won't get East Jerusalem schools out of crisis, NGO says," Sue Surkes, August 29, 2018; <https://www.timesofisrael.com/massive-funding-influx-wont-get-east-jerusalem-schools-out-of-crisis-ngo-says/>

²⁰⁸ ACRI, "East Jerusalem Facts and Figures 2021"; https://www.english.acri.org.il/post/__283

²⁰⁹ Jerusalem Institute for Policy Research, "Jerusalem Facts and Trends 2018," Michal Korach & Maya Chosen, pp. 25-26

166. DOUBLE STANDARD: HRW cites statistics showing that in Jerusalem, 72% of Arab families live below the poverty line compared to 26% for Jews (p. 116). There is little dispute that services in East Jerusalem are inferior to West Jerusalem, as City documents themselves show. However, this is hardly evidence of apartheid as discussed in the prior point. The national statistics are far better, with 36% of Arabs below the poverty line compared to 18% for Jews. Within the Jewish population, 49% of ultra-Orthodox Jews live below the poverty line, higher than the rate for Israeli-Arabs.²¹⁰ The ratio of Arab to Jewish poverty in Israel is 2.00x. In the UK, it is far worse, with 50% of Muslim households in poverty, far higher than Arabs in Israel, and compares to 18% nationally²¹¹ – a 2.78x ratio. The Black poverty rate in the UK is also similarly high, at 46% for Black households versus 19% for white – a 2.4x ratio.²¹² Indigenous persons in Canada had a 25% poverty rate versus about 10% for Canada overall – a 2.5x ratio.²¹³ In all nations certain neighborhoods are substantially poorer, especially in majority minority areas. In France, 4.4 million mostly Muslim people live in *banlieues*, which are extremely poor neighborhoods often considered “no-go zones” where 60% of children live below the poverty line, unemployment is twice the national average, and no changes seem to have been made in recent decades.²¹⁴ None of these inequalities in Israel, France or the UK are condoned – but HRW assesses these statistics for Israel in vacuum and discriminatorily cites them as evidence of apartheid.

167. DOUBLE STANDARD: The next statistic that HRW cherry-picks are dropout rates for Arab and Jewish students in Jerusalem. Statistics cited from ACRI shows a grades K-12 dropout rate of 32% for Arabs versus 1.5% for Jews in Jerusalem (p. 116). An Ir Amim document that reported the data from the State Comptroller’s office stated: “The dropout rate for students in East Jerusalem between grades 9 through 12 (2015 – 2018) is 26.5%... This rate is not only high in comparison to the national average (5.4%), but also in relation to the dropout rate (7.4%) in the Arab sector as a

²¹⁰ *The Jerusalem Post*, “About two million Israelis live below the poverty line – report,” January 22, 2021; <https://www.jpost.com/israel-news/israel-report-about-two-million-people-live-below-the-poverty-line-656317>

²¹¹ Centre for Social Investigation, Nuffield College, “How can we explain the high Muslim levels of poverty,” September 21, 2015; <http://csi.nuff.ox.ac.uk/?p=270>; *The Huffington Post UK*, “British Muslims Among The Most Deprived In The Country, Finds Landmark Report,” Louise Ridley, February 13, 2015; https://www.huffingtonpost.co.uk/2015/02/12/british-muslims-facts_n_6670234.html

²¹² *The Guardian*, “Nearly half of BAME UK households are living in poverty,” Patrick Butler, June 30, 2020; <https://www.theguardian.com/society/2020/jul/01/nearly-half-of-bame-uk-households-are-living-in-poverty>

²¹³ Canadian Poverty Institute, “Poverty in Canada”; <https://www.povertyinstitute.ca/poverty-canada>. Statistics Canada, “Dimensions of Poverty Hub”; <https://www.statcan.gc.ca/en/topics-start/poverty>

²¹⁴ *The Guardian*, “‘Nothing’s changed’: 10 years after French riots, banlieues remain in crisis,” Angelique Chrisafis, October 22, 2015; <https://www.theguardian.com/world/2015/oct/22/nothings-changed-10-years-after-french-riots-banlieues-remain-in-crisis>. *Bloomberg*, “The Othered Paris,” Tanvi Misra, November 16, 2017; <https://www.bloomberg.com/news/articles/2017-11-16/the-othered-paris-of-the-banlieues>

whole in Israel (excluding East Jerusalem)."²¹⁵ In fact, in the last decade the Arab dropout rates for grades 10-12 have declined dramatically, from 15% in 2006 to 7%-8% today.²¹⁶ Looking at dropout data covering grades 7-12 shows a dramatic drop for both Jews and Arabs, arriving at near parity in recent years and totally contradicting the notion that a "threshold has crossed" into Israeli apartheid. The chart below was prepared by the well-respected Israel Democracy Institute:²¹⁷

School dropout rates among students in grades 7–12, by population group, 2000–2019 (%)

School year	Dropout rates among students in grades 7–12 by population group	
	Jews	Arabs
2000–2001	4.9%	10.0%
2001–2002	4.6%	9.1%
2002–2003	3.7%	6.3%
2003–2004	3.5%	5.7%
2004–2005	3.2%	5.3%
2005–2006	2.7%	5.2%
2006–2007	3.1%	5.4%
2007–2008	3.1%	5.0%
2008–2009	4.1%	5.9%
2009–2010	2.7%	4.2%
2010–2011	2.6%	4.0%
2011–2012	2.8%	4.7%
2012–2013	2.4%	3.6%
2013–2014	2.1%	2.9%
2014–2015	2.2%	2.7%
2015–2016	2.2%	2.7%
2016–2017	2.1%	2.7%
2017–2018	2.2%	2.5%
2018–2019	1.9%	2.2%

Looking at the dropout rate in minority groups in other countries exposes the double standard that HRW continually applies to Israel. The grades K-12 dropout rate for

²¹⁵ Ir Amim, "The State of Education in East Jerusalem: Failing Infrastructure," August 2019, p. 14

²¹⁶ *The Jerusalem Post*, "High school dropout rate in decline," Aaron Reich, September 26, 2019; <https://www.jpost.com/israel-news/high-school-dropout-rate-in-decline-602939>

²¹⁷ The Israel Democracy Institute, "Statistical Report on Arab Society in Israel: 2021," Dr. Nasreen Haddad Haj-Yahya, Dr. Muhammed Khalaily, Dr. Arik Rudnitzky, March 17, 2022; <https://en.idi.org.il/articles/38540>

indigenous Canadians is 61% versus 13% overall in Canada.²¹⁸ In the EU, 68% of Roma children did not graduate high school and only 18% go on to higher education.²¹⁹ France's body that evaluates the school system referred to Muslim immigrant districts as "school ghettos" where dropout rates are high.²²⁰ Australia reported that in 2016 only 65% of indigenous Australians aged 20-24 completed grade 12 versus 89% for white Australians – the effective dropout rate is thus 35% versus 11%, far worse than Arabs in Israel.²²¹

168. OMISSION: HRW again criticizes the security barrier as a tool to discriminate against Palestinians (p. 116) without mentioning the wave of over 100 suicide bomb attacks that killed hundreds of Israeli civilians. *In fact, the report mentions the security barrier on 25 separate pages, but HRW never once mentions the words "suicide bombing."* All HRW can say is that "Israeli authorities, citing security reasons" built the barrier. HRW certainly does not expand or analyze these "security reasons." Instead HRW allocates a massive 11-pages, about 5% of the total report, to the situation in the town of Kufr Aqab as it relates to the security barrier. The situation of Kufr Aqab is accurate, in that it is considered part of Israeli Jerusalem but on the other side of the security barrier, creating an unusual situation where municipal services are deficient. The security barrier and the continued lack of a negotiated political settlement with the Palestinian Authority has left Kufr Aqab in a unique and difficult situation as described in an article in *The Jerusalem Post* in 2021.²²² The situation in Kufr Aqab with an estimated 61,500 residents is unique but hardly representative of the experience of 2 million Israeli Arabs and 3 million Palestinians in the West Bank. Kufr Aqab has actually attracted many residents precisely due to its unique situation. The key omission by HRW in this entire section is ignoring why the security barrier was built in the first place, why the barrier remains absolutely necessary (disrepair in the fence was blamed in part for allowing Palestinian terrorists to enter Israel and murder 19

²¹⁸ Chiefs Assembly on Education, "A Portrait of First Nations and Education"; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwigyoPA7sL5AhWbL1kFHWBTD0IQFnoECBEQAw&url=https%3A%2F%2Fwww.afn.ca%2Fuploads%2Ffiles%2Fevents%2Ffact_sheet-ccoe-3.pdf&usg=AOvVaw1_w7Zx6_gi_SYTVkYn-WHe

²¹⁹ *Euractiv*, "EU faces challenge of closing Roma education divided," Benjamin Fox, June 28, 2021; <https://www.euractiv.com/section/non-discrimination/news/eu-faces-challenge-of-closing-roma-education-divide/>

²²⁰ *The New York Times*, "A French Education Minister Who Knows Immigrants' Struggles," Aida Alami, February 20, 2015; <https://www.nytimes.com/2015/02/21/world/europe/a-french-education-minister-who-knows-immigrants-struggle.html>

²²¹ Australian Government, "Closing the Gap, Prime Minister's Report 2018," Chapter Three; <https://www.pmc.gov.au/sites/default/files/reports/closing-the-gap-2018/education.html>

²²² *The Jerusalem Post*, "The lawless streets of Kafr Aqab and Israel," Yaakov Katz, January 7, 2021; <https://www.jpost.com/opinion/the-lawless-streets-of-kafr-aqab-and-israel-654651>

civilians in 2022),²²³ and that the resulting situation in places like Kufr Aqab is therefore not due to Israeli apartheid or Jewish domination. HRW also omits acknowledgement by municipal officials that improvements in Kufr Aqab are necessary and recent actions to do so, like significant upgrade of sewage lines from 2016-18 and a 60% increase in future allocations to improve roads.²²⁴

169. MISREPRESENTATION: In another example of “apartheid if you do, apartheid if you don’t,” HRW is critical that in Kufr Aqab “the lack of regulation” in construction has allowed Arabs in this East Jerusalem neighborhood to build with little restriction (p. 122). In footnote 471 HRW cites a 2017 ACRI report titled “Implications of Establishing a Separate Local Authority for the Neighborhoods Beyond the Barrier in Jerusalem,” which notes that in certain neighborhoods on the other side of the security barrier “a large number of high-rise apartment buildings have been constructed, in a development highly unusual in East Jerusalem.”²²⁵ ACRI notes that this construction has led to population growth of at least 45,000 people in a ten-year period. HRW asserts numerous times that Israeli restrictions on Arab construction in East Jerusalem and Area C is apartheid; apparently allowing unrestricted construction to house tens of thousands of Arabs is apartheid as well.

170. MISREPRESENTATION: HRW writes: “Because of Israel’s discriminatory system, Palestinian ‘mixed’ couples from Jerusalem and the West Bank can with few exceptions live together legally on a long-term, secure basis only in neighborhoods like Kufr Aqab. By contrast, Jewish ‘mixed’ couples, including Jerusalemites married to West Bank settlers, can freely live anywhere in Israel, East Jerusalem, and the West Bank settlements” (p. 123). HRW falsely claims that there are separate rules for “mixed” couples based on religion or ethnicity; in fact, the rules are based *only on citizenship* and apply equally to all Israeli citizens of all religions and races. Israel’s so-called “Citizenship Law” bars Palestinians who marry Israelis from receiving residency permits in Israel. The law was introduced in 2003 during the height of terror attacks against Israel in order to prevent entry into Israel by Palestinians. The specific case that resulted in passage of the law was when Hamas member Shadi Tubasi obtained an Israeli identity card through marriage and then committed a terror attack that killed

²²³ *The Times of Israel*, “‘Significant failure’: State comptroller visits broken West Bank border fence,” Emanuel Fabian and Tobias Siegal, April 1, 2022; <https://www.timesofisrael.com/significant-failure-state-comptroller-visits-broken-west-bank-border-fence/>

²²⁴ *The Times of Israel*, “Jerusalem’s no man’s land: Chaos and anarchy in the Kafr Aqab neighborhood,” Adam Ragson, June 6, 2019; <https://www.timesofisrael.com/jeruselems-no-mans-land-chaos-and-anarchy-in-the-kafr-aqab-neighborhood/>

²²⁵ ACRI, “Implications of Establishing a Separate Local Authority for the Neighborhoods Beyond the Barrier in Jerusalem,” November 2017, pp 4-5; <https://law.acri.org.il/en/wp-content/uploads/2017/11/Separate-Municipality-Position-Paper-1.pdf>

16 Israelis.²²⁶ The law was and remains controversial and has been upheld by the Israeli Supreme Court. However, the law applies equally to all Israeli citizens, whether it is a Jewish or Arab citizen of Israel who marries a Palestinian. HRW continues to deliberately and falsely contend that certain laws apply to Jews only when they in fact apply to all citizens of all religions and races.

171. MISREPRESENTATION: Any disparity between Arabs and Jews is evidence of apartheid to HRW, from differences in number of playgrounds to high traffic levels. In this case HRW cites insufficient garbage collection in Kufr Aqab, devoting 10 lines asserting that the municipality "contracts the task of garbage collection to a private company but based on an underestimate of the number of residents the company is to serve" (p. 126). The source is a UN OCHA report from 2016 which does not provide a source or actual statistics.²²⁷ HRW then recounts how a "lawsuit filed" by residents claimed underfunding for garbage and that the City responded by increasing funding, but the lawyer who filed it told HRW in a phone call that it still is not enough. The misrepresentation here is that despite actions by the Jerusalem municipality to improve the situation in direct response to a lawsuit, HRW still sees apartheid because apparently the "perfection standard" has not been met. HRW also fails to present a broader analysis of "garbage apartheid" throughout Israel to back its claim, focusing on one locality to make broad assumptions of racism.

172. ERROR: HRW writes: "Lawmakers in 2017 introduced legislation at the Knesset that would separate communities beyond the separation barrier from the Jerusalem municipality and establish a separate local authority to govern them. The legislation has not advanced, but residents expressed concern that the law represents the government's long-term designs for these areas... The draft law threatens to take things one step further, opening the door to removing residents of Kufr Aqab and other areas beyond the barrier from Jerusalem's demographic calculus altogether to preserve a Jewish majority there." In 2017 Minister of Jerusalem Affairs Ze'ev Elkin proposed a plan to create a new local council to better address Arab residents' needs. The goal was not to disadvantage or separate residents from Jerusalem but the opposite – to improve services. Elkin acknowledged the unique situation of these Jerusalem neighborhoods on the other side of the security barrier and added: "Therefore, because of this unique situation, the right solution is to establish a

²²⁶ *The Times of Israel*, "New 'Citizenship Law' advances, months after ban on Palestinian spouses lapsed," Aaron Boxerman, January 9, 2022; <https://www.timesofisrael.com/new-citizenship-law-advances-months-after-ban-on-palestinian-spouses-lapsed/>

²²⁷ UN OCHA, "East Jerusalem Palestinians Localities Behind the Barrier," August 10, 2016; https://www.ochaopt.org/content/east-jerusalem-palestinian-localities-behind-barrier#_ftn4

separate municipal authority that would take care of these neighborhoods..."²²⁸ The proposal died because lawmakers feared the move would eventually lead to handing these areas to the PA and divide Jerusalem – exactly the opposite of what HRW contends! Thus, the actual "long-term designs for these areas" by Israeli lawmakers was to *not allow* these areas to become separate from the rest of Jerusalem and to not separate its inhabitants, because dividing Jerusalem in any way was anathema to these lawmakers. Ironically it was right-wing groups led by MK Bezalel Smotrich who said the solution to the issue was "taking down the security barrier and by finding new ways for it."²²⁹

173. MISREPRESENTATION: HRW contends that "[Israeli] Authorities have long pursued a policy to box in, separate, and exert pressure on Palestinian Jerusalemites to live beyond the barrier" (p. 127). This line cites the legislation discussed in the prior point – which did not pass – as evidence of this policy being pursued. This is a statement of opinion that is not backed by evidence, such as statistics showing movement of persons beyond the barrier, and another example of how the HRW descends into hyperbole and slang ("box in"). The rapid growth of the Arab population in Jerusalem and the significant new investment in the Arab sector in general, which includes East Jerusalem, totally contradicts the notion of Israel seeking to "pressure" Arabs from Jerusalem to specifically move to the other side of the barrier.

174. ERROR: In the first paragraph on the section discussing Gaza, HRW writes: "Israel's withdrawal of its ground troops and settler population in 2005 reduced its day-to-day control and allowed Palestinian authorities to exercise more autonomy within Gaza than they had before" (p. 128). In fact, Israel does not have *any* day-to-day control of Gaza with the withdrawal of every single Israeli from the territory. Hamas exercises full daily control, which includes massive investment in rockets and a tunnel network under large areas of Gaza.

175. ERROR: HRW asserts that Israel has remained the "supreme power" in Gaza "dominating the coastal strip through other means" (p. 128). It is preposterous to claim that despite not a single Israeli inside Gaza that somehow it is the "supreme power" in the territory and not Hamas. HRW adds that Israel controls Gaza's territorial waters and airspace and the land border with Israel without mentioning that the sea blockade was deemed legal by the UN and was enacted to stop arms importation by Hamas. HRW admits that Gaza has a separate border with Egypt, but somehow Gaza is still

²²⁸ *Ynet News*, "Elkin proposes separate council to manage Jerusalem Arab neighborhoods," Attila Somfalvi and Yael Freidson, October 29, 2017; <https://www.ynetnews.com/articles/0,7340,L-5035583,00.html>

²²⁹ *The Jerusalem Post*, "Smotrich to 'Post': Elkin's plan is one step before dividing Jerusalem," Udi Shaham, January 12, 2018; <https://www.jpost.com/israel-news/politics-and-diplomacy/smotrich-to-post-elkins-plan-is-one-step-before-dividing-jerusalem-533555>

under full control of Israel. HRW points out that Gaza relies on some power and telecommunications infrastructure from Israel, but does not explain how this means Israel is a "supreme power." Hamas is free to construct its own infrastructure, which it could accomplish by reallocating the millions of dollars it spends on rockets and tunnels. Obtaining power and other resource from another nation does not at all mean that the supplying nation is a "supreme power" or exercises control. For example, Germany and many nations in Europe heavily rely on natural gas from Russia, but it hardly transforms Russia into the "supreme power" in Germany. Israel has every right to control its land border with Gaza, like any other sovereign nation on earth; noting that Israel controls its border with Gaza does not confer certain powers on Israel over Gaza. Gazans are free to leave the country through Egypt and one can be sure that senior members of Hamas do not coordinate with Israel on their movements. The notion of "supreme power" is preposterous given Hamas's buildup of a military infrastructure that threatens Israel with many thousands of rockets, that Israel has not been able to stop in over fifteen years.

176. MISREPRESENTATION: While HRW correctly notes that the UN still considers Gaza to be "occupied" by Israel, these are merely statements of opinion that defy common sense (p. 129). There is no formal legal designation or international law that deems Gaza to be occupied. Actual analysis and application of international law would clearly show that Gaza is not occupied. For example, Article 42 of the Hague Regulations states that "territory is considered occupied when it is actually placed under the authority of the hostile army" and that "[t]he occupation extends only to the territory where such authority has been established and can be exercised." The legal standards for occupation require that the territory be placed "under the authority of the hostile army," the power "exercises the functions of government in such territory," and the authority of the occupier is "to the exclusion of the established government." None of these items applies to Israel in Gaza. See the paper cited in this endnote for a more detailed analysis.²³⁰

177. DOUBLE STANDARD: HRW conveniently absolves Egypt of responsibility for Gaza even though it has sole control of the southern border with Gaza. HRW writes: "The Egyptian government often imposes restrictions along its border with Gaza, which exacerbate the impact of Israel's policies on residents of Gaza, but Egypt's obligations differ since it is not the occupying power and can, with some key limitations, decide whom to allow to enter its territory" (p. 130). Somehow Egypt can unilaterally decide who can enter its territory without criticism, but Israel cannot. Somehow Egypt's control of the border is not seen as an "occupation" or co-

²³⁰ Elizabeth Samson, "Is Gaza Occupied? Redefining the Status of Gaza Under International Law," *American University International Law Review* 25 no. 5 (2010): 915-967.

occupation, but Israel's actions are. Somehow Egypt's actions merely "exacerbate the impact of Israel's policies" but are not on their own problematic.

178. ERROR: HRW concludes the sub-section on Gaza with a broad statement of Israeli wrongdoing that is error filled: "Israeli authorities deny Palestinians in the OPT, including in Gaza, basic rights and services that they provide Israeli settlers living in the same legal territory, including freedom of movement, the right to live with or visit loved ones living in that territory, and access to 24-hour electricity and clean water" (p. 130). As shown in previous points, Palestinians in both the West Bank and Gaza have sufficient clean water at the upper range of the recommended levels established by the WHO. West Bank and Gaza residents are free to "visit loved ones" – the fact that there are security checkpoints does not mean these "visits" are prohibited. West Bank and Gaza residents have the full range of basic rights such as food, shelter, healthcare, education, media, entertainment, etc. The notion of lack of "basic rights" is false and libelous and another example of how the HRW frequently descends into rabid demonization.

179. ERROR: HRW writes that "Palestinians in Gaza, like those in the West Bank, hold Israeli-issued identity cards and passports that grant them residency in Gaza, but they do not have citizenship or nationality" (p. 130). This is incorrect, as under the Oslo Accords the Palestine Authority began issuing Palestinian Authority Passports in 1995, which have been issued and remain active and valid. According to the an official U.S. website, "The U.S. Department of State has determined that the Palestinian Authority Passport/Travel Document meets the requirements of a passport as defined in Section 101(a)(30) of the Immigration and Nationality Act (INA) and therefore is acceptable for visa issuing purposes and travel to the United States."²³¹ The UN recognizes "Palestine" as a non-member state and there is a broad international consensus recognizing the Palestinian people as a nationality. It is common for documents to speak of a prospective "Palestinians State" (e.g., the Clinton Parameters) confirming that Palestinians in the West Bank have a well-recognized nationality. Final statehood for Palestinians and full realization of sovereign rights for the Palestinian nationality can only be achieved through negotiations with Israel – and it cannot be achieved by denying Jews their right to a permanent Jewish state.

180. MISREPRESENTATION: HRW writes: "About 70 percent of Gaza's nearly 2.1 million residents are refugees forced to flee their homes in what became Israel, or their descendants, who have been denied their right to return to the areas where they or their families once lived" (p. 130). There is in fact no such law that compels Israel, against its wishes, to allow Palestinian refugees, however they are defined, to "return"

²³¹ U.S. Citizenship and Immigration Services, Resource Information Center: Palestine; <https://www.uscis.gov/archive/resource-information-center-palestine-0>

to locations inside Israel. There is no international law, and there never has been a law, which can compel a nation to accept entrants into its sovereign borders against its wishes. General Assembly resolutions are often cited as evidence of the "right of return" (based on a flawed interpretation of certain resolutions), but these are not codified as international law, rendering the so-called "right of return" as merely a desire, not actual law. HRW falsely presents the "right of return" as settled law that Israel violates. This is a complete misrepresentation and a mistaken analysis of international law.

181. MISREPRESENTATION: HRW is critical of the fact that "Palestinians not in the population registry cannot obtain ID cards and thereby enter or exit Gaza through either the Israeli—or Egyptian— controlled crossings" (p. 130-31). Israel has every right to determine, as every sovereign nation does, who can or cannot enter its territory based on its own criteria that it alone sets. Israel has determined that entry into its territory requires certain identification. A long history of terrorism emanating from the West Bank and Gaza, which remains active today, is a key reason for Israeli entry requirements. Hamas' express intentions to kill Jews also impacts Israel decisions on these matters. Egypt determines its own entry criteria as a sovereign nation; the fact that it too requires certain types of identification is not determined by Israel. Perhaps if Hamas renounced violence, ended its rocket and tunnel program, and acknowledged Israel's right to exist, Israeli entry requirements would ease. HRW never considers this possibility.

182. MISREPRESENTATION: HRW makes a false equivalency between "more than 100,000" Palestinians struck from the population registry from 1967 to 1994, mainly due to long periods abroad and "Israeli settlers in the OPT never risk losing their citizenship, even after having lived abroad for long periods" (p. 130-31). First, as HRW notes, this particular practice apparently ended in 1994 when the PA was formed and the Oslo Accords were enacted, so it makes no sense to cite a certain practice that ended 28 years ago to other practices today as evidence of apartheid (particularly when promoting that a "threshold" into apartheid has been crossed). Second, HRW's point about "settlers in the OPT" applies to *all citizens of Israel* regardless of race or religion. Arab-Israelis, or what HRW calls Palestinian citizens of Israel, also "never risk losing their citizenship, even after having lived abroad for long periods." If Palestinian citizens of Israel are treated exactly like "settlers in the OPT" how is this an example of racial apartheid against Palestinians?

183. OMISSION: HRW is critical that after the Hamas takeover of Gaza in 2007: "Israel declared Gaza 'hostile territory' and tightened movement restrictions, imposing a generalized ban on travel to the rest of the OPT or abroad, irrespective of any individualized risk assessment for a particular person" (p. 131). The glaring omission is

that HRW never mentions that Hamas is designated as a terrorist organization by most democracies, does not recognize the right of Israel to exist, has maintained an active state of hostility with Israel with a large rocket arsenal regularly fired into Israel and tunnels that entered inside Israel, and many has a history of statements by its officials about attacking Israel and killing Jews.²³² The reason for Israel's restrictions on allowing Gazans to enter Israel is due to serious security concerns related to Hamas and Islamic Jihad.

184. MISREPRESENTATION: HRW once again contrasts Palestinians in Gaza to Israeli settlers in the West Bank, when the comparison would apply to all citizens of Israel. HRW writes that in contrast to Palestinians in Gaza who face travel restrictions out of Gaza, "Israeli settlers in the OPT enjoy freedom of movement across much of the OPT, including to East Jerusalem and West Bank settlements, as well as to Israel and abroad" (p. 131). The freedom of movement for Israeli settlers applies to *all citizens of Israel* regardless of race or religion and place of residence. HRW consistently obfuscates this fact to promote its false narrative of racial conflict between Jews against Palestinians; in reality Palestinians in Gaza are simply not Israeli citizens and their freedom of movement is mainly a function of the fact that they live in a territory run by Hamas that seeks to destroy Israel.

185. MISREPRESENTATION: HRW writes: "The shifts that took place between 2005 and 2007 altered the mechanisms but not the fact of Israeli control of the Gaza Strip, nor the systematic oppression of its population. The withdrawal of settlers and regular ground forces from Gaza shifted Israel's practice from one focused on raids and arrests as in the West Bank to one built on the periodic use of overwhelming military force, often with devastating consequences for the civilian population" (p. 131). This entire statement is a gross misrepresentation portraying all Israeli actions as evil and Israel's removal of all settlers and soldiers from Gaza as irrelevant. Self rule in Gaza provided the population the chance to create a peaceful statelet, and initially Israel did not impose strict movement restrictions on Gazans. This only began after Hamas' takeover. The only use of force by Israel was in reaction to Hamas actions, such as the kidnapping of Israeli soldier Gilad Shalit in 2006 and incessant rocket fire. Military force has not been employed by Israel simply to be cruel but to combat Hamas and its rocket and tunnel program. It has also not been "overwhelming" but mainly precision strikes targeting Hamas sites including tunnels. Once again HRW completely whitewashes the terrorist organization Hamas and their rocket fire which prompted the Israeli use of force.

²³² Israel's Foreign Affairs Ministry, "Hamas calls for mass-murder of Jews worldwide," July 16, 2019; <https://www.youtube.com/watch?v=azEgBsU6Mi8>

186. OMISSION: HRW writes: "In the period since 2007, the Israeli army conducted several large-scale military offensives in Gaza, including in 2008-09, 2012, and 2014..." (p. 131). HRW deliberately misrepresents and omits the events that led up to Israeli actions in Gaza. Israeli actions were in response to Hamas rockets, which HRW never describes as "offensives," and attempts to infiltrate Israel with terrorists. In 2014 Hamas succeeded in entering Israel through tunnels, with the intention of causing civilian casualties. These tunnels struck great fear in the Israeli public, and much of the military action against Gaza was to destroy these tunnels. None of this is mentioned by HRW. Even a 2015 report by the UN Human Rights Council on the 2014 conflict provided some context explaining: "Between 7 July and 26 August 2014, Palestinian armed groups fired 4,881 rockets and 1,753 mortars towards Israel, killing six civilians and injuring as many as 1,600 people, including 270 children. A mother from Israel described the situation experienced: 'We have 45 seconds to run. You just have to wait and see if it's going to fall on you.'"²³³ The report added: "Palestinian armed groups released statements indicating that they intended to attack Israeli civilians and population centres in Israel. In some instances, Palestinian armed groups in Gaza reportedly attempted to warn civilians in Israel of imminent attacks. For instance, on 20 August 2014, the Al-Qassam Brigades warned communities near Gaza to avoid returning home or to remain inside shelters." HRW does not believe any of these Hamas actions are relevant.

187. ERROR: HRW slanders Israel regarding its military action in Gaza: "During these confrontations, Israeli forces regularly used excessive and vastly disproportionate force, at times deliberately targeted civilians or civilian infrastructure, and, in total, killed well over 2,000 Palestinian civilians" (p. 131-32). HRW libels Israel with war crimes, contending that it deliberately targeted civilians. There is no evidence of targeting of civilians, and HRW does not provide any. HRW also displays a lack of understanding of the concept of "proportionality" related to war, which has nothing to do with the amount of force used compared to the opposing side. HRW omits key details, such as this comment from the Israeli government regarding the 2014 conflict in Gaza: "The conflict occurred primarily in an urban environment. Hamas combat manuals and training materials recovered by IDF forces in the Gaza Strip demonstrate that Hamas's strategy was to deliberately draw the hostilities into the urban terrain, and to use built-up areas and the presence of the civilian population for tactical advantage and political gain. This strategy was obvious during the 2014 Gaza Conflict in view of the sheer scope of military activity that Hamas and other terrorist organizations embedded within the urban environment."²³⁴ Yahya Sinwar, the leader

²³³ UN Human Rights Council, A/HRC/29/52, 24 June 2015, p 8

²³⁴ Israel Ministry of Foreign Affairs, "The 2014 Gaza Conflict, 7 July – 26 August 2014: Factual and Legal Aspects," May 2015, paragraph 5

of Hamas in Gaza, has admitted that Hamas has conducted military activities within civilian areas in Gaza.²³⁵

188. MISREPRESENTATION: HRW's evidence of Israeli war crimes are simply previous reports written by HRW, the group cites seven of its previous reports as factual (see footnote 489). In one report HRW claims Israel committed war crimes by attacking schools;²³⁶ in each case Israel provided explanations that Hamas fighters operated or fired from nearby locations. HRW unilaterally decided these explanations were not sufficient. In one of the examples discussed, HRW writes: "The Israeli military said it had targeted three members of the Islamic Jihad armed group who were on a motorcycle 'near' the school but did not provide information showing the basis for this claim. It gave no explanation why it did not attack these three individuals before they drove by the school-shelter or after they had moved away." HRW condescendingly believes that Israel owes HRW detailed explanations for every action it takes, and that certain attacks against terrorists should happen earlier or later. HRW's evidence of Israel war crimes can be summarized as: "because we say so and we know better how to conduct military operations."

189. MISREPRESENTATION: HRW quotes ex-army chief Benny Gantz who said actions in Gaza "sent [parts of Gaza] back the Stone Age" (p. 133). HRW presents these words as evidence of Israeli cruelty and war crimes. These few words came from a campaign video focused on Israeli damage to Hamas. The video takes credit for the IDF's destruction of thousands of Hamas targets and specifically on eliminating Hamas *terrorists*. The campaign videos also discussed that "Israel needed to seriously pursue peace with the Palestinians" and other statements of hope for the future. The "stone age" comment had nothing to do with harming Gaza or its population, but only focused on the damage to Hamas. HRW consistently misrepresents Israeli actions as targeting Gaza when they only are targeting Hamas. Of course, HRW never offers the reader quotes from Hamas leaders discussing the destruction of Israel or the murder of Jews as this would shatter the narrative of cruel Israel attacking Gaza for no reason other than racial apartheid.²³⁷

190. ERROR: HRW writes that "Israeli authorities have for years consistently failed to credibly investigate unlawful attacks and to hold those responsible to account" (p. 133). HRW cites as its only evidence a B'Tselem report from September 2016 titled

²³⁵ See tweet: <https://twitter.com/emilykschrader/status/1401251891162517507>

²³⁶ Human Rights Watch, "Israel: In-Depth Look at Gaza School Attacks, September 11, 2014; <https://www.hrw.org/news/2014/09/11/israel-depth-look-gaza-school-attacks>

²³⁷ Israel's Foreign Affairs Ministry, "Hamas calls for mass-murder of Jews worldwide," July 16, 2019; <https://www.youtube.com/watch?v=azEgBsU6Mi8>

"Whitewash Protocol: The So-Called Investigation of Operation Protective Edge."²³⁸ Throughout its report, B'Tselem acknowledges that Israeli officials did not believe they needed to conduct alternative investigations of its actions beyond what the military already performed. In 2015, Israel published its official report on the 2014 Gaza conflict, a 277-page report titled "The 2014 Gaza Conflict, 7 July – 26 August 2014: Factual and Legal Aspects" and also conducted dozens of investigations of specific incidents in the fighting, as B'Tselem acknowledges. B'Tselem summarizes the conclusion of Israeli military officials who said: "Among the incidents we investigated, we did not find a conspicuous case of an extreme violation of the laws of war" and that "I have the tools and the professional personnel to know how to check, and the fact is, that of all the Operation Protective Edge investigations, only one suspect was arrested: a suspected looter." It therefore completely erroneous to claim that "Israel failed to credibly investigate" attacks as numerous investigations were conducted over a multi-year period of time and published in a detailed and lengthy report. What bothers HRW and B'Tselem is that the investigations did not conclude that Israel committed war crimes, and to these NGOs any other outcome is unacceptable.

191. OMISSION: HRW writes: "Israeli forces stationed on the Israeli side of the fences separating Gaza and Israel responded with excessive lethal force to weekly demonstrations for Palestinian rights on the Gaza side that took place for much of 2018 and 2019" (p. 133). As usual, HRW omits the fact that Palestinians in these events were not simply engaging in "demonstrations" but actively seeking to break through the fence to enter Israel and harm soldiers and civilians. HRW cites a UN OCHA report that criticized Israel, but the same report actually admits to what HRW cannot: "during most protests dozens have approached the fence attempting to damage it, burning tires, throwing stones and Molotov cocktails towards Israeli forces and flying incendiary kites and balloons into Israeli territory; the latter resulted in extensive damage to agricultural land and nature reserves inside Israel and risked the lives of Israeli civilians."²³⁹

192. OMISSION: HRW's entire narrative surrounding the so-called "return marches" in 2018 and 2019 is a complete misrepresentation that omits and downplays Hamas actions in these events. In fact, in the entire discussion HRW does not mention Hamas and their stated attempts to breach the fence and kill Israeli civilians, as already discussed in the prior point. HRW writes: "Snipers followed orders from senior officials that sanctioned using live ammunition on Palestinians who approached or attempted

²³⁸ B'Tselem, "Whitewash Protocol: The So-Called Investigation of Operation Protective Edge," September 2016;

https://www.btselem.org/download/201609_whitewash_protocol_eng.pdf

²³⁹ UN OCHA, "Two years on: people injured and traumatized during the "Great March of Return" are still struggling," April 6, 2020; <https://www.ochaopt.org/content/two-years-people-injured-and-traumatized-during-great-march-return-are-still-struggling>

to cross or damage fences between Gaza and Israel regardless of whether they posed an imminent threat to life" (p. 132-33). In HRW's view, Israel could not take action to *prevent* large number of Hamas operatives of breaching the fence, but only after it already happened. The so-called protests were orchestrated by Hamas who used civilians as cover to approach the fence and attempt to breach it.²⁴⁰ Yahya Sinwar, the leader of Hamas in Gaza, was recorded on video saying the following regarding the action on the border with Israel: "Our people and boys will surprise the entire world with what they have in store. Let them wait for our big push. We will take down the border and we will tear their hearts from their bodies."²⁴¹ Hamas offered payment for "human shields" with \$200 for moderate injuries, \$500 for serious injuries, and \$3,000 in the case of death.²⁴²

193. ERROR: HRW claims that during the "return marches" Israeli snipers "killed, according to OCHA, 214 Palestinian demonstrators." In fact, the OCHA report does not call the Palestinians killed "demonstrators," it is HRW that *falsely inserts that qualifier*. OCHA merely refers to "Palestinians" and acknowledges in the prior paragraph that "dozens" of Palestinians threw Molotov cocktails and attempted to damage the fence. OCHA makes clear that these Palestinians were not simply demonstrators. A review of fatalities also shows that the majority were Hamas operatives and those perpetrating violence, not demonstrators. Data by The Meir Amit Intelligence and Terrorism Information Center revealed that a large number of Palestinian fatalities were terrorist operatives, mostly Hamas. In one period of examination, from March 2018 through January 2019, 150 out of 187 fatalities were from terrorist organizations, mostly Hamas.²⁴³ Even Hamas admitted to the fact that at one point 50 out of 62 fatalities were Hamas members. Hamas official Salah Al-Bardawil was critically questioned on Gaza television as to why children were dying during the "protests;" Al-Bardawil pushed back and said the following: "50 of the martyrs were from Hamas, and the other 12 were regular people. So how can anyone claim that Hamas is reaping the fruits, when it paid such a steep price? What did Hamas gain? 50 martyrs... I am giving you an official figure. 50 of the martyrs in the recent battle were from Hamas. Before

²⁴⁰ Ibid; also see The Jerusalem Post, "Report: 80% of Palestinians killed in Gaza border crisis were 'terrorists,'" Yonah Jeremy Bob, April 11, 2018; <https://www.jpost.com/Arab-Israeli-Conflict/Report-80-percent-of-Palestinians-killed-in-Gaza-border-crisis-were-terrorists-549511>

²⁴¹ See tweet: https://twitter.com/ostrov_a/status/1110436758578176001

²⁴² UN Security Council, "Identical letters dated 28 March 2019 from the Permanent Representative of Israel to the United Nations addressed to the Secretary-General and the President of the Security Council," S/2019/273, March 28, 2019

²⁴³ The Meir Amit Intelligence and Terrorism Information Center, "Examination of the list of fatalities in the 'return marches' reveals that most of them are operatives of terrorist organizations, about half of whom affiliated with Hamas," January 21, 2019; <https://www.terrorism-info.org.il/en/examination-list-fatalities-return-marches-reveals-operatives-terrorist-organizations-half-affiliated-hamas/>

that, at least 50% of the martyrs were from Hamas. So what did Hamas gain from this?"²⁴⁴

194. MISREPRESENTATION: HRW cites a UN Commission of Inquiry report that claimed Israel's use of force in the "return marches" were "neither necessary nor proportional" (p. 133). Neither the UN report nor HRW found space to include numerous comments Hamas officials and religious figures in Gaza stated on Palestinian television showing the true intentions of what are erroneously characterized as peaceful marches. HRW relies on many dozens of quotes throughout its report attempting to prove evil intentions on the part of Israelis, but never finds room even once to cite Hamas officials discussing the murder of Jews. Here are some examples of many:

- Senior Hamas official Mahmoud Al-Zahhar said the following on May 13, 2018, regarding the Gaza "protests": "This is not peaceful resistance. Has the option (of armed struggle) diminished? No. On the contrary, it is growing and developing. That's clear. So when we talk about 'peaceful resistance,' we are deceiving the public. This is a peaceful resistance bolstered by a military force and by security agencies, and enjoying tremendous popular support."²⁴⁵
- On May 11, 2018, Hamas leader Ismail Haniyeh spoke at a rally at one of the march locations where protestors were chanting "Khaybar, Khaybar, oh Jews!" and Haniyeh said, "we shall never, never, never recognize Israel."²⁴⁶ The phrase recalling "Khaybar, Khaybar" is well known as a rally cry against Jews.²⁴⁷
- On April 27, 2018, Al-Aqsa television aired footage of the "fence cutters unit" chanting "Khaybar, Khaybar, oh Jews, the army of Muhammad has begun to return." One member of the unit boasted: "today, we cut the Zionist enemy's main barbed-wire fence on the Gaza border" and warned Israeli settlers to "leave immediately, before it is too late."²⁴⁸

²⁴⁴ MEMRI TV, "Hamas Political Bureau Member Salah Al-Bardawil: 50 of the Martyrs Killed in Gaza were from Hamas, 12 Regular People," Source: Baladna TV (Gaza), May 16, 2018;

<https://www.memri.org/tv/hamas-politburo-member-bardawil-fifty-martyrs-were-hamas-members>

²⁴⁵ MEMRI TV, "Senior Hamas Official Mahmoud Al-Zahhar on Gaza Protests: This Is Not Peaceful Resistance, It Is Supported by Our Weapons," Source: Al Jazeera Network (Qatar), May 13, 2018;

<https://www.memri.org/tv/senior-hamas-official-mahmoud-zahhar-on-gaza-protests-this-is-not-peaceful-resistance>

²⁴⁶ MEMRI TV, "Amid Antisemitic and "Death to Israel" Chants, Hamas Political Bureau Chairman Ismail Haniyeh Vows: We Shall Never Recognize Israel - Scenes from Gaza 'Return March,'" May 11, 2018;

<https://www.memri.org/tv/hamas-political-bureau-head-haniyeh-we-shall-never-recognize-israel>

²⁴⁷ *The Jerusalem Post*, "Ramadan series 'Khaybar' is a battle cry against Jews," Ariel Ben Solomon, July 11, 2013;

<https://www.jpost.com/middle-east/ramadan-series-khaybar-re-enforces-anti-semitic-stereotypes-319568>

²⁴⁸ MEMRI TV, "Members of Gaza 'Fence Cutters' Unit' Proclaims: Victory or Martyrdom! - Scenes from Gaza 'Return March,'" Source: Al-Aqsa TV (Hamas/Gaza), April 27, 2018;

<https://www.memri.org/tv/fence-cutters-unit-gaza-proclaims-victory-or-martyrom>

- On March 30, 2018, in a sermon filmed in front of thousands at one the "return march" camps, Imam Muhammad Salah led chants of "Khaybar, Khaybar, oh Jews, the army of Muhammad is here." The Imam uttered lines such as "the herds of plundering Jews will leave Palestine."²⁴⁹
- On April 5, 2018, Gaza television (Al-Aqsa TV), amid the backdrop of the return marches, aired a Hamas cleric and host Iyad Abu Funn who said: "We must return to [our land] - above ground, underground, by means of demonstrations, bombs, weapons, explosives, explosive belts... We must return to our land." An animated film showed Palestinian men attacking Israeli towns in the West Bank, torching homes and leaving the land barren.²⁵⁰

195. MISREPRESENTATION: HRW concludes its section on the "return marches" condescendingly claiming that Israel's actions were not justified "under the imminent-threat test" and that "Israeli authorities have failed to develop law enforcement tactics that comport with international human rights norms, which prohibit the use of lethal force except in situations when it is necessary to prevent an imminent threat of death or serious injury" (p. 134). HRW cites one of its own reports (footnote 501) which discusses Israeli actions with statements like "Human Rights Watch could find no evidence of any protester using firearms or any IDF claim of threatened firearm use at the demonstrations" and "The Israeli government has not shown that the demonstrators throwing rocks or Molotov cocktails posed a grave threat to the well-protected soldiers deployed on the other side of the border fence." HRW actually cites a *Times of Israel* article (footnote 502) that explains: "During these violent protests, Palestinians hurl rocks and Molotov cocktails at IDF troops, roll burning tires at the security fence or try to pull it down with chains. Increasingly, demonstrators have been flying kites laden with containers of burning fuel to start fires in Israel."²⁵¹ But HRW sees itself as the final and expert arbiter of when Israel's actions are justified, even as it ignores copious data and comments by Hamas officials, as listed in the prior point, that completely contradict its fabricated assertions.²⁵²

²⁴⁹ MEMRI TV, "In Friday Sermon, Imam Chants Antisemitic Slogans, Adds: We Have Come Here to Execute the Decision of Allah and the Resolution of the U.N. - - Scenes from Gaza 'Return March,'" March 30, 2018;

<https://www.memri.org/tv/friday-sermon-at-return-march-khan-yunis-gaza-antisemitic-slogans>

²⁵⁰ MEMRI TV, "Hamas Cleric and TV Host Iyad Abu Funun: We Must Return to Our Land by All Means - Including Bombs and Explosive Belts," April 5, 2018; <https://www.memri.org/tv/hamas-cleric-abu-funun-we-must-return-to-our-land-using-bombs-explosive-belts>

²⁵¹ *The Times of Israel*, "IDF gears up for mass Gaza riots, warns that Hamas plans to 'massacre' Israelis," Judah Ari Gross, May 13, 2018; <https://www.timesofisrael.com/idf-gears-up-for-mass-gaza-riots-warning-hamas-plans-to-massacre-israelis/>

²⁵² *The Jerusalem Post*, "Inside look: How Gaza protesters attempted to breach the border fence," Seth Frantzman, May 15, 2018; <https://www.jpost.com/israel-news/inside-look-at-how-gaza-protesters-attempted-to-breach-the-border-fence-556447>. *The Jerusalem Post*, "VIDEO: IDF thwarts terror attacks as 40,000 take part in Gaza protests," Juliane Helmhold, May 14, 2018; <https://www.jpost.com/arab-israeli-conflict/video-idf-thwarts-terror-attacks-as-40000-take-part-in-gaza-protests-556386>

196. MISREPRESENTATION: HRW writes: "Israel's closure, alongside restrictions that the Egyptian government often imposes, boxes Gaza's more than two million residents into a strip of territory..." (p. 134). Once again, HRW does not explain why Israel is required to open its borders to an entity run by Hamas, a terrorist organization that calls for the murder of Israelis. HRW also does not explain how one "boxes" residents by not opening its borders. In fact, Israel allows many thousands of Gazans to enter Israel each year; 148,000 entered in the first six-months of 2022 as discussed in Point 8. But according to HRW's "perfection standard" for Israel, Israel must maintain open borders with Gaza to avoid the crime of apartheid.

197. ERROR: Continuing from the sentence above, HRW writes: "Gaza's population density of about 5,453 people per square kilometer is more than 13 times that of Israel's 400 people per square kilometer." The "Gaza density" complaint is the lie that never dies. At about 5,500 person/sq km Gaza is certainly not one of the most densely populated areas in the world. Comparing Gaza to Israel, which is comprised of a large desert region in the Negev, is inane -- Tel Aviv is roughly 60% more dense than Gaza and Bnei Brak is more than 5 times denser. Singapore, which is what some say Gaza could be if it chose peace, is 40% more dense and Bahrain is equal with Gaza. Most major European cities are far denser as some quick Wikipedia searches show. Actual places in the world that may be considered among the densest in the world are cities like Lagos, Nigeria with 15 million people living six times more densely than Gazans.

198. OMISSION: HRW criticizes Israel's use of force to enforce a "buffer zone" along the border fence with Gaza, suggesting Israel's actions are unnecessary (p. 135). HRW whitewashes all Hamas violence and attacks on Israel from areas near the fence, fabricating the notion that Israel acts to "further confine" Palestinians. Violence from Gazans approaching the fence is well-documented. In August 2021 a Palestinian shot through a hole in the border fence killing an Israeli border guard.²⁵³ An Israeli civilian was shot from across the fence in December 2021.²⁵⁴ HRW bases its comments in this section on a Gisha report (see footnote 505), another NGO that condescendingly considers itself experts on national security and has the authority to decide what security measures Israeli is justified in taking. Gisha writes: "Israel often portrays the movement restrictions it unilaterally enforces inside the Strip as based on Israel's security needs alone. While there are periods of active hostilities, at times indiscriminate fire from Gaza toward populated areas inside Israel and presence of armed Palestinians near the fence, these cannot serve as justification for the Israeli

²⁵³ *The Times of Israel*, "Soldier shot, critically hurt in Gaza border clash; 41 Palestinians injured," Aaron Boxman and Judah Ari Gross, August 21, 2021; <https://www.timesofisrael.com/17-gazans-said-injured-in-clashes-with-israeli-troops-at-renewed-border-protests/>

²⁵⁴ *The Jerusalem Post*, "Israeli civilian shot, lightly injured along Gaza border," Tzvi Joffe, December 29, 2021; <https://www.jpost.com/breaking-news/article-690060>

army's sweeping and disproportionate harm to civilians in the Strip."²⁵⁵ Other than this one minor acknowledgement of Palestinian violence, neither HRW nor Gisha offers any mention, let alone an analysis, of Hamas violence that backs its contention that Israeli actions are not justified. HRW and Gisha's conclusion is effectively: "Israel is wrong because we say so."

199. MISREPRESENTATION: HRW writes: "Between 2010 and 2017, before the wave of protests that began in March 2018, Gisha reported 1,300 incidents of live fire on Gaza residents, which killed 161 Palestinians and injured more than 3,000" (p. 135). The Gisha report cited writes: "Between 2010 and 2017, 161 Gaza residents were killed by Israeli soldiers positioned along the fence or during incursions into the buffer zone; in addition, 3,031 people were injured and 350 arrested during this period."²⁵⁶ Gisha does not provide any source or evidence of these numbers. The key misrepresentation is that HRW and Gisha present the 161 Gazans killed as merely "residents," portraying all of them as innocent civilians killed by bloodthirsty Israeli soldiers. As usual these NGOs egregiously whitewash all Palestinian violence. The BBC reported that in March 2011 two Palestinians were killed near the border fence after "Palestinian militants fired dozens of mortars into southern Israel... about 50 mortars were fired, injuring two Israelis."²⁵⁷ On December 24, 2014 a Palestinian sniper killed an Israeli civilian named Saleh Abu Latif – a Bedouin Arab from the city of Rahat – who was working as a contractor on the Gaza border fence.²⁵⁸ *The Times of Israel* reported that a 20-year old Palestinian man suffered gunshot wounds from Israel fire after he "was spotted placing an explosive device near the border fence."²⁵⁹ Reports of these incidents abound, but according to HRW and Gisha, all 161 killed were simply Gazan residents minding their own business.

200. MISREPRESENTATION: HRW writes: "Since 2014, Israeli authorities have also regularly sprayed herbicides along the eastern fences to remove vegetation, it says in order to 'enable optimal and continuous security operations'" (p. 135-36). Again, HRW scoffs at Israeli security measures related to Gaza, devoting nine lines of the report to portray spraying as evidence of apartheid. However, reports in *Haaretz* and elsewhere make clear the spraying targets vegetation on fences to remove hiding places for terrorists. While HRW cites a report that claims the spraying causes damage to crops, the Israeli Defense Ministry has denied that the spraying damaged any Gazan fields

²⁵⁵ Gisha, "Closing In, Life and Death in Gaza's Access Restricted Areas"; <https://features.gisha.org/closing-in/>

²⁵⁶ Ibid

²⁵⁷ *BBC News*, "Two Palestinians killed at Gaza-Israel border," March 20, 2011; <https://www.bbc.com/news/world-middle-east-12799772>

²⁵⁸ *The Times of Israel*, "Israeli man killed by sniper fire on Gaza border," December 24, 2013; <https://www.timesofisrael.com/israeli-man-severely-wounded-by-sniper-fire-from-gaza/>

²⁵⁹ Ibid

asserting that it only uses herbicides that are approved by the Israeli Agriculture Ministry and used by farmers on their own fields both in Israel and abroad.²⁶⁰ HRW seems to believe that Israel devotes resources to spraying for *no other reason* than to be cruel as part of its policies of racial oppression – while at the same time delivering goods in thousands of truckloads per month to the same territory.

201. OMISSION: HRW writes: "Citing concerns about weapons smuggling, Israeli authorities also restrict how much of the sea, including Gaza's territorial waters, residents can access." HRW adds: "Israel has not justified these fluctuations in the fishing zone on security grounds, but rather as punitive measures in response to rocket fire or the launching of incendiary balloons by armed Palestinian groups, acts with which fishermen had no involvement" (p. 136). Once again, HRW completely ignores the entire military complex of Hamas which has devoted significant resources to rocket production and tunnels and actual sea infiltrations into Israel. This alone justifies a sea blockade as Hamas is a hostile entity. The UN commissioned a study on the Israeli sea blockade (known as the Palmer Report) and concluded it was lawful, despite typical hostility from the UN towards Israel. One conclusion from the report stated: "The blockade did not constitute collective punishment of the civilian population of the Gaza Strip; there is no evidence that Israel deliberately imposed restrictions on bringing goods into Gaza with the sole or main purpose of denying them to the civilian population."²⁶¹ The report further cites Israeli statements that the blockade "was imposed primarily to enable a legally sound basis for Israel to exert control over ships attempting to reach Gaza with weapons and related goods" and cites instances of attempts to smuggle weapons into Gaza.²⁶² For example, in 2011 Israel intercepted the "Victoria" ship which was sent via Syria to Gaza and included missiles such as the Chinese made C-704 with a range of 35 kilometers, and estimated that 50 tons of weapons were on board.²⁶³ In 2014 four Hamas naval commandos swam ashore to Israel carrying weapons and explosives.²⁶⁴ HRW's entire

²⁶⁰ *Haaretz*, "Israel Resumes Spraying Herbicides Along Gaza Border After Yearlong Halt," Hagar Shezaf, January 22, 2022; <https://www.haaretz.com/israel-news/premium-israel-resumes-spraying-pesticides-along-gaza-border-after-yearlong-halt-1.8433456>. *The Guardian*, "Israeli spraying of herbicide near Gaza harming Palestinian crops," Miriam Berger, July 19, 2019; <https://www.theguardian.com/world/2019/jul/19/israeli-spraying-of-herbicide-near-gaza-harming-palestinian-crops>

²⁶¹ UN, "Report of the Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident," Sir Geoffrey Palmer, Chair, July 2011 (the "Palmer Report"), p. 29

²⁶² *Ibid.*, p. 39

²⁶³ *Haaretz*, "Israel Navy: Gaza-bound Anti-ship Missiles Found on Seized Ship," Amos Harel, March 15, 2011;

<https://www.haaretz.com/2011-03-15/ty-article/israel-navy-gaza-bound-anti-ship-missiles-found-on-seized-ship/0000017f-ee2a-da6f-a77f-fe2e31ac0000>

²⁶⁴ *The Times of Israel*, "Police to be deployed along coast amid fears of Hamas infiltration — TV report," Time of Israel Staff, August 27, 2018; <https://www.timesofisrael.com/border-police-to-be-stationed-along-coast-amid-fears-of-hamas-infiltration/>

narrative on Israel's sea blockade of Gaza omits critical information to characterize Israel's actions as an expression of racism and oppression. Somehow attempts by Hamas to smuggle in 50 tons of weapons by sea is not enough of a justification for HRW, who condescendingly sees itself as the final arbiter of what are acceptable security measures.

202. MISREPRESENTATION: HRW claims, based on a report from B'Tselem, that "Israeli policies" are "destroying Gaza's fishing sector" (p. 136-37). Neither HRW nor B'Tselem mentions anything about Hamas' policies which may impact Gaza's fishing sector. Major attempts to smuggle in heavy weaponry from the "Victoria" incident in 2011 to the infamous "Karine-A" incident in 2002 and documented evidence that Hamas has invested in its naval commandos are not seen by these NGOs as having any impact on Gaza's fishing sector. In April 2016 the Israeli Navy arrested a smuggler off the coast of Gaza working for Hamas who admitted "that he'd been involved in naval smuggling operation for some time and had helped bring in weaponry and 'materials used in the production of rockets, like fiberglass resin.'"²⁶⁵ The smuggler revealed that his ring brought weapons to variety of groups in Gaza and that Hamas uses fisherman as "camouflage" for their military actions. It is not Israel's actions which are damaging Gaza's fishing sector, it is Hamas' sole focus on building its military infrastructure to harm Israel above the needs of its people that is causing this harm.

203. ERROR: HRW writes: "Discriminatory restrictions and burdens imposed by Israeli authorities restrict the entry and exit of goods in and out of Gaza and limit the access of Gazans to basic services, such as electricity and water" (p. 137). HRW does not provide any evidence that restrictions on the entry and exit of goods are based on "discrimination" towards Palestinians in Gaza, and neither provides evidence that they are not due to security needs. These restrictions do not exist for the 2 million Israeli Arabs (which HRW considers the exact same as Palestinians in Gaza) or the 3 million Palestinians in the West Bank, contradicting the notion of discrimination underlying these policies. Instead, the restrictions are entirely based on halting the importation of material used by Hamas to build up its military infrastructure, as discussed in several of the prior points.

204. ERROR: HRW claims that: "Israeli authorities in January 2008 calculated the minimum number of calories per person that Gaza residents needed to avoid malnutrition..." (p. 137). HRW cites in footnote 518 an article from *Reuters*, which cites a Gisha report for this assertion. There is no evidence provided that Israel

²⁶⁵ *The Times of Israel*, "Shin Bet: Hamas bringing weapons, rocket-making material into Gaza," Judah Ari Gross, May 16, 2016; <https://www.timesofisrael.com/shin-bet-hamas-bringing-weapons-rocket-making-material-into-gaza/>

mathematically calibrated food delivery into Gaza. Israel does monitor inventory levels to identify goods shortages, but these are not mathematical formulas for civilian survival.²⁶⁶ If Israel *did not* monitor inventory levels to properly ensure its deliveries of goods were sufficient and timely, no doubt Israel would be criticized for neglecting the needs of Gazans. HRW also omits two key aspects: first, that Israeli deliveries to Gaza are likely the first time in history that a nation delivered goods to a terrorist entity that publicly states its vows to destroy it and kill Jews; second, that Gaza has a border with Egypt that Israel does not control and is free to manage this border with Egypt as it sees fit.

205. ERROR: HRW claims that "communications equipment" is not a legitimate "dual-use" item such that Israel could restrict their entry into Gaza (p. 137). Amazingly, HRW, who often considers itself to be an expert in military tactics and law when it accuses Israel of war crimes, does not understand how "communication equipment" might be used by terrorist groups and for military operations. Contrary to HRW, Hamas certainly believes that such equipment is important for its military infrastructure. In February 2020 Hamas operatives broke into the warehouses of Palestinian media and telecommunications company Paltel Group and stole millions of dollars of advanced communications equipment for its own military purposes.²⁶⁷ In 2016, Israel intercepted drone parts and communications equipment en route to terrorist groups in Gaza.²⁶⁸

206. OMISSION: HRW writes: "Israeli authorities have also claimed certain kinds of medical equipment, including x-ray equipment, as 'dual use,' according to the WHO, Gisha has documented how many of these items are 'rarely, if ever, allowed into the Strip'" (p. 138). HRW omits any assessment whether such kinds of equipment can be used for military purposes, and the WHO report offers no analysis either. The WHO reports acknowledges that Israel considers the equipment dual-use "due to the presence of sophisticated electronics, components that the Israeli Authorities argue can be used for weapons development."²⁶⁹ HRW's only evidence that this dual-use designation is not accurate is apparently "we don't think it is." The Gisha report notes

²⁶⁶ *Haaretz*, "Israel Releases Papers Detailing Formula of Gaza Blockade," Amira Hass, October 26, 2010; <https://www.haaretz.com/1.5130459>

²⁶⁷ *Ynet News*, "Hamas steals Israeli tech to bolster Gaza terror infrastructure," Alex Fishman, October 2, 2020; <https://www.ynetnews.com/article/S1Y41pAz8>

²⁶⁸ *The Times of Israel*, "Israel intercepts communication equipment en route to Gaza terror groups," Times of Israel Staff, May 30, 2016; <https://www.timesofisrael.com/israel-intercepts-communication-equipment-en-route-to-gaza-terror-groups/>

²⁶⁹ WHO, "Medical Equipment in Gaza's Hospitals: Internal Management, the Israeli Blockade and Foreign Donations," July 2009; http://www.emro.who.int/images/stories/palestine/documents/pdf/Medical_equipment_in_Gaza_EB_reportJuly09.pdf

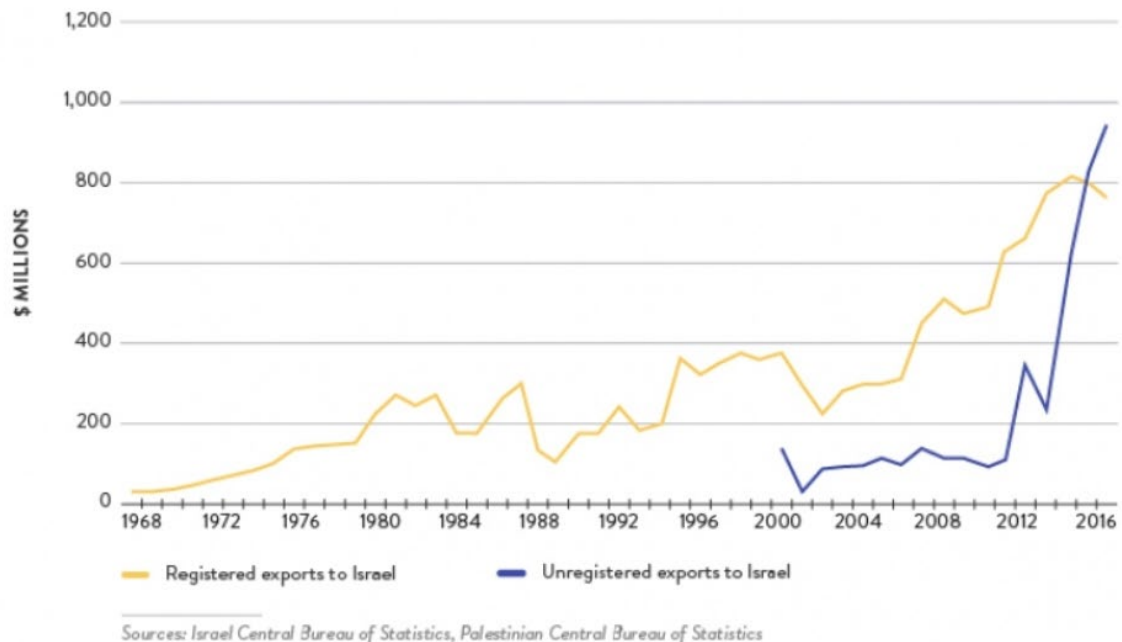
that certain medical equipment did in the end enter Gaza after six months. HRW also does not explain why Hamas cannot source such medical equipment via Egypt since it admits that Egypt began "formally allowing goods into Gaza in February 2018."

207. MISREPRESENTATION: HRW asserts: "As part of the closure policy, Israeli authorities also sharply restrict the export of goods out of Gaza" (p. 138). HRW notes that between 2007 and 2014 Israel allowed 14 truckloads per month to exit and admits that: "The situation has improved somewhat since, with an average of 219 truckloads per month exiting for the four-year period between 2016 and 2019" – but still less than 1,064 truckloads per month prior to June 2007. HRW does not explain here why exports dropped in 2007 and what led to the closure – the Hamas takeover and military buildup against Israel. Even so the situation has not just improved "somewhat" but has dramatically increased in recent years. This trend is continuing, as reported in *The Times of Israel* in August 2022: "exports from Gaza to the West Bank were expected to shoot up by 27 percent this year, continuing a trend. In 2020, the total number of trucks exporting goods from Gaza to the West Bank was 3,397; in 2021 it was 4,003; and by the end of this year, it is expected to reach 5,117, according to estimates. Exports from Gaza to Israel were also expected to rise by an unprecedented 93.8%, according to COGAT. In 2020, some 1,181 trucks carrying exports entered Israel from Gaza; 2,588 in 2021; and this year the number is expected to reach 5,016."²⁷⁰ Thus in 2022, an estimated 844 truckloads per month will exit Gaza for the West Bank and Israel. Looking more broadly at exports from Palestinian territories to Israel, the numbers have consistently grown, contradicting the notion that somehow there is apartheid to be found in Israel's export policies towards Palestinians goods. The chart below shows the growth of Palestinian exports from 1968-2016.²⁷¹ Instead of a broader analysis of Palestinians exports, HRW cherry-picks data from Gaza only after the Hamas takeover.

²⁷⁰ *The Times of Israel*, "IDF official says Gaza exports have soared, as Israel seeks to incentivize calm," Emanuel Fabian, August 14, 2022; <https://www.timesofisrael.com/idf-official-says-gaza-exports-have-shot-up-as-israel-seeks-to-incentivize-calm/>

²⁷¹ Tony Blair Institute for Global Change, "Israeli-Palestinian Trade: In-Depth Analysis," October 17, 2018; <https://institute.global/advisory/israeli-palestinian-trade-depth-analysis>

Figure 10: Palestinian Exports of Goods to Israel, 1968–2016



208. DOUBLE STANDARD: Further to the prior point on exports from Gaza, HRW not only misrepresents but once again holds Israel to a unique double standard. Every sovereign nation on earth can decide who and what trucks can or cannot enter its territory. Restrictions on imports, no matter their nature, do not evidence apartheid, especially when the territory in question is run by a terrorist organization that does not accept your right to exist. Somehow this does not factor into HRW’s analysis. In the last sentence HRW tucks in the following sentence after seven lines of criticizing Israel: “Egypt does not allow goods from Gaza to be shipped out via the crossing it administers” (p. 138). Despite this full restriction, which is the opposite of the export growth described in the prior point, it is Israel that is seen as the apartheid state.

209. OMISSION: HRW writes: “Israeli authorities have acknowledged that their determinations do not turn solely on security. They have, for example, restricted or shut down exports as a punitive measure, which they did for a total of 50 days in 2018 and 2019, according to Gisha” (p. 139). Although Gisha notes that closures “on most occasions [are] in response to rocket fire from the strip”²⁷² it does not explain how Israeli moves are not based on Hamas’ continued actions to harm Israel. As discussed in the prior point, every sovereign nation can decide what goods flow through its territory without restriction. HRW and its source, Gisha, both omit the fact that Hamas

²⁷² Gisha, “Kerem Shalom Crossing,” March 16, 2020; <https://gisha.org/en/kerem-shalom-crossing-new-factsheet/>

cynically attacks the crossing on many occasions – yet any closure by Israel is seen as punitive. Many attacks on the main crossing into Gaza, Keren Shalom, have been documented. In April 2008 three disguised military vehicles laden with explosives approached the crossing, two detonated and injured 13 Israeli soldiers.²⁷³ Attacks at the crossing occurred periodically, as recently as in May 2021.²⁷⁴ Some of the closings were related to incessant explosive balloons sent into Israel from Gaza burning thousands of acres of land and posing great risk to nearby communities. According to HRW, even as incendiary balloons are being launched, Israel must operate the crossings.²⁷⁵ HRW also dismisses the risk faced by the workers at the crossings; in their view unless Israeli workers operate under the risk of rocket fire and incendiary balloons, they are committing apartheid.

210. DOUBLE STANDARD: HRW explains that Israel forbids or limits the sale of certain fruits and vegetables from Gaza inside Israel and the West Bank, compared to Israeli settlers in the West Bank who do not face such restrictions (p. 139). Once again, HRW denies Israel the right to exercise its sovereign rights the same way any nation on earth can. Many nations restrict the entry or transit of goods into its territory for various reasons without question and can enact trade policies favoring its own citizens – it is never considered discriminatory or apartheid. In a side point, HRW presents Gaza as impoverished, yet the territory still produced excess produce and other goods for the export of thousands of truckloads per month to the West Bank and Gaza.

211. OMISSION: HRW presents as an example of the nefarious economic control HRW claims Israel has over Gaza: "The Israeli cement company Neshet also produces nearly all the cement used in Gaza" (p. 139). Ignoring the fact that cement happens to be perhaps the top dual-use good Israel restricts because of the massive amount of cement Hamas uses for its tunnel system used to attack Israeli, HRW omits another key aspect regarding Neshet: the company is "Israel's only producer of cement."²⁷⁶ Like Gaza, all of Israel relies on Neshet. HRW also does not disclose that Hamas also sources cement via Egypt, such that Israel asked Egypt to prevent entry of cement into

²⁷³ UN, The Question of Palestine, "Mideast situation/Kerem Shalom crossing attack – Letter from Israel," Dan Gillerman, April 22, 2008; <https://www.un.org/unispal/document/auto-insert-188108/>

²⁷⁴ *The Jerusalem Post*, "Rockets strike Kerem Shalom Crossing as it reopens for humanitarian aid," Jerusalem Post Staff, May 18, 2021; <https://www.jpost.com/breaking-news/kerem-shalom-crossing-to-open-for-humanitarian-aid-668377>

²⁷⁵ *The Times of Israel*, "Israel closes Gaza border crossing after spike in arson balloon attacks," Aaron Boxerman, August 11, 2020; <https://www.timesofisrael.com/israel-closes-gaza-border-crossing-after-spike-in-arson-balloon-attacks/>

²⁷⁶ *The Jerusalem Post*, "Israel's cement monopoly fined almost \$1.9 million for air contamination," Adi Koplewitz, August 22, 2022; <https://www.jpost.com/environment-and-climate-change/article-715244>

Gaza because of its use for tunnels.²⁷⁷ Finally, HRW does not inform the reader that according to the Israel Foreign Ministry, Hamas siphons 95% of cement transferred to Gaza intended to rebuild homes for military purposes.²⁷⁸

212. OMISSION: HRW discusses the weak economy in Gaza, with a heavy reliance on humanitarian aid, and how Israel restrictions "have devastated Gaza's economy" (p. 140). Nowhere in the discussion does HRW mention the massive spending on military infrastructure by Hamas, such as the diversion of 95% of cement imports for military purposes. According to Israeli and Palestinians sources, Hamas spends about 20% of its annual budget on weapons, digging tunnels, and other military spending.²⁷⁹ A report in *The Washington Post* cited Israeli officials who estimated that Hamas had built more than 1,300 tunnels since 2007 at a cost of \$1.25 billion;²⁸⁰ about 60 miles of the these tunnels known as the "Metro" were destroyed in May 2021.²⁸¹ It should also be noted that economic data from Gaza is considered unreliable, with the data coming from Palestinian sources in Gaza. There is a considerable hidden economy, and Hamas does not disclose large amounts of subsidies from Iran, estimated at \$100 million annually.²⁸² *Forbes* estimates a much higher amount, at \$700 million annually with funds from Iran and Qatar.²⁸³ In July 2022 it was reported in *The Arab Weekly* that Hamas imposed new taxes on the population, in part to support "its heavy spending on its military wing." An honest analysis of the Gazan economy, which HRW deliberately does not provide, must take into account Hamas's massive diversion of resources to military spending.

213. ERROR: HRW writes: "Israeli policies also sharply limit access to basic services, such as electricity and water" (p. 140). It is false and libelous to assert that Israel limits

²⁷⁷ *The Times of Israel*, "Israel said to ask Egypt to halt entry of cement, building materials into Gaza," Times of Israel Staff, June 10, 2021; <https://www.timesofisrael.com/israel-said-to-ask-egypt-to-halt-entry-of-cement-building-materials-into-gaza/>

²⁷⁸ *The Jerusalem Post*, "Israel: Hamas stealing 95% of civilian cement transferred into Gaza," Tovah Lazaroff, May 26, 2016; <https://www.jpost.com/arab-israeli-conflict/israel-hamas-stealing-95-percent-of-civilian-cement-transferred-into-gaza-454999>

²⁷⁹ *The Times of Israel*, "Hamas spends \$100 million a year on military infrastructure," Avi Issacharoff, September 8, 2016; <https://www.timesofisrael.com/hamas-spends-100-million-a-year-on-military-infrastructure/>

²⁸⁰ *The Washington Post*, "The Hamas 'Metro' tunnel network: Secret, sprawling and in Israeli crosshairs," Adam Taylor, May 14, 2021; <https://www.washingtonpost.com/world/2021/05/14/gaza-tunnels-hamas-israel/&cd=3&hl=en&ct=clnk&gl=us&client=firefox-b-1-d>

²⁸¹ *Insider*, "Israel says it has destroyed more than 60 miles of a vast Hamas tunnel network called the 'Metro,'" Ryan Pickrell, May 20, 2021; <https://www.businessinsider.com/israel-gaza-strikes-destroy-hamas-tunnel-network-2021-5>

²⁸² The Washington Institute for Near East Policy, "Gaza's Economy: How Hamas Stays in Power," Ehud Yaari, January 6, 2011; <https://www.washingtoninstitute.org/policy-analysis/gazas-economy-how-hamas-stays-power>

²⁸³ *Forbes*, "The Richest Terror Organizations: #3 Hamas," Itay Zehorai, January 1, 2018; <https://forbes.co.il/e/3-hamas/>

water to the people of Gaza. HRW provides no evidence of this deprivation of water and actual statistics for water supply and usage in Gaza indicate levels at the higher end of the recommended WHO range as discussed in Point 130.

214. OMISSION: HRW devotes about a page criticizing Israeli actions which have hampered the electricity supply in Gaza (p. 140-41). These actions include attacks on the electric plant, restricting dual-use equipment for plant repair, restrictions on fuel. HRW also admits that the PA asked Israel to cut the supply to pressure Hamas to give up control of Gaza. As is the case throughout the report, HRW does not mention anything about Hamas actions which were responsible for Israel's actions. In footnote 542 HRW cites an Israeli Supreme Court decision from 2008 that said Gaza's electricity supply remains "almost completely dependent" on Israel.²⁸⁴ However, HRW ignores critical context from the conclusion written by the Supreme Court in this same decision that HRW uses as evidence: "In conclusion, we reiterate that the Gaza Strip is controlled by a murderous terrorist organization, which acts relentlessly to inflict harm on the State of Israel and its inhabitants, violating every possible rule of international law in its violent acts, which are directed indiscriminately at civilians - men, women and children. Despite this, as we said above, the State of Israel is committed to fighting the terrorist organizations within the framework of the law and in accordance with the provisions of international law, and to refrain from intentional harm to the civilian population in the Gaza Strip. In view of all of the information presented to us with regard to the supply of electricity to the Gaza Strip, we are of the opinion that the amount of industrial diesel that the State said it intends to supply, as well as the electricity that is continually supplied through the power lines from Israel, are capable of satisfying the essential humanitarian needs of the Gaza Strip at the present." HRW then adds a ridiculous comparison: "Meanwhile, Israeli settlers in the OPT enjoy uninterrupted electricity" – again forgetting that all Israeli citizens enjoy this same uninterrupted supply including 2 million "Palestinians." HRW simply cannot acknowledge that Israel's actions in Gaza are to combat a "murderous terrorist organization," not a racist policy against Palestinians because they are Palestinian.

215. ERROR: HRW writes: "Gaza residents do not have access to clean water" (p. 141). This is a complete falsehood, as Palestinian figures themselves show that Gazan obtain water at levels at the higher end of the recommended WHO range (see Point 130). HRW's entire narrative about water in Gaza is a fabrication.

216. OMISSION: HRW correctly notes: "Gaza's old water pipeline system also causes about a 30 percent loss of supply through leaks, but Israel complicates its maintenance by restricting the import of about 70 percent of the materials and

²⁸⁴ Jaber Al-Bassiouni Ahmed and others v. 1. *Prime Minister*. 2. Minister of Defence; *HCJ 9132/07*; <https://versa.cardozo.yu.edu/sites/default/files/upload/opinions/Ahmed%20v.%20Prime%20Minister.pdf>

equipment needed to repair the water and sewage systems on the grounds that they are 'dual-use' items" (p. 142). Once again HRW willfully ignores all Hamas actions, which includes diverting construction resources to rockets and tunnels instead of repairing water pipes. But the omission is even more egregious – Hamas has issued propaganda videos *showing how they dig up water pipes for use as rockets*,²⁸⁵ yet HRW places all blame on poor water infrastructure on Israel. A 2021 article in *Reuters* quoted a U.S. State Department official discussing how Hamas uses "metal tubing, metal pipes" to fabricate rockets. Islamic Jihad leader Ziad Al-Nakhala amazingly acknowledged in the same article: "The silent world should know that our weapons, by which we face the most advanced arsenal produced by American industry, are water pipes that engineers of the resistance turned into the rockets that you see."²⁸⁶

217. ERROR: One of HRW's key errors and omissions in portraying the water situation in Gaza is the complete lack of current information regarding desalination in the territory. HRW devotes exactly one sentence to desalination in the midst of multiple pages discussing the water situation in Gaza: "Gaza desalinates some water, but desalination requires significant electricity, fuel, and funding" (p. 142). In fact, desalination has grown dramatically in Gaza, with massive investment from the EU and world bodies, in a way that is transforming the water situation. In 2014, an EU and UNICEF sponsored desalination plant began operation in the Khan Younis area serving 20,000 Gazans.²⁸⁷ In January 2017 an EU funded desalination plant was completed that provides drinking water for 75,000 Gazans – about 4% of the population.²⁸⁸ The EU granted additional funding to double the plant capacity. In July 2019 another major desalination plant opened that serves 200,000 Gazans – 10% of the population – funded by the Kuwaiti Fund through the Islamic Development Bank.²⁸⁹ In January 2020 two smaller desalination plants funded by China opened near Rafah that serve about 10,000 people.²⁹⁰ More projects are underway, including a massive

²⁸⁵ Elder of Ziyon, "Hamas video shows them digging up water pipes to make missiles," May 25, 2021; <https://elderofzion.blogspot.com/2021/05/hamas-video-shows-them-digging-up-water.html>

²⁸⁶ *Reuters*, "Israel's Gaza challenge: stopping metal tubes turning into rockets," Arshad Mohammed, Jonathan Saul, John Irish, and Parisha Hafezi, May 23, 2021; <https://www.reuters.com/world/middle-east/israels-gaza-challenge-stopping-metal-tubes-turning-into-rockets-2021-05-23/>

²⁸⁷ UNICEF, State of Palestine, "Sea Water Desalination Plant, For the southern Governates of the Gaza Strip," January 2020; <https://www.unicef.org/sop/reports/sea-water-desalination-plant>

²⁸⁸ UNICEF, "UNICEF seawater desalination plant helps head off Gaza water crisis," Catherine Weibel, April 6, 2017;

<https://www.unicef.org/stories/unicef-seawater-desalination-plant-helps-head-gaza-water-crisis>

²⁸⁹ IMEMC News, "Gaza's Desalination Plant Completed, says Official," July 23, 2019;

<https://imemc.org/article/gazas-desalination-plant-completed-says-official/>

²⁹⁰ *teSur*, "Palestinians Benefit From China-Funded Desalination Plants," January 18, 2020;

<https://www.telesurenglish.net/news/Palestinians-Benefit-From-China-Funded-Desalination-Plants-20200118-0007.html>

€456 million project pledged by the EU²⁹¹ and \$117 million project funded by the World Bank announced in February 2020.²⁹² In addition to these major plants Gaza has 286 desalination plants of various capacities that serves much of the population. The resources for water infrastructure from foreign donors has allowed Hamas to continue to divert massive financial resources to building its rocket inventory and maintain its military tunnel network.

218. ERROR: HRW writes: "In 2019, Gaza residents used 79 liters per day of water, an increase from 2017 and 2018 levels, but below the WHO minimum recommended level of 100" (p. 143). According to the Palestinian Authority's own numbers for 2018 there is not a single area of the West Bank or Gaza where Palestinians consume less than 50 liters per day and the average across the West Bank is 90.5 per day²⁹³ – at the upper end of WHO recommendations (and an increase from 82 several years ago and 73 ten years ago). Gaza consumption is currently over 80 per day, still in the upper half of the recommended range, and suffers from pipeline defects and theft, as actual water supplied is 95 liters per day.²⁹⁴ The fabrication of the WHO minimum number persists, as reporting the true figure would demolish the argument that Palestinians are not getting enough water.

219. MISREPRESENTATION: HRW devotes nearly a full page to the anecdotal story of a Gazan named "Yazan" who apparently received an Israeli permit to leave Gaza for the U.K. but refused to exit after being asked to provide intelligence information to the Israeli authorities (p. 143). HRW then acknowledges that: "Yazan said he considered leaving via Rafah, the crossing with Egypt, but the Hamas-administered waiting list was long, he could not afford to pay the several thousand dollars to advance his place on the waitlist." In this case it was Hamas who blocked Yazan's dreams of study in England, as they created a long waiting list and overcharged Gazans for the opportunity to leave. Gaza has a border with Egypt that Israel does not control, yet Israel is still blamed.

220. MISREPRESENTATION: HRW devotes a half-page to the anecdotal story of a Gazan named "Leen" who according to HRW: "received a permit to leave Gaza for a visa interview in Jerusalem in July 2016, but decided not to return and went to live with

²⁹¹ *Daily News Egypt*, "International coalition supports Gaza desalination project with €456m: EU," Hagar Omran, March 21, 2018; <https://dailynewsegypt.com/2018/03/21/international-coalition-supports-gaza-desalination-project-e456m-eu/>

²⁹² The World Bank, "World Bank and Partners Invest US\$117 million in Water for Palestinians in Gaza," February 10, 2020; <https://www.worldbank.org/en/news/press-release/2020/02/10/world-bank-and-partners-invest-us117-million-in-water-for-palestinians-in-gaza>

²⁹³ Palestine Central Bureau of Statistics, "Quantity of Water Supply for Domestic Sector, Water Consumed, Total Losses, Population and Daily Consumption per Capita in the West Bank by Governorate, 2018"; https://www.pcbs.gov.ps/Portals/_Rainbow/Documents/water-E9-2018.html

²⁹⁴ B'Tselem, "Statistics Water Crisis," June 13, 2021; <https://www.btselem.org/water/statistics>

her uncle in Jenin" (p. 143-44). The narrative recounts how her presence in the West Bank became illegal and now she fears being sent back to Gaza. Once again, HRW denies Israel the right to unilaterally manage who enters its territory like every other sovereign nation on earth. Leen was in fact allowed to enter Israel to visit her uncle but violated the terms of her visa. Israel's enforcement of visa and entry rules is considered by HRW as apartheid. In fact, HRW considers any hindrance of Palestinian movement from Gaza into Israel as apartheid.

221. OMISSION: HRW devotes nearly another full page on the third anecdotal story of a Gazan who faced restrictions in moving from Gaza to the West Bank (p. 144-45). In this case, "Samia" traveled to Jordan from Gaza (no information was provided on this journey) but then decided to enter the West Bank and not return to Gaza. Israeli authorities brought her back to Gaza. HRW portrays Israel's efforts to not allow Gazans to freely enter and live in the West Bank as apartheid, but omits Hamas's efforts to infiltrate the West Bank and take control of the territory. HRW of course does not acknowledge that Hamas is a terrorist organization that seeks to attack Israel via the West Bank in the same way it does out of Gaza. Hamas's attempts to enter the West Bank are well documented; even Fatah fears this takeover with a Fatah official explaining that Hamas "is proceeding with its attempts and conspiracies to control the West Bank."²⁹⁵ *The Times of Israel* reported in 2021 about a Hamas operative who contacted 60 West Bank Palestinians to recruit them to carry out attacks.²⁹⁶ Once again, to HRW, documented Hamas terrorist activity has no bearing on their assessment of Israeli actions related to residency and entry in Gaza and the West Bank.

222. OMISSION: HRW's fourth long anecdotal story about a Gazan who was unable to freely transit through Israel and easily change residence to the West Bank concerns a woman named "Hadil." Hadil met a man in Jordan and later on the man was able to enter Gaza via Egypt (p. 145). HRW acknowledges that "following a July 2013 military coup, Egyptian authorities largely sealed their border with Gaza" – so now of course it falls on Israel to allow free transit to Hadil, otherwise it is apartheid. HRW notes that in 2015 Hadil again managed to travel for a conference abroad, but was unable to establish residency in the West Bank. HRW again omits the fact that Gaza is run by a terrorist organization that attacks Israel, and therefore its residents should expect difficulty obtaining Israeli approval for transit and residency. Once again, Egypt is absolved of wrongdoing or primary responsibility for transit out of Gaza.

²⁹⁵ *The Jerusalem Post*, "15 years after Gaza takeover, Fatah warns Hamas against trying to seize West Bank," Khaled Abu Toameh, June 14, 2022; <https://www.jpost.com/middle-east/article-709380>

²⁹⁶ *The Times of Israel*, "Hamas intensifies efforts to launch West Bank terror attacks — report," Times of Israel Staff, August 1, 2021; <https://www.timesofisrael.com/hamas-intensifies-efforts-to-launch-west-bank-terror-attacks-report/>

223. MISREPRESENTATION: HRW devotes a paragraph critical of a situation where about 2,600 Bedouins in Israel had issues with their citizenship and were under threat of having it revoked (p. 148). HRW does not inform the reader of the final outcome, as reported in *The Times of Israel*: "Ronen Yerushalmi, Head of Citizenship at the Population and Immigration Authority, said research into the status of Negev Bedouin with citizenship had turned up 2,626 cases of questionable status. Of these, 2,124 had been confirmed as citizens, while the remaining 500 had 'failed to meet the conditions' for citizenship because when they were born, neither of their parents had been citizens. Yerushalmi said that the interior and justice ministers had agreed to deal with the issue by speeding up the citizenship application process for those who would need to apply. Out of the 500 summoned to ministry offices for the purpose, 362 had received citizenship 'very quickly.' Of the remaining 140, 134 failed to respond, while six have not yet been given citizenship 'for other reasons.' A Justice Ministry official insisted that 'there have been no refusals so far.'"²⁹⁷ HRW misrepresents the story, provided as evidence of apartheid, by deliberately omitting the final outcome, which showed out of more than 2,626 cases 95% in the end retained citizenship. HRW actually cites this *The Times of Israel* article in footnote 577 so its misrepresentation of this event is either deliberate or gross incompetence.

224. DOUBLE STANDARD: HRW writes that one of the paths to citizenship, "naturalization, applies only to non-Jews. The Citizenship Law permits the Interior Ministry to grant citizenship to those who meet a number of conditions, including several years of residency in Israel, intention to settle, knowledge of Hebrew, renunciation of foreign citizenship, and oath of loyalty" (p. 148). As discussed in Point 2, HRW considers as apartheid Israel's decision to allow foreign Jews to become citizens, despite the same practice employed worldwide by many nations, all legal according to international law and never considered discrimination, let alone apartheid. The same sentence HRW wrote for Israel could be applied to other nations, for example, "naturalization, applies only to those of non-Danish descent" – but no one ever considers Denmark's rules discriminatory.

225. DOUBLE STANDARD: HRW criticizes Israel for certain restriction on citizenship for spouses of Israel citizens, such as Palestinians (p. 148-49). Again, HRW applies the "perfection standard" to cite a certain practice as evidence of apartheid, never bothering to compare various spousal citizenship and residency rules to those of other nations. For example, Denmark has strict rules for permanent residency, favoring certain groups over others for seemingly arbitrary reasons. As their rules state, residency rules are "relaxed" for those with "strong ties to Denmark" which includes

²⁹⁷ *The Times of Israel*, "Knesset demands answers after some Negev Bedouin have citizenship revoked," Sue Surkes, August 16, 2020; <https://www.timesofisrael.com/knesset-demands-answers-after-some-negev-bedouin-have-citizenship-revoked/>

having affiliation with a Danish minority in Argentina and belonging to a Danish minority in South Schleswig.²⁹⁸ Denmark is known for particularly tough citizenship rules.²⁹⁹ Of course, these rules disadvantage certain other nationalities, ethnicities and situations – but they are all within the bounds of international law. While there are likely sad cases and seemingly unfair decisions, this is quite normal worldwide and sovereign nations are seen as having wide latitude on residency and spousal citizenship. These harsh rules and varying laws have not been considered by HRW as discriminatory or an element of apartheid anywhere in the world, except in the case of Israel.

226. ERROR: HRW fabricates the notion that: "Israeli authorities also distinguish between citizenship and nationality, and structurally discriminate between citizens based on their nationality. The Israeli government registers the nationality of all citizens and, until 2005, included nationality on each citizen's identity card" (p. 149). HRW does not explain how Israel applies different laws, or provides any examples, to certain Israeli citizens but not others based on their "nationality."

227. MISREPRESENTATION: A key problem faced by HRW in their apartheid thesis is that 2 million Arab-Israelis have citizenship. HRW in part addresses this problem by acknowledging that "Palestinians" in Israel have citizenship but invents a new concept claiming: "The bifurcation between citizenship and nationality means that Israeli law relegates Palestinians at birth to an inferior status by law" (p. 149). HRW does not explain how a country can grant a person citizenship but not "nationality" and does not explain how this is evidence of apartheid. For instance, how might Germany grant "nationality" to its Turkish citizens in addition to citizenship? Or Australians to its Aboriginal citizens? Does the "Arab Republic of Egypt" that enshrines Islam as its state religion grant nationality separate from citizenship to its large and ancient Coptic minority, who do not consider themselves Arabic or Muslim? HRW also does not explain which Israeli "law" relegates certain citizens to an inferior status – this entire notion is fabricated. HRW also ignores the fact that over 70% of Arabs in Israel specifically consider themselves to be "Israeli" (74% self-define as either Arab-Israeli or just Israeli) and only 7% Palestinians; HRW discriminatorily removes the agency of a large majority of Arab citizens of Israel who affirmatively consider their nationality to be Israeli.

²⁹⁸ New to Denmark, "Apply for permanent residence based on strong ties to Denmark"; <https://nyidanmark.dk/de-DE/You-want-to-apply/Permanent-residence-permit/Strong-attachment-to-Denmark/?anchor=D37AE6F7506F4AD98A33EED951A96C7D&callbackItem=C274ABF211D844E99B9B5F124E517C65&callbackAnchor=F57824D8BE484E4491D0CEF49A3348B1D37AE6F7506F4AD98A33EED951A96C7D>

²⁹⁹ European Commission, "Denmark tightens rules for citizenship once again," April 20, 2021; https://ec.europa.eu/migrant-integration/news/denmark-tightens-rules-citizenship-once-again_en

228. ERROR: HRW seeks to further demonize Israel's Nation-State Law claiming it "provides a legal basis to pursue policies that favor Jewish Israelis to the detriment of Palestinians" (p. 149-50). In fact, Israel's Basic Law that enshrines equal rights remains active and valid (affirmed in Clause 11 of the Nation-State Law) and the Nation-State Law does not provide a legal basis to discriminate. As evidence, HRW cites one case from November 2020 when an Israeli magistrate court cited the Nation-State law to dismiss a lawsuit by Palestinians schoolchildren related to reimbursement of certain expenses. As is typical in HRW's report, it deliberately obscures the full story and final outcome since the complete picture contradicts apartheid. The Haifa District Court *reversed* the lower court ruling, "rejecting the use of the Jewish Nation-State Law as a basis."³⁰⁰ The ruling added that the application of the law to limit Israeli-Arab rights was improper. This event actually confirmed that Israel's Basic Law enshrining equal rights remains in force – a lower court made an improper ruling that was overturned by the higher court – contradicting HRW's false premise. HRW does not cite any other evidence to support its contention.

229. DOUBLE STANDARD: HRW continues its assault on the fact that Israel identifies as a Jewish state, noting that "no candidate can run for the Knesset if they expressly or implicitly endorse 'negation of the existence of the State of Israel as a Jewish and democratic state.'" HRW further notes that the 1992 Law on Political Parties bars the registration of any party whose goals directly or indirectly deny "the existence of Israel as a Jewish and democratic state" (p. 150). HRW claims that these laws prevent Arabs "from challenging laws that codify their subjugation." HRW thus makes clear the Israel's mere definition as a "Jewish state" *subjugates* Palestinians. HRW would never claim that dozens of Muslim states "subjugate" their non-Muslim citizens simply by defining as a Muslim state. None of these nations would allow registration of parties that seek to negate the constitutional definition of these nations as Islamic – in fact, blasphemy laws (see Point 46) consider any type of insult to Islam a crime. Greece codifies the Eastern Orthodox Church as a state religion in its constitution – does Greece thus "subjugate" its non-Christian citizens? It is accepted worldwide that states can self define by religion or ethnicity – but not for Jews under HRW's "perfection standard."

230. DOUBLE STANDARD: HRW claims that the inability of parties to negate the existence of Israel as a Jewish and democratic state "diminish[es] the value of the right of Palestinians to vote" and adds: "The fact that no government in Israel's history has ever included representatives of a Palestinian-led party highlights the political disempowerment of the community" (p. 150-51). Once again HRW claims that Israel's

³⁰⁰ *The Jerusalem Post*, "Court rejects use of nation state law to block funds to bus Arab students," Yonah Jeremy Bob, February 4, 2021; <https://www.jpost.com/arab-israeli-conflict/higher-court-rejects-using-law-to-block-funding-for-busing-arab-students-657813>

definition as a Jewish state is evil, in this case harming the value of the Palestinian vote. As in the prior point above, HRW would never claim that the vote of non-Christian Greeks is diminished, or Coptic Egyptians, or in any of the many other nations that enshrine a certain religion. While occurring after the HRW report, in June 2021 the Arab Ra'am party joined the governing coalition, the first time for an Arab party – a true threshold had in fact been crossed.

231. ERROR: HRW writes that "Ninety-three percent of all land in Israel constitutes state land" and that "Israeli authorities confiscated much of this land, several million dunams, from Palestinians through several legal instruments" (p. 151). In the overall discussion on supposed Israeli theft of Palestinians land, there is a gross and deliberate misrepresentation by HRW that all land that was not legally owned by Jews prior to 1948 or 1967 was "Palestinian land." It is common to see maps that purport to show how Palestinian land has been eroded over the decades.³⁰¹ The fact is that the vast majority of the land was not privately owned, and certainly not part of a sovereign Palestinian entity, but in various categories of government ownership. While there is some data available on Jewish land ownership prior to the 1948 war, there are few statistics on private Arab ownership, mainly due to complex Ottoman land laws, lack of registration and title, and poor documentation, so all numbers on this topic are rough estimates and extrapolations from other data. The best source of data, ignored by HRW, is *A Survey of Palestine* published by the Anglo-American Committee of Inquiry in 1946. As outlined in detail in this publication, most of the land was classified under various Ottoman state legal constructs, with little privately owned. The simple numbers outlined in this 1946 report make clear that most of the land that became Israel in 1948 was not confiscated from private Arab owners or "Palestinians," but was merely passed along from Ottoman to British to Israeli control. Off the top, the survey makes clear that the Negev desert (which it calls "the deserts of Beersheba") comprised 12,577 sq km which it allows, "there may be private claims to over 2000 square kilometers that are cultivated from time to time."³⁰² So, we already know for sure that about 60% of Israel today (which comprises about 20,700 sq km) *was not* confiscated from Palestinian landowners since it was government-owned desert. The survey then notes that outside of the Negev desert, some 3,000 sq kms are "mountainous wilderness" which it asserts would be mostly empty state land. Next, the survey describes in detail another 1,560 sq kms that is some form of public or government owned land. Adding these three categories together arrives at roughly 75% of 20,700 sq kms at minimum that is *not* privately owned. The survey then outlines in detail private Jewish ownership of 1,588 sq km, and after subtracting areas

³⁰¹ *The Tower*, "The Mendacious Maps of Palestinian 'Loss,'" Shany Mor, January 2015; <http://www.thetower.org/article/the-mendacious-maps-of-palestinian-loss/>

³⁰² Anglo-American Committee of Inquiry, Volume I, "A Survey of Palestine," December 1945-January 1946, p. 257

in Gaza and West Bank, comes to roughly 7% of Israel. Other categories are nebulous with the British not quite knowing exactly the breakdowns, noting that some "will no doubt be found to be part of village land" – which is again not private ownership. Estimates based on these figures and other sources typically places private Arab ownership in the low-to-mid-teens percentage although these are only estimates; propaganda cites figures in the 90% range. Yet, despite these easily verifiable numbers in the best source of information prior to the 1948 war, the myth persists that Israel stole nearly all their land from Palestinians – and HRW repeats this myth.

232. MISREPRESENTATION: HRW claims that the JNF develops state lands "for Jews and not any other segment of the population" (p. 151-52). HRW misrepresents the history, nature, and purpose of the Jewish National Fund (JNF). Footnote 595 cites a response by the JNF to a certain court case from 2004 this provided detailed information about the JNF, and which HRW ignores: (1) "The JNF is a private, limited company, which was established in Great Britain and later registered as an Israeli company. The JNF was founded as a voluntary association. As a landowner, the JNF is not a governmental authority, a governmental corporation, or a public body. The JNF did not receive and is not receiving funds from the government to support its operations." (2) "JNF [Jewish National Fund] lands are not state lands. The JNF is the sole owner of the lands in its possession. JNF ownership of JNF lands is total, private, and separate from the state. The JNF purchased all of the land in its possession from previous owners by means of funds donated incrementally by Jews from all over the world for the purpose of purchasing land in Eretz Israel to be held and developed on behalf of the Jewish people."

233. MISREPRESENTATION: HRW writes: "Less than 3 percent of all land in Israel falls under the jurisdiction of Palestinian municipalities, where the majority of Palestinian citizens live, according to a 2017 estimate by Israeli and Palestinian groups" (p. 152). Footnote 600 cites a webpage from NGO Sikkuy-Aufoq that says: "The total jurisdiction area of the 79 local Arab authorities in Israel constitutes only 3.4 percent of Israel's entire territory. 1,194,300 residents, approximately 14 percent of the country's citizens, inhabit this limited area."³⁰³ There are several misrepresentations in this statistic, which is meant to imply Arabs do not have enough land for their needs versus Jews. First, the land figure does not include privately held Arab land, which is another 3.0%-3.5%, three times per capita than Jews. Also not mentioned is territory where Israel's 800,000 additional Arabs live, many in mixed cities. How are these cities like Haifa characterized? Are these "Jewish" or "Arab" localities? HRW does not provide the percentage of Israel's territory under the jurisdiction of "Jewish" localities.

³⁰³ Sikkuy-Aufoq, "Expansion of Jurisdiction Boundaries in Arab Local Authorities"; <https://www.sikkuy-aufoq.org.il/en/departments/equality-policy-department/expansion-jurisdiction-boundaries-arab-local-authorities/>

How does this compare to the fact that Jews comprise 75% of the population and Arabs 20%? A proper analysis would have incorporated state, municipal, and privately held land, adjusted for mixed-cities, and provide a per capita number. But HRW only cherry-picks isolated statistics to back its fabricated narrative.

234. MISREPRESENTATION: HRW continually promotes the falsified notion that Arab communities in Israel are not provided space to live; is it one the major lies exposed in Point 6. HRW asserts that Palestinian (referring to Arab-Israeli) towns are "hemmed-in" (p. 152-53). In HRW's narrative, the mere fact that municipal boundaries are limited in their ability to expand is seen by HRW as "hemming in" – despite the fact that many Israeli cities are similarly "hemmed in," such as Tel-Aviv. One HRW case study is the Arab town of Jisr al-Zarqa, where HRW blames Jews for crimes as far back as the 1920s when the Jewish Colonization Society "drained the swamps from which local residents [of Jisr al-Zarqa] derived their livelihood herding buffalos and weaving reed mats."³⁰⁴ A letter written to HRW by an Israeli Planning Administration Official explained that a proposed master plan was approved for this community in 2018, which provided for new development areas and accommodation for a target population of 20,000, up from 14,000.³⁰⁵ Similar plans for growth and development were provided by the Israeli planning office for the other two HRW "case studies," which HRW essentially deems as not sufficient to change its opinion of Israeli wrongdoing. HRW does not provide any evidence of the "hemming in" of Arab towns versus Jewish towns, as well as discuss how mixed towns factor into the analysis.

235. MISREPRESENTATION: HRW asserts that Israel's policies of "hemming in" Arabs in Israel has created a "housing crunch in Palestinian communities" (again referring to Arab-Israelis) (p. 153). This is another gross misrepresentation and as usual, HRW does not provide any statistics to evaluate if Jews are suffering from a similar shortage and if Arabs are notably disadvantaged in a way that rises to a crime of apartheid. There is a well documented housing crisis throughout Israel and the government seeks to build 280,000 homes in the next four years. According to Israel's State Comptroller (and cited by Amnesty in their "apartheid" report), in 2015 there was a 13,000 annual unit shortage in Arab communities.³⁰⁶ An article in *Haaretz* from 2017 cites an Arab lawyer who specializes in housing law and advises Arab municipalities: "The Arab community needs 5,000 new housing units per year... On average, no more than 1,400 building permits are approved each year, so we've got a shortfall of more

³⁰⁴ Human Rights Watch, "Israel: Discriminatory Land Policies Hem in Palestinians," May 12, 2020; https://www.hrw.org/news/2020/05/12/israel-discriminatory-land-policies-hem-palestinians?fbclid=IwAR0vdJktAcKixLl16nillNVibC3uoOI_YXoogQRGpWaynU4YbK_YAXMIqTc

³⁰⁵ Letter to Human Rights Watch from Official Israel Planning Administration, March 19, 2020; https://www.hrw.org/sites/default/files/supporting_resources/202003mena_ip_ipa_letter.pdf

³⁰⁶ State of Israel, State Comptroller and Ombudsman of Israel, *The Housing Crisis*, 2015; Also cited by Adalah, "Deliberate Obstacles, Not Failures," April 2015

than 3,000 housing units per year."³⁰⁷ In fact, is the Jewish sector that faces the largest "housing crunch" that government planning officials seek to solve with a target of 280,000 new homes in the next four years, or 70,000 per annum, dwarfing the need in the Arab sector.³⁰⁸ As usual, HRW did not conduct any research, merely making broad assertions of Israeli wrongdoing without any evidence.

236. MISREPRESENTATION: HRW claims: "discriminatory Israeli policies and practices leave about 90,000 Palestinian Bedouins living in 'unrecognized' informal communities, where their homes face the constant threat of demolition. At the same time, Israeli authorities and quasi-governmental bodies have invested billions of shekels in building new developments in the Negev designed predominantly for Jews" (p. 153-54, the same discussion of Bedouins is repeated on p. 199-200). The implication is that Israel does not develop towns for Bedouins, only for Jews, instead demolishing Bedouin homes. This narrative is a complete distortion of reality. Israel has made great efforts to move Bedouins into modern towns, building new towns for Bedouins and developing plans to relocate others to modern housing. It is the Bedouins who often refuse to leave their tent camps and semi-nomadic lifestyle while living on certain lands illegally. For example, in 2018 Israel approved a town earmarked for Bedouins (Avdat) with 500 units with modern living features.³⁰⁹ Although occurring after the HRW report was issued, in early 2022 Israel moved forward with a plan to recognize 10 to 12 Bedouin villages that are currently deemed illegally constructed.³¹⁰ The situation with the Bedouins, which is complex due to their semi-nomadic lifestyle that comes into conflict with the functioning of a modern nation, is another example of "apartheid if you do, apartheid if you don't." If Israel does not develop towns for Bedouins but only for Jews as HRW contends here, then it is apartheid; however, as HRW also asserts, Israeli authorities "have sought to concentrate Bedouins in larger recognized townships" (p. 13). Either way Israel will always be acting criminally according to HRW – the only way not to commit apartheid is to allow Bedouins to live wherever they want, build wherever they want, and after they do that inform Israel, and then Israel must accept the Bedouin locations as permanent and deliver modern services to these locations without delay.

³⁰⁷ *Haaretz*, "The Real Housing Crisis in Israel Is in Its Arab Towns," Hagai Amit, February 10, 2017; <https://www.haaretz.com/israel-news/business/2017-02-10/ty-article/the-real-housing-crisis-in-israel-is-in-its-arab-towns/0000017f-f538-ddde-abff-fd7d52b10000>

³⁰⁸ *The Times of Israel*, "Government plans building boom to alleviate Israel's housing crisis," Times of Israel Staff, October 31, 2021; <https://www.timesofisrael.com/government-plans-building-boom-to-alleviate-israels-housing-crisis/>

³⁰⁹ *Haaretz*, "Bedouin Communities Oppose Israel's Plan for New Negev Town," Almog Ben Zikri, May 15, 2019; <https://www.haaretz.com/israel-news/.premium-israel-approves-new-town-to-house-bedouins-from-unrecognized-villages-1.7245066>

³¹⁰ *The Times of Israel*, "Amid crisis, government said advancing plan to recognize 10-12 Bedouin villages," Times of Israel Staff, January 13, 2022; <https://www.timesofisrael.com/amid-crisis-government-said-advancing-plan-to-recognize-10-12-bedouin-villages/>

237. ERROR: HRW writes that, in contrast to policies towards 90,000 Bedouins as cited in the prior point, "Israeli authorities and quasi-governmental bodies have invested billions of shekels in building new developments in the Negev designed predominantly for Jews" (p. 153-54). The evidence for this statement in Footnote 607 tells the reader to see the "Intent to Maintain Domination and Systematic Oppression Sections." Going back to prior sections finds references to plans by Prime Minister Ariel Sharon from 2003 to "settle the Galilee and the Negev" (p. 74), an announcement by the JNF of its aim to bring 1.5 million residents to the Negev and Galilee by 2040 (p. 59), and an announcement by Sharon of a 16.8 billion NIS plan to "increase the number of residents in the Negev to 1.5 million and in the Galilee to 1.1 million by 2010" (p. 57-58). Notably, there is absolutely no discussion or detail backing up HRW's statement that Israeli government entities "have invested billions of shekels in building new developments in the Negev designed predominantly for Jews." HRW likely referred the reader to prior sections assuming the reader would not check, because the Israeli government *has not* actually made these "billion of shekels" of investments in "new developments" for Jews, and the population growth discussed back in 2003 and by the JNF has not even come close to occurring. The Israel government has been discussing growth in the Negev for decades with little progress, and has recently approved plans for new towns – but the billion of shekels have yet to be invested. In March 2022 a Knesset cabinet resolution authorized the start of planning for five new communities in the Arad area, four slated as Jewish communities and one for Bedouins.³¹¹

238. MISREPRESENTATION: HRW provides another graphic purporting to show discrimination between Jewish and Palestinian citizens of Israel (again, referring to Arab-Israelis) in the Negev (p 155). The differences are misrepresented as discriminatory, but they are in reality related to legal matters of land ownership and illegal construction. HRW's graphic rehashes the points in the text, which are that Israel does not recognize illegally built villages – in reality illegally built tent camps, refuses to connect these locations to electricity and water utilities, and criticizes Israel for attempting to move Bedouins to modern towns (that have modern utilities). HRW makes clear that Bedouins should be allowed to build wherever they want without hindrance regardless of land ownership or legality, and that Israel must then provide full modern utility and other services to these locations. Anything less is apartheid. It should also be pointed out the HRW is obsessed with the situation of Bedouins mainly in the Negev, massively exaggerating and distorting the situation to evidence apartheid. HRW deliberately ignores the broader experience of the more than 95% of

³¹¹ *Haaretz*, "Israel Approves Four Jewish Desert Communities in Tense Cabinet Meeting," Michael Hauser Tov, March 27, 2022; <https://www.haaretz.com/israel-news/2022-03-27/ty-article/.premium/israel-approves-plans-for-five-new-communities-in-negev/00000180-5bcb-de8c-a1aa-dbeb8d750000>

the Arabs in Israel who have proportionate representation in some of Israel's leading universities (Technion),³¹² proportional representation of medical professionals in leading Israeli hospitals,³¹³ and growing representation in the army (in fact, 600 Bedouins, a record number, joined the IDF in 2020)³¹⁴ to focus obsessively on the complex issue of Bedouins who maintain a semi-nomadic lifestyle. HRW also erases the broader experience of Bedouins in Israel, reducing them only to groups of oppressed minorities. For example, the town of Rahat, the largest Bedouin town in the world with about 77,000 residents, grew from nothing in 1972. The town is thriving, with several industrial zones and a major investment in tourism.³¹⁵ More than 100,000 Bedouins live in six other modern townships as equal citizens of Israel. 1,500 Bedouins serve in the IDF and comprise important units of the army.³¹⁶ HRW does not want to discuss the broader experience of Bedouins in Israel that face nothing remotely like apartheid, instead only focusing on a small minority who seek to maintain a semi-nomadic lifestyle and are involved in long standing land disputes.

239. MISREPRESENTATION: HRW cites statistics from a 2014 report produced by Sikkuy and Injaz, "From Deficits and Dependence to Balanced Budgets and Independence: The Arab Local Authorities' Revenue Sources," to allege disparities in local tax sources and government funding for education, municipal services, and other benefits. HRW claims, based on the report, that Jewish tax collection from local tax sources comprises 66% of local budgets and only 31% for Arab localities – therefore apartheid (p. 156). This difference is mostly due to a generally lower tax base in Arab locations, which HRW acknowledges, not due to nefarious apartheid. HRW does not cite from the same report that government contributions for education significantly narrows the disparity from local funding, with education spending for Arabs 8% *higher* per student than for Jews. While there is still a gap in the end, higher central government spending per capita for Arabs contradicts the notion of state-sponsored apartheid. These disparities are normal in most societies with minority populations, thus HRW applies the "perfection standard" on Israel alone and of course does not place these statistics for Arabs in context for minorities in other democracies. For example, in the U.S. local tax dollars collected were 56% higher for white districts

³¹² Technion, iGem, "Inclusion"; <https://2020.igem.org/Team:Technion-Israel/Inclusion>

³¹³ *The Jerusalem Post*, "'We are family': Jewish and Arab medical staff respond to ethnic tensions," Rossella Tercatin, May 13, 2021; <https://www.jpost.com/arab-israeli-conflict/we-are-family-jewish-and-arab-medical-staff-respond-to-ethnic-tensions-668120>

³¹⁴ *The Jerusalem Post*, "Record number of Bedouin drafted into IDF in 2020," Anna Ahronheim, October 7, 2021; <https://www.jpost.com/israel-news/record-number-of-bedouin-drafted-into-idf-in-2020-681319>

³¹⁵ *Ynet News*, "Bedouin city to build 500 guest houses in massive tourism push," July 30, 2022; <https://www.ynetnews.com/travel/article/rkn1hdan9>

³¹⁶ *The Jerusalem Post*, "Arab Christians and Bedouins in the IDF: Meet the members of Unit 585," Anna Aronheim, January 12, 2020; <https://www.jpost.com/israel-news/the-sky-is-the-limit-in-the-idfs-unique-unit-585-613948>

versus Black districts, and unlike Israel, state funding was also higher for whites by 4%.³¹⁷

240. MISREPRESENTATION: HRW writes: "The significantly higher levels of non-residential local taxes that Jewish localities collect [versus Arab ones] are the result of discriminatory state policies. The Knesset Research and Information Center found in July 2018 that only 2 percent of industrial zones managed by the government, which generate significant tax income, are located in Palestinian municipalities" (p. 156). HRW omits critical data, such as the percentage of government industry in these zones versus all other industry, or tax revenue generated by these government managed zones versus from other business sources. Most industry in Israel today is *private* and Israeli government-managed industry was mostly privatized more than two decades ago. The high-tech industry, all private, took in \$27 billion in funding in 2021 (as noted in Point 25, the Arab city of Nazareth has been transformed with private investment in high tech). HRW omits other critical data that would have required actual primary research and analysis. For example, assessing the percentage of industrial zones located in Jewish municipalities and mixed Jewish & Arab ones (Haifa, Israel's third largest city and significant industrial area is a mixed city – how is this treated in the statistics?). Industrial zones are often located outside of inhabited areas, how does this factor into the analysis? It is certainly true that lower income areas, often with minority populations, generate lower tax revenue – this is the case worldwide. How does Israel's disparity compare to the rest of the world? HRW will never answer, simply cherry-picking one mostly irrelevant statistic (government managed industrial zones) to make a broad claim of state sponsored racism.

241. ERROR: HRW writes: "Government buildings also generate significant tax revenues, but, according to a July 2020 study by Knesset Research and Information Center, only 0.4 percent of government properties that generate tax revenues are located within Palestinian municipalities" (p. 156). HRW fabricates and misrepresents the Knesset report. First, it is incorrect that 0.4% of these properties are located in Arab municipalities, simply that 0.4% of tax revenue from government properties goes to the "Arab Sector." There is no information on the number of properties in each sector. But the deliberate withholding of critical is more egregious – the government recognizes the disparity and therefore issues "Balance Grants" to the Arab Sector to make up the difference. 41.9% of these grants are paid to the Arab sector compared to their 14.4% proportional share. HRW knows this, as the same chart that shows the 0.4% number also shows the 41.9% balance grant number. HRW likely assumed no one would

³¹⁷ *The Washington Post*, "Report finds \$23 billion racial funding gap for schools," Laura Meckler, February 26, 2019; https://www.washingtonpost.com/local/education/report-finds-23-billion-racial-funding-gap-for-schools/2019/02/25/d562b704-3915-11e9-a06c-3ec8ed509d15_story.html

check a report written in Hebrew. HRW's entire premise of state sponsored apartheid is starkly contradicted by the fact that the government acknowledges the disparity and takes measures to close the gap.

242. MISREPRESENTATION: HRW sees evidence of apartheid in the fact that "not a single Palestinian municipality has a government hospital" (p. 157). Focusing on the locations of government hospitals is misleading on several levels and omits the significant Arab presence in the Israeli healthcare system, all of which contradicts notions of apartheid. First, only 18 out of 45 acute care hospitals are government owned, so overall the system is majority private.³¹⁸ Second, the Arab population is spread among many smaller municipalities that do not lend themselves to having a hospital, as these facilities are generally built near larger population centers. In key areas where Arabs are concentrated, there are plenty of hospitals. The Haifa district has approximately 237,000 Arabs and are served by several hospitals. Over 350,000 Arabs live in Jerusalem, which is also served by numerous hospitals. Key Arab towns are served by modern hospitals, such as the Al-Noor Medical Center in Umm al-Fahm and the EMMS Nazareth Hospital that employs over 500 staff. According to official figures from the Health Ministry, Arabs comprise 17 percent of Israel's physicians, 24 percent of its nurses, and 47 percent of its pharmacists.³¹⁹ Arabs study in Israeli medical schools and are present in all Israeli hospitals as patients and staff with full equality. The Israeli healthcare system is a model for Arab-Jewish cooperation and there is no apartheid of any kind that can be found in the healthcare system. HRW deliberately omits all of this information and context to advance its fabricated narrative.

243. MISREPRESENTATION: HRW finds evidence of apartheid in the fact that "not a single Palestinian municipality has a... university" (p. 157). Similar to the prior point, focusing on the locations of universities is misleading on several levels and omits the significant Arab presence in the Israeli university system. Israel's universities are concentrated in its major population centers, not in Arab municipalities or Jewish ones of similar size. Haifa houses two universities, including the world-renowned Technion, where a recent article in *Nature* noted that "Arab students thrive in Israel's Technion."³²⁰ As reported in *The Times of Israel*, the Arab student body has tripled in

³¹⁸ The Commonwealth Fund, "International Health Care System Profiles, Israel"; June 5, 2020; <https://www.commonwealthfund.org/international-health-policy-center/countries/israel>

³¹⁹ *Haaretz*, "Arab Israelis Fight Coronavirus as First-class Doctors but Second-class Citizens," Lee Yaron, March 17, 2020; <https://www.haaretz.com/israel-news/2020-03-17/ty-article/.premium/arabs-in-israel-fight-pandemic-as-first-class-doctors-but-second-class-citizens/0000017f-e73b-df2c-a1ff-ff7b5d0b0000>

³²⁰ *Nature*, "Arab students thrive in Israel's Technion," May 5, 2020; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjgoJ_tssz5AhU0F2IAHWIfCzIQFnoECAgQAQ&url=https%3A%2F%2Fwww.nature.com%2Farticles%2F41586-020-01327-3&usq=AOvVaw3bfsTnRdjU3b3wNwzuY8UK

the last decade and now comprise 20% of students, proportional to the Arab population. 61% of these Arab students are women, likely the only location in the Middle East where Arab women attend a leading technical university.³²¹ At the Hebrew University in Jerusalem there has been a doubling of the Arab student body, which today comprises about 14% of its student body, yet HRW claims a "threshold" to apartheid has now been crossed.³²² Several of Israel's other universities are located in the Tel-Aviv Metro area, which comprises approximately 40% of the nation's population. Even at Ariel University, which is inside an Israeli settlement in the West Bank, Arab students are welcome and comprise about 500 persons today. As 20-year-old Arab-Israeli student Manar Diuani explained about his enrollment to Ariel University: "I scored high on my psychometric exam and could have enrolled in Tel Aviv University and other institutions, but here the enrollment process was quicker. This was the first place that accepted me, so I decided to go for it."³²³ Mr. Diuani is from the Arab town of Tayibe and could have easily attended Tel Aviv University, which is only about a 30-minute drive away. HRW devotes close to four full pages of its report on anecdotal stories of Gazans who have trouble traveling out of the territory, but not one sentence on how Arabs in Israel are thriving in a democracy that allows its men and women to take advantage of some of the leading universities in the world sitting next to Jews in the same classroom. An honest assessment of Israel's university system would have shown there is absolutely nothing remotely akin to apartheid to be found in these institutions or their locations.

244. MISREPRESENTATION: HRW finds evidence of apartheid in the fact that "not a single Palestinian municipality has a... military base" (p. 157). Similar to the prior points, focusing on the locations of military bases and expecting them to be located in what are generally smaller Arab municipalities does not make sense. In fact, military bases are not typically located within municipalities. (The Kirya, the central military base comprised of offices, is located in the heart of Tel Aviv, similar to the way the Pentagon is located in metro Washington D.C. and MOD Whitehall is located in metro London.) The origin of the Arab-Israeli conflict also factored into the location of Israeli bases; it was Arabs within British Palestine and the surrounding states who attacked Jews in 1947-48 in order to halt the formation of the new Jewish state and who remained hostile to Israel for decades. HRW does not consider this history as a factor in how Israeli military bases were originally located.

³²¹ *The Times of Israel*, "At Israel's MIT, education, not affirmative action, triples Arab enrollment," Dov Liber, December 16, 2016; <https://www.timesofisrael.com/israels-mit-uses-education-not-affirmative-action-to-triple-arab-enrollment/>

³²² The Hebrew University of Jerusalem, "Students from Arab Society"; <https://en.diversity.huji.ac.il/arabsociety>

³²³ *Ynet News*, "500 Arabs begin studies in Ariel: 'There's no racism here,'" Doron Sheffer, October 17, 2010; <https://www.ynetnews.com/articles/0,7340,L-3970752,00.html>

245. ERROR: HRW writes: "Israeli authorities allocate [government] budgets in a discriminatory fashion." The key evidence cited is a claim, based on a report from Adalah, that "of the 2.82 billion NIS (\$804 million) of economic recovery funds handed out by the Israeli government to local authorities in April 2020 amid the Covid-19 pandemic, only 1.7 percent went to Palestinian municipalities." A more complete discussion of these events can be found in the Israeli Knesset website and Israeli news reports, which invalidate the point made by HRW. Importantly, the COVID economic package in question was specifically earmarked towards businesses, not localities, Jewish or Arab. Some Arab MKs wanted the package to cover local property taxes but as an official from the Finance Ministry explained: "There is no connection to the issue of indemnity in property taxes for businesses. The funds were transferred to businesses, the authorities were transparent in this regard. They gave exemptions and received money, [so] they made no profit here. The Arab authorities have a small number of businesses, so they received a small part of the money. The purpose of the allocation was to help businesses, not the local authorities. By definition, not one local authority has benefited from this allocation."³²⁴ Indeed, reports of coronavirus economic packages in this time period note funding to help businesses and the health system.³²⁵

246. MISREPRESENTATION: HRW seeks to portray the education system in Israel as evidence of apartheid, with the premise being that since various metrics show that Jews and Arabs are not equal, it not only proves discrimination, but apartheid. HRW shoddy research is evidenced by reliance on information that is a decade or two old. Footnotes 621 and 622 in this discussion cite a previous HRW report from 2001 and a paper from 2012. In the text, HRW cites school budget data analysis by the Mossawa Center from 2013 (p. 157) – HRW could not take the time to obtain more recent numbers. It is true that schools in Arab localities have less funding per student than in Jewish localities (again, no information is provided in mixed cities like Haifa). The key reason is a lower tax base in Arab localities, not state sponsored apartheid; these differences in tax bases for school funding are an issue in the U.S. as well as property tax difference lead to large difference in school funding.³²⁶ The same report by Sikkuy and Injaz cited by HRW in footnote 612 discloses another statistics that contradict HRW's theses: "The revenues per pupil (age 3–18) from the Education Ministry were

³²⁴ The Knesset, Knesset News, Finance Committee discusses the implications of the economic crisis affecting the Arab community," May 12, 2020; <https://m.knesset.gov.il/EN/News/PressReleases/Pages/press12520b.aspx>

³²⁵ *The Times of Israel*, "Israel announces \$2.8 billion rescue package for companies battered by virus," Times of Israel Staff, March 11, 2020; <https://www.timesofisrael.com/israel-announces-2-8-billion-rescue-package-for-companies-battered-by-virus/>

³²⁶ *NPR*, "Why America's Schools Have A Money Problem," April 18, 2016; <https://www.npr.org/2016/04/18/474256366/why-americas-schools-have-a-money-problem>

slightly higher for the Arab local authorities than the average contribution to Jewish and mixed authorities (NIS 3,741 and NIS 3,459 per pupil, respectively).³²⁷

247. MISREPRESENTATION: HRW cherry-picks another number related to the education system to evidence apartheid. HRW writes: "*Haaretz* found that expenditures by the state for Jewish Israeli high school students were 35 to 68 percent higher than for Palestinian students at the same socioeconomic level" (p. 158). As usual, HRW cites 2013-14 statistics and could not bother to obtain more recent statistics. The article overall is vague but reveals that "the most generous per-student funding goes to the state religious schools."³²⁸ Israel provides generous funding to the ultra-Orthodox education sector, at levels above secular Jewish schools. This generous funding is controversial and skews the numbers, as secular Jewish school and Arab schools funding are much closer, sometimes higher for Arabs, and do not evidence apartheid. An August 2020 *Haaretz* article revealed that: "Elementary schools in the state-religious system... received more funding than 'regular' Jewish elementary schools. Students in the former received some 17,800 shekels in funding in 2019, about 15% more than the 15,000-shekel budget for those in the latter school system. Arab elementary schoolers received 18,300 shekels on average."³²⁹ Overall Arab schools receive less funding than Jewish schools, but the gap is closing and hardly evidence of apartheid. Various statistics can be cherry-picked to support a certain narrative, but no figures support apartheid. Funding gaps for minority groups is common worldwide; this is not justified as an acceptable outcome, but it does not evidence apartheid. For example, in Canada, First Nations students suffer a funding gap of at least 30%.³³⁰

248. ERROR: HRW states, in regard to the Israeli school system: "Discrimination colors every aspect of the two systems; often overcrowded and understaffed, poorly built or maintained state schools for Palestinian children offer fewer facilities and educational opportunities than what are offered to Jewish Israeli children" (p. 157). This is a generalized statement not backed up by evidence, as HRW simply misrepresents old data on school budgets. For example, Arab schools are not

³²⁷ Sikkuy and Injaz – Center for Professional Arab Local Governance, "From Deficits and Dependence to Balanced Budgets and Independence: The Arab Local Authorities' Revenue Sources," April 2014; http://www.sikkuy.org.il/wpcontent/uploads/2014/10/localauthorities_eng.pdf see page 25

³²⁸ *Haaretz*, "For Jews and Arabs, Israel's School System Remains Separate and Unequal," Or Kashti, July 7, 2016;

<https://www.haaretz.com/israel-news/2016-07-07/ty-article/.premium/for-jews-and-arabs-israels-school-system-remains-separate-and-unequal/0000017f-db06-dee4-a9ff-ff7798650000>

³²⁹ *Haaretz*, "Government Funding Favors Israel's Religious Schools, Ministry Says," Lior Dattel, August 27, 2020;

<https://www.haaretz.com/israel-news/business/2020-08-27/ty-article/.premium/government-funding-favors-israels-religious-schools-ministry-says/0000017f-e1e9-d804-ad7f-f1fb1f7a0000>

³³⁰ End the Gap, "It's time for fair funding for first nations schools"; <http://www.endthegap.org/>

"overcrowded" compared to Jewish ones. The same *Haaretz* article HRW cites in footnote 624 notes: "On average, Arab schools have more students per class than Jewish schools do – 28.1 versus 26.8, as of 2014."³³¹ In HRW's view, a difference in one student per classroom in Arab areas evidences "overcrowding" that rises to the level of apartheid. However, once again HRW cannot bother to obtain current information, which would show a material reduction in Arab class size. The chart below was developed by the well-respected Israel Democracy Institute.³³² Classroom size was 32.6 in 1969-70, 30.8 in 1989-90, 28.8 in 2009-10 (which is 0.7 more than the number reported in *Haaretz* in 2014) and most recently down to 24.8. Every aspect of classroom size as evidence of apartheid is a gross fabrication, and the data shows that the only "threshold" being crossed is one towards material improvement for Arab citizens of Israel, from budgets to class size.

**Number of schools, students, and classrooms in the Arab education system
1948–2020**

		1948– 1949	1969– 1970	1989– 1990	2009– 2010	2019– 2020
Schools	Elementary	45	219	330	537	657
	Secondary	1	37	90	341	465
	Total	46	256	420	878	1,122
Students	Elementary	9,991	85,449	139,600	247,215	246,866
	Secondary	14	10,507	67,816	155,374	192,172
	Total	10,005	95,956	207,416	402,589	439,038
Classrooms	Elementary	667	2,663	4,622	8,681	10,158
	Secondary	8	276	2,098	5,312	7,568
	Total	675	2,939	6,720	13,993	17,726

249. ERROR: HRW claims that "a five-year, more than 10 billion NIS (\$3 billion) 'economic development plan for the Arab sector'... increased allocations to sectors like transportation. However, it did not address other areas of disparity, including welfare service and high school education" (p. 158). HRW cites as evidence in footnote 625 a

³³¹ *Haaretz*, "For Jews and Arabs, Israel's School System Remains Separate and Unequal," Or Kashti, July 7, 2016;

<https://www.haaretz.com/israel-news/2016-07-07/ty-article/.premium/for-jews-and-arabs-israels-school-system-remains-separate-and-unequal/0000017f-db06-dee4-a9ff-ff7798650000>

³³² The Israel Democracy Institute, "Statistical Report on Arab Society in Israel: 2021," Dr. Nasreen Haddad Haj-Yahya, Dr. Muhammed Khalaily, Dr. Arik Rudnitzky, March 17, 2022; <https://en.idi.org.il/articles/38540>

report by the Inter Agency Task Force on Israeli Arab Issues, "Historic Economic Development Plan for Arab Sector: Overview and Key Allocation Areas, January 2016."³³³ The report is quite clear that "the Plan will address system wide needs, spanning the fields of education – from early childhood to higher education - to employment, transportation, infrastructure, housing, welfare, local governance, culture and others, changing altogether around 15 major government allocations mechanisms." Further below it breaks down in more detail the planned investment in "Formal and informal education," such as "Enhancing the quality of educational staff and pedagogy in Arab schools," and "Adding new classrooms and promoting constructions of new schools." A report by the same organization, titled "Update on First Year Implementation" of this development plan, showed that the second largest spending category out of ten listed was education.³³⁴ HRW's premise is mistaken.

250. DOUBLE STANDARD: HRW cites differences in poverty levels to evidence apartheid, without comparing minority poverty rates in Israel to other countries. HRW states that 45.3% of "Palestinian families" live below the poverty line (which appears to refer to Israeli-Arabs only although the text is unclear) versus 13.4% for Jewish families (p. 158). This data appears to be either old or mistaken, based on a report from May 2020 that is "on file with Human Rights Watch." According to more recent and accurate reports, as reported in *The Times of Israel* and *The Jerusalem Post*, based on Central Bureau of Statistic data and credible surveys, the national poverty rate in 2020 was 23%, and 17.7% for the Jewish population and 35.8% for Arab.³³⁵ The rate for ultra-Orthodox Jews was 49%, belying the notion of apartheid. See Point 166 for a further discussion of the double standard.

251. DOUBLE STANDARD: HRW points to the wage gap between Jews and Arabs as further evidence of apartheid, as usual not comparing these statistics to other nations to see if Israel is truly unique in the world as a criminal apartheid state. HRW cites data that shows the wage gap between Arab and Jewish men at 44.6% -- which means Arab men earn about 55% of the earnings of Jewish men -- and for women at 31% (p. 158). These figures appear accurate based on other data we reviewed, and the disparity it based on the type of work. Are these figures unusual? No, hardly. As reported in *The New York Times*, "the median earnings for Black men in 2019

³³³ Interagency Taskforce on Israeli Arab Issues, "Historic Economic Development Plan for Arab Sector: Overview and Key Allocation Areas," January 13, 2016; <https://www.iataskforce.org/activities/view/437>

³³⁴ Interagency Taskforce on Israeli Arab Issues, "Government Resolution 922: Five Year Economic Development Plan for Arab Society, Update on First Year Implementation"; January 13, 2016; <https://www.iataskforce.org/activities/view/437><https://www.iataskforce.org/resources/view/1520>

³³⁵ *The Jerusalem Post*, "About two million Israelis live below the poverty line – report," Maariv Online, January 22, 2021; <https://www.jpost.com/israel-news/israel-report-about-two-million-people-live-below-the-poverty-line-656317>. *The Times of Israel*, "Over 2.5 million Israelis live in poverty, among them 1.1 million kids, report finds," Ricky Ben-David, December 23, 2021; <https://www.timesofisrael.com/over-2-5-million-israelis-live-in-poverty-among-them-1-1-million-kids-report-finds/>

amounted to only 56 cents for every dollar earned by white men. The gap was wider than it was in 1970."³³⁶ The wage gap between Arab and Jewish women of 31% compares favorably to the 37% wage gap between men and women globally³³⁷ – yet HRW sees Israel's gap as evidence of apartheid. Even in some of the most advanced nations like Sweden and Denmark, the *overall* gender wage gap is significant, at about 25%. In Muslim nations such as Pakistan, the gender wage gap is 46%. Arab women in Israel who participate in the work force earn at levels not seen anywhere in the Arab world.

252. DOUBLE STANDARD: HRW points to the fact that 47.4% of Arab-Israeli work in unskilled labor and construction versus 10.4% for Jewish Israelis (p. 158-59). Again, these cherry-picked, out of context numbers that are not compared to similar statistics worldwide are meaningless. For example, in the U.S., Hispanics comprise 17% of the total employment but comprise 55% of construction and maintenance workers and 53% of agricultural workers³³⁸ – this is higher than Arab-Israelis who comprise about 20% of the population but only 34% of construction workers. Is this evidence of apartheid against Hispanics who work in construction at roughly 140% the rate as Arab-Israelis? We did not research similar statistics for minorities worldwide, but we are fully certain that neither did HRW, who prefers to simply apply a "perfection standard" to Israel alone.

253. MISREPRESENTATION: HRW devotes about ten pages of its report to a case study of the town of Nazareth, purporting to show how Israel discriminates against Arabs in this city (p. 159-68). HRW recounts how Israel established the town of Nazareth Illit (also known as Nof Hagalil) in the 1950s as a "Jewish town" meant to "swallow up" Nazareth. HRW admits that today 25% of Nof Hagalil's residents are Arab, above the national proportion of 20%.³³⁹ Yet this fact does not change the view that residents of Nazareth are facing a "squeeze." It is inane to present a thesis of a population being "squeezed" yet comprising a growing and disproportionate share of the population in the adjacent and supposedly "Jewish" town.

³³⁶ *The New York Times*, "Black Workers Stopped Making Progress on Pay. Is It Racism?," Eduardo Porter, July 1, 2021; <https://www.nytimes.com/2021/06/28/business/economy/black-workers-racial-pay-gap.html>

³³⁷ *Forbes*, "Could Religion Be Fueling The Gender Pay Gap?," Jennica Webster, August 5, 2021; <https://www.forbes.com/sites/jennicawebster/2021/08/05/could-religion-be-fueling-the-gender-pay-gap/?sh=258281452e21>

³³⁸ U.S. Bureau of Labor Statistics, "Labor force characteristics by race and ethnicity, 2018," October 2019; <https://www.bls.gov/opub/reports/race-and-ethnicity/2018/home.htm>

³³⁹ *The Times of Israel*, "Nazareth Illit changes name to end confusion with Jesus' hometown," Times of Israel Staff, June 21, 2019; <https://www.timesofisrael.com/nazareth-illit-changes-name-to-end-confusion-with-jesus-hometown/>

254. MISREPRESENTATION: In the narrative about the history of Nazareth, HRW cites historian Benny Morris who wrote: "Israeli officials gave the orders to 'uproot all the residents of Nazareth,' but the commander of the nascent Israeli army's brigade given the order, Ben Dunkelman, refused to carry it out, and authorities eventually allowed the city to surrender" (p. 160). HRW only reveals half the story. Nazareth was in fact seen from the start as "earmarked for special treatment because of its importance to the Christian world" (p. 608). Morris further explains: "On 15 July, the day before Nazareth fell, Ben-Gurion ordered the army to prepare a special administrative task force to take over and run the town smoothly..." On the next day, the commanding officer signed an instrument where the mayor would stay in place and "the Government of Israel... recognised the equal civil rights of the inhabitants of Nazareth as of all citizens of Israel without attention to religion, race or language." Morris adds that on July 17, a "front commander" gave an order "to uproot all the inhabitants of Nazareth." According to Dunkelman, it was the commanding officer who gave the order; either way the commanding officer checked on the matter with Ben-Gurion – who did not allow any removal of inhabitants. It should also be noted that Morris, who is arguably the leading historian on the 1948 war, has made clear that "Israel had no 'expulsion policy' against the Palestinians in 1948"³⁴⁰ – Morris is liberally quoted in anti-Israel reports, but his overarching thesis and conclusions are deliberately ignored since they contradict some of the key themes of these reports.

255. MISREPRESENTATION: HRW recounts the story of an 85-year old resident of Nazareth who in 1949 fled his home in Safuriyya "amid Israeli fire" (p. 161). HRW misrepresents the full story of this village during the 1948 war and the text should actually state that he fled "amid Arab fire directed towards advancing IDF forces." According to Benny Morris who is referenced in this section by HRW, the town of Safuriyya "strongly supported" the Arab Liberation Army and its commander Fawzi al-Qawuqji.³⁴¹ The town was directly involved in the fighting and "put up strong resistance to the IDF advance." Displacement of inhabitants from this village was directly related to their active participation in the war. As Morris explains in the next sentence: "In all the other villages captured in the second phase of Operation Dekel and where the IDF had encountered no, or no serious, resistance, at least a core of inhabitants stayed put... and these villages exist to this day." Like in much of the conflict, Safuriyya saw a combination of inhabitants fleeing the conflict and expulsions that also certainly occurred – but as Morris makes clear, in most cases these outcomes were directly correlated to military activity by the town. The elder resident of Nazareth

³⁴⁰ *Haaretz*, "Israel Had No 'Expulsion Policy' Against the Palestinians in 1948," Benny Morris, July 29, 2017;

<https://www.haaretz.com/life/books/2017-07-29/ty-article/.premium/israel-had-no-expulsion-policy-against-the-palestinians-in-1948/0000017f-eab3-d639-af7f-ebf779a50000>

³⁴¹ Benny Morris, "The Birth of the Palestinian Refugee Problem Revisited," 2nd Edition, 2004, p. 607 (Kindle version)

interviewed by HRW would not have been forced to flee Safuriyya if Arabs accepted the partition plan of 1947, had not attack Jews in an attempt to end the Jewish state, and had not attack IDF troops from locations in this village.

256. MISREPRESENTATION: HRW again cites Israel's claimed attempt to "Judaize the Galilee" in the 1950s, with the establishment of Nazareth Illit as a key part of the strategy (p. 162-63). As noted in Point 43, the actual events and statistics over the decades have actually been the "Arabization" of the Galilee. The same town that HRW sees as the embodiment of the "Judaization of the Galilee" now has a disproportionate Arab population, demonstrating that regardless of cherry-picked statements from various officials supposedly evidencing apartheid (HRW quotes obscure Israeli official Ze'ev Sherf from 1952 stating a goal of "making Nazareth a partially Jewish city"), Arabs have freely moved into the "Jewish" town of Nof Hagalil and there is nothing remotely like apartheid to be found in this city or adjacent Nazareth.

257. ERROR: HRW writes: "Israeli authorities only approved their first master plan for Nazareth in 2009; the prior plan had been established in 1942 under the British Mandate" (p. 163-64). This is incorrect, as HRW's own source cited in footnote 659 confirms ("Space of Risk: The Contribution of Planning Policies to Conflicts in Cities, Lessons from Nazareth," by Yosef Jabareen), the approval of the "Nazareth 2000" master plan that was initiated in 1995. The article explains: "The government, in co-operation with Nazareth Municipality, the Tourism Ministry, the Governmental Tourist Corporation, the Transportation Ministry, and other ministries, drew up and approved a master plan for Nazareth 2000 that envisioned Nazareth as a key city for the millennium celebrations in Israel."³⁴²

258. MISREPRESENTATION: HRW devotes seven lines to explaining how apparently Nazareth would like to expand further but is limited in the land it needs to do so (p. 164). Many locations in Israel face similar challenges. HRW also feels it is important to inform the reader that a survey of Nazareth residents shows that 71.8% would like to expand their current properties but "local regulations" bars them from the ability to do so. See the apartheid? HRW does not seem to be aware that local zoning regulations worldwide limit the ability of homeowners from expanding their property.

259. MISREPRESENTATION: HRW's long section on supposed Israeli wrongdoing in Nazareth continues to dwell on events from decades ago and pretends that Nof Hagalil is not at this time comprised of 25% Arab residents. HRW writes that Nof Hagalil was "designated as a city to receive new Jewish immigrants" and that "Israeli

³⁴² Yosef Jabareen, "Space of Risk: The Contribution of Planning Policies to Conflicts in Cities, Lessons from Nazareth," *Planning Theory & Practice*, Vol. 7, No. 3, pp. 305-323, September 2006 (308-09), <https://bit.ly/2XRoxwn>

authorities invested heavily in Nazareth Illit [Nof Hagalil], including establishing in 1992 the Ziporit Industrial Center, which includes factories and a park for high-tech companies" (p. 164). Once again HRW omits the fact that these "Jewish immigrants" for who towns were built in the 1950s were roughly 800,000 Jews forced to flee many Arab nations and 200,000 Holocaust survivors. It seems to be a positive that Israel invested in an industrial zone in a city which is now disproportionality Arab – but see the apartheid?

260. ERROR: HRW writes: "Beginning in the late 1950s, Israeli authorities gradually relocated many government offices servicing the region from Nazareth to Nazareth Illit [Nof Hagalil]. The offices moved include those belonging to the agriculture ministry, the education ministry, the health ministry, the interior ministry, the prime minister's office, the census bureau, the customs, and value-added tax division, the taxation authority, the land registration department, and the Magistrate's, District and District Labor Courts. Some buildings are located to the west of Highway 75, on the Nazareth side of the road, but fall within the municipal boundaries Nazareth Illit" (p. 165). We did not check every building, but the health ministry remains very much inside the city limits of Nazareth, as can be found in Google Maps as well as the website for the office that provides the address.³⁴³

261. MISREPRESENTATION: HRW finds apartheid within any hint of disparity between Arabs and Jews, in this case stating that: "A 2015 study by the Knesset Research and Information Center found that the average class size in Nazareth is 30.3, as compared to 21.4 in Nazareth Illit [Nof Hagalil]" (p. 166). Assuming the data is properly cited, it hardly evidence discrimination, let alone apartheid. First, as continually ignored by HRW, Nazareth Illit is now one-fifth Arab, 20% above its national representation, thus Arabs benefit from the smaller class size. Second, class size as evidence of apartheid in Israel has been shown to be false in Point 248 since nationwide class size is close to equal for Arabs and Jews, and there has been significant improvement over the last decades. Third, it appears that the class size in Nazareth Illit is unusually small and not representative of the national "Jewish" classroom size.

262. MISREPRESENTATION: HRW recounts that in June 2019 an Arab resident from Nazareth was barred from entering a public park in Afula, a predominantly Jewish town. Following a lawsuit, the park was required to allow anyone to enter the park, which the municipality implemented (p. 167). The town claimed the ban only targeted non-residents, but undercover investigative news programs showed enforcement only against Arabs. The town was sued and was quickly forced to end its practice. The ruling was handed down shortly thereafter by the Nazareth District Court

³⁴³ gov.il; <https://www.gov.il/he/departments/units/moh-nazareth/govil-landing-page>

and Israel's Attorney General Avichai Mandelblit said: "The decision to enter urban parks, which are shared public spaces, cannot be based on considerations of race, religion, nationality, country of origin, sex, sexual orientation or any other inherent characteristic. A decision that was ostensibly made on the basis of [race, religion, nationality, country of origin, sex, sexual orientation] is a totally unacceptable decision that should be annulled."³⁴⁴ Despite the fact that this clearly illegal action was quickly struck down in court, with strong words of support by the chief legal officer of the nation, HRW still cites this incident as evidence of apartheid. There is no doubt that there are Jews in Israel who are racist, including government officials, just like in any nation and society. However, what primarily matters is how the rule of law in a democracy is ultimately applied. A true apartheid government would not have immediately reversed the actions of Afula, but aggressively implemented them nationwide. HRW inadvertently provides strong evidence in the Afula matter that Israel *is not* an apartheid state.

263. MISREPRESENTATION: HRW presents the story of Nazareth resident Khalil Haddad who was originally born in Nazareth Illit [Nof Hagalil]. After getting married, he and his wife decided to remain in Nazareth but population density, housing crunch and other factors led them to move to Nof Hagalil (p. 167-68). HRW admits: "Some of the factors that motivated Haddad to leave the city he loved with his young family bear some similarities to pressures that lead urban dwellers in other contexts to move out of cities, including high housing costs, congestion, and a shortage of green space." Yet HRW still claims that, despite these factors, "In the case of Nazareth, these pressures in part derive from discriminatory Israeli land and budgetary policies." HRW's 10-page discourse on the differences between Nazareth and Nof Hagalil presents the former as depressed and a victim of apartheid and the latter as specially favored by the Israeli government. Yet HRW readily admits that Haddad was able to freely move back and forth between Nazareth and Nof Hagalil. See the apartheid?

264. MISREPRESENTATION: Another "inhumane act" HRW accuses Israel of is: "the imposition of harsh conditions, including near-categorical denial of building permits, in large parts of the West Bank that coerce thousands to abandon their homes in conditions that amount to forcible transfer" (p. 170). Throughout its report, HRW ignores the experience of approximately 3 million Palestinians in the West Bank, 95% of whom live in Areas A & B, to focus solely on the very small percentage who live in Area C. HRW implies that Palestinians cannot build in the West Bank, but this is a gross misrepresentation. Palestinians build freely without any Israeli intervention throughout Area A & B where Palestinians actually live. The chart below from the

³⁴⁴ *The Times of Israel*, "Reversing allegedly anti-Arab ban, Afula says nonresidents can use city's parks," Tamar Pileggi, July 14, 2019; <https://www.timesofisrael.com/reversing-allegedly-anti-arab-ban-afula-says-nonresidents-can-use-citys-parks/>

Palestinian Bureau of Statistics shows that, in 2020, thousands of new buildings were permitted in both new and existing areas. The total is down about 17% from 2018 and 2019 levels due to COVID. As mentioned in an earlier point, per the Oslo Accords, Israel is under no obligation to allow Palestinians to build in Area C, and it is not illegal or a violation to bar Palestinian construction in this area. It can be argued that perhaps Israel should allow Palestinian construction there, and one can argue that the Oslo Accords were not fair or perhaps should be renegotiated, but calling Israeli actions under this agreement "inhumane" is libelous.

(تابع): رخص الأبنية الصادرة في فلسطين، 2018-2020
(Cont.): Issued Building Licenses In Palestine, 2018-2020

Period	المساحات المرخصة (ألف م ²) Licensed Area (1000 m ²)			عدد الرخص الصادرة Number of Issued Licenses					الفترة	
	ممساحات قائمة Existing Areas	ممساحات جديدة New Areas	المجموع Total	إضافات قائمة Existing Additions	أبنية قائمة Existing Buildings	إضافات جديدة + أجزاء قائمة Additions + Existing Parts	إضافات جديدة لمباني مرخصة Additions to Licensed Buildings	أبنية جديدة New Buildings		المجموع Total
2020										2020
Total	588.4	2,771.3	3,359.7	135	1,638	9	837	5,515	8,134	المجموع
Quarter I	133.0	749.2	882.2	46	367	3	244	1,551	2,211	الربع الأول
Quarter II	87.1	374.3	461.4	18	260	1	125	813	1,217	الربع الثاني
Quarter III	144.6	677.0	821.6	33	414	2	172	1,353	1,974	الربع الثالث
Quarter IV	223.7	970.8	1,194.5	38	597	3	296	1,798	2,732	الربع الرابع

-: Data excluded those parts of Jerusalem which were annexed by Israeli Occupation in 1967.

-: البيانات لا تشمل تلك الجزء من محافظة القدس والذي ضمته الاحتلال الإسرائيلي إليه عنوة بعد احتلاله للضفة الغربية عام 1967.

-: Excluding boundary walls licenses.

-: لا تشمل رخص الأسوار.

265. ERROR: Another inhumane act HRW accuses Israeli of in the occupied territories is "the suspension of basic civil rights, such as freedom of assembly and association, depriving millions of the opportunity to have a voice in the wide range of affairs that most affect their daily lives and futures" (p. 170). HRW does not provide evidence that Palestinians in the West Bank do not have "basic civil rights." The Palestinian Authority governs 95% of Palestinians in the West Bank on all day-to-day affairs and determines their civil rights. Large gatherings are common in the West Bank, which also has a thriving press and its own television stations that spew denial of Jewish history and glorification of terrorists on a regular basis. HRW's broad statement here is incorrect.

266. ERROR: Another inhumane act HRW accuses Israel of is "not permitting the more than 700,000 Palestinians who fled or were expelled in 1948 and their descendants to return to Israel" (p. 171). Point 54 discussed that the so-called "right of return" is not codified as international law, and there has never been a law that compels a nation to accept persons into its territory against its wishes. HRW exaggerates even further, not only claiming that this right is absolutely guaranteed, but that any hindrance of this right is "inhumane." HRW essentially says that Israel is criminal unless it transforms itself into a majority Palestinian state.

267. DOUBLE STANDARD: The final inhumane act by Israel listed in this summary is "restricting legal residency in ways that block many Palestinian spouses and families from living together in Israel." Every sovereign nation controls who can and cannot enter its borders, as well as all matters related to residency and citizenship. Israel's spousal citizenship rules apply to *non-citizens* only, and as discussed, many nations, such as Denmark, have strict spousal related rules. Even if one deems these rules as unfair, they are perfectly legal under international law and certainly not "inhumane."

268. ERROR: In a graphic on page 171, HRW states that Israel has denied Palestinians in the West Bank and Gaza "basic civil rights." The error was discussed in Point 265, but in this graphic HRW makes clear that it believes Israel denies civil rights to the residents of Gaza as well. HRW does not explain how Israel can restrict civil rights in Gaza without a single Israeli present in the territory. It is well documented that Hamas, the ruling entity in Gaza, does suspend some rights for the people of Gaza, such as actions to protest its rule.³⁴⁵

269. MISREPRESENTATION: HRW writes: "For the last 25 years, Israel has increasingly restricted the movement of Gaza residents. Since 2007, the year that Hamas seized effective political control over the Gaza Strip from the Fatah-led PA, Israel has imposed a generalized travel ban on movement in and out of the small territory with few exceptions" (p. 172). HRW acknowledges in the last sentence, after two paragraphs about Israel, that "Egypt has for much of the last 15 years largely kept shut its border crossing with Gaza, Gaza's only other outlet to the outside world, contributing to the closure" (p. 173). Since Gaza has a border with Egypt that Israel does not control, the notion that Israel is the entity responsible for movement in and out of Gaza is a misrepresentation. HRW never explains why Israel is the one that enforces the closure and Egypt is merely a "contributor." Why is it not Egypt that enforces the closure and Israel that merely "contributes"? This would make more sense given that Hamas has not denied the right of Egypt to exist and talked about killing Egyptians, nor fired rockets into their cities. The downplaying of Egypt's border with Gaza is universal in all anti-Israel discourse, as acknowledging this truth would demolish the "Gaza is occupied" and "open air prison" libel.

270. MISREPRESENTATION: HRW writes: "Israel restricts all travel between Gaza and the West Bank, despite its having recognized the two to be part of a single territorial unit..." (p. 173). In footnote 697 HRW cites the Oslo Accords where the West Bank and Gaza were to be considered as one territory. While this is true, HRW does

³⁴⁵ *The Guardian*, "Hamas violently suppresses Gaza economic protests," Oliver Holmes, March 21, 2019; <https://www.theguardian.com/world/2019/mar/21/hamas-violently-suppresses-gaza-economic-israeli-border-protests>

not explain that since Hamas took over in a bloody coup against Fatah, the West Bank and Gaza effectively operate as two separate entities. The long-standing rift between Fatah and Hamas is well-known and remains to this day. Hamas is a designated terrorist entity that denies Israel's right to exist and does not abide by the Oslo Accords. Expecting Israel to allow free movement between Gaza and West Bank citing Oslo, but not mentioning these other factors, is a gross misrepresentation.

271. OMISSION: HRW continually scoffs at Israeli security measures, portraying all such actions as a cover for crimes of apartheid. HRW writes: "Israeli authorities often justify the closure on security grounds. Authorities have said in particular that they want to minimize travel between Gaza and the West Bank to prevent transferring 'a human terrorist infrastructure' from Gaza to the West Bank..." (p. 173). HRW ignores that Hamas is a terrorist organization, abuses entry into Israel for attacks, and has sought to recruit terrorists in the West Bank. HRW absolutely cannot bring itself to mention any of these facts. Hamas attacks across the border inside Israel are well documented: the kidnapping of IDF soldier Gilad Shalit in 2006, a Hamas missile strike on a bus inside Israel in 2011, the infiltration of 13 armed Hamas men into Israel via a tunnel, the crossing into Israel of Hamas operative Ahmad Magdi Muhammad in 2017, and many more. Hamas has also been caught recruiting terrorist operatives in the West Bank.³⁴⁶

272. ERROR: HRW invents more international law to accuse Israel of inhumane acts. HRW claims: "As an occupying power that maintains significant control over aspects of life in Gaza despite the formal withdrawal of its troops Israel has obligations under international humanitarian law to ensure the welfare of the population there" (p. 173). HRW does not cite international law or official legal opinion that Israel is the "occupying power" in Gaza – because none exists. While UN documents and General Assembly statements assert that Gaza remains "occupied," there is no official legal determination that this is the case. Common sense and actual legal analyses show that Gaza is not occupied by Israel.³⁴⁷

273. OMISSION: HRW writes: "Palestinians also have the right under international human rights law to freedom of movement, in particular, within the OPT, that Israel can restrict only in response to concrete, specific security threats" (p. 173). First, HRW

³⁴⁶ *Israel Hayom*, "Hamas recruits West Bank minors to carry out attacks in Israel," Lilach Shoval, November 9, 2020; <https://www.israelhayom.com/2020/11/09/hamas-recruits-west-bank-minors-to-carry-out-attacks-in-israel/>

³⁴⁷ Elizabeth Samson, "Is Gaza Occupied?: Redefining the Status of Gaza Under International Law," *AM. U. Int'l L. Rev.* 25:915; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiTqq3qifD5AhVSGFkFHW_3C3EQFnoECBAQAw&url=https%3A%2F%2Fwww.corteidh.or.cr%2Ftablas%2Fr29313.pdf&usq=AOvVaw2iOPP602rUB7fG1G1zAHyT

does not cite or evaluate "international human rights law" to show that certain actions can only take place "in response to concrete, specific security threats." Next, HRW deliberately omits and ignores specific and concrete threats from Hamas and Islamic Jihad against Israel. Hamas boasts about its rocket production with thousands of rockets hidden in underground chambers and other areas ready at a moment's notice be fired against Israel. Hamas also readily acknowledges its massive tunnel project³⁴⁸ with constant attempts to infiltrate Israel. In fact, in August 2022 Israel located and neutralized a Hamas tunnel that crossed into Israeli territory, demonstrating that the tunnel threat remains active. Without shame, HRW asserts that none of these actions by Hamas present "concrete, specific security threats" and unilaterally claims that Israel merely claims "generalized security threats" that "fails any reasonable test of balancing Israel's security concerns against the human right to freedom of movement." HRW makes this statement without even mentioning that Hamas has and seeks to tunnel into Israel, let alone analyze whether it qualifies as a "concrete, specific security threat."

274. MISREPRESENTATION: HRW explains that Palestinians in the West Bank face restrictions entering "East Jerusalem, the 'seam zone' between the security barrier and the Green Line... and areas controlled by settlements and the army, while allowing Israelis and foreigners to move freely among these areas, as well as to Israel, without permits" (p. 174). HRW is not entirely accurate, as Israeli citizens and foreigners are certainly not free to move in areas controlled by the army, such as firing zones. However, while HRW presents these differences as apartheid pitting Jews against Palestinians, the only difference here is between citizens of Israel and non-citizens. Arabs citizens of Israel, who HRW only refers to as Palestinians, share the same freedom of movement in East Jerusalem as Jewish citizens of Israel – HRW does not resolve this paradox which contradicts apartheid. Also, Israeli citizens are not free to enter Areas A & B of the West Bank, a right only Palestinians in the West Bank hold.

275. OMISSION: HRW acknowledges: "While countries have wide latitude to restrict entry at their own borders, Israel largely restricts movement of the occupied population not only to travel between the West Bank and the Gaza Strip, even when it does not take place through Israel, but also within the West Bank itself" (p. 175). HRW again criticizes checkpoints in the West Bank and again completely and willfully ignores the fact that Palestinian terrorism remains highly active, as evidenced by several deadly attacks by Palestinian terrorists in 2022 and numerous others that were thwarted. It is a deliberate misrepresentation to compare Israel's actions in the West Bank to other countries but not mention the constant terrorist threat that Israel faces.

³⁴⁸ *Al Jazeera America*, "Gaza's underground: A vast tunnel network that empowers Hamas," Ben Piven, July 23, 2014; <http://america.aljazeera.com/articles/2014/7/23/gaza-undergroundhamastunnels.html>

276. MISREPRESENTATION: HRW claims that "Israeli forces routinely turn away or humiliate and delay Palestinians at checkpoints without explanation, obstructing commutes to school, work, or appointments of all kinds" (p. 175). HRW does not provide evidence for this contention, simply citing in footnote 710 a B'Tselem webpage that states that in general a Palestinian "might be... humiliated by soldiers."³⁴⁹ It is certain that over the course of 13.5 million crossings per year³⁵⁰ that incidents that are deemed "humiliating" occur. HRW does not bother to provide statistics on the number of checkpoint interactions and complaints of humiliation, or information that commanders order soldiers to be abusive at checkpoints. HRW also does not cite massive investments in checkpoints by Israel specifically meant to make them faster and less intrusive, such as at the Qalandiya checkpoint discussed in Point 21.

277. ERROR: HRW claims that Israel expropriated 2 million dunams (2,000 square km) of West Bank land "from Palestinians in large part to serve the needs of Jewish Israeli settlers" (p. 176). HRW adds: "Most commonly, Israeli authorities take land, including land privately owned by Palestinians, by declaring it to be 'state land.'" HRW cites as the source in Footnote 717 a B'Tselem report titled "Under the Guise of Legality," which states that during the British Mandate and later Jordanian rule: "state land in the [West Bank] amounted to 12 percent of the West Bank." This figure, which would mean that 88% of the West Bank was privately owned, is wholly incorrect as discussed in Point 231. Desert areas are not privately owned, and the Judean Desert comprises about 30% of the West Bank. Overall, according to the survey, roughly 80% or more of British Mandate Palestine was state land. HRW is also incorrect that 2 million dunams of West Bank land, about 35% of the total, is used "in large part to serve the needs of Jewish Israeli settlers." The settlements comprise a mid-single digit percentage of West Bank territory, not 35%.

278. MISREPRESENTATION: HRW states that the creation of Areas A, B and C "concentrates Palestinians" into "165 non-contiguous 'territorial island'" (p. 182). This is a grossly incorrect assertion regarding the creation of these territorial designations under the Oslo Accords. The Oslo Accords did not "concentrate" people, but created a territorial division based on where the vast majority of Palestinians *already lived*. HRW sees nefarious intentions with the creation of the Areas A, B & C, but the actual goal was to allow the vast majority of the Palestinian people to exercise self-rule, which it succeeded in doing.

³⁴⁹ B'Tselem, "Restrictions of Movement," November 11, 2017; https://www.btselem.org/freedom_of_movement

³⁵⁰ Israel Ministry of Foreign Affairs, "COGAT summary of activities 2021," February 2, 2022; <https://www.gov.il/en/departments/news/cogat-summary-2021-2-feb-2022>

279. ERROR: Several times in its report, HRW unleashes demonizing and inflammatory language against Israeli, dispensing with the pretense that the report is a serious document. At the end of the section on supposed land expropriation in the West Bank, HRW claims that Israeli actions in the West Bank of "boxing in Palestinians" were "designed to divide the population along racial lines by the creation of separate reserves and ghettos" (p. 182). This is grossly inaccurate and libelous. First, the West Bank was already a separate territory after its occupation by Jordan in 1949, Israel did not separate territory or create reserves. Second, the notion that thriving cities like Ramallah, Nablus, and Hebron are "ghettos" is a complete fabrication. Some of these cities date back to ancient times and have held the population of the West Bank for centuries. HRW's use of the term "ghettos" to characterize the living situation of Palestinians in the West Bank, in our reading and opinion, deliberately evokes the old Jewish ghettos of Europe where Jews were effectively segregated. Charging Jews of creating ghettos for Palestinians "along racial lines" is simply antisemitic. HRW does not explain why 2 million Arabs in Israel are not relegated to ghettos, freely moving into supposed "Jewish" cities like Nof Hagalil if Israel criminally segregates Palestinians along racial lines. HRW deliberately ignores the history of the West Bank and what is a political and territorial conflict, and instead fabricates a vicious fiction of Jews "boxing" in Palestinians into ghettos.

280. MISREPRESENTATION: HRW writes that Palestinians in the West Bank find it "virtually impossible to obtain building permits in East Jerusalem and... in Area C of the West Bank... effectively forcing Palestinians in need of housing or space to establish a business to leave these areas or to build at the risk of seeing their 'unauthorized' structures bulldozed" (p. 183). As shown in Point 23, Palestinians in fact do obtain numerous building permits in East Jerusalem and it is thus not "virtually impossible." It is true that Palestinians are generally unable to build in Area C, since under the Oslo Accords Israel retains full control of Area C and Palestinians therefore do not have the ability construct freely in this area. This is not apartheid, but a result of a political and territorial dispute that remains unresolved, and following the terms of an agreement between Israel and the Palestine Authority that remains valid. As is the case throughout the report, HRW ignores the fact that in Area A & B, where 95% of Palestinians live, the PA fully controls all building permitting and many thousands are approved each year as discussed in Point 266.

281. ERROR: HRW claims that Israel controls construction in Area C and East Jerusalem "which are in many cases already densely populated in order to maximize Jewish Israeli control over the land..." (p. 183). First, Area C by definition is not densely populated, comprising 60% of West Bank territory and only 5% of its population. Israel already controls Area C as per the Oslo Accords, so the notion of maximizing "Jewish control" makes no sense. The notion of restricting construction in East Jerusalem to

"maximize Jewish Israeli control" is contradicted by the evidence of building permits approved for Arabs in East Jerusalem and the fact that the Arab population of Jerusalem has soared in the last decades and comprises the highest proportion ever.

282. ERROR: HRW notes that Israel has "demolished Palestinian homes as punishment imposed on those accused of attacking Israelis and as collective punishment of their families" (p. 184). HRW misrepresents these practices by whitewashing Palestinian terrorism and painting Israeli actions as merely an expression of cruel racism. First, it is incorrect that homes of "those accused of attacking Israelis" are demolished. In fact, it is the homes of families of those who *actually committed terrorist attacks* by killing Israeli civilians. For example in July 2020 the homes of Youssef Sameeh Assi and Yahya Mareia, who gunned down a 23-year-old Israeli civilian inside a guard booth, were destroyed.³⁵¹ In May 2022 notice was given and later followed for the demolition of the home of As'ad Al-Rifa'i, who confessed to killing three civilians in the Israeli city of Elad with an axe.³⁵² Also in May 2022, the Jenin home of Ra'ad Mazem, who opened fire in a Tel-Aviv bar killing three Israeli civilians aged 27 and 35, was ordered for demolition.³⁵³ Israeli security officials contend that the practice of destroying the family homes of terrorists acts as a deterrent for future attacks. This practice has been upheld by the Israeli Supreme Court which specifically considers it "an act of deterrence rather than a criminal sanction." Justice Rubinstein explained in discussions on the matter that "in his view, damage to property that may prevent loss of life (and even more so if it may prevent the loss of many lives, including those of children and the elderly) is justified under the principle that sanctity of life is paramount."³⁵⁴ There is no doubt the practice is controversial and many do not believe it is justified,³⁵⁵ and it is reasonable to question the practice. However, HRW deliberately obfuscates the true nature and purpose of these demolitions.

³⁵¹ *The Times of Israel*, "IDF demolishes West Bank homes of Palestinians who gunned down Ariel guard in April," Emanuel Fabian, July 26, 2022; <https://www.timesofisrael.com/idf-demolishes-west-bank-homes-of-palestinians-who-gunned-down-ariel-guard-in-april/>

³⁵² *The Times of Israel*, "IDF issues demolition order for West Bank home of Elad terrorist," Emanuel Fabian, May 30, 2022; <https://www.timesofisrael.com/idf-issues-demolition-order-for-west-bank-home-of-elad-terrorist/>

³⁵³ *The Times of Israel*, "IDF issues order to raze apartment of terrorist who killed 3 in Tel Aviv," Emanuel Fabian, May 6, 2022; <https://www.timesofisrael.com/idf-issues-order-to-raze-apartment-of-terrorist-who-killed-3-in-tel-aviv/>

³⁵⁴ Versa, Opinions of the Supreme Court of Israel, "The Israeli Supreme Court on Military Demolition of Palestinian Homes," Orly Rachmilovitz, January 17, 2016; <https://versa.cardozo.yu.edu/viewpoints/israeli-supreme-court-military-demolition-palestinian-homes>

³⁵⁵ *Lawfare*, "House Demolition at the Israeli Supreme Court: Recent Developments," Amichai Cohen and Yuval Shany, January 14, 2019; <https://www.lawfareblog.com/house-demolition-israeli-supreme-court-recent-developments>

283. MISREPRESENTATION: HRW cites UN OCHA and B'Tselem data showing that from 2009 to 2020 Israel "demolished 2,319 homes throughout the West Bank, for lacking a building permit, leaving, 9,053 people displaced" (p. 184). The numbers from the UN OCHA database titled "Data on demolition and displacement in the West Bank"³⁵⁶ reveals that the statistics are misrepresented in four ways: (1) About half of the structures in these "demolitions" are in fact tents and other temporary type structures that are placed illegally in generally desolate areas of the West Bank (based on our close review of the OCHA data). These are not permanent structures or part of villages in the common understanding of this term. For example, 155 of these "homes" were "demolished" (which is the euphemism applied towards taking down a tent) in the so-called village of Khirbet Tana, which B'Tselem admits were mainly tents and even caves. B'Tselem's own video of the "demolitions" shows only tents and temporary structures (see screenshots below from B'Tselem's videos of Khirbet Tana and Khirbet Humsa).³⁵⁷ (2) The number of "homes" demolished are *double counted* as OCHA clearly discloses: "In some cases, the same person has been displaced more than once. For example, when they rebuilt their demolished home and had their second home also demolished. These are counted as displaced for each incident in which they were displaced." In many cases, many well publicized, these tents are removed and rebuilt in an ongoing cycle such as in Khirbet Humsa where the UN data shows 95 homes "demolished." The tents in this location have been removed and rebuilt dozens of times; a report in *Al-Jazeera* indicated that in less than one year from about mid-2020 to mid-2021 this "hamlet" has been demolished seven times (it appears in our analysis that OCHA counted these same demolitions in its number about eight times).³⁵⁸ (3) Israeli courts have upheld the illegality of these structures numerous times and in some cases the residents have been repeatedly offered places to live in nearby locations, but these gestures have been repeatedly rejected.³⁵⁹ Several of these villages, like Khirbet Humsa, have become cause célèbres among anti-Israel activists as a showcase example of "apartheid," despite the fact that permanent structures have not been built and there is no village (B'Tselem's photographs clearly confirms this in many locations, such as in Khirbet Susiya).³⁶⁰ The temporary structures have been removed and rebuilt numerous times, each time knowing that the same outcome awaits, always with cameras at the ready to "prove"

³⁵⁶ UN OCHA, "Data on demolition and displacement in the West Bank"; <https://www.ochaopt.org/data/demolition>

³⁵⁷ B'Tselem, "The village of Khirbet Tana," April 17, 2016; https://www.btselem.org/jordan_valley/tana

³⁵⁸ *Al Jazeera*, "Palestinian community in West Bank demolished for seventh time," July 7, 2021; <https://www.aljazeera.com/news/2021/7/7/palestinian-community-in-west-bank-demolished-for-sixth-time>

³⁵⁹ *The Times of Israel*, "Israel again tears down contested Palestinian hamlet in Jordan Valley," Aaron Boxerman, July 7, 2021; <https://www.timesofisrael.com/israel-again-tears-down-contested-palestinian-hamlet-in-jordan-valley/>

³⁶⁰ B'Tselem, "Visit to Khirbet Susiya, a village facing demolition," July 2015; https://www.btselem.org/photoblog/201507_susiya

Israeli wrongdoing. These families are ultimately used as pawns to slander Israel; all the resources by NGOs and other groups would be better spent finding a permanent and legal location for these few hundred families. (4) The scale of the matter in the context of about 3 million Palestinians in the West Bank is inane. Even the double counted total of 2,319 homes in 12 years comes to only 193 "homes" per year that are deemed illegal.



284. ERROR: HRW writes in regard to the demolitions noted in the prior points that: "Israel has not offered resettlement options or compensation to families whose homes it demolished" (p. 184). This is incorrect as Israel has certainly done so. A report in *The Times of Israel* regarding the removal of homes in Khirbet Humsa quotes an Israeli Defense Ministry official who stated: "Despite repeated offers and attempts, the residents rejected all offers made to evacuate from the firing range and move to the alternative location offered to them."³⁶¹ A 2021 article in *Haaretz* confirms that "The residents of Khirbet Humsa were offered to move to temporary alternative site," which in one case was the village of Ein Shibli.³⁶² *The New York Times* reported in regard to Khirbet Susiya that Israeli officials met with residents to examine alternative solutions, and Palestinians cited in the article admitted that one proposal would relocate them to a village about a mile away.³⁶³

285. MISREPRESENTATION: HRW continually presents data in ways that are deliberately intended to portray Israeli actions as criminal. Aggregating figures over many years is one way in which HRW does this, such as in Points 10 and 118, and now in the discussion on demolition orders in the West Bank. HRW cites data from NGO Bimkom, which cites Israeli government data (which HRW says it has "on file"); according to this data: "the Israeli government carried out about 21 percent of the more than 18,600 demolition orders it issued in the West Bank, not including East Jerusalem, between 1995 and 2020" (p. 184-85). A closer look at these numbers means over 25 years there have been 156 demolitions per annum, and as discussed in Point 283, the definition of "demolition" includes removal of tents and the numbers are double counted, so the removal, reconstruction and subsequent removal of a tent counts as two "demolitions." The key misrepresentation is portraying these actions as apartheid in the context of 3 million West Bank residents who build many thousands of legal structures each year without incident.

286. MISREPRESENTATION: HRW writes: "Peace Now estimates that, although Palestinians constitute 90 percent of the population of the Jordan Valley, Israel effectively restricts them from building on about 94 percent of the territory" (p. 185). There are several misrepresentation and omissions in this comment. First, the Jordan

³⁶¹ *The Times of Israel*, "Israel again tears down contested Palestinian hamlet in Jordan Valley," Aaron Boxerman, July 7, 2021; <https://www.timesofisrael.com/israel-again-tears-down-contested-palestinian-hamlet-in-jordan-valley/>

³⁶² *Haaretz*, "Israel Destroys and Seizes Structures in Khirbet Humsa, Leaving Over 30 Palestinian Minors Without a Roof," Amira Hass, February 4, 2021; <https://www.haaretz.com/middle-east-news/palestinians/2021-02-04/ty-article/premium/israel-destroys-and-seizes-structures-in-khirbet-humsa-leaving-32-minors-homeless/0000017f-db12-db22-a17f-ffb3124f0000>

³⁶³ *The New York Times*, "How a Palestinian Hamlet of 340 Drew Global Attention," Daa Hadid, July 23, 2015; <https://www.nytimes.com/2015/07/24/world/middleeast/palestinians-west-bank-susiya-israeli-demolition.html>

Valley is sparsely populated, with an estimated 2% of the West Bank population in what is primarily desolate areas of the territory. Second, the Jordan Valley is almost entirely part of Area C, which under the Oslo Accords remains under the control of Israel and the Palestinian Authority does not have authority to build in this area. Once again, HRW obsesses over the actions and experience of the 5% of Palestinians living in Area C and not one word about the ability of the other 95% to build freely in Areas A & B. Third, the Jordan Valley comprises the border area between Israel and Jordan, and is a key territory maintained by Israel for security purposes. Even in a final agreement it is expected that certain security measures will remain in place by Israel to protect its eastern borders. The maintenance of tighter restrictions in Jordan Valley is primarily related to these security needs.

287. MISREPRESENTATION: HRW again cites the same UN OCHA statistics discussed in Point 283 that the OCHA deliberately inflates and double counts to misrepresent Israeli actions. HRW writes that according to OCHA: "between January 1, 2009, and December 31, 2020, Israel demolished 2,601 Palestinian structures in the Jordan Valley for lacking a permit" (p. 185). The definition of "structures" according to OCHA includes "shops, animal shelters, walls, warehouses and more" as well as "water pipes, roads, network facilities, among others." Any type of physical object that was placed by a Palestinian and removed, such as a pipe or a "wall" "and more" is considered a "structure" that was "demolished" by Israel. OCHA also invents a new definition for "demolition," saying that it includes "confiscation or sealing off of structures or parts of structures."³⁶⁴ The same double counting mechanism also applies, so a single pipe removed, put back and removed again counts as a "demolition" both times. The supposed counting of Israeli "demolitions" is an inane exercise by the UN intended to maximize the demonization of Israel. Even so, the UN can only conjure about 200 "structures" per year. One wonders if any UN reports will be written about the demolition of two roughly 30-story apartment towers in India that were illegally constructed – not likely as Israel alone is held to a standard where building permitting laws cannot be enforced if it negatively affects a Palestinian.³⁶⁵

288. MISREPRESENTATION: HRW continues to focus on the small number of residents in the Jordan Valley and desolate portions of Area C, where it says "Bedouin and herding communities" live. HRW asserts that Israel blocked residents "from accessing roads and agricultural lands, failed to provide electricity, sewage, water, and other utilities..." (p. 186). In HRW's world view, not only is Israel required to allow illegal construction, but it must then spend large sums to deploy utility services to

³⁶⁴ UN OCHA, "Data on demolition and displacement in the West Bank"; <https://www.ochaopt.org/data/demolition>

³⁶⁵ *ABC News*, "2 high-rise towers in India demolished for violating laws," Ashok Sharma, August 29, 2022

desolate areas where there are a few dozen families in most cases (e.g., Khirbet Humsa is comprised of about 74 persons). HRW also refuses to acknowledge that by definition "Bedouin and herding communities" are semi-nomadic, which is why they live in tents. A profile of Khirbet Susiya by BBC News quotes resident Nasser Nawaja who explains: "Look, there are families living here in tents. There's a cave, water cisterns and places where we put our sheep. It's a simple Palestinian lifestyle."³⁶⁶ Photos show tents spread out in desolate areas which do not lend themselves to utility services.

289. OMISSION: HRW writes: "Israel has directly deported more than 1,500 Palestinians out of the OPT, largely before 1993, only some of whom they have permitted to return" (p. 186). It is inane to present an action affecting 1,500 persons out of millions that occurred more than 30 years ago as evidence that Israel has "crossed a threshold" into apartheid. Once again HRW completely omits the events that led to the deportation of many of these Palestinians – terrorism. In 1992 Israel expelled about 400 Palestinians and sent them to Lebanon due to their affiliation with the terrorist group Hamas. The move followed what *The New York Times* called a "recent spate of killings" of Israeli civilians.³⁶⁷ The last attack which preceded the expulsion was the kidnapping and murder of a border policeman whose body was then dumped alongside a highway in the West Bank. One of the deportees was Abdul Aziz al-Rantisi who was one of the co-founders of Hamas.³⁶⁸ While the deportation of persons can certainly be criticized, and many of these moves by Israel were considered controversial by Israeli officials and the courts, they were not simply random acts of racist cruelty against Palestinians or apartheid – they were in reaction to, and intended to stop, terrorist actions.

290. ERROR: HRW claims that Israel's removal of illegally built structures in the West Bank are war crimes, despite efforts by Israel to offer relocation options. HRW's grossly misapplies and interprets international law to characterize any Israeli action as a war crime. HRW writes: "Israel's coercive policies in East Jerusalem and Area C of the West Bank amount to intentional forcible transfer of civilians within an occupied territory... a grave breach of the laws of war" (p. 186-87). HRW falsely converts land and ownership disputes handled by the courts affecting 100-200 structures per year, as liberally defined by OCHA (double counting), ignoring 3 million other Palestinians in the West Bank who build many thousands of structures without issue, as something

³⁶⁶ *BBC News*, "Susiya: Palestinian West Bank village faces bleak end," Yolande Knell, July 25, 2015; <https://www.bbc.com/news/world-middle-east-33651356>

³⁶⁷ <https://www.nytimes.com/1992/12/18/world/israel-expels-400-occupied-lands-lebanese-deploy-bar-entry-palestinians.html>

³⁶⁸ *The New York Times*, "Israel Expels 400 From Occupied Lands; Lebanese Deploy to Bar Entry of Palestinians," Clyde Haberman, December 18, 1992; <https://www.nytimes.com/1993/01/29/world/israel-s-highest-court-upholds-the-deportation-of-palestinians.html>

covered under the laws of war. Despite the miniscule numbers, HRW claims these actions are "widespread or systematic." According to HRW, if any Palestinian in any location is denied "building permits for houses, schools, clinics, and infrastructure" it is a war crime. HRW's manipulations and misrepresentations in this section are incredible.

291. ERROR: HRW writes: "Israeli authorities have denied millions of Palestinians the right to residency and nationality through its control over population registries..." (p. 187). Anti-Israel NGOs obsess over the population registry issue, claiming that Israel controls the registry, and that somehow, at least as it relates to Gaza, translates into occupying the territory. In fact, Israel does not control the population registry – the PA does. As explained by the Israeli government: "The Population Registry Office is responsible for updating and archiving the Palestinian population registry held by Israel, in coordination with the Palestinian Authority. In accordance with diplomatic agreements between Israel and the Palestinian Authority, full responsibility for administering the population registry and providing services to Palestinian residents of the area has been passed to the Palestinian Authority."³⁶⁹ This arrangement was agreed upon in the Oslo Accords (see Annex III Article 28), which state: "Powers and responsibilities in the sphere of population registry and documentation in the West Bank and the Gaza Strip will be transferred from the military government and its Civil Administration to the Palestinian side. The Palestinian side shall maintain and administer a population registry and issue certificates and documents of all types, in accordance with and subject to the provisions of this Agreement." There are 17 clauses in the article detailing the matter such as: "The Palestinian side shall inform Israel of every change in its population registry, including, inter alia, any change in the place of residence of any resident." In footnote 782 HRW cites its own prior report on the population registry matter that acknowledges that control has been transferred to the Palestinians.³⁷⁰ It is true that the Israeli maintenance and updating of the registry is important for Palestinian travel, but it is incorrect to say that Israel "controls" the registry. HRW also does not explain how this registry is related to denial of "nationality" – this concept is simply made up. As usual, the matter is far more complex than HRW reveals.

292. ERROR: HRW claims that Israeli policies on Palestinian residency have various impacts, such as to "trap others [Palestinians] in their homes" (p. 187). HRW does not provide any evidence of Israel keeping certain Palestinians "trapped" inside their homes, which specifically means in this context physically unable to exit their place of

³⁶⁹ Gov.il, COGAT, "Population Registry";
https://www.gov.il/en/departments/units/population_registrar_unit

³⁷⁰ Human Rights Watch, "Forget About Him He's Not Here", February 5, 2012, p 22;
<https://www.hrw.org/report/2012/02/05/forget-about-him-hes-not-here/israels-control-palestinian-residency-west-bank-and>

residence. There is no other information found regarding Israeli practices that do not allow Palestinians in the West Bank and Gaza to leave their homes.

293. OMISSION: HRW explains that Israel froze the "family reunification" process for Palestinians (primarily related to allowing *foreign nationals* who marry a Palestinian in the West Bank to move to the West Bank), citing the "security situation following the outbreak of the second *intifada* as the rationale for the freeze, but they [Israel] have not explained why their blanket refusal to process new applications is necessary for security reasons" (p. 189-90; the family reunification issue is repeated on p. 201-02). Throughout the report, HRW condescendingly believes that Israel must justify to this NGO the rationale behind its security related actions, and such actions are only considered justified if HRW says so – otherwise it is apartheid. In this case HRW blandly cites the "second *intifada*" but willfully omits what happened to cause Israel to be unusually strict with family reunification and residency – waves of suicide bombings. Amazingly, HRW does not refer to these attacks anywhere in the report, yet they demand an "explanation" from Israel.

294. ERROR: HRW writes: "Israeli authorities have deprived generations of Palestinians in the OPT of their basic civil rights, including the rights to free assembly, association, and expression" (p. 193). HRW makes these sweeping statements of Israeli evil throughout its report, ignoring the vast body of evidence that clearly shows Palestinians in the West Bank and Gaza have "basic civil rights" and express themselves freely. Every single day on PA state television and print the Palestinians rail against Israel, talk about its destruction and spew antisemitism (see endnote for numerous examples).³⁷¹ In Gaza, the only limitation on civil rights would be due to Hamas. HRW cites as primary evidence one of its own reports titled "Born Without Civil Rights" from 2019 (see footnote 812). As HRW explains: "The report draws on 29 interviews, primarily with former detainees and lawyers representing Palestinian men and women caught up in the Israeli military justice system, as well as a review of indictments and military court decisions."³⁷² Some of these cases rely on whitewashing terrorism and characterizing Israeli actions against terrorism as deprivation of "basic civil rights." One case cited is of Khalida Jarrar who has been in and out of Israel jails due to her role as a senior PFLP member and ultimate conviction.³⁷³ HRW does not disclose that the PFLP is designated as a terrorist organization by the EU, US, Japan,

³⁷¹ See these sample of links from Palestinian Media Watch: <https://palwatch.org/page/31840>; <https://palwatch.org/page/31796>; <https://palwatch.org/page/31089>; <https://palwatch.org/page/30549>; <https://palwatch.org/page/30423>; <https://palwatch.org/page/29600>

³⁷² Human Rights Watch, "Born Without Civil Rights," December 17, 2019; <https://www.hrw.org/report/2019/12/17/born-without-civil-rights/israels-use-draconian-military-orders-repress>

³⁷³ *The Times of Israel*, "Israel releases senior PFLP member Khalida Jarrar after 2 years in prison," Aaron Boxerman, September 26, 2021; <https://www.timesofisrael.com/israel-releases-senior-pflp-member-khalida-jarrar-after-2-years-in-prison/>

Canada and others. Another example is the detention of five Palestinians involved with Qatar Charity in 2016; the organization was placed on a list of prohibited organizations in 2008 (HRW says they "allegedly" provided financial support to Hamas). It is not just Israel that was concerned about Qatari funds reaching Hamas. *The Washington Post* reported in 2020 on lawsuits that were filed by American victims of Palestinian terror attacks against several Qatari financial institutions for channeling funds to Hamas and Palestinian Islamic Jihad.³⁷⁴ HRW's limited and misrepresented case studies do not evidence Israel's deprivation of basic civil rights for "generations of Palestinians."

295. MISREPRESENTATION: In the first paragraph of evidence claiming that Israel implements "mass suspension of civil rights" in the West Bank and Gaza, HRW states: "As of March 2020, the Israeli Defense Ministry maintained formal bans against 430 organizations, including the Palestine Liberation Organization that Israel signed a peace accord with, its ruling Fatah party, and all the other major Palestinian political parties" (p. 194). HRW does not disclose that these organizations are mainly terrorist groups associated with Hamas, Hezbollah, al-Qaeda, ISIS, and others. HRW grossly misrepresents this list as evidence of "mass suspension" of rights. HRW's entire body of evidence of "mass suspension of civil rights" rests on isolated incidents of the arrest of certain individuals, arrests for incitement of a few dozen people each year, and the closing down of some organizations for what Israel believes are ties to terrorist organizations. It is possible some of these cases were made in error – but HRW has not shown any proof of "mass suspension of basic civil rights." A casual review of the virulent antisemitism and anti-Israel rhetoric on state media, as well as the frequent lauding of terrorists like Dalal Mughrabi,³⁷⁵ completely contradict HRW's fabricated narrative.

296. ERROR: HRW claims that Israel enacts a "mass suspension of civil rights" in Gaza "with no end in sight" (p. 193 & 195). Israel does not have any presence in Gaza and has no day-to-day control of actions like free assembly, association, expression etc. HRW does not explain how Israel restricts civil rights in Gaza nor provide any specific examples.

³⁷⁴ *The Washington Post*, "Lawsuits by U.S. victims accuse top Qatar banks and charity of financing terrorism in Israel," Spencer S. Hsu, December 15, 2020; https://www.washingtonpost.com/local/legal-issues/lawsuits-by-us-victims-accuse-top-qatar-banks-and-charity-of-financing-terrorism-in-israel/2020/12/15/4e8ea7fe-244a-11eb-a688-5298ad5d580a_story.html&cd=1&hl=en&ct=clnk&gl=us&client=firefox-b-1-d

³⁷⁵ *The Times of Israel*, "Female terrorists become Palestinian role models on International Women's Day," Times of Israel Staff, March 15, 2021; <https://www.timesofisrael.com/female-terrorists-become-palestinian-role-models-on-international-womens-day/>

297. OMISSION: HRW's fabricated discussion of Israeli land theft post 1948, which assumes that the vast majority of land was privately owned, notably omits any context of how Israel came to control the majority of what became Israel. HRW misrepresents the war as something that happened in passing (it uses phrases such as "amid the fighting" and "the events of 1947 and 1948") and was deliberately waged against Palestinians to steal their land and dominate (p. 196-98). Even one of HRW's sources, called one of the "pre-eminent historians of the era" (Alexander Kedar, "The Legal Transformation of Ethnic Geography: Israeli Law and the Palestinian Landholder 1948-1967") includes some important context and is not intellectually dishonest about the history of the conflict. Kedar writes: "On November 29, 1947, the United Nations voted in favor of the partition of Palestine. The resolution was accepted by the Jews and rejected by the Arabs, and immediately following the end of the Mandate, the State of Israel was established. On the following day, seven Arab countries declared war on the State of Israel..." While Kedar highlights Arab refugees and the *Nakba*, he also acknowledges as a key factor (even though still downplaying): "During the first three years of statehood, Israel's Jewish population swelled as the majority of Jews living in the Arab countries as well as the small number of Jews living in the areas of Palestine that came under Arab control moved to Israel (due, among other factors, to fear for their safety in countries that were at war with Israel). Most of these Jews left their possessions behind and became evacuees. During this period, survivors of the Holocaust from Europe also arrived in Israel. The Israeli government adopted the position that the mass immigration to Israel, in conjunction with the mass exit of Palestinian Arabs, constituted a de facto mutual population transfer. In its eyes, this population transfer was similar to what had taken place between India and Pakistan during the same period and earlier as a result of World War II and the war between Turkey and Greece. In fact, as was the case with India and Pakistan and the war between Turkey and Greece, most of the new immigrants arriving in Israel during this period were settled on refugee land (in this case, Arab land)."³⁷⁶

298. OMISSION: The second key omission in the discussion of what HRW blandly calls "the events surrounding the establishment of Israel" (p. 192) is the refusal by the Arab nations to make peace with Israel post-war. After Israel fended off attempts by Palestinians and several Arab nations to destroy the new Jewish state, it sought peace agreements with its Arab neighbors. However, Egypt, Lebanon, Syria, and Jordan – four nations surrounding Israel – would only sign armistice agreements. These nations made clear that they continued to reject the Jewish state and that the goal of destroying Israeli politically and physically remained active, and the nations remained technically at war (which still exists between with Lebanon and Syria). During the negotiations Israel even offered to take in 100,000 Palestinian refugees and consider

³⁷⁶ Alexandre Kedar, "The Legal Transformation of Ethnic Geography: Israeli Law and the Palestinian Landholder 1948-1967, p. 946-47

compensation in exchange for peace.³⁷⁷ Perhaps if the Arab nations agreed to negotiate full peace and acceptance of the Jewish state the situation with refugees and land would be vastly different. In the narrative of HRW and general anti-Israel discourse, only Israel was required to make concessions and revert to the pre-1948 status. Israel was supposed to take in refugees that were part of a population that sought to destroy the Jewish state, but Arabs were not required to make peace or accept the Jewish state. Israel was supposed to compensate Arab refugees, but Arab nations had no obligation to the 800,000 Jews who they expelled or forced to flee. The same attitude continues today – for example, Israel must open its borders with Gaza, but Hamas is not required to renounce its aim to destroy Israel or halt its rocket and tunnel program.

299. MISREPRESENTATION: HRW continues its intense and repetitive focus on the Bedouins, discussed on 18 separate pages of the report, this time in the village of al-Araqib (p. 200), which has about 220 people.³⁷⁸ What HRW calls a “village” is comprised mainly of tents and shacks that HRW acknowledges have been demolished 185 times. Demolished in this context means taking down a tent. The Twitter account “Palestine Online,” with 70,000 followers, posted a video titled: “Israeli occupation forces demolished Al-Araqeeb village in occupied Al-Naqab for the 205th time.” The video shows a pickup truck with a rope pull down a makeshift group of wooden poles with a torn tarp over it. We highly recommend the reader watch the “demolition” of this “village.”³⁷⁹ The fact is that these tents are placed illegally, and Israel has made it clear many times that they have modern, alternative housing for many Bedouins. This is not apartheid but a legal dispute over a small amount of desert land near a highway (Number 40 north of Be’er Sheva) that Israeli courts have ruled is not privately owned.

300. ERROR: HRW writes: “For years, authorities have sought to concentrate Bedouins living in the Negev in government-planned townships in order to maximize the land available for Jewish communities” (p. 200). In fact, Israel has sought to provide Bedouins modern housing conditions with modern utilities instead of having them squat in tent camps illegally. HRW claims that Israel’s actions were intended to take the land and build “Jewish communities,” but HRW does not provide evidence or examples of Jewish communities that were specifically built in any areas where Bedouins were asked to remove their structures. There simply are none, and this is a total fabrication by HRW.

³⁷⁷ Benny Morris, “The Birth of the Palestinian Refugee Problem Revisited,” 2nd Edition, 2004, p. 821-29 (Kindle version)

³⁷⁸ *Al Jazeera*, “Israel destroys Bedouin village for the 119th time,” Farah Najjar, October 3, 2017; <https://www.aljazeera.com/news/2017/10/3/israel-destroys-bedouin-village-for-the-119th-time>

³⁷⁹ See this Tweet: <https://twitter.com/OnlinePalEng/status/1559186047837380610>

301. ERROR: HRW misrepresents a 2019 government plan that HRW claims would “displace 36,000 Bedouins in order to expand military training areas and establish ‘economic development’ projects” all as part of Israel’s goal to “maximize the land available for Jewish communities” (p. 200-01). HRW simply cites an Adalah webpage without further research. It turns out the report by Adalah comes from a WhatsApp announcement distributed to journalists in early 2019 by Israel’s Bedouin Settlement Authority.³⁸⁰ The so-called “economic development” projects including plans for relocating scattered Bedouins into modern towns and the expansion of a highway and power plant. The announcement quotes Bedouin Settlement Authority Director, Yair Ma’ayan: “The Authority is vigorously advancing large plans to absorb tens of thousands of members of the scattered Bedouin population. The program will benefit the Bedouin citizens and will enable us to provide them with the full range of services and conditions they are entitled to like all citizens in Israel.” The proposed plan stated that 11,000 Bedouins would be moved to “the government-planned town of al-Fura’a.”³⁸¹ Most notably, the plan says nothing about communities for “Jews” or anything “Jewish” – just an Arab town. Thus, the claim that this plan is directed towards “Jewish communities” is a blatant fabrication by both Adalah and HRW. There is no other news story or information about these plans available anywhere else nor further updates, and nothing appears to have actually happened – but HRW relies on this for evidence of apartheid.

302. ERROR: HRW claims that Israel’s denial of automatic Israeli residency rights for Palestinians who marry Israeli citizens is “based on the spouse’s ethnicity rather than on an individualized assessment of security risk” (p. 201). This is incorrect, as the denial is based on the fact that the person is a resident of the West Bank or Gaza and not a citizen of Israel, regardless of that person’s race or ethnicity. HRW again dishonestly conflates ethnicity and race with citizenship and where the person lives to charge Israeli with apartheid. Arabs and Palestinians who are *citizens of Israel* who marry Israeli citizens are not subject to similar denials, contradicting the contention that these rules are racially based. As discussed previously, HRW also ignores the fact that every nation can decide who can and cannot be a citizen for any reason they choose, and it is legal and not considered discrimination.

303. ERROR: The first sentence of the HRW report’s conclusion is an encapsulation of its fabricated, exaggerated and demonizing narrative that relies on sweeping statements of Israeli evil: “Israeli authorities have deprived millions of people of their basic rights by virtue of their identity as Palestinians” (p. 203). In HRW’s construct, Palestinians here also refers to Arab-Israeli citizens. It is a complete lie to claim that

³⁸⁰ Adalah, “Israel announces massive forced transfer of Bedouin citizens in Negev,” January 30, 2019; <https://www.adalah.org/en/content/view/9677>

³⁸¹ Ibid; see PDF of announcement

Israel has deprived Arab-Israelis, let alone Palestinians elsewhere, of "their basic rights." Basic rights refer to things like food, water, shelter, education, healthcare, employment, freedom of religion, etc.³⁸² None of these rights, and many others, have been taken away by Israel. The remainder of the conclusion continues to falsely charge Israel with "boxing in" Palestinians, "systematic oppression," and myriad forms of evil – all based on a narrative that the more than 300 flaws outlined herein has proven to be deliberately fabricated. HRW has only one goal in mind: the permanent end of the Jewish state, replaced by a Sharia-based Arab State of Palestine.

³⁸² UN, "What are human rights"; <https://www.ohchr.org/en/what-are-human-rights>