



## **Occupied East Jerusalem**

### **“De-Palestinization” and Forcible Transfer of Palestinians**

*A situation of systematic breaches of State obligations under the ICCPR*

#### **JOINT NGO REPORT**

**to the UN Human Rights Committee**

**For the Committee’s Review of the Fourth Periodic Report of  
ISRAEL**

*Submitted by:*

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## Introduction

### Purpose of the Report

This NGO report does not attempt to provide comprehensive information about the implementation of the ICCPR by Israel<sup>1</sup> in occupied East Jerusalem. It focuses, rather, on issues – including issues raised by the Committee and complementary information – that have resulted in the particularly serious human rights crisis for Palestinians in occupied East Jerusalem, including systematic denial of the right to self-determination, racial discrimination and large-scale forcible displacement. With this report, the submitting organizations aim to assist and encourage the Committee to review this critical situation in East Jerusalem with Israel, and to formulate substantial and practical concluding observations that can provide guidance for the State party, as well as the large number of concerned stakeholders.

### The Submitting NGOs

This joint report was prepared by three NGOs that collectively represent the entire sector of Palestinian civil society organizations with expertise in the situation of human rights in occupied East Jerusalem:

The *Civic Coalition for Palestinian Rights in Jerusalem* (CCPRJ) is a joint venture of 25 Palestinian human rights and community development organizations established in 2005. Through its executive office located in East Jerusalem, CCPRJ-members pool resources, coordinate assistance to vulnerable Palestinian communities and groups, and carry out collective public awareness-raising and advocacy for the respect of the human rights of the Palestinian people in occupied East Jerusalem, including the right to self-determination. The CCPRJ is specialized in discriminatory Israeli laws policies in the fields of education, urban planning and settlement expansion, which undermine Palestinian identity and cause dispossession and forced displacement among Palestinians. In this context, the CCPRJ works with a wide range of actors for the protection of the Palestinian education system. It also provides legal representation of group- and public interest cases in Israeli courts and seeks accountability and effective remedies through legal research and international advocacy.

The *Coalition for Jerusalem*(CFJ) is a league of religious dignitaries, political factions, civil society organizations, and individuals based in occupied Jerusalem. It is a non-violent, direct action group formed in 2004 to oppose Israeli Government arbitrary measures to alter the status of Jerusalem in violation of international legitimacy and human rights conventions, and to reaffirm that East Jerusalem is the Capital of the future Palestinian State.

The *Society of St. Yves, Catholic Center for Human Rights* (St. Yves) is working under the patronage of the Latin Patriarchate of Jerusalem. St. Yves provides gratis legal assistance and counsel to members of the Palestinian community, especially in the field of family and residency rights. Further, St. Yves raises awareness for the legal situation of the poor and the marginalized in the Holy Land through national and international lobby and advocacy. Today St. Yves manages some 700 cases per year and assists around 2000 people, including many cases of family unification, child registration and revocation of residency rights (ID revocations) in East Jerusalem.

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<sup>1</sup> This NGO report does not address the Committee's questions 13 – 18 on issues pertaining to the right to life (Article 6) and the prohibition of torture and related rights of persons (Articles 7, 9, 10) in occupied East Jerusalem. On these issues, please refer to the reports of other NGOs, including Addameer Center for Prisoners and Detainees; the joint report of DCI-Palestine, EJ-YMCA and Save the Children; the joint report of Adalah, Physicians for Human Rights and al-Mezan Center for Human Rights in Gaza, and the Israeli Public Committee Against Torture. Regarding settler violence (question 18), please refer to the NGO report submitted by the Jerusalem Center for Legal Aid and Human Rights (JLAC).

## RECOMMENDATIONS TO THE COMMITTEE

### *Application and Implementation of the Covenant*

#### Request that the State party:

- Submit to the Committee within [6 months] an addendum to its the fourth periodic report, **explaining how it has applied the Covenant to Palestinians in occupied East Jerusalem**, responding to the related concluding observations and recommendations of the Committee, and providing disaggregate demographic and socio-economic data as necessary.
- Include in future State Reports a **special section regarding Palestinians in occupied East Jerusalem**, including updates on the progress towards the full implementation of the Covenant with respect to this population. Request the State party to present this information in conjunction with updates about the implementation of the Covenant in the OPT.

#### For the Committee to:

- Ensure that the language in the Committee's oral and written communication conforms with international law and consensus regarding the status of East Jerusalem as part of the Occupied Palestinian Territory and the right to self-determination of the Palestinian people. For the sake of clarity, **compile and present findings and recommendations pertaining to the OPT, including East Jerusalem, in a designated separate section in the Concluding Observations.**
- As part of the follow-up process, **initiate a common Agenda for Action with other human rights treaty committees and stakeholders** (e.g., legal advisors to the Secretary-General, Switzerland, as depository of the Fourth Geneva Convention), with the aim of developing a **roadmap toward the full and equal implementation of the Covenant by the State party** among all Palestinians, including Bedouin, under its jurisdiction/effective control, in particular in the OPT, including East Jerusalem, as well as among Palestinian citizens of Israel.

### *Self-determination (Art. 1) and non-discrimination (Art. 2)*

- **Re-iterate<sup>2</sup> and strengthen language regarding the Committee's concern** about the continuing violation of the right to self-determination of the Palestinian people by the State Party in the OPT, **including East Jerusalem. Urge Israel respect and promote this right.**
- **Express strong concern** about the **systematic racial discrimination** resulting from the legal framework, policies and practices applied by Israel to **Palestinians in occupied East Jerusalem. Conclude that the State party is in breach of Article 2.**
- Find that the Israeli violations of Article 1 and Article 2 are **overarching violations** which prevent the realization of the Covenant-protected fundamental individual rights by Palestinians in East Jerusalem. **Conclude that the State party is in breach of the Covenant.**
- Conclude that full implementation of the Covenant requires that Israel rescind the unlawful annexation of occupied East Jerusalem and the associated discriminatory system of laws, policies and practices, dismantle the Wall and settlements in the OPT, including East Jerusalem, and make reparations for loss and damage caused. Re-iterate and re-affirm previous recommendations to the State Party to do so.

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<sup>2</sup> Concluding Observations of the Human Rights Committee, CCPR/C/ISR/CO/3, 3 September 2010, at para. 16. The Committee expressed concern about the continuing increase of the settler population in the West Bank, East Jerusalem and the Golan Heights and found that Israel, with the former, violated Articles, 1, 12 and 23 of the Covenant

***Freedom of movement and residency (Art. 12); Protection of family and children (Art. 23, 24)***

- **Express strongest possible concern** about the State Party's policies which have resulted in **forcible transfer of Palestinians in and from occupied East Jerusalem. Remind the State Party of its duty to abstain from such serious violation of its obligations under Art. 2 Art. 12 and Art. 17 of the Covenant.**
- Conclude that the State party, with its laws and policies regulating the legal status, family reunification and child registration processes for the occupied Palestinian population in East Jerusalem, violates Articles 2, 12 (freedom of movement), 14 (right to equality before courts and tribunals and to a fair trial), 17 (right to privacy), 23 (protection of the family, including the right to marriage), 24 (protection of the child), 26 (equality before the Law).

Recommend that the State party:

- Abolish the system of Jerusalem entry permits for Palestinian residents of the OPT;
- Immediately repeal the Citizenship and Entry into Israel Law;
- Immediately cease its practice of Jerusalem residency (ID card) revocation;
- Immediately halt all application of Entry into Israel Law and the Entry into Israel Regulations to the occupied Palestinian population;
- Provide secure civil status and residency rights to East Jerusalem Palestinians and their spouses and children in accordance with provisions of the ICCPR; repeal/amend/adopt legislation as necessary; ensure that **all Palestinian residents of the OPT** can realize their right to choose residence in occupied East Jerusalem on this basis (abolish requirement of family reunification);
- Ensure equality in family reunification for all citizens of Israel and Palestinian residents of occupied East Jerusalem without distinction on grounds of race. Reform laws, regulations and administrative procedures as necessary for ending racial discrimination in family reunification between Jewish citizens, Palestinian citizens and Palestinian residents of East Jerusalem.

***Urban planning, housing, demolitions, forced evictions***

- Reiterate the previous conclusion (CCPR/C/ISR/CO/3. 12-30 July 2010, par. 17), that the State party is disproportionately favouring the Jewish population through its discriminatory municipal planning systems in occupied East Jerusalem. Conclude that the State party's planning system results in **forcible displacement of Palestinians.**

Recommend that the State Party:

- Halt all implementation of the Jerusalem 2000 Outline (Master) Plan; respect its duty as an occupying power to develop East Jerusalem for the benefit of the Palestinian population and **without intent to alter its demographic nature.**
- Ensure that space is available for every East Jerusalem child to enrol in school,
- Halt all practice of demolishing Palestinian homes and destroying Palestinian property and cultural heritage.

***Freedom of religion, expression and assembly***

- Conclude that the State party's closure of Palestinian institutions and restrictions on movement and access to religious sites in East Jerusalem infringe on Palestinian rights of freedom of religion (Art 18), freedom of expression of Palestinian culture and national identity, and freedom of assembly (21).

Recommend that the State Party

- Immediately rescind imposition of the Israeli curriculum on East Jerusalem Palestinian schools.
- Immediately end its practice of targeting and closing Palestinian cultural and political institutions in East Jerusalem, and allow for the re-opening and full operation of institutions previously shut down.

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**Specific information on the implementation of Articles 1 to 27, ICCPR, including with regard to the Committee's list of issues and previous recommendations, and the State Report submitted by Israel**

**A. Constitutional and legal framework within which the Covenant is implemented by Israel in occupied East Jerusalem (Articles 1 and 2)**

**Question 4:**

**Application of the Covenant in the Occupied Palestinian Territory (OPT)**

1. As reflected in the State Report (par. 47, 48), Israel continues to uphold the position that the Covenant is not applicable in the Occupied Palestinian Territory (OPT) because of the primacy of international humanitarian law in a context of armed conflict, and because application of the Covenant is bound to the State's national territory. As already noted by this Committee, the question of the applicability of the Covenant in the OPT was authoritatively settled in 2004 by the International Court of Justice in the Advisory Opinion on the Israeli Wall (ICJ Advisory Opinion),<sup>3</sup> which supported the position of all human rights committees, including this Committee, that the Covenant is applicable in Israel and in the OPT, clarifying that Israel continues to have the status of Occupying Power in the OPT and is bound, as such, by customary international law **and** the humanitarian and human rights treaties it has ratified, including, among others, the Fourth Geneva Convention and the ICCPR.

Nevertheless, the State party's position that its obligations under the Covenant are limited to its national territory gives rise to a number of additional important issues, which have not yet been sufficiently addressed by the Committee.

2. First, Israel explains in paragraph 49 of the State Report that in accordance with Section I, *Basic Law: Jerusalem, Capital of Israel 1980-5740*, its national territory includes "the eastern neighbourhoods of Jerusalem." These "eastern neighbourhoods" stand for the area commonly known as **East Jerusalem**, i.e., an area of approximately 70km<sup>2</sup> of occupied Palestinian territory, including the Palestinian neighbourhoods of pre-1967 Arab Jerusalem, as well as land of some 28 Palestinian communities in the adjacent West Bank. Although occupied by Israel in 1967 together with the rest of the West Bank and the Gaza Strip, this area was not put under Israeli military rule. On 27 June 1967, immediately after the war, Israel instead annexed East Jerusalem by expanding the boundaries of its (West) Jerusalem municipality and by extending its law into the area based on Section 11B of the *Law and Administration Ordinance (Amendment No. 11) Law*, which was enacted on the same day for this purpose. The annexation was given constitutional status in 1980 with the above-mentioned *Basic Law: Jerusalem, Capital of*

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<sup>3</sup>Advisory Opinion Concerning Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, 9 July 2004, par. 78, 86 – 113, with reference to the ICCPR at par. 111.

*Israel*, which declares that “Jerusalem, united and complete” is the capital of Israel. Based on the annexation, Israel treats East Jerusalem as part of its national territory in the State Report. Where issues concerning the Palestinian population in the city are addressed at all, Israel refers to Palestinians as ethnic (Arab) or religious (Christian, Muslim) “minorities”.

3. Israel’s treatment of East Jerusalem as part of its national territory, and of Palestinians there as “minorities”, however, contradicts international law. The UN Security Council resolved explicitly on several occasions that **all legislative and administrative measures taken by Israel to change the status of occupied East Jerusalem are null and void**.<sup>4</sup> Numerous UN resolutions and the ICJ Advisory Opinion have confirmed that East Jerusalem is part of the OPT and not a part of Israel, and recognized the Palestinian people’s sovereignty there.<sup>5</sup> The ICJ Advisory Opinion stated authoritatively, moreover, that the right to self-determination of the Palestinian people is universally recognised,<sup>6</sup> and characterized this right as a **peremptory norm of customary international law** that is recognised as binding by the international community as a whole and from which no derogation is permitted, as well as a right protected under **human rights treaties**.<sup>7</sup> **Full and equal application of the Covenant, therefore, requires Israel to treat Palestinians in occupied East Jerusalem not as an ethnic or religious minority, but as members of the Palestinian people entitled to self-determination, and to respect and promote this right in occupied East Jerusalem and elsewhere in the OPT in accordance with the provisions of Article 1 of the Covenant.**

4. Second, the State Report is silent on the illegal Israeli settlements in East Jerusalem and elsewhere in the occupied West Bank. Israel does not mention that it treats these settlements and their population of Jewish Israeli citizens as part of its national territory and population to whom the Covenant is applicable, although they are located in the OPT. **Israel’s practice of applying the Covenant to the population in its sovereign territory and the Jewish-Israeli settlers in the OPT, while rejecting the applicability of the Covenant to the Palestinian population in the OPT, gives rise to systematic racial discrimination and violation of the principle of non-discrimination in Article 2.**

5. In light of the fact that this Committee has already found Israel to be in violation of the right to self-determination of the Palestinian people in its previous Concluding Observations,<sup>8</sup> and in light of the Committee’s continuous concern about the State party’s discriminatory non-application of the Covenant in the OPT, **the submitting NGOs urge the Committee to examine these two issues in depth in its review of Israel’s fourth periodic report.** We encourage the Committee to do so by taking into consideration relevant facts and legal findings pertaining to both Israeli violations of the right to self-determination of the Palestinian people, and racial segregation and discrimination of Palestinians in the OPT, including East Jerusalem. Some of these facts and findings are presented below and in the subsequent sections of this report.

### ***Violation of the right to self-determination***

6. The ICJ Advisory Opinion found that Israel’s Wall in the OPT, including East Jerusalem, resulted in the **annexation *de facto*** of occupied Palestinian territory, as well as in **forced transfer of populations and violations of the IHL-protected status of Palestinian property, laws and institutions**. On this basis, the ICJ Advisory

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<sup>4</sup>See, for example, Security Council Resolutions 242 (1967), 252 (1968), 267 (1969), 298 (1971), 446 (1979), 452 (1979), 465 (1980) and 478 (1980).

<sup>5</sup>See, for example, General Assembly Resolution 66/18 (2011). ICJ Advisory Opinion, par. 78.

<sup>6</sup>ICJ Advisory Opinion, par. 118.

<sup>7</sup>See for example al Haq, *State Responsibility in Connection with Israel’s Illegal Settlement Enterprise in the Occupied Palestinian Territory*, 2012, par. 8 – 12.

<sup>8</sup>Concluding Observations of the Human Rights Committee, CCPR/C/ISR/CO/3, 3 September 2010, at par. 16. The Committee expressed concern about the continuing increase of the settler population in the West Bank, East Jerusalem and the Golan Heights and found that Israel, with the former, violated Articles, 1, 12 and 23 of the Covenant.

Opinion concluded that Israel, with the construction of the Wall, is responsible for **violation of the prohibition on the acquisition of territory by force**<sup>9</sup> and the **right to self-determination of the Palestinian people**,<sup>10</sup> as well as additional violations of international humanitarian law (Fourth Geneva Convention, Articles 47, 49, 53; Hague Regulations, Article 46).<sup>11</sup> The Advisory concluded, moreover, that with the above, Israel also violated CESCR- and CRC-protected rights of Palestinian adults and children to family, health, education, work and an adequate standard of living, as well as the rights to freedom of movement and privacy, family and home under the ICCPR, Articles 12 and 17.<sup>12</sup> Consequently, the ICJ Advisory Opinion concluded that Israel is to dismantle the Wall and the associated legal and administrative regime, and to make full reparation for losses and damage caused.<sup>13</sup> Finding that some of the above Israeli violations are violations of Israeli obligations *erga omnes*, the ICJ Advisory Opinion also emphasized that,

Given the character and the importance of the rights and obligations involved [...], [i]t is also for all States, while respecting the United Nations Charter and international law, to see to it that any impediment, resulting from the construction of the wall, to the exercise by the Palestinian people of its right to self-determination is brought to an end.<sup>14</sup>

### ***Racial segregation and discrimination***

7. Independent investigations completed in the current reporting period based their analyses on the ICJ Advisory Opinion and found that **racial segregation and discrimination are systemic elements** of the network of Israeli laws, policies and practices that undermine the right to self-determination of the Palestinian people in the OPT, including East Jerusalem.

The Committee on the Elimination of Racial Discrimination (CERD, 2012), for example, concluded that Israel violated the prohibition on racial segregation and apartheid (Article 3, ICERD), explaining that,

The Committee is extremely concerned at the consequences of policies and practices which amount to *de facto segregation*, such as the implementation by the State party in the Occupied Palestinian Territory of *two entirely separate legal systems and sets of institutions for Jewish communities* grouped in illegal settlements on the one hand *and Palestinian populations* living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources. Such separation is concretized by the implementation of a complex combination of movement restrictