

# ***Atarot Settlement***

The Industrial Key in Israel's Plan to  
Permanently Erase Palestine





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<b>Cover Photo</b>	<i>Al-Haq © 2019</i>
<b>ISBN</b>	<i>978-9950-327-55-9</i>
<b>Design</b>	<i>Hamza Dado</i>
<b>Publisher:</b>	<i>Al-Haq - 2020 © All Rights Reserved</i>

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This report is part of the research, awareness and advocacy project “Business and human Rights in East Jerusalem: its special impact on the rights of Palestinian women”, coordinated by:

Observatori DESC, NOVACT and SUDS



Funded by:

Catalan Agency for Development Cooperation (ACCD)



## ACKNOWLEDGEMENTS

*The author and contributors would like to extend sincere gratitude to the communities residing in what is now the Atarot industrial settlement for sharing their invaluable time, experiences and knowledge throughout the research process. The information and testimonies they shared were integral to the development of this report. The author and contributors would also like to thank Pamela Gogo and Omran Rishaq for their significant contribution in preparing this report. Appreciation also goes to Hamza Dado and Suha Jarrar for their support in completing this document.*

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## 1 INTRODUCTION

Since 1967, the start of Israel's military occupation of the West Bank, including East Jerusalem, and the Gaza Strip, comprising the Occupied Palestinian Territory (OPT), Israel, the Occupying Power, has systematically and unlawfully appropriated Palestinian public and privately owned land, exploiting Palestinian natural resources, while forcing the transfer of and creating coercive environments to forcibly displace, the protected Palestinian population. Such measures have enabled and enhanced the Israeli national and settler economy, at the expense of the Palestinian economy and the rights of Palestinians.

The following report examines the extent of Israel's discriminatory measures against Palestinians, exemplified in the case of the *Atarot* industrial settlement in occupied East Jerusalem, and its adverse impacts on the lives of Palestinians residing therein as well as Palestinians in general. The *Atarot* industrial settlement, like other Israeli settlements, is illegal under international law. In this vein, a 2004 Advisory Opinion by the International Court of Justice concluded that, "the Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law".<sup>1</sup> Further, United Nations (UN) Security Council resolution 2334, clearly outlines "that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under

international law".<sup>2</sup>

Interviews conducted by Al-Haq with Palestinian families, women and men residing in what is now known as the *Atarot* industrial settlement highlight the devastating consequences of the industrial settlement on individuals, communities and the environment. The interviews shed light on Israel's discriminatory planning and zoning regime which systematically denies Palestinian communities building permits and creates an uninhabitable environment that does not meet the minimum standards for the right to adequate housing. As such, Israel, the Occupying Power and the main duty bearer, is failing to meet its obligations under provisions of international humanitarian law<sup>3</sup> and international human rights law, including under the International Covenant on Economic, Social, and Cultural Rights (ICESCR)<sup>4</sup> and the International Covenant on Civil and Political Rights (ICCPR).<sup>5</sup>

<sup>2</sup> SC/RES/2334 (2016), "Reaffirms that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace".

<sup>3</sup> This includes Israel's obligations under the Fourth Geneva Convention, which Israel ratified on 6 July 1951, and which entered into effect on 6 January 1952, and its obligations under The Hague Regulations, which are constitutive of customary international humanitarian law.

<sup>4</sup> UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, Israel ratified the Covenant on 3 October 1991.

<sup>5</sup> UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Israel ratified the Covenant on 3 October 1991.

<sup>1</sup> *Legal Consequences of the Construction of a Wall* (Advisory Opinion) 2004, para. 120 available at: <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>



## 2 INDUSTRIAL ZONES IN ISRAELI SETTLEMENTS IN THE OCCUPIED WEST BANK, INCLUDING EAST JERUSALEM

Israel's settlement enterprise constitutes residential settlements, industrial zones and agricultural areas, among others – all of which are illegally established in the West Bank of the OPT. Israeli industrial settlements in the West Bank are distinguished by the presence of factories, run by Israeli and multinational corporations, dedicated to, *inter alia*, the processing of raw materials and/or the production of goods.<sup>6</sup> Industrial settlements are typically either entirely industrial or partially industrial, with the former located outside of a residential settlement and the latter within a residential settlement.<sup>7</sup> Al-Haq's preliminary desk research and mapping of industrial settlements in the West Bank, including in East Jerusalem, identified 24 industrial settlements or compounds within and/or in the zone of an already existing settlement. Al-Haq further identified five Israeli plans to construct new industrial settlements.<sup>8</sup> Meanwhile, according to Who Profits, there are 19 Israeli administered industrial zones in the OPT, which host numerous "export-oriented Israeli manufacturers and a smaller number of international corporations".<sup>9</sup> The Israeli official figure, however, is lower. The Israeli Ministry of Economy and Industry lists 14 industrial settlements in the West

<sup>6</sup> This report uses the terms industrial zones and industrial settlements interchangeably.

<sup>7</sup> Human Rights Watch, Occupation, Inc.: How Settlement Businesses Contribute to Israel's Violations of Palestinian Rights (2016) (hereinafter Occupation Inc.), 5.

<sup>8</sup> According to Al-Haq's desk research, there are Israeli plans to construct industrial settlements in *Avnei Hefetz*, *Elkana-Oranit*, *Talmon*, *Tene Omari*, and *Maccabim* settlements.

<sup>9</sup> Who Profits, *Industrial Zones in the Occupied Palestinian Territory* (hereinafter 'Who Profits, Industrial Zones'), available at: <https://whoprofits.org/dynamic-report/industrial-zones/>

Bank, including two in East Jerusalem.<sup>10</sup>

Al-Haq's latest research illustrates that Israel has continued to advance planning to expand its settlement enterprise in the West Bank, including in East Jerusalem, on Palestinian private and public land. On 27 January 2020, the Trump Administration announced the so-called "Deal of the Century" which sets forth a plan for further annexation of the OPT in violation of international law standards. The plan outlines how:

"The State of Israel will benefit from having secure and recognized borders. It will not have to uproot any settlements, and will incorporate the vast majority of Israeli settlements into contiguous Israeli territory. Israeli enclaves located inside contiguous Palestinian territory will become part of the State of Israel and be connected to it through an effective transportation system".<sup>11</sup>

Subsequently, the Israeli Prime Minister, Benjamin Netanyahu, vowed once again, to annex the occupied Jordan Valley.<sup>12</sup> Nonetheless, such policies and plans to consolidate Israel's territorial control have long been envisaged and enforced since the start of Israel's military occupation of the Palestinian territory in 1967.<sup>13</sup>

In the first half of 2019, Israel continued to rapidly advance the planning and construction of settlement housing units.<sup>14</sup> Settlement expansion continued

<sup>10</sup> Ministry of Economy and Industry, *Industrial Areas*, available at: <http://economy.gov.il/English/Industry/DevelopmentZoneIndustryPromotion/ZoneIndustryInfo/Pages/default.aspx>

<sup>11</sup> United States Whitehouse, "A Vision to Improve the Lives of the Palestinian and Israeli People" (January 2020) 12, available at: <https://www.whitehouse.gov/wp-content/uploads/2020/01/Peace-to-Prosperity-0120.pdf>

<sup>12</sup> Netanyahu states: "If we win, when we win, we'll continue to make history. As soon as we win, we'll apply Israeli law to all of the Jewish communities in the Jordan Valley and in Judea and Samaria," in "Netanyahu suggests he'll move annexation forward only after elections", *The Times of Israel* (5 February 2020), available at: <https://www.timesofisrael.com/netanyahu-suggests-hell-move-annexation-forward-only-after-elections/> See also: Lahav Harkov, "Israel begins mapping out West Bank land for annexation after election" *The Jerusalem Post* (8 February 2020), available at: <https://www.jpost.com/Israel-News/Israel-begins-mapping-out-West-Bank-land-for-annexation-after-election-616961>

<sup>13</sup> See, the Allon Plan (June 1967), available at: <https://ecf.org.il/issues/issue/148>; Anthony Coon, *Town Planning under Military Occupation: An Examination on of the Law and Practice of Town Planning in the Occupied West Bank* (Dartmouth Publishing Company Limited, 1992), 176.

<sup>14</sup> European Union, *Six-Month Report on Israeli settlements in the occupied West Bank, including East Jerusalem*, (reporting period January-June 2019) (30 September 2019) available at:

[https://eeas.europa.eu/sites/eeas/files/20190930\\_final\\_six-month\\_report\\_on\\_israeli\\_settlements\\_in\\_the\\_occupied\\_west\\_bank\\_including\\_east\\_jerusalem\\_reporting\\_period\\_january\\_to\\_june\\_2019\\_0.pdf](https://eeas.europa.eu/sites/eeas/files/20190930_final_six-month_report_on_israeli_settlements_in_the_occupied_west_bank_including_east_jerusalem_reporting_period_january_to_june_2019_0.pdf)

throughout 2019 and in late July 2019, Israel approved the construction of 6,000 new houses in illegal Israeli settlements.<sup>15</sup> Such expansion has also included and benefited Israeli industrial settlements. In 2018, the Israeli government announced the approvals for plans to establish new industrial settlements near the *Beita Illit* and *Avnei Hefetz* residential settlements.<sup>16</sup> Moreover, in late June 2019, Likud lawmaker and former Jerusalem Mayor Nir Barkat proposed a plan to establish 12 industrial settlements in the occupied West Bank.<sup>17</sup> It should be noted that while the Israeli government rapidly advances approvals for illegal settlement expansion, Israel applies a discriminatory planning process systematically denying the issuing of permits for Palestinian residential and commercial infrastructures, in Area C and East Jerusalem in the occupied West Bank.<sup>18</sup>



### 3 ISRAEL'S MULTIFACETED JUSTIFICATIONS FOR THE CONSTRUCTION OF INDUSTRIAL SETTLEMENTS

Industrial settlements are seen by the Israeli authorities as an integral component of its broader settlement enterprise and annexation strategy. Israeli Prime Minister Netanyahu, an advocate for the Greater Jerusalem Bill, which is designed to substantively change the borders and demographics of Jerusalem and to further annex parts of the occupied West Bank, remarked on the importance of industrial settlements to Israel's annexation strategy.<sup>19</sup> In relation to ensuring the sustainability of *Ma'ale Adumim* residential settlement, he stated: "we will add the industrial zone needed and the expansion needed to allow for the advanced development of this place [*Ma'ale Adumim* settlement]... This place will be part of the State of Israel."<sup>20</sup> Clearly, industrial zones and businesses operating in settlements are critical to providing employment thereby incentivising the transfer in of new settlers and ensuring the continued presence of pre-existing residential settlements. As reported by Human Rights Watch, as of 2013, there were 126,600 settlers employed within the West Bank, of which 42 percent (53,300 employees)

<sup>19</sup> P/20/4158, Proposed Greater Jerusalem Law, 2017 – 5777. Submitted to the Knesset Chairman and deputies and presented to the Knesset's table on the date of 22 March 2017 [24th of Adar, 5777]. The Explanatory Note to the Bill states, "[T]he position of Jerusalem as the leading and most vital city in Israel was undermined, and its strong and leading population has been moving to the Shfela (Lowland) cities. The proposed bill will enable the changing of this trend and will help Jerusalem reclaim its position as the symbol and heart of the Jewish people, and will gather up the finest forces of Israel and world Jewry for the purpose of strengthening the city of Jerusalem", Explanatory Note, P/20/4158, Proposed Greater Jerusalem Law, 2017 – 5777. Submitted to the Knesset Chairman and deputies and presented to the Knesset's table on the date of 22 March 2017 [24th of Adar, 5777].

<sup>20</sup> Peter Beaumont, "Netanyahu backs annexation of 19 West Bank settlements" *The Guardian* (3 October 2017), available at: <https://www.theguardian.com/world/2017/oct/03/netanyahu-backs-annexation-of-west-bank-settlements>

<sup>15</sup> Adam Forrest, "Israel approves thousands of new settler homes in West Bank", *UK Independent* (31 July 2019), available at: <https://www.independent.co.uk/news/world/middle-east/israel-west-bank-construction-jewish-settlements-palestinians-netanyahu-kushner-a9029096.html>

<sup>16</sup> European Union, Six-Month Report on Israeli settlements in the occupied West Bank, including East Jerusalem, (Reporting period July-December 2018) (04 February 2019), available at:

[https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/57606/six-month-report-israeli-settlements-occupied-west-bank-including-east-jerusalem-reporting\\_en](https://eeas.europa.eu/delegations/palestine-occupied-palestinian-territory-west-bank-and-gaza-strip/57606/six-month-report-israeli-settlements-occupied-west-bank-including-east-jerusalem-reporting_en)

<sup>17</sup> Ariel Kahana, "Former Jerusalem mayor proposes plan to complement US 'deal of the century'" *Israel Hayom* (24 June 2019) available at: <https://www.israelhayom.com/2019/06/24/former-jerusalem-mayor-proposes-plan-to-complement-us-deal-of-the-century/>

<sup>18</sup> Al-Haq, "Settling Area C: The Jordan Valley Exposed" (2018) 18, available at: [http://www.alhaq.org/cache\\_downloads/download/alhaq\\_files/publications/SettlingAreaCTheJordanValleyExposed.pdf](http://www.alhaq.org/cache_downloads/download/alhaq_files/publications/SettlingAreaCTheJordanValleyExposed.pdf); United Nations Office for the Coordination of Humanitarian Affairs, "Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank" (15 December 2009), available at: <https://www.ochaopt.org/content/restricting-space-planning-regime-applied-israel-area-c-west-bank>

worked in settlement industries.<sup>21</sup>

Legal justifications posited by the State of Israel for continuing its colonial settlement expansion illustrate the economic interdependence between residential and industrial settlements. For example, in submissions made by the State of Israel on the Settlements Regularization Law, Israel argued that settlements are necessitated by the “values of Zionism”; that it is the “natural right” of settlers to live in the West Bank; and that settlers constitute a local civilian population for the purposes of international law, and thus must have their needs, including economic needs, addressed.<sup>22</sup> Although opposing the introduction of the Law, the Attorney General in his parallel submission largely agreed with the justifications for the presence of settlements given by the State. He argued that settlements built on private Palestinian land are justified by virtue of “good faith”, and that vindicating the needs of settlers as a civilian population justifies the expropriation of private land for “public purposes”.<sup>23</sup>

Politically, in justifying such settlements to the international community, Israel emphasizes their industrial and economic nature. Israel frames the proliferation of such settlements as altruistic “capacity building” of the Palestinian economy, which it purports is due to Israeli economic initiatives.<sup>24</sup> Emphasis is placed on the employment of Palestinians by Israeli settlers and companies.<sup>25</sup> Businesses operating in the settlements follow similar lines in their justifications, portraying their activities as contributing factors towards peace and promoting “coexistence” through equitable employment.<sup>26</sup> However, a striking disparity between these assurances and the reality on the ground remains. Industrial settlements, as part of the illegal Israeli settlement enterprise, prevents Palestinians from accessing and

<sup>21</sup> Occupation Inc. (N.7), 84.

<sup>22</sup> Adalah, “Responses of Israeli government and attorney general in Settlements Regularization Law Case” (January 2018), available at: <https://www.adalah.org/en/content/view/9371>

<sup>23</sup> *Ibid.*

<sup>24</sup> State of Israel, “Supporting Palestinian Capacity Building: Israel’s Efforts in Supporting the Palestinian Economy, Civil Affairs and Security Reforms” (2009), 6.

<sup>25</sup> *Ibid.*, 8

<sup>26</sup> These justifications have been endorsed and repeated by Israeli President Reuven Rivlin notably describing one particular factory as “a hub of co-existence and bridges to peace”. See Occupation Inc. (N.7), 99; This has been endorsed by international media outlets, see for example, “At West Bank Factories, Keeping the Peace Is a Mutual Interest”, New York Times (13 October 2018); see also HeidelbergCement, “Sustainability Report”, (2018) 62.

utilising their land. The repercussions are not only specific to land confiscations, but more broadly to Israel’s systemic restrictions on movement of people and goods throughout the occupied West Bank; restrictions on trade; and limited access to water resources, thereby hold Palestinian resources and the Palestinian economy, captive.<sup>27</sup>

Furthermore, besides appropriating Palestinian land and natural resources, Israeli and international industrialists in illegal settlements exploit Palestinian labour. Palestinian workers are often the immediate descendants of the rightful property owners of unlawfully appropriated land on which Israeli industrial settlements are established.<sup>28</sup> However, due to economic de-development stemming from the presence of the settlements, they have no other employment options but to work in Israeli settlements under exploitative circumstances, where they are subject to an array of human rights violations.<sup>29</sup> For example, Palestinian labourers face difficult labour conditions as well as discriminatory policies that make their employment exploitative, including lower wages than their Israeli counterparts, the absence of healthcare and workplace safety measures and other basic job entitlements.<sup>30</sup>

### 3.1 How Israel Encourages the Establishment of Industrial Settlements and Facilitates Business Presence

The Israeli government provides an extensive suite of benefits to businesses who operate in settlements in the occupied West Bank, including East Jerusalem, encouraging them to operate therein, including in industrial settlements. This is

<sup>27</sup> Pearce Clancy, “Corporate Capture and Solidarity during Occupation: The Case of the Occupied Palestinian Territory” (20 February 2020), available at: <https://www.cambridge.org/core/blog/2020/02/20/corporate-capture-and-solidarity-during-occupation-the-case-of-the-occupied-palestinian-territory/>; World Bank, “West Bank and Gaza - Area C and the future of the Palestinian economy” (2013), available at: <http://documents.worldbank.org/curated/en/137111468329419171/pdf/AUS29220REPLACOEVISION0January02014.pdf>

<sup>28</sup> Information on file with Al-Haq, obtained on 15 January 2018, “The settlement of Muswa Al-Jathima was constructed on lands belonging to Palestinians from the village of Al-Jiftlik. This means that I work the land owned by my uncles and relatives prior to the 1967 Israeli occupation of the West Bank.”

<sup>29</sup> See Occupation Inc. (N.7), 87-100; also, Who Profits, Industrial Zones (N.9).

<sup>30</sup> Al-Haq, *Occupied Livelihoods: Palestinians Striving for their Right to Work*, (1 May 2012), available at: <http://www.alhaq.org/advocacy/6891.html>

facilitated by an intricate set of laws and classifications, ostensibly in place to assist areas hindered by low socio-economic prosperity, as well as the selective non-enforcement of specific Israeli laws upon these companies.

Most settlements, including all settlement industrial zones, are classified under Israeli law as National Priority Areas (NPAs). NPAs are qualified for a number of financial benefits and support under the Law for the Encouragement of Capital Investment (Investment Law) 1956, and are designated as such under the Economic Efficiency Law for 2009-2010, in accordance with Resolution No. 3292, passed by the Israeli government in 1998.<sup>31</sup> The NPAs framework is purported to be based on four fundamental aims:

- “(1) to alleviate housing shortages affecting many residents of Israel;
- (2) to encourage positive migration to these communities;
- (3) to encourage development in these communities; and
- (4) to improve the economic resilience of these communities”.<sup>32</sup>

Designations are based on a number of factors, including socio-economic status, geographical location and distance from Israeli trading hubs and borders, and security threats; thus, all settlements granted NPA status are done so under the aegis of security,<sup>33</sup> whereas Palestinian communities within Israel are largely excluded from NPA status, despite being, on average, the poorest communities socio-economically.<sup>34</sup>

In practice, the benefits to businesses operating in illegal settlements are substantial. As reported by *Who Profits*, a month's rent per square meter in *Barkan* settlement's industrial zone is about 16 – 24 NIS (approximately USD 4.6 – 6.9), whereas the same space in Beit Shemesh, West of Jerusalem, is 35 NIS (approximately USD 10.15), including an 8 NIS (approximately USD 2.3)

31 *Who Profits*, Industrial Zones (N.9).

32 *Occupation Inc.* (N.7), 32.

33 *Who Profits*, Industrial Zones (N.9); Adalah, *On the Israeli Government's New Decision Classifying Communities as National Priority Areas* (February 2010), 8.

34 In 1998, the Israeli government designated 553 NPAs, which included 104 settlements but only four Palestinian communities; which is both arbitrary and discriminatory. See Adalah, *On the Israeli Government's New Decision Classifying Communities as National Priority Areas*, (February 2010), 7-8; Adalah, *The Inequality Report: The Palestinian Arab Minority in Israel* (2011), 23, and Human Rights Watch, *Occupation Inc.* (N.7), 32-33.

management fee. In the case of *Atarot* industrial settlement, examined below, which is located in occupied East Jerusalem, the municipal tax is approximately 74 NIS per square meter (approximately USD 21.4), whereas in West Jerusalem, the fee is approximately 92 – 123 NIS (approximately USD 26.6 – 35.6). This disparity is in addition to grants which settlement businesses qualify for, as well as a 50 percent reduction in the corporate tax rate – all of which serves to incentivise the unlawful transfer in of the civilian industrialists of the Occupying Power into the OPT.<sup>35</sup>

### 3.2 Industrial Settlements: Integral to Israel's Occupation and Illegal Settlement Enterprise

Industrial settlements contribute to Israel's broader settlement enterprise in several ways. Notably, the construction of industrial settlements are facilitated by Israel's illegal confiscation of Palestinian land, whether public or private, thus consolidating more territorial control in the OPT. According to a 2018 Report by the World Bank, the removal of such restrictions and provision for Palestinian access to critical agriculture, mining and quarrying, and tourism resources in Area C, “could raise real GDP [gross domestic profit] by some 36 percent in the West Bank” by 2025.<sup>36</sup>

To maintain the illegal industrial settlement enterprise, Israel operates a two-tier legal system in the West Bank - applying Israeli civil law to settlers, whereas the protected Palestinian population is subject to Israeli military law.<sup>37</sup> This policy of duality is a violation of international humanitarian law; as military law should govern the occupied territories regardless of the citizenship of the subjects. Hence, the established dual-legal system results in judiciary bias that obstructs

35 *Who Profits*, Industrial Zones (N.9); Prohibition on the transfer in of civilians of the Occupying Power, Article 49, Fourth Geneva Convention (1949).

36 World Bank, *Economic Monitoring to the Ad Hoc Liaison Committee* (27 September 2018), 11, available at: <http://documents.worldbank.org/curated/en/413851537281565349/pdf/129986-REVISED-World-Bank-Sept-2018-AHLC-Report-final.pdf>

37 See, Jonathan Kuttub and Raja Shehadeh, *Civilian Administration in the Occupied West Bank: Analysis of Israeli Military Government Order No. 947* Al-Haq (1982), available at: [http://www.alhaq.org/cached\\_uploads/download/alhaq\\_files/publications/Civilian\\_Administration\\_in\\_the\\_Occupied\\_West\\_Bank.pdf](http://www.alhaq.org/cached_uploads/download/alhaq_files/publications/Civilian_Administration_in_the_Occupied_West_Bank.pdf)

Palestinian access to justice and remedy.<sup>38</sup> Industrial settlements benefit from and exacerbate this discrimination.<sup>39</sup> Their existence, in accordance with the dual legal system, is yet another example of the preferential treatment Israeli settlers are provided with, while Palestinians are exposed to various human rights violations and unbearable living conditions.<sup>40</sup>

Further, Israeli and multinational corporations operating in industrial settlements may be involved in providing the Israeli Occupying Forces (IOF) with products and services used to perpetuate the occupation, as well as in directly and indirectly contributing to the proliferation of settlements.<sup>41</sup> This may be observed in, *inter alia*: the supply of construction equipment and materials; the supply of surveillance equipment; the supply of demolition equipment; the supply of security services; the provision of transport services; the provision of banking and financial services; the exploitation of natural resources and; the pollution of Palestinian land and villages, and surrounding areas.<sup>42</sup> By providing such products and services, Israeli and multinational business enterprises stand to directly profit from the construction, existence, and maintenance of illegal settlements,<sup>43</sup> while contributing to systemic violations of human rights and grave breaches of international law.

38 Human Rights Watch, "Separate and Unequal: Israel's Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories" (2010) 1, available at: [https://www.hrw.org/sites/default/files/reports/iotp1210webwcover\\_0.pdf](https://www.hrw.org/sites/default/files/reports/iotp1210webwcover_0.pdf)

39 Yesh Din, "The Great Drain: Israeli quarries in the West Bank: High Court Sanctioned Institutionalized Theft" (14 September 2017) 20, available at: <https://s3-eu-west-1.amazonaws.com/files.yesh-din.org/תובצחומי+הדמנע+רייני/YeshDin+-+Leroken+Mitochen+-+English.pdf>

40 Al-Haq, "Unpacking Gender in Coercive Environments: The Case of the Jordan Valley (2018), 7, available at: [http://www.alhaq.org/ cached\\_uploads/download/alhaq\\_files/publications/UnpackingGenderinCoerciveEnvironmentsTheCaseoftheJordanValley.pdf](http://www.alhaq.org/ cached_uploads/download/alhaq_files/publications/UnpackingGenderinCoerciveEnvironmentsTheCaseoftheJordanValley.pdf)

41 Business and Human Rights Resource Center, "Israeli banks involved in financing illegal settlements in Palestine, Who Profits' report" (2018), available at: <https://www.business-humanrights.org/en/israeli-banks-involved-in-financing-illegal-settlements-in-palestine-who-profits-report>

42 UN Human Rights Council, "Report of the independent fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem" A/HRC/22/63 (7 February 2013), para. 96.

43 For a non-exhaustive list of 60 businesses which profit in this way, see ARIJ, "The Israeli Settlement Enterprise: Grave Breaches of International Law", (January 2016), 69-75.



## 4 ATAROT INDUSTRIAL SETTLEMENT IN OCCUPIED EAST JERUSALEM

As previously mentioned, there are 24 industrial settlements in the West Bank, including occupied East Jerusalem. For the purpose of this report, the *Atarot* industrial settlement, constructed on confiscated land of the Palestinian villages of Beit Hanina, Al-Ram and Dahiyat al Bared,<sup>44</sup> will be examined within the context of Israel's accelerated and intensified measures and policies targeting East Jerusalem as a whole, notably to destroy the remaining strands of the Palestinian economy, entrench the annexation of the city, and coerce the forcible transfer of Palestinians residing therein.<sup>45</sup>

In 1967, following Israel's occupation of the West Bank, including East Jerusalem, Israel started to expand the municipal boundaries of Jerusalem almost immediately, as part of its plan to annex the city and unilaterally, and unlawfully, declare it as its undivided capital (See Figure 1 below).<sup>46</sup> This annexation was condemned as illegal by the United Nations in Security Council

44 Bimkom, *Survey of the Palestinian neighbourhoods of East Jerusalem* (2013), 18, available at: <http://bimkom.org/eng/wp-content/uploads/survey-of-the-Palestinian-neighborhoods-of-East-Jerusalem.pdf>; In 1970, Israel confiscated 56 dunums of Ar Ram village lands for the Atarot industrial settlement. The Applied Research Institute Jerusalem, "Ar Ram Town Profile" (2012) 19, available at: [http://vprofile.arij.org/jerusalem/pdfs/vprofile/Ar%20Ram\\_EN.pdf](http://vprofile.arij.org/jerusalem/pdfs/vprofile/Ar%20Ram_EN.pdf)

45 Al-Haq, "Occupying Jerusalem's Old City: Israeli Policies of Isolation, Intimidation and Transformation" (2019), 15, available at: [http://www.alhaq.org/ cached\\_uploads/download/2019/09/23/occupying-jerusalem-old-city-webversion-1569218179.pdf](http://www.alhaq.org/ cached_uploads/download/2019/09/23/occupying-jerusalem-old-city-webversion-1569218179.pdf)

46 B'tselem, *East Jerusalem*, (11 November 2017, updated on 27 January 2019), available at: <https://www.btselem.org/jerusalem>; Israel Ministry of Foreign Affairs, Municipalities Ordinance (Amendment No. 6) Law, 5727-1967, <http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook1/pages/13%20law%20and%20administratio n%20ordinance%20-amendment%20no.aspx>.

Resolution 267 (1969).<sup>47</sup> Despite condemnation and the international call for non-recognition of Israel's annexationist measures, in 1970, Israel established the *Atarot* industrial settlement in occupied East Jerusalem, providing a detailed outline plan for development. This included some 1,530 dunums (378 acres), from the Palestinian lands of Beit Hanina and 56 dunums (14 acres) from the villages of Al-Ram and Dahiyat al Bareded.<sup>48</sup>

Today *Atarot*, is being presented by Israel as an entire neighbourhood in East Jerusalem, effectively separating and erasing all traces of Beit Hanina, Al-Ram and Dahiyat al Bareded village lands and Palestinian presence from the map (see Figure 2 below).

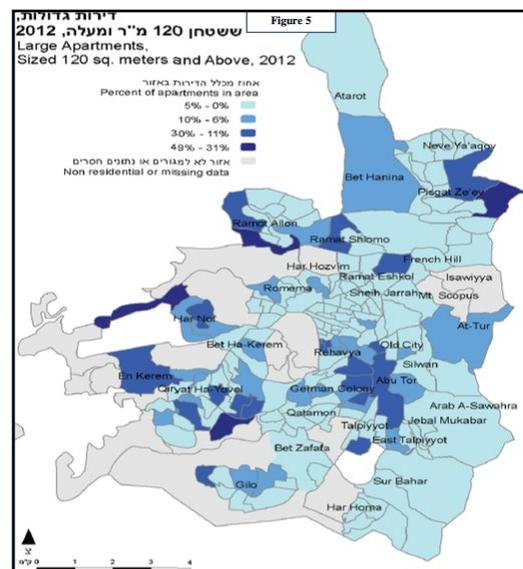
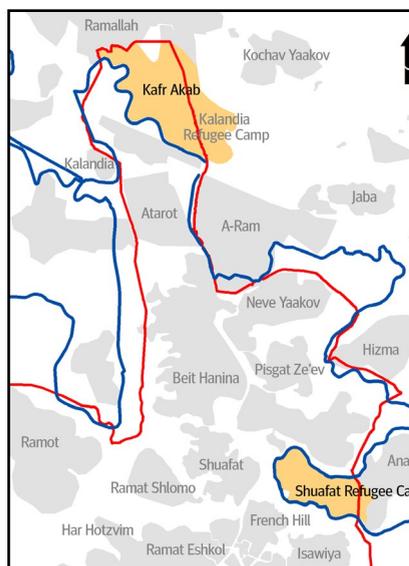


Figure 1: Map of Jerusalem Municipal Borders<sup>49</sup>

Figure 2: Map of 'Atarot Neighbourhood'<sup>50</sup>

47 UNSC/RES/267 (1969).

48 Marya Farah, "The Atarot Exception? Business and Human Rights under Colonization", 80, *Jerusalem Quarterly* (2019), available at: <https://www.palestine-studies.org/en/node/1649529>; The Applied Research Institute Jerusalem, "Ar Ram Town Profile" (2012) 19, available at: [http://vprofile.arij.org/jerusalem/pdfs/vprofile/Ar%20Ram\\_EN.pdf](http://vprofile.arij.org/jerusalem/pdfs/vprofile/Ar%20Ram_EN.pdf)

49 Nadav Shragai, "A Jerusalem Solution: One Sovereignty, Multiple Local Authorities (including for the Arab Neighborhoods)", *Jerusalem Center for Public Affairs*, available at: <https://jcpa.org/a-jerusalem-solution-one-sovereignty-multiple-local-authorities-including-for-the-arab-neighborhoods/>

50 "Housing Sector in East Jerusalem, a Market Opportunity Analysis: Submitted to Al-Quds Economic Forum and the Office of the Quartet In the Framework of East Jerusalem Market Assessment" (19 March 2015), 12, available at: [http://www.quartetoffice.org/files/server/160317\\_Dimensions%20Consulting%20-%2020EJ%20Housing%20Opportunity%20Analysis\\_vf.pdf](http://www.quartetoffice.org/files/server/160317_Dimensions%20Consulting%20-%2020EJ%20Housing%20Opportunity%20Analysis_vf.pdf)

In 2002, Israel constructed the Annexation Wall which encircles the area designated for the *Atarot* industrial zone, and completely separates it from Al-Ram and Qalandia, thereby fragmenting the area and breaking up the contiguity of the West Bank. Prior to this, Palestinians could travel unimpeded across the West Bank and from Al-Ram to Jerusalem on the main road. Today the Annexation Wall severs and de facto expands the Jerusalem Municipal boundaries, appropriating Al-Ram and Beit Hanina lands, and has been found by the International Court of Justice in the Wall Advisory Opinion as tantamount to a "de facto annexation".<sup>51</sup> There the Court concluded:

"Whilst the Court notes the assurance given by Israel that the construction of the wall does not amount to annexation and that the wall is of a temporary nature (see paragraph 116 above), it nevertheless cannot remain indifferent to, certain fears expressed to it that the route of the wall will prejudice the future frontier between Israel and Palestine, and the fear that Israel may integrate the settlements and their means of access. The Court considers that the construction of the wall and its associated régime create a *"fait accompli"* on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to a *de facto* annexation."<sup>52</sup>

51 *Legal Consequences of the Construction of a Wall* (Advisory Opinion) 2004, para. 121, available at: <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

52 *Ibid.*



Atarot industrial settlement<sup>53</sup>

Today, the entire perimeter of *Atarot* industrial settlement, is flanked by the Annexation Wall and security checkpoints guard the entrance. Businesses operating in *Atarot* can clearly view the Wall from within the settlement and the Palestinian communities of Beit Hanina and Al-Ram remain cut off on the other side.

Meanwhile, the Jerusalem Airport, at Qalandia, established in 1920, should be a vital transit artery for the State of Palestine, but has been de-developed, dismantled and completely closed since 2000 by the Israeli Occupying Forces.<sup>54</sup> Israel has re-named the area where the airport once stood as Atarot airport, however the civilian airport never operated under this name, underscoring Israel's attempts to erase Palestinian names and presence and replace them with Israeli names and presence – a hallmark of the colonisation. The area, is considered “part of the area of the Atarot industrial zone” by Israel, and has been planned for

53 Photograph © The Jerusalem Film and Television Fund (2015), available at: <http://jerusalemfilmfund.com/location/atarot-industrial-zone/>

54 Nahed Awwad, “In search of Jerusalem Airport”, 35, *Jerusalem Quarterly* 51, available at: [https://www.palestine-studies.org/sites/default/files/jq-articles/35\\_airport\\_0\\_0.pdf](https://www.palestine-studies.org/sites/default/files/jq-articles/35_airport_0_0.pdf)

the residential development of 11,000 apartments.<sup>55</sup>

According to Israeli Ministry of Economy and Industry, the “*Jerusalem-Atarot Industrial Area*”, located in the northern part of East Jerusalem, hosts a wide variety of companies in different industrial fields. It maintains that the industrial settlement is located on 924 dunums<sup>56</sup>of land, with only two dunums vacant, and 913 dunums of land considered as “area in use” for industry and commerce, workshops and public areas.<sup>57</sup> Although Israeli human rights organization, *Bimkom*, asserts that the *Atarot* industrial settlement comprises a somewhat larger area of 1,462 dunums of land, most of which is zoned for industry and roads, or otherwise designated as private and open public areas.<sup>58</sup>



Map of Jerusalem-Atarot Industrial Area Zoning<sup>59</sup>

55 Dov Benovadi, “Huge Housing Project Set for Atarot Airport Area” *Hamodia* (2 December 2019) available at: <https://hamodia.com/2019/12/02/huge-housing-project-set-atarot-airport-area/>

56 A dunum is a unit of land used to measure land areas in the Palestine since the British Mandate. One dunum is equivalent to 1,000 square meters.

57 Ministry of Economy and Industry, *Jerusalem-Atarot Industrial Area*, available at: <http://economy.gov.il/English/Industry/DevelopmentZoneIndustryPromotion/ZoneIndustryInfo/Pages/Atarot.aspx>

58 Bimkom, *Survey of the Palestinian neighbourhoods of East Jerusalem* (2013), 18, available at: <http://bimkom.org/eng/wp-content/uploads/survey-of-the-Palestinian-neighborhoods-of-East-Jerusalem.pdf>

59 Israel Ministry of Economy and Industry, Photos of the Industrial Area, available at: <http://economy.gov.il/English/Industry/DevelopmentZoneIndustryPromotion/ZoneIndustryInfo/Pages/Atarot.aspx>

## Atarot Settlement Enterprises

The *Atarot* industrial settlement is managed by the Jerusalem Development Authority (JDA), a joint agency between the Jerusalem Municipality and the Israeli government established “to initiate, plan and encourage actions for the economic development of Jerusalem”.<sup>60</sup> The current CEO of the JDA has been affiliated with the Israeli government, including the Prime Minister’s Office, and previously served as advisor to the Transportation and Road Safety Minister, the Housing and Construction Minister and the Mayor of Jerusalem.<sup>61</sup> According to the Israeli Ministry of Economy and Industry, there are currently 2,056 employees in the *Atarot* industrial settlement as of 2020, with a future plan to hire 1,201 additional employees.<sup>62</sup>

Similar to the majority of settlements, the *Atarot* industrial settlement receives financial benefits as part of the NPA scheme. Accordingly, the JDA offers businesses and factories in the *Atarot* industrial settlement a wide range of incentives, including, but not limited to, benefits on property, taxes, and grants.<sup>63</sup> Additionally, the Israeli government, Jerusalem Municipality and the JDA offer relocation and expansion grants to companies and factories in hi-tech, bio-med and life science industries looking to relocate to Jerusalem.<sup>64</sup>

Approximately 160 businesses and factories operate in the *Atarot* industrial zone, including food factories, automobile repair shops, warehouses, woodworking shops, laundry service shops, construction tool shops, chemical detergent manufacturers, cosmetics manufacturers, textile manufacturers, metal product factories, glass factories, steel factories, and others. Companies operating in *Atarot* include G1 Secure Solutions, Oppenheimer Manufacturing and Marketing, Abadi Bakery, Israel Electric Corporation, the Central Bottling Company (Coca Cola Israel), and Readymix Industries.

<sup>60</sup> The Jerusalem Development Authority, available at: [http://www.jda.gov.il/template/default\\_e.aspx?cid=21](http://www.jda.gov.il/template/default_e.aspx?cid=21)

<sup>61</sup> Prime Minister’s Office, *Press Release: Eyal Haimovsky Joins Prime Minister’s Bureau Staff*, available at: <https://www.gov.il/en/departments/news/spokehaimovsky240412>

<sup>62</sup> Ministry of Economy and Industry, *Jerusalem-Atarot Industrial Area*, available at: <http://economy.gov.il/English/Industry/DevelopmentZoneIndustryPromotion/ZoneIndustryInfo/Pages/Atarot.aspx>

<sup>63</sup> Occupation Inc. (N.7), 107.

<sup>64</sup> “Jerusalem’s Grants and Benefits” in “Israel Advanced Technology Industries” (2015), available at: <http://www.aaege-israel.org/wp-content/uploads/2015/03/IATI-Israeli-ICT-Industry-Review-2015.pdf>

G1 Secure Solutions, previously known as G4S, located in the *Atarot* industrial settlement, has directly contributed to sustaining Israel’s illegal settlement enterprise,<sup>65</sup> providing security services to businesses established in the *Modi’in Illit*, *Ma’ale Adumim*, and *Kalia* settlements.<sup>66</sup> It has also provided integrated management systems to *Ofer*, *Megiddo*, *Al-Naqab*, and *Shatta* Israeli prisons,<sup>67</sup> where a large number of Palestinian political prisoners are imprisoned.<sup>68</sup>

Among the numerous businesses operating illegally in the *Atarot* industrial settlement, most of which are Israeli, there are also multinational businesses headquartered in Sweden, Mexico and the United States.<sup>69</sup> Three multinational corporations established in the *Atarot* industrial settlement are Cemex, General Mills (Pillsbury) and Volvo Group (AB Volvo).<sup>70</sup>

### Cemex – Mexico

Cemex, a Mexican multinational company, produces and distributes cement, ready-mix concrete, aggregates and clinker. As of 31 December 2016, Cemex owned at least 159 subsidiaries worldwide, including six in Israel: Readymix Industries, Cemex Holdings Ltd, Chemocrete Ltd, Israel America Aggregates Ltd, Kadmani Readymix Concrete Ltd, and Lime & Stone Production Company.<sup>71</sup> Readymix Industries operates plants in the occupied West Bank, specifically in *Mevo Horon*, *Atarot*,

<sup>65</sup> UK National Contact Point for the OECD Guidelines for Multinational Enterprises, “UK NCP follow-up statement: complaint by LPHR against G4S” (July 2016) para. 26, available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/846881/bis-16-323-uk-ncp-follow-up-complaint-lphr-g4s.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/846881/bis-16-323-uk-ncp-follow-up-complaint-lphr-g4s.pdf); LPHR, “New research indicates that G1 Secure Solutions, formerly G4S Israel, remains involved in human rights violations against Palestinians” (5 August 2019), available at: <https://lphr.org.uk/blog/new-research-indicates-that-g1-secure-solutions-formerly-g4s-israel-remains-involved-in-human-rights-violations-against-palestinians/>

<sup>66</sup> Who Profits, G1 Secure Solutions (formerly G4S Israel), available at: <https://whoprofits.org/company/g4s-israel-hashmira/>

<sup>67</sup> *Ibid.*

<sup>68</sup> *Megiddo*, *Al-Naqab* and *Shatta* prisons are located within the Green Line. Israel’s practice of detaining Palestinian political prisoners in Israel proper constitutes a violation of international law. Article 76 of the Fourth Geneva Convention provides that an Occupying Power must detain residents of occupied territory in prisons inside the occupied territory. See Article 76, Fourth Geneva Convention.

<sup>69</sup> Who Profits, *Atarot Industrial Zone*, available at: <https://whoprofits.org/industrial-zones/atarot-i-z/>

<sup>70</sup> *Ibid.*

<sup>71</sup> According to Cemex’s list of subsidiaries, as of 31 December 2016.

and *Mishor Adumim* industrial settlements.<sup>72</sup> Further, the company has been a supplier of concrete used for the construction of the Annexation Wall, multiple military checkpoints within the occupied West Bank, and the Jerusalem Light Rail, which aims to connect Jerusalem with illegal Israeli settlements by cutting through the OPT.<sup>73</sup> Readymix Industries has also provided materials for the construction of illegal Israeli settlement infrastructure.<sup>74</sup>

### General Mills (Pillsbury) – United States

General Mills (Pillsbury) is an American multinational manufacturer and marketer of branded foods, specifically frozen dough products. Shalgal, located in the *Atarot* industrial settlement, is a company that produces brand products for General Mills (Pillsbury). Shalgal is a large company that deploys approximately 200 employees and is privately owned by Avraham Elbaz and Maimon Ben David.<sup>75</sup> In addition to violating principles of international law as a company operating within an illegal settlement, General Mills (Pillsbury) directly and adversely impacts the lives of the Palestinian residents who live in close proximity to the factory. According to one of the residents, whose house is located south of the factory:

“when they pour the flour [into the mixers which are outdoors], the flour comes into our house. Sometimes the bags of flour overflow into the house.”<sup>76</sup>

Notably, General Mills Israel and General Mills Inc. (which acquired Pillsbury in 2001)<sup>77</sup> have been included among corporations screened for illegal settlement activity, and as a result, featured on the United Nations Database of Businesses involved in activities in the illegal settlements and in breach of the UN Guiding

Principles on Business and Human Rights.<sup>78</sup>

### Volvo Group (AB Volvo) – Sweden

Volvo Group, a Swedish multinational company, manufactures trucks, buses, and construction equipment. Volvo Group's heavy machinery have been used in numerous house demolitions of Palestinians in the occupied West Bank, including East Jerusalem.<sup>79</sup> Between 11 and 13 June 2019, Al-Haq documented the use of a Volvo bulldozer by the IOF, to raze and excavate Palestinian agricultural land in Sinjel, for the laying of a water pipeline to service settlements and outposts unlawfully built on Sinjel lands.<sup>80</sup> The company's equipment was further used for the establishment of illegal Israeli settlements, the construction of *Huwara* Israeli military checkpoints, and parts of the Annexation Wall.<sup>81</sup> Two of the company's certified automobile repair shops operate in illegal Israeli settlements in the occupied West Bank, one of which operates inside the *Mishor Adumim* industrial settlement, and the other is located inside the *Atarot* industrial settlement.

<sup>78</sup> A/HRC/43/71, Database of all business enterprises involved in the activities detailed in paragraph 96 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 throughout the Occupied Palestinian Territory, including East Jerusalem (12 February 2020) p. 6, para. 27 and p. 8, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25542&LangID=E>

<sup>79</sup> See Al-Haq, Affidavit No. 3345/2007, available at: <http://www.alhaq.org/monitoring-documentation/14105.html>; Al-Haq, Affidavit No. 3373/2007, available at: <http://www.alhaq.org/monitoring-documentation/14116.html>; Al-Haq, Affidavit No. 3394/2007, available at: <http://www.alhaq.org/monitoring-documentation/14121.html>

<sup>80</sup> Al-Haq, “Israeli Occupying Authorities Demolish Palestinian Water Wells; Expand Water Lines for Israeli Settlements - Reporting Period: 10-16 June 2019” (28 June 2019) available at: <http://www.alhaq.org/monitoring-documentation/15167.html>

<sup>81</sup> Who Profits, “Volvo Group (AB Volvo)”, available at: <https://whoprofits.org/company/volvo-group-ab-volvo/>

<sup>72</sup> For map, see: [http://www.readymix.co.il/BuildaGate5/general2/company\\_search\\_tree.php?mc=73~All~readymix](http://www.readymix.co.il/BuildaGate5/general2/company_search_tree.php?mc=73~All~readymix)

<sup>73</sup> Who Profits, “Readymix Industries (Israel) Ltd. Group”, available at: <https://whoprofits.org/company/readymix-industries-israel-ltd-group/>

<sup>74</sup> *Ibid.*

<sup>75</sup> Who Profits, “General Mills (Pillsbury)”, available at: <https://www.whoprofits.org/company/general-mills-pillsbury/>

<sup>76</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>77</sup> Securities And Exchange Commission, “Quarterly Report Pursuant to Section 13 or 15(D) of the Securities Exchange Act of 1934 for the Quarterly Period ended February 24, 2002” (2002) 5, available at: [https://www.sec.gov/Archives/edgar/data/40704/000089710102000250/genmills021817\\_10q.htm](https://www.sec.gov/Archives/edgar/data/40704/000089710102000250/genmills021817_10q.htm)

## 4.1 The Jerusalem Local Outline Plan 2000 and the *Atarot* Industrial Settlement

The proposal of the so-called “Jerusalem Local Outline Plan 2000” (hereafter ‘the Jerusalem Master Plan’) was first announced by (West) Jerusalem Mayor Uri Lupolianski in September 2004. The plan explicitly aims to achieve a “demographic balance” of 70 percent Jews and 30 percent “Arabs” of the overall population of Jerusalem by the year 2020.<sup>82</sup> The plan also proposed the construction of 65,000 additional housing units, both in illegal Israeli settlements inside East Jerusalem and alongside the eastern city’s outskirts by the year 2020.<sup>83</sup>

More specifically, the Jerusalem Master Plan recommends the *Atarot* industrial settlement as the primary area for industry.<sup>84</sup> It further encourages and calls for the relocation of various industries to the *Atarot* industrial settlement, specifically calling for the transfer of automobile repair shops from the “Trade and Services Centre” in Wadi Al-Joz to the *Atarot* industrial settlement.<sup>85</sup> As the plan emphasises, over the years, the industrial settlement of *Atarot* has been connected to major roads and highways in order to ensure ease of access and fast movement of goods to and from the area.<sup>86</sup> This includes the construction of an Israeli-use only apartheid road, the six kilometre (km) long ‘404 Begin North’ road (renamed Route 50, in 2012), connecting *Atarot* CP (checkpoint) to *Har Hotzvim* industrial park in Jerusalem.<sup>87</sup> Additionally, the Israeli authorities have provided security and protection for the *Atarot* industrial settlement, including by building the Annexation Wall and the continued presence of its military and

“border police”.<sup>88</sup> The aforementioned factors, and in particular, the developed infrastructure within the settlement, have created a conducive environment for businesses and for industrial development. According to the JDA, this has resulted in an increase in the demand for land therein.<sup>89</sup>

While there are still no visible signs regarding the establishment of residential buildings for settlers inside the *Atarot* industrial settlement, Israeli officials have announced, on multiple occasions, future plans to establish new housing units there.<sup>90</sup> In May 2017, the Israeli government introduced plans to establish a new neighbourhood in the *Atarot* industrial settlement, including 10,000 housing units.<sup>91</sup> Accordingly, in December 2017, the Israeli Minister of Housing and Construction advanced a plan to construct 6,000 units in East Jerusalem, including 5,000 units in the *Atarot* industrial settlement.<sup>92</sup> Most recently, in early February 2020, the Israeli Ministry of Housing submitted a building plan to the Israeli Jerusalem municipality for the construction of 9,000 new housing units for Israeli settlers in the *Atarot* industrial settlement.<sup>93</sup>

Israeli officials have further stressed the importance of *Atarot* as a way to further entrench the annexation of East Jerusalem, linking it to the Jerusalem Master Plan. In 2018, the Israeli Construction and Housing Minister stated that: “public and educational institutions will also be established, and will include synagogues, schools, parks, community centres and sports arenas. We must continue to establish [our] hold on the Jerusalem area, from *Maaleh Adumin* in the east to

88 Al-Haq, Affidavit No. 4384/2008 (1 August 2011), available at: <http://www.alhaq.org/monitoring-documentation/14067.html>; State of Israel, “Palestinian Capacity Building: Israel’s Efforts in Supporting the Palestinian Economy, Security Reforms and Civil Affairs” (June 2009) p. 23, available at: [https://mfa.gov.il/MFA\\_Graphics/MFA%20Gallery/Documents/AdHocLiaisonJune2009.pdf](https://mfa.gov.il/MFA_Graphics/MFA%20Gallery/Documents/AdHocLiaisonJune2009.pdf)

89 The Jerusalem Development Authority, available at: [http://www.jda.gov.il/template/default\\_e.aspx?Cid=21](http://www.jda.gov.il/template/default_e.aspx?Cid=21)

90 To read more about Israeli discussions on the construction of a residential settlement in *Atarot*, see Marian Houk, “*Atarot* and the Fate of the Jerusalem Airport” *Jerusalem Quarterly*, 35 (2008) 64-75, available at: [https://www.palestine-studies.org/sites/default/files/jq-articles/35\\_atarot1\\_0.pdf](https://www.palestine-studies.org/sites/default/files/jq-articles/35_atarot1_0.pdf)

91 Peace Now, “Possible Critical Developments in East Jerusalem” (2017), available at: <https://peacenow.org.il/en/possible-critical-developments-east-jerusalem>

92 Raoul Wootliff and Sue Surkes, “14,000 housing units planned for Jerusalem, 6,000 of them over Green line” *The Times of Israel* (2017), available at: <https://www.timesofisrael.com/14000-housing-units-planned-for-jerusalem-6000-over-green-line/>

93 Peace Now, “Plan Advanced for a New Settlement in *Atarot* in the Heart of Palestinian East Jerusalem” (18 February 2020), available at: <https://peacenow.org.il/en/plan-advanced-for-a-new-settlement-in-atarot-in-the-heart-of-palestinian-east-jerusalem>

82 Jerusalem Municipality, Local Outline Plan Jerusalem 2000: Report No. 4 (August 2004), available at: [http://www.alhaq.org/cached\\_uploads/download/alhaq\\_files/en/wp-content/uploads/2018/03/LocalOutlinePlanJerusalem2000.pdf](http://www.alhaq.org/cached_uploads/download/alhaq_files/en/wp-content/uploads/2018/03/LocalOutlinePlanJerusalem2000.pdf)

83 *Ibid.*

84 *Ibid.*

85 Marian Houk, *Atarot and the Fate of the Jerusalem Airport*, (2008) *Jerusalem Quarterly*, vol 35, pp. 64-75, available at: [https://www.palestine-studies.org/sites/default/files/jq-articles/35\\_atarot1\\_0.pdf](https://www.palestine-studies.org/sites/default/files/jq-articles/35_atarot1_0.pdf)

86 David Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (State University of New York Press, 2002), 96.

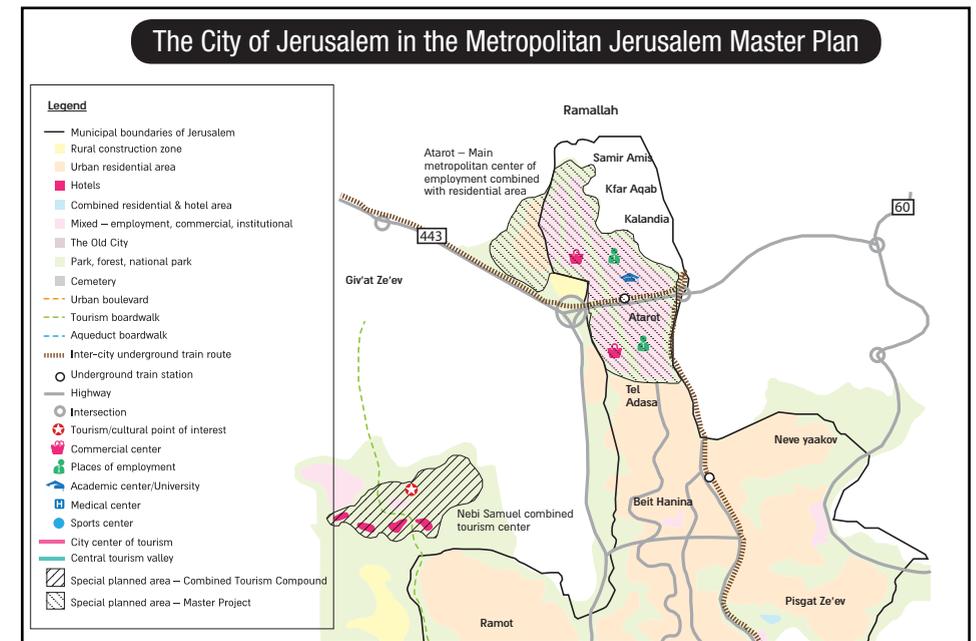
87 Ma’an Development Center, “Apartheid Roads: Promoting Settlements, Punishing Palestinians” (2008) 31; POICA, “Israel inaugurates the third phase of bypass road No. 50 in occupied East Jerusalem” *Applied Research Institute Jerusalem* (2012) available at: <http://poica.org/2016/04/israel-inaugurates-the-third-phase-of-bypass-road-no-50-in-occupied-east-jerusalem/>

Givat Zeev in the west, from Atarot in the north to the area of Bethlehem and Rachel's Tomb to Efrat and Gush Etzion".<sup>94</sup> The Jerusalem Master Plan underpinning the expansion of the Atarot industrial settlement, is yet another example of the institutionalised Israeli policy that aims to permanently annex the OPT, including occupied East Jerusalem.



Atarot industrial settlement<sup>95</sup>

## 4.2 The '5800 Jerusalem 2050' Plan to Develop Atarot Settlement - an industrial key to erase Palestine



"5800 Jerusalem 2050" Master Plan<sup>96</sup>

The Jerusalem 5800 plan provides a "futuristic vision for metropolitan Jerusalem" penned by a lay committee of experts and sanctioned by the Israeli Ministry of Jerusalem and Heritage and the Ministry of Tourism. The plan provides an outline for a radical overhaul of Jerusalem, expanding the Jerusalem Metropolitan area to absorb as suburbs, the Palestinian cities and towns of Ramallah and Bethlehem.<sup>97</sup> Atarot takes centre stage in the development plans and is intended "to take in tens of thousands of employees from all areas of the metropolitan Jerusalem region and from other parts of the country".<sup>98</sup> The plan envisions the employment of some 400,000 people in a "gigantic center of employment" at Atarot. Supporting infrastructure will be upgraded with Jerusalem's intercity train system developing

96 "5800 Jerusalem 2050" (2016), 8, available at: <http://downloads-en.jerusalem5800.com/files/assets/basic-html/page-1.html#>

97 *Ibid*, 20.

98 *Ibid*, 27.

94 Yehuda Shlezinger, "20,000 housing units approved for Maaleh Adumim" Israel Hayom (2018), available at: <https://www.israelhayom.com/2018/10/28/20000-housing-units-approved-for-maaleh-adumim/>

95 Photograph © The Jerusalem Film and Television Fund (2015), available at: <http://jerusalemfilmfund.com/location/atarot-industrial-zone/>

an extra line directly to the *Atarot* settlement.<sup>99</sup> The plan proposes that a:

“third train line coming from the Tel Aviv region will have to be established, serving the employment center that is to be built in *Atarot*. This line – which will be built along route 443 – will allow people who live outside metropolitan Jerusalem to work in *Atarot*, and will ease their travel between jobs in *Atarot* and business centers in Tel Aviv. Further, this train line will enable transportation of raw materials from the Ashdod port to the *Atarot* employment center and export goods from *Atarot* to Ashdod”.<sup>100</sup>



Given the large numbers of employees expected in the *Atarot* settlement, the plan further recommends the development of an additional subway line, once the worker population exceeds 160,000 people.<sup>101</sup> As such, *Atarot* is intended to function as a massive commercial hub for Jerusalem and Tel Aviv, with supporting rail infrastructure connecting *Atarot* to Israel to entrench the colonisation. *Atarot* is designed to be built upwards with skyscrapers, and similar to Tel Aviv, will both geographically and architecturally alter and erase all Palestinian village and agricultural presence.

Left: Artist's Impression of *Atarot* from the Metropolitan Jerusalem Master Plan<sup>102</sup>

99 *Ibid*, 75.

100 *Ibid*, 79.

101 *Ibid*, 78.

102 *Ibid*, 27.

### 4.3 Crippling the Economy Through Creation of Coercive Environments in Jerusalem

The *Atarot* industrial settlement and commercial activities therein, are reflective of Israel's systematic policy to sustain its prolonged occupation and institutionalised regime of oppression against Palestinians through isolation, fragmentation and land appropriation. Within this context, Israel's discriminatory practices targeting occupied East Jerusalem aim to drive Palestinians out of the city all the while continuing to unlawfully acquire more Palestinian land and property for the benefit of Israel's settlement enterprise. These measures include *inter alia*, the appropriation and confiscation of land, the transfer of Israeli settlers into occupied territory, the targeted de-development of the Palestinian economy, house demolitions, and discriminatory planning and zoning policies.<sup>103</sup> For example, in 2015 the Applied Research Institute - Jerusalem documented the demolition of a “Palestinian commercial building consisting of three floor (each floor 100 square meters) in the Industrial area of *Atarot*, north of Jerusalem city. The targeted building was owned by Abu Diyab family”.<sup>104</sup> While Palestinians are systematically denied essential services, and as they continue to suffer the consequences of such discriminatory measures, Israeli settlers benefit substantially from the NPA system.<sup>105</sup>

Further, Israel's restrictions on Palestinian movement within the OPT, including access to East Jerusalem, has intensified over the past few years, most notably due to, *inter alia*, the construction of new settlements and the expansion of existing ones, the construction of the Annexation Wall, military checkpoints and settler-only roads, and the designation of land as closed military zones.<sup>106</sup> Palestinian's are subject to a discriminatory administrative permit regime which severely curtails Palestinian movement into the settlements, East Jerusalem, the Gaza

103 See Al-Haq, “Occupying Jerusalem's Old City: Israeli Policies of Isolation, Intimidation and Transformation” (2019), available at: <http://www.alhaq.org/publications/15212.html>

104 ARIJ, “The Israeli Settlement Enterprise: Grave Breaches of International Law”, (January 2016), 197.

105 *Ibid*.

106 UN OCHA, “Humanitarian Impact of Settlements”, available at: <https://www.ochaopt.org/theme/humanitarian-impact-of-settlements>; See Al-Haq, “The Annexation Wall and its Associated Regime” (2011), available at: <http://www.alhaq.org/publications/8136.html>

Strip and Israel.<sup>107</sup> Hence, Palestinian territorial contiguity has been deliberately undermined, divided and fragmented, with most of the occupied Palestinian population unable to freely access East Jerusalem, both negatively impacting and limiting employment opportunities.<sup>108</sup>

In this vein, and consequent to Israel's capture of the Palestinian economy, land and resources,<sup>109</sup> Palestinians have had to adapt by seeking job opportunities and means of livelihood elsewhere, including in Israeli settlements.<sup>110</sup> As of today, thousands of Palestinians continue to seek employment on land unlawfully appropriated from them, including in the *Atarot* industrial settlement, due to the absence of viable alternatives.<sup>111</sup>

Similarly, Palestinian business owners in Jerusalem have been affected by Israel's illegal practices of appropriation and annexation of Palestinian land and natural resources, movement restrictions, as well as isolation and fragmentation. The absence of land accessible to Palestinians in East Jerusalem, for both the expansion of pre-existing businesses or the establishment of new ones, is one of the main factors driving Palestinians to relocate their businesses to the *Atarot* industrial settlement.<sup>112</sup> Further, due to Israel's discriminatory policy and disproportionate provision of public services to the residents of East and West Jerusalem,<sup>113</sup> Palestinians in East Jerusalem are not directly connected to the electric grid, which is necessary for operating their factories.<sup>114</sup>

107 Al-Haq, "Occupying Jerusalem's Old City: Israeli Policies of Isolation, Intimidation and Transformation" (2019) 9, available at: <http://www.alhaq.org/publications/15212.html>

108 Marya Farah, "The Atarot Exception? Business and Human Rights under Colonization" (2019), *Jerusalem Quarterly*, vol 80, pp. 41-56.

109 Who Profits, *Industrial Zones* (N.9).

110 World Bank, "West Bank and Gaza: Jobs in West Bank and Gaza Enhancing Job Opportunities for Palestinians" (June 2019), 18, available at: <http://documents.worldbank.org/curated/en/523241562095688030/pdf/West-Bank-and-Gaza-Jobs-in-West-Bank-and-Gaza-Project-Enhancing-Job-Opportunities-for-Palestinians.pdf>

111 Al-Haq, "Occupied Livelihoods: Palestinians Striving for their Right to Work" (2012), available at: <http://www.alhaq.org/advocacy/6891.html>

112 Marya Farah, "The Atarot Exception? Business and Human Rights under Colonization" 80 *Jerusalem Quarterly* (2019) 41-56.

113 UN Habitat, "Right to Develop: Planning Palestinian Communities in East Jerusalem" (2015), 7.

114 Marya Farah, "The Atarot Exception? Business and Human Rights under Colonization" 80 *Jerusalem Quarterly* (2019) 41-56.

Moreover, since the "centre of life" policy was introduced by the Israeli Ministry of Interior in December 1995, applicable to Palestinians residents of East Jerusalem, Palestinians are at continuous risk of having their Jerusalem residency status revoked, should they decide to relocate to other parts of the OPT.<sup>115</sup> Palestinian Jerusalem ID holders must consistently prove that they permanently reside in East Jerusalem or Israel and that they have not moved their "centre of life" outside of Israel or East Jerusalem, including anywhere else in the OPT.<sup>116</sup> This policy feeds into Israel's broader strategy to force the transfer of Palestinian holders of Jerusalem IDs and increase the ratio of Jews to Palestinians in Jerusalem.

Despite claims within Israeli media that Israeli settlements provide a platform for "coexistence" between Palestinians and Israelis,<sup>117</sup> the relocation of Palestinian businesses to *Atarot* and the employment of Palestinian workers in Israeli settlements are in fact products of Israel's creation of coercive environments and unliveable conditions for Palestinian residents of East Jerusalem. While Palestinian areas are de-developed, Palestinian workers from Jerusalem, constrained by the "centre of life" policy in Jerusalem are forced to work in the *Atarot* industrial settlement under difficult and unsafe labour conditions, deprived of basic job entitlements.<sup>118</sup>

115 *Ibid.*

116 For more information on Israel's "centre of life" policy, see Al-Haq, "The Jerusalem Trap" (2011), available at: <http://www.alhaq.org/publications/8086.html>

117 Jessica Steinberg, "On edge of Jerusalem alongside security barrier, Jews and Arabs shop at new mall" *The Times of Israel*, (8 January 2019), available at: <https://www.timesofisrael.com/outside-jerusalem-alongside-security-barrier-jews-and-arabs-shop-at-new-mall/>

118 World Bank, "West Bank and Gaza: Jobs in West Bank and Gaza Enhancing Job Opportunities for Palestinians" (June 2019) 13, available at: <http://documents.worldbank.org/curated/en/523241562095688030/pdf/West-Bank-and-Gaza-Jobs-in-West-Bank-and-Gaza-Project-Enhancing-Job-Opportunities-for-Palestinians.pdf>

## 4.4 Atarot Industrial Settlement: Human and Environmental Rights Impacts

In addition to Israel's systematic policy of forcible transfer and permanent annexation of occupied territory through the construction of illegal settlements, whether residential, industrial or agricultural, the construction of *Atarot* industrial settlement has had specific negative impacts on the environment and the human rights of Palestinians residing therein.

### 4.4.1 The "Rami Levy" Mall

Since the establishment of "*Rami Levy*" Mall in the *Atarot* industrial settlement in 2019, Palestinians living and working nearby are frequently harassed by the Israeli Jerusalem municipality and are subjected to Jerusalem Municipalities' discriminatory planning and zoning practices.<sup>119</sup> A Palestinian homeowner, living across the street from the new "*Rami Levy*" Mall, explained to Al-Haq how the Israeli Jerusalem municipality systematically refuses Palestinian's planning permissions.<sup>120</sup> This left her with no other option than to build without the permit, whereupon the Jerusalem Municipality ordered her to partially self-demolish her home. She stated:

"My husband began to renovate the house into two sections, one for me and my kids, and another for his father and his wife... He began to build two new rooms... Each room was about 20 [square] meters, and cost about 100,000 NIS [28,575 USD]. I didn't apply for a building permit with the Jerusalem municipality because I know they do not grant permits anyway... I was also pregnant with triplets and very excited, although fatigued and in pain.

Almost a year ago, with the start of the "*Rami Levy*" project, the Jerusalem municipality began to increasingly monitor us, and issued demolition orders for the two rooms for building without a permit. Although we hired an attorney which cost nearly 10,000 NIS [2,860 USD], the court issued a demolition order on 12 January 2016 giving us until 12 April 2016 to demolish... On 4 April 2016 I heard noise outside, but I thought it was

part of the construction work at *Rami Levy*. When I opened the door, I saw Israeli Special Forces with a huge bulldozer. They came to demolish the two rooms, and said they would issue a 70,000 NIS fine [20,000 USD]... I called two Palestinians who work nearby and asked them to help me demolish [to avoid the fine]... Thousands of [square] meters can be built for the new *Rami Levy* project in the settlement, but I, as a Palestinian, can't build two rooms in my house".<sup>121</sup>

The "*Rami Levy*" Mall represents an example of Palestinian economic and corporate capture by the Israeli settlement economy. Small Palestinian businesses in the locality have been competitively undercut by the "*Rami Levy*" Mall. For example, a local Palestinian woman, who resides near Shu'fat, a Palestinian neighbourhood near Beit Hanina in which the "*Rami Levy*" Mall is located, explained: "it's not about supporting an Israeli trader over a Palestinian one. For me it's about saving money... one kilo[gram] of tomatoes would cost me 8 NIS [2.20 USD] in Arab areas... at *Rami Levy*, I pay 3.00 NIS [0.80 USD]. I have a big family, so I shop at the cheaper places, especially with the bad economic situation we are going through."<sup>122</sup> The construction of the Mall, coupled with the discriminatory policies imposed by Israel such as restrictions on building and the "centre of life" policy, have turned Palestinians into "captive clients".

119 Al-Haq, "Development of Atarot threatening Palestinian neighbourhoods of East Jerusalem" (23 June 2016), available at: <http://www.alhaq.org/advocacy/6404.html>

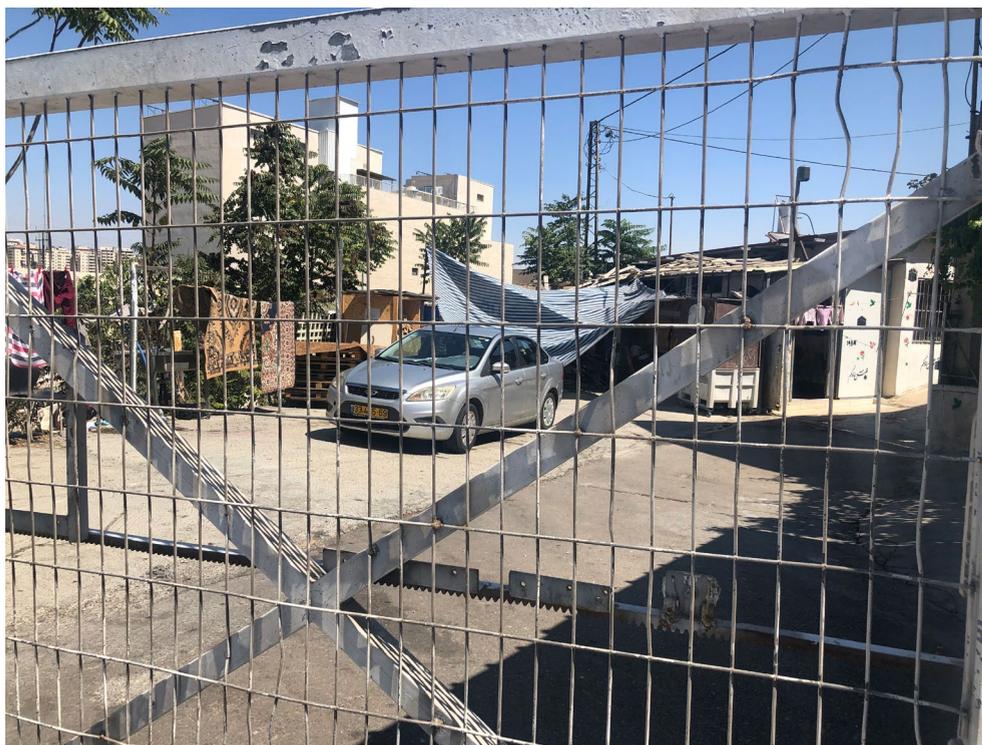
120 See also, Badil, "Forced Population Transfer: The Case of Palestine: Discriminatory Zoning and Planning Working Paper No. 17" (December 2014), 37.

121 Al-Haq Affidavit No. 2016/346 taken on 18 April 2016.

122 The Media Line, 'Co-existence Pains: New *Rami Levy* Mall Benefits Consumers, Hurts Local Businesses' (24 January 2019), available at: <https://themedialine.org/news/co-existence-pains-new-rami-levy-mall-benefits-consumers-hurts-local-businesses-with-video/>

#### 4.4.2 An Unseen Community

Prior to the establishment of the *Atarot* industrial settlement, the area comprised of agricultural lands belonging mostly to Beit Hanina, and was home to a number of families. Today, approximately 20 Palestinian families still live in the *Atarot* industrial settlement, some of whom have been living there even prior to the establishment of the industrial zone, for 40 to 50 years.



Residential House in *Atarot* Settlement © Al-Haq (2019)

In 1966, one of the residents, who prefers to remain anonymous, moved to Wa'ar Abu Hirmaz - the area currently known as *Atarot*. According to the resident, her husband's family has lived in the area since 1956. The resident is the mother of 12. Her eight daughters have moved to either the village Beit Hanina or to the United States. Two of her sons still live with her and her husband in their home in what is now *Atarot*, and two others have migrated to the United States. She has about 50 grandchildren, four of whom reside in the same building. She recalled how life has changed since the establishment of the *Atarot* industrial settlement,

stating that:

“It was an empty distanced area, planted with trees and vineyards... We used to see mountains and breathe fresh air from our house. Now we see factories and an animal shelter. We used to wake up to the sound of birds chirping, now we wake up to the sound of mixers and police”.<sup>123</sup>

The resident further emphasized that the residents of Beit Hanina Al-Balad, (since cut off from the annexed village of Beit Hanina), would get married and move to the outskirts of the village. She also stated how her children used to play outside because it was safe and empty. She further stated:

“The house used to be a getaway but now we are looking for a way to escape... It is unsafe to be outside because of the factories, the [Israeli] military and the settlers”.<sup>124</sup>

##### *a. Services Denied*

Some of the Palestinian houses in the *Atarot* industrial settlement are covered with dust and surrounded by garbage disposed of from the surrounding factories and businesses. Other houses are not connected to paved roads or trails. Instead, dirt roads must be used for access. In general, maintenance and municipal services are almost non-existent in the residential areas, while factories have a well-established infrastructure and are granted regular access to municipal services. Within this context, one resident stated:

“I pay around 5,700 NIS [1,629 USD] in taxes to the Israeli Jerusalem municipality, but without receiving any services. We dispose of our garbage in the bin that belongs to the animal shelter. The house is not connected to sewage networks. I pay about 600-700 NIS [171.8 - 200 USD] every month for the sewage... Meanwhile, the factories around us have a well-established infrastructure, including sewage, electricity and water.”<sup>125</sup>

Another resident told Al-Haq that they pay municipal taxes, yet they still have to “throw [their] garbage in the bins designated for the nearby Pillsbury factory because there are no other bins designated for [them]”.<sup>126</sup>

<sup>123</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>124</sup> *Ibid.*

<sup>125</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>126</sup> Interview on 21 September 2019, on file with Al-Haq.

### *b. Isolation*

Another resident stressed how the Israeli Jerusalem municipality impedes the construction of roads for Palestinian residents' use:

“The entrance to our house is a dirt road because the Israeli Jerusalem municipality claims that they are still in the planning phase of the area. We know that they want the land and therefore want our entrance to be located on the other side”.<sup>127</sup>

Due to this policy, Palestinians who live in or close to the *Atarot* industrial settlement are isolated from other parts of East Jerusalem. One resident clarified:

“We have been isolated from Bir Nabala and Al-Ram by virtue of the Wall, while the factories and the industrial settlement have isolated us from Beit Hanina and the rest of Jerusalem. Changes made to the roads have also contributed to our isolation... people stopped visiting us in our home because we have been blocked from the main road that used to connect us to our home. They [visitors] now have to use a bypass road which is longer, and they do not know the way”.<sup>128</sup>

Another resident, who has been living in the same house for the past 57 years, also explained how they feel isolated and separated from other Palestinians, and the burden they endure when they leave their houses. The resident stated:

“Transportation to and from *Atarot* is difficult. Children in the morning would have to go to the main road and often pass by Israeli soldiers on their way to school. I have six children between the ages of 12 and 27. My youngest, 12, when she goes to school in the morning, she would have to leave at 6:00 am because there is no direct way from *Atarot* to her school in Beit Hanina. Transportation would go from *Atarot* to Qalandia, and then to Beit Hanina, making the trip longer. Usually, she does not leave on her own in the morning because it is too early. It is best if someone accompanies her from the house because the roads are empty that early [in the day] and are not safe. It is also not easy for me to go anywhere from my house. I usually ask one of my children who drives to take me in the car. We receive less visitors now as there is no transportation to our house, and it takes a long time to get here”.<sup>129</sup>

127 Interview on 21 September 2019, on file with Al-Haq.

128 Interview on 21 September 2019, on file with Al-Haq.

129 Interview on 21 September 2019, on file with Al-Haq.

### *c. Land Confiscation*



Palestinian Agricultural Lands in *Atarot* Industrial Settlement As captured from the rooftop of one of the residential houses there © Al-Haq (2019)

Al-Haq interviewed residents who also highlighted the impacts of Israel's policy of land appropriation. One resident stated:

“In the early 1970s, [the Israeli government] sent us papers declaring their intent to confiscate the land in the area. They prevented us from planting the land, and now the land has turned into roads and a roundabout that was constructed two years ago”.<sup>130</sup>

Similarly, another resident recalled how the Israeli Jerusalem municipality notified them, twice within the past year, that the five dunums that they own, including the land on which their house is situated, have been previously declared as State land, and that the municipality intends to construct a road on it. The resident confirmed that the land is planted with fig, olive, lemon and peach trees.

130 Interview on 21 September 2019, on file with Al-Haq.

#### d. Prohibited Construction and Expansion

Palestinian residents in *Atarot* are also severely restricted when requesting building permits from the Israeli authorities, as is the case in the rest of East Jerusalem.<sup>131</sup> Palestinians in East Jerusalem are only allowed to build on 13 percent of the East Jerusalem area, the majority of which already overcrowded with pre-existing constructions.<sup>132</sup> Israeli settlements, on the other hand, have been allocated 35 percent of East Jerusalem land for their construction and expansion.<sup>133</sup> Further, the Israeli Jerusalem municipality grants only 50 to 100 building permits per year for Palestinians<sup>134</sup>, who are further subjected to a long and complex process involving overcomplicated requirements to prove landownership, in addition to having to pay significant related expenses.<sup>135</sup> Thus, the cost of applying for permits and the required legal aid usually exceeds the financial capabilities of the average East Jerusalem Palestinian resident. In relation to the discriminatory policies of obtaining building permits, one resident told Al-Haq:

“We are not allowed to build on the land surrounding our house, even though we own it”.<sup>136</sup>

Another resident stated:

“We applied for a permit to build a new house here, but they [the Jerusalem municipality] refused and requested over a million NIS [285,715 USD]... Seven years ago, they demolished an extended structure above the house because it was not licensed”.<sup>137</sup>

131 Badil, “Forced Population Transfer: The Case of Palestine: Discriminatory Zoning and Planning Working Paper No. 17” (December 2014), 37.

132 OCHA, “Record number of demolitions, including self-demolitions, in East Jerusalem in April 2019” (14 May 2019), available at: <https://www.ochaopt.org/content/record-number-demolitions-including-self-demolitions-east-jerusalem-april-2019>

133 *Ibid.*

134 Al-Haq, *Demolitions in East Jerusalem Leave 52 Palestinians Homeless* (2 February 2012), available at: <http://www.alhaq.org/monitoring-documentation/6933.html>

135 OCHA, Record number of demolitions, including self-demolitions, in East Jerusalem in April 2019 (14 May 2019), available at: <https://www.ochaopt.org/content/record-number-demolitions-including-self-demolitions-east-jerusalem-april-2019>

136 Interview on 21 September 2019, on file with Al-Haq.

137 Interview on 21 September 2019, on file with Al-Haq.

#### 4.4.3 Noise, Pollution and the *Atarot* Landfill

Industrial factories are major contributors to environmental degradation and to the escalation of levels of air and other forms of pollution. Factories operating in the *Atarot* industrial settlement are no exception. Some of the factories operate up to 24 hours a day, consistently emitting various forms of toxic pollutants into the air. Being one of the largest industrial settlements in Jerusalem,<sup>138</sup> the ecological footprint of the *Atarot* industrial settlement undoubtedly leaves a detrimental impact on the wellbeing of the surrounding land and population.



*Atarot* Concrete Plant<sup>139</sup>

##### a. Noise

Palestinians who reside in the *Atarot* industrial settlement are constantly exposed to noise nuisance from the surrounding factories throughout the day, and sometimes even at night. One resident stated:

“The noise from motors is loud and they work 24 hours”.<sup>140</sup>

138 *Atarot-Jerusalem*, available at: <http://www.atarot-jerusalem.org.il>

139 *Atarot Concrete Plant – North Jerusalem*, available at: <https://www.shapir.co.il/en/concrete-plants/atarot-concrete-plant-north-jerusalem/>

140 Interview on 21 September 2019, on file with Al-Haq.

Another resident pointed to the noise nuisance from the animal shelter located next to his house, which hosts a large number of dogs and cats:

“The noise is not normal. It gets worse at night... The noise comes from heavy machines and motors which are often functioning 24 hours a day, and [from] the loading of goods. There are also about 700 dogs at the animal shelter which is right next to our home and they are always barking”.<sup>141</sup>

### *b. Pollution*

A recent study shows that air pollution levels in the *Atarot* industrial settlement exceed permissible limits most days.<sup>142</sup> The factories operating therein emit large quantities of small particles which can agitate the respiratory system and are particularly dangerous for children, those with respiratory diseases, heart conditions, the elderly, and pregnant women.<sup>143</sup> Further, some residents are directly affected by the operation of certain factories. The Pillsbury factory, for example, is located to the north of one interviewed family's residence. According to one of the residents, the family also suffers from “the trash from the factory which is left in open air” near their home. The resident stated that they have complained to the Jerusalem municipality several times, which sometimes resulted in the factories getting fined. They added:

“There are also chicken slaughterhouses and factories about 100-150 metres away from the house, which usually emit foul smells”.<sup>144</sup>

Chronic inhalation of industrial fumes, gases, and products such as flour puts the health of residents at risk of various diseases, particularly respiratory diseases.<sup>145</sup>

### *c. Atarot Landfill*

In addition to the waste generated by the *Atarot* industrial settlement, the Jerusalem municipality also dumps much of its waste in the *Atarot* landfill. The city of Jerusalem produces about 1,500 tons of waste every day, and its waste

<sup>141</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>142</sup> Haaretz, ‘Key Product from Jerusalem Industrial Zone: Air Pollution’ (15 January, 2018) available at: <https://www.haaretz.com/israel-news/.premium-key-product-from-jerusalem-industrial-zone-air-pollution-1.5462323>

<sup>143</sup> *Ibid.*

<sup>144</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>145</sup> Cedars Sinai, *Occupational Lung Diseases*, available at: <https://www.cedars-sinai.org/health-library/diseases-and-conditions/o/occupational-lung-diseases.html>

production has grown at a rate of 4 percent per year.<sup>146</sup> Those most affected by the landfill, besides the Palestinian residents in *Atarot*, are residents in the rest of Beit Hanina, particularly those residing in Al-Hijra neighbourhood, Al-Ram and Dahiyet al-Barid. Meanwhile, the closest settlement to the landfill, *Navi Ya'kov*, is about six kilometres away, and thus, is rarely affected by the smell and other adverse impacts of the landfill.<sup>147</sup>

Palestinian residents of the *Atarot* industrial settlement have been severely affected by the landfill. One woman, whose house is east of the landfill, stated:

“The landfill has been there for about 10 years now. It gathers all sorts of garbage. The smell emanating from the landfill is unbearable and is there all year round, sometimes during the day and other times at night. When there is heavy wind or when it is hot, it gets worse... We have to close the windows and turn on the air conditioning which results in high electricity bills and more expenses... Sometimes, my 70-year-old husband throws up from the smell”.<sup>148</sup>

Another woman, who lives at the end of the street, also complained about the landfill and the strong smell it emits. She further explained that they have to shut down the windows, and buy “additional fans and [install] air conditioning units”,<sup>149</sup> which ultimately results in higher electricity bills.

<sup>146</sup> Haaretz, ‘What a Waste: Jerusalem's Underused Sorting Center’ (16 August 2019), available at: <https://www.haaretz.com/israel-news/.premium-what-a-waste-jerusalem-s-underused-sorting-center-1.7688483>

<sup>147</sup> nadolu Agency, *مصانع “عطروت” الإسرائيلية بالقدس... استيطان برائحة الموت*, Israeli factories of Atarot: settlement enterprise with the smell of death, (2017).

<sup>148</sup> Interview on 21 September 2019, on file with Al-Haq.

<sup>149</sup> Interview on 21 September 2019, on file with Al-Haq.



## 5 LEGAL ANALYSIS

Israel's military occupation of the West Bank, including East Jerusalem and the Gaza Strip is regulated by international humanitarian law (IHL) as the *lex specialis* i.e. the Regulations Annexed to the Hague Convention IV Respecting the Laws and Customs of Wars on Land of 1907 (Hague Regulations), Fourth Geneva Convention Concerning the Protection of Civilian Persons in Time of War of 1949 (Fourth Geneva Convention) and provisions of customary international law including the customary provisions of the Protocol Additional to the Geneva Convention of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (1977) (Additional Protocol I).

Additionally, Israel as Occupying Power, is obliged to apply human rights treaties extraterritorially to the occupied territory, which operate in complementarity to the provisions of IHL. Critically, the right to self-determination represents a core principle of international law, the realisation of which, constitutes an indispensable condition for the effective guarantee and observance of individual human rights.<sup>150</sup> Further, the principle of permanent sovereignty over natural resources, as a fundamental component of the right to self-determination, prohibits the Occupying Power from unlawfully exploiting the occupied territory's natural resources, including the use of land for settlement, and protects the occupied population's ability to freely dispose of their natural wealth and resources in accordance with their rights to self-determination and development.<sup>151</sup>

<sup>150</sup> UN Human Rights Committee, General Comment 12: The Right to Self-Determination of Peoples (Art. 1) (13 March 1984) UN Doc. CCPR/C/21/Rev.1.

<sup>151</sup> UNGA Res 3175 (XXVIII) (17 December 1973) UN Doc. A/RES/3175(XXVIII); UNGA Res 1803 (XVII) (14 December 1962) UN Doc. A/RES/1803(XVII); Armed Activities Congo/Uganda (n 192) paragraph 244-245.

## 5.1 Illegality of Settlements

Since the beginning of Israel's occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967, Israel has constructed, maintained and expanded illegal settlements. Numerous United Nations (UN) resolutions have affirmed the illegality of Israeli settlements in the OPT under international law, including UN General Assembly resolutions<sup>152</sup> UN Security Council Resolutions<sup>153</sup> and UN human rights treaty bodies.<sup>154</sup> UN Security Council resolution 446 (1979) for example, clearly condemned "the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity".<sup>155</sup> More recently, the 2019 Concluding Observations of the Committee on the Elimination of Racial Discrimination (CERD) to Israel, criticized Israel's failure to apply the Convention to the OPT with the Committee concluding "that the Israeli settlements in the Occupied Palestinian Territory, in particular the West Bank, including East Jerusalem, are not only illegal under international law but are an obstacle to the enjoyment of human rights by the whole population, without distinction as to national or ethnic origin".<sup>156</sup>

Israel's widespread and systematic practices of transferring its own citizens into Israeli settlements in the occupied West Bank, including East Jerusalem, violates numerous provisions of international humanitarian law, amounting to grave breaches of the Geneva Conventions, war crimes and crimes against humanity.<sup>157</sup> For example, the permanency of the settlement regime offends against the

<sup>152</sup> See e.g. UNGA Resolution 66/17 (2012), preamble, paras. 15, 16; UNGA Resolution 71/95 (2016), preamble, para. 4; UNGA Resolution 73/255 (2018), preamble, paras. 4-5 and 11.

<sup>153</sup> See e.g. UNSC Resolution 446 (1979), para. 1; UNSC Resolution 452 (1979), preamble; UNSC Resolution 465 (1980), paras. 5-6; UNSC Resolution 2334 (2016), paras. 1-3; UNSC Resolution 2334 (2016) UN Doc S/RES/2334, para 1.

<sup>154</sup> See e.g. CERD 1994 Report, para. 87; CERD 1998 Observations, para. 10; CERD 2007 Observations, paras. 14, 32; CERD 2012 Observations, paras. 4, 10; and CERD 2019 Observations, para. 4.

<sup>155</sup> UNSC Resolution 446 (1979), para. 1.

<sup>156</sup> International Convention on the Elimination of All Forms of Racial Discrimination, Concluding Observations on the combined seventeenth to nineteenth reports of Israel, CERD/C/ISR/CO/17-19 (27 January 2020) para. 9. The Committee concluded: "that such a position is not in accordance with the letter and spirit of the Convention and international law, as also affirmed by the International Court of Justice."

<sup>157</sup> Additional Protocol I (1977) Article 85(4)(c): "In addition to the grave breaches defined in the preceding paragraphs and in the Conventions, the following shall be regarded as grave breaches of this Protocol, when committed wilfully and in violation of the Conventions or the Protocol: (c) practices of 'apartheid' and other inhuman and degrading practices involving outrages upon personal dignity, based on racial discrimination."

temporary nature of belligerent occupation and the conservationist principle underpinning the occupants administration of occupied territory inherent in Article 43 of the Hague Regulations and Article 64 of the Fourth Geneva Convention.<sup>158</sup> Israel's sweeping appropriations of Palestinian private agricultural lands and reclassification of Palestinian publicly owned land as Israeli State land, violates provisions on the protection of private property under Article 46 of the Hague Regulations, the abuse of requisition provided for under Articles 52 and 53 of the Hague Regulations, and the breach of *usufructuary* privilege under Article 55 of the Hague Regulations.<sup>159</sup>

Particular prohibitions pertain to the forcible transfer of the protected population and the transfer in of the civilians of the Occupying Power, for the purposes of colonising the occupied territory. The coercive environment created in occupied East Jerusalem, and other parts of the OPT, may result in the forcible transfer of the protected Palestinian population. Article 49(1) of the Fourth Geneva Convention prohibits the "individual or mass forcible transfers, as well as deportations of protected persons from occupied territory".<sup>160</sup> Further, Article 49(6) of the Fourth Geneva Convention stipulates that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."<sup>161</sup> Such practices may amount to the crime of forcible transfer, as both a war crime and crime against humanity, under the jurisdiction of the International Criminal Court (ICC).<sup>162</sup>

In December 2019, the Prosecutor of the ICC concluded a five-year preliminary examination of her Office into the Situation in Palestine, finding:

158 Y Arai-Takahashi, *The Law of Occupation: Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law* (Martinus Nijhoff Publishers, Leiden/Boston, 2009), 106, fn. 53. See also E H Schwenk, "Legislative Power of the Military Occupant under Article 43, Hague Regulations" (1945) 54 *Yale Legal Journal* 393, 403.

159 Article 55 of the Hague Regulations preventing the occupier from "commit[ing] waste or strip[ing] off the property involved, nor it is conceivable that the administrator or usufructuary [the Occupying Power] may with impunity so use the property as to ruin or destroy the economy of the occupied territory, or to deprive its inhabitants of [...] coal, oil, iron, steel [...]" as this would amount to unlawful spoliation. *United States of America v E. Von Weizsaecker et al.*, US Military Tribunal at Nuremberg (Judgment, 14 April 1949), in *Trials of War Criminals before the Nuremberg Military Tribunals*, Vol. XIV, 747.

160 Article 49 (1), Fourth Geneva Convention.

161 Article 49 (6), Fourth Geneva Convention.

162 Articles 7(1)(d), 8(2)(b)(viii), *Rome Statute of the International Criminal Court* (adopted 17 July 1998, entry into force 1 July 2002) 2187 UNTS 3.

"The Prosecutor is satisfied that there is a reasonable basis to initiate an investigation into the situation in Palestine, pursuant to article 53(1) of the Statute. There is a reasonable basis to believe that war crimes have been or are being committed in the West Bank, including East Jerusalem, and the Gaza Strip ("Gaza" or "Gaza Strip"), and the Prosecution has identified potential cases arising from the situation which would be admissible."<sup>163</sup>

Following a Pre Trial Chamber examination into territorial jurisdiction, the question will then turn to individual criminal accountability for crimes committed in the occupied Palestinian territory, including those crimes underpinning Israel's illegal settlement enterprise such as, for example, the establishment of the *Atarot* industrial settlement.

## 5.2 The Right to Self-Determination and Permanent Sovereignty

The *Atarot* industrial settlement exemplifies the *de facto* annexation of the OPT, particularly East Jerusalem, in violation of the inalienable rights of Palestinians, namely the right to self-determination, including the principle of permanent sovereignty over natural resources.<sup>164</sup> The principle of self-determination is a core tenet of the UN Charter, as emphasised in Article 1(2) and restated in common Articles 1 to the International Covenant on Civil and Political Rights (ICCPR) and the international Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>165</sup> Further, the right to self-determination as a peremptory norm of international law, includes the right of peoples to "freely dispose of their natural wealth and resources" and to "freely determine their political status and freely pursue their

163 No. ICC-01/18, Situation in the State of Palestine, Prosecution request pursuant to article 19(3) for a ruling on the Court's territorial jurisdiction in Palestine, (22 January 2020) para. 2.

164 *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations (Declaration on Friendly Relations)*, UNGA Res 2625 (XXV) (24 October 1970) UN Doc A/RES/2625(XXV).

165 UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, Israel ratified the Covenant on 3 October 1991; UN General Assembly, International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, Israel ratified the Covenant on 3 October 1991.

economic, social and cultural development”.<sup>166</sup> In this vein, the International Court of Justice in its Advisory Opinion on the Wall case, considered that the construction of the Wall in the OPT, its associated regime of movement restrictions, land confiscation and property destruction, and the Israeli settlements, breach peremptory *jus cogens* norms of international law, which give rise to obligations *erga omnes*.<sup>167</sup> As such, the Israeli settlement infrastructure in Atarot, along with the surrounding Annexation Wall and military checkpoints there and at Qalandia, impose restrictions on Palestinian freedom of movement violating the basic human rights, including, *inter alia*, the right to self-determination, sovereignty over land and natural resources, the rights to work, and housing.<sup>168</sup>

### 5.3 The Right to Adequate Housing

Israeli settlements, along with their infrastructures, have been constructed on appropriated Palestinian land, causing the widespread and systematic forcible displacement of the Palestinian people. For example, the 2012 UN Fact-Finding Mission noted the “large number of demolitions, demolition orders, forced evictions and ‘relocation’ plans in zones identified for the consolidation of settlements”.<sup>169</sup> Article 53 of the Fourth Geneva Convention prohibits any destruction by the Occupying Power of any private or public property, except where such destruction is rendered absolutely necessary by military operations.<sup>170</sup> Further, Article 147 of the Fourth Geneva Convention prohibits as a grave breach of the Convention extensive destruction and appropriation of property.<sup>171</sup> Accordingly, Israel’s systematic policy of appropriating and permanently annexing the land resources

<sup>166</sup> Article 1, International Covenant on Civil and Political Rights; Article 1, International Covenant on Economic, Social and Cultural Rights; Article 1(2), *Charter of the United Nations* (adopted 24 October 1945) 1 UNTS XVI.; General Assembly, Resolution 2625 (XXV), Declaration on Friendly Relations, para. 1; *Declaration on the granting of independence to colonial countries and peoples*, UN GA, Res 1514 (XV), (14 December 1960) UN Doc A/RES/1514 (XV), para 2.

<sup>167</sup> *Legal Consequences of the Construction of a Wall* (Advisory Opinion) 2004, para. 120 available at: <https://www.icj-cij.org/files/case-related/131/131-20040709-ADV-01-00-EN.pdf>

<sup>168</sup> See, Al-Haq, *Occupying Jerusalem’s Old City: Israeli Policies of Isolation, Intimidation and Transformation* (2019), available at: <http://www.alhaq.org/publications/15212.html>

<sup>169</sup> UN Human Rights Council, *Report of the independent fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem* (7 February 2013) UN Doc A/HRC/22/63, at para 65.

<sup>170</sup> Article 53, Fourth Geneva Convention.

<sup>171</sup> Article 147, Fourth Geneva Convention.

of the OPT may amount to a grave breach of the Fourth Geneva Convention and a war crime under the Rome Statute of the ICC.

The discriminatory measures imposed by the Israeli authorities further violate Palestinians’ right to adequate housing in *Atarot*.<sup>172</sup> The right to adequate housing necessarily entails having available and appropriate services, materials, facilities and infrastructure for everyday life.<sup>173</sup>

As highlighted by the testimonies of Palestinians residing in the *Atarot* industrial settlement, such services are not provided for the protected Palestinian population. The testimonies further illustrate the adverse human rights impacts of Israel’s discriminatory urban planning and zoning system.<sup>174</sup> Despite the fact that they pay municipal taxes, Palestinians living in *Atarot* are deprived of basic municipal services, their houses are not connected to sewage networks and proper roads, nor are they provided with municipal waste services. Thus, Israel has failed to respect the right to adequate housing, as provided by Article 11(1) of the ICESCR,<sup>175</sup> as well as Article 2(2) of the Covenant, which stipulates that guaranteed rights shall be exercised without discrimination.<sup>176</sup>

### 5.4 The Right to Freedom of Movement

Israeli settlements and their associated regime including checkpoints, settler-only roads, and physical obstacles, such as the Annexation Wall and gates, have significantly restricted Palestinians’ ability to freely move within the occupied West Bank, including East Jerusalem. Although the Occupying Power may implement certain movement restrictions under the considerations of military necessity and “to “restore and ensure... public order and safety”, the imposition of an architecture of social control, redolent with movement restrictions, for the purposes of advancing a 72-year colonisation, do not reach the threshold of

<sup>172</sup> Article 11(1), ICESCR.

<sup>173</sup> OHCHR and UN Habitat, *The Right to Adequate Housing*, Fact Sheet No. 21/Rev.1, 2009, available at: [http://www.ohchr.org/Documents/Publications/FS21\\_rev\\_1\\_Housing\\_en.pdf](http://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf).

<sup>174</sup> Al-Haq, *Special Focus: Highest Rate of Demolitions in Shu’fat Refugee Camp in 15 Years* (2018), available at: <http://www.alhaq.org/advocacy/6123.html>; Palestinians in East Jerusalem are only allowed to build on 13 percent of East Jerusalem, evidencing Israel’s systemic discriminatory measures against Palestinians.

<sup>175</sup> Article 11(1), International Covenant on Economic, Social and Cultural Rights.

<sup>176</sup> Article 2(2), International Covenant on Economic, Social and Cultural Rights.

permitted security exceptions under the Hague Regulations.<sup>177</sup>

Article 12(1) of the ICCPR states that “everyone lawfully in the State shall, within the territory, have the right to liberty of movement and freedom to choose his residence”.<sup>178</sup> The right is further enshrined in Article 13 of the Universal Declaration of Human Rights.<sup>179</sup> Any restrictions on this right must be “provided by law... necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant”.<sup>180</sup>

Harsh discriminatory restrictions on Palestinian movement are imposed through the establishment and expansion of settlements and their accompanying infrastructure networks. The settlements have ensured that Palestinian communities are physically and geographically divided, as illustrated by the separation of Al-Ram by the *Atarot* settlement and Wall. In addition, Palestinians residing inside the *Atarot* industrial settlement face restrictions on their freedom of movement, which has resulted in their isolation from neighbouring Palestinian communities in their vicinity, as well as impacting access to education.<sup>181</sup>

## 5.5 The Right to Health

By permitting the planning and zoning of heavy industry in close proximity to Palestinian residential houses, Israel is violating its obligations as Occupying Power, to respect, protect, and fulfil the right to the highest attainable standard of health for the protected Palestinian population.<sup>182</sup> Article 12(2)(d) of the ICESCR, requires Israel, as a State party, to create conditions which would assure to all medical service... including the provision of equal and timely access to basic preventive,

<sup>177</sup> Article 43 of the Hague Regulations

<sup>178</sup> Article 12(1), International Covenant on Civil and Political Rights.

<sup>179</sup> Article 13, Universal Declaration of Human Rights.

<sup>180</sup> Article 12(3) of the International Covenant on Civil and Political Rights (ICCPR). Israel ratified the ICCPR in 1991.

<sup>181</sup> Article 13, International Covenant on Economic, Social and Cultural Rights.

<sup>182</sup> Article 26, Fourth Geneva Convention; *see also*: Human Rights Council, “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967” (15 March 2019) UN Doc A/HRC/37/75, para 63.

curative, and rehabilitative health services.<sup>183</sup> Additionally, the Convention on the Rights of the Child (CRC), ratified in 1991 by Israel, provides detailed requirements to eliminate environmental risks associated with air pollution.<sup>184</sup> In his most recent annual report to the UN Human Rights Council, the Special Rapporteur on human rights and the environment focused on the right to breathe clean air as one of the core components of the right to health, describing the negative impacts of air pollution on the enjoyment of several human rights, in particular the right to life and the right to health, particularly for vulnerable groups.<sup>185</sup>

Testimonies of residents near the *Atarot* industrial settlement, highlight the environmental health impacts of chronic inhalation from industrial fumes, gases, and products such as flour which has placed the health of Palestinians located therein at risk.<sup>186</sup> Furthermore, Israel has positive obligations to provide Palestinian labourers with adequate healthcare and workplace safety measures in a non-discriminatory manner.<sup>187</sup>

## 5.6 Business and Human Rights

Under the UN Guiding Principles on Business and Human Rights, both the Occupying Power and third States have obligations to regulate the activities of businesses within their jurisdiction and in their operations abroad.<sup>188</sup> Accordingly, States have obligations to enforce laws and policies in order to ‘meet their duty to protect’ in addition to providing effective guidance to corporations under their

<sup>183</sup> Committee on Economic, Social and Cultural Rights, General Comment No. 14: The Right to the Highest Attainable Standard of Health (Article 12), 11 August 2000, UN Doc. E/C.12/2000/4, paragraph 17.

<sup>184</sup> Israel ratified the: International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination against Women; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Convention on the Rights of the Child; and the Convention on the Rights of Persons with Disabilities.

<sup>185</sup> *See throughout*, Human Rights Council, *Issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, Report of the Special Rapporteur to the UN General Assembly* (8 January 2019) UN Doc A/HRC/40/55.

<sup>186</sup> Cedars Sinai, *Occupational Lung Diseases*, available at: <https://www.cedars-sinai.org/health-library/diseases-and-conditions/o/occupational-lung-diseases.html>

<sup>187</sup> Al-Haq, *Occupied Livelihoods: Palestinians Striving for their Right to Work*, (1 May 2012), available at: <http://www.alhaq.org/advocacy/6891.html>

<sup>188</sup> UN Guiding Principles, Principle 2.

jurisdiction.<sup>189</sup> In this vein, States should ensure that businesses operating within the context of protracted armed conflicts and prolonged occupations are not complicit in human rights violations. As a first step, third States can ensure that corporations are carrying out enhanced due diligence when operating in the OPT, and “provide adequate assistance to business enterprises to assess and address the heightened risks of abuses” and “deny access to public support and services for businesses that are involved in gross human rights violations; and ensure that the State’s policies, legislation, regulations and enforcement measures are effective to counter business involvement in human rights abuses”.<sup>190</sup> Corporations engaged in illegal settlement activity, such as presence in Atarot, risk exposure on the UN Database on Businesses active in the illegal settlements,<sup>191</sup> while individual corporate actors who are complicit in acting with knowledge to aid and abet the commission of war crimes and crimes against humanity, may face individual criminal liability, before an international criminal mechanism such as the ICC, or through universal jurisdiction.

<sup>189</sup> UN Guiding Principles, Principle 3.

<sup>190</sup> UN Guiding Principles, Principle 7; For detailed analysis see also, Maha Abdullah and Lydia de Leeuw, “Violations Set in Stone: HeidelbergCement in the Occupied Palestinian Territory” (4 February 2020), available at: <http://www.alhaq.org/publications/16408.html>

<sup>191</sup> A/HRC/43/71, Database of all business enterprises involved in the activities detailed in paragraph 96 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 throughout the Occupied Palestinian Territory, including East Jerusalem (12 February 2020).



## 6 CONCLUSION AND RECOMMENDATIONS

The *Atarot* industrial settlement is constructed on layers of human rights abuses. This is evidenced in Israel’s deliberated disregard of the presence of Palestinian residents and appropriation of their land where the *Atarot* industrial settlement has been established. Moreover, it is continued through the imposition of unacceptable living conditions for Palestinian residents therein. In addition, the case of the *Atarot* industrial settlement reflects Israel’s wider discriminatory planning and zoning regime. The regime entails the confiscation and appropriation of Palestinian land, the systematic denial of building permits, and creates an uninhabitable environment for Palestinians.

Currently, the *Atarot* industrial settlement highlights the immediate and long-term environmental impacts of the existence of similar industrial settlements in the OPT, directly affecting the health of the Palestinian communities. While the deepest impacts of the *Atarot* industrial settlement are contained in Israel’s long term plan to accelerate economic development there, as a key to economically supporting a radical and all-consuming colonisation of Palestine and erasure of Palestinian presence.

In light of the above, Al-Haq calls on Israel, as Occupying Power, to:

- Immediately cease the unlawful appropriation and exploitation of Palestinian land and natural resources;
- Abide by its obligations under international human rights and international humanitarian law;
- Immediately dismantle the Annexation Wall and all illegal Israeli settlements within the OPT, including industrial zones built unlawfully on

occupied Palestinian land;

- Provide effective legal remedy and reparations to all natural or legal persons who suffered damage due to the existence and operations of the *Atarot* industrial settlement, and Israel's settlement enterprise as a whole; and
- Cease its policies with regards to its aim to annex the OPT, and end its otherwise prolonged occupation.

While Israel bears the main responsibility to protect and respect the rights of the protected Palestinian population in the OPT, third states also have obligations under international law. States have the responsibility to not recognise as lawful breaches of peremptory norms of international law. Further, States must actively cooperate to bring to an end the wrongful acts and unlawful situation, as mandated by the Draft Articles on Responsibility of States for Internationally Wrongful Acts.<sup>192</sup> Article 1 of the Fourth Geneva Convention further specifies that States must respect and ensure respect for the Conventions.<sup>193</sup> Accordingly, for example, the legal obligation not to provide aid or assistance in maintaining the unlawful situation is violated where States, directly or based on bilateral or multilateral agreements with the State of Israel, cooperate with or support the settlement activities.

In 2016, UN Security Council Resolution 2334 called upon all States to “distinguish, in their relevant dealings, between the territory of the State of Israel and the territories occupied since 1967” in light of the flagrant violation of international law constituted by Israel's settlements.<sup>194</sup> Hence, in continuing to allow the import of Israeli settler products produced in illegal Israeli settlements, third states are in breach of their duties and obligations under international law.

Al-Haq calls on Third States to:

- Immediately comply with their obligation to ensure respect for the Geneva Conventions, as stipulated under Common Article 1, through adopting effective and functional measures to corroborate Israel's fulfilment of its

<sup>192</sup> Article 41, *International Law Commission Draft Articles on Responsibility of States for Internationally Wrongful Acts*, (November 2001).

<sup>193</sup> Article 1, Fourth Geneva Convention.

<sup>194</sup> UN Security Council Resolution 2334 (23 December 2016) UN Doc S/RES/2334, para. 5.

obligations under international humanitarian and human rights laws;

- Uphold their obligations under Articles 146 and 147 of the Fourth Geneva Convention to prosecute those responsible for grave breaches of the Fourth Geneva Convention;
- Comply with their obligations under international law to ensure the end of Israel's extensive appropriation of Palestinian property, and the implementation of the Palestinian right to self-determination;
- Take positive and effective steps to bring the illegal situation in the OPT to an end, in line with their obligations *erga omnes*, as stressed by the International Court of Justice;
- Implement the recommendations of the report of the Fact-Finding Mission on Israeli Settlements, and adopt measures banning the import of products produced in the Israeli settlements in the OPT;<sup>195</sup>
- Implement the United Nations Guiding Principles on Business and Human Rights, and ensure corporations registered in their jurisdictions are compliant with international human rights and humanitarian law;
- Utilize the UN database of companies involved in business activities with Israeli settlements in the OPT, and take appropriated and effective measure to ensure that business enterprises that work in their territory or under their jurisdiction refrain from participating in violations of international law; and
- Fully cooperate with the Office of the Prosecutor of the International Criminal Court, and support the immediate opening of an investigation into war crimes and crimes against humanity committed in the OPT.

Further, international law provides for responsibilities for non-state actors, including business enterprises. International humanitarian law specifically extends to bind “all actors whose activities are closely linked to an armed conflict”.<sup>196</sup> Hence, business enterprises in the *Atarot* industrial settlement should respect international humanitarian law and human rights standards. The UN Guiding

<sup>195</sup> Resolution A/HRC/19/L.35 mandated a fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the OPT. Full recommendations can be found at UN Human Rights Council Resolution 19/L.35 (19 March 2012) UN Doc A/HRC/19/L.35. at

<sup>196</sup> ICRC, *Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law* (December 2006) 14.

Principles on Business and Human Rights provide that business enterprises must avoid causing or contributing to any human rights violations, as they must respect international human rights and humanitarian law in situations of armed conflict. Accordingly, corporations that exploit the situation of occupation and repression of the Palestinian people for commercial profit are complicit in serious human rights violations, and potentially the commission of international crimes.

Al-Haq calls on business enterprises operating in the *Atarot* industrial settlement, particularly multinational corporations to:

- Immediately cease all corporate activities within illegal Israeli settlements built on appropriated Palestinian land in the OPT;
- Recognise, and act upon, the requirement to responsibly disengage from business relationships giving rise to adverse human rights impacts, as outlined in the UN Guiding Principles on Business and Human Rights, particularly in situations wherein such impacts cannot be mitigated;
- Immediately cease all other business relationships with other companies still operating within illegal Israeli settlements;
- Implement human rights-based enhanced due diligence in line with the UN Guiding Principles on Business and Human Rights, so as to avoid future complicity in human rights violations, and potential commission of international crimes in occupied territories and situations of conflict;
- Undertake to make meaningful and effective reparations to Palestinians, including those whose land they have, in conjunction with the Israeli occupying forces and colonial settler machinery, appropriated and otherwise unlawfully exploited.

Al-Haq also calls on the Palestinian Authority to:

- Provide effective alternatives for Palestinian labourers and businesses to decrease the number of Palestinians relying for their livelihoods on Israeli settlements and associated businesses;
- Strengthen support for Palestinians in Jerusalem and its periphery, including those whose rights have been systematically violated due to land confiscation and Israel's illegal settlement enterprise, including by safeguarding the right to work, adequate standard of living, and access to remedy where possible. In this regard, Al-Haq reiterates its call on the Palestinian Authority to devise and implement a sufficient budget and

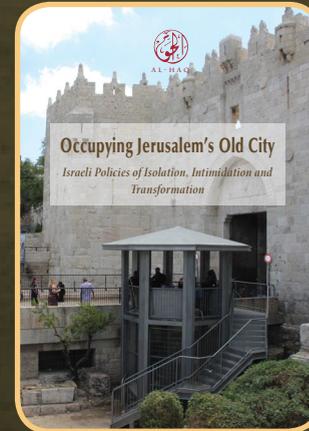
plan to support Palestinian livelihood and existence in Jerusalem;

- Put in place restrictive and monitoring measures, in line with its domestic laws and international standards, to ban business relations and activities between Palestinian businesses and businesses associated with the settlement enterprise;
- Continue its efforts to push the Office of the Prosecutor of the ICC to open an investigation into the situation of Palestine, and to include, where relevant, investigations into corporate involvement in war crimes and crimes against humanity committed in the OPT;
- Urge home States of multinational companies to issue and implement competent guidelines and measures for corporations within their jurisdiction that operate in or are linked with Israel's settlement enterprise, as part of their enhanced human rights due diligence under international human rights and humanitarian law;
- Continue to uphold the status of Jerusalem under international law.

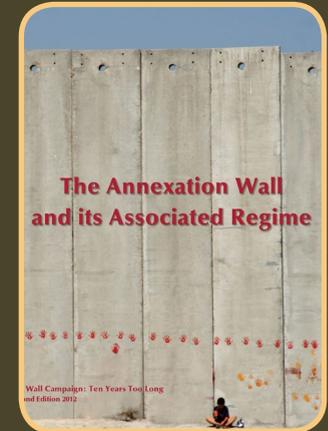




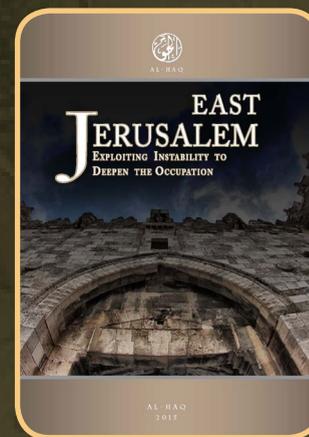
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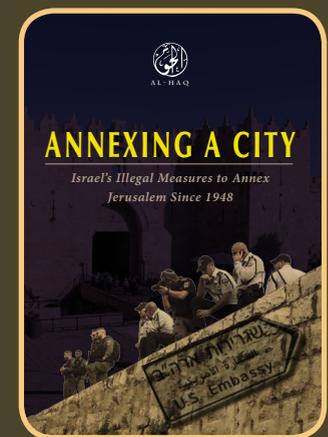
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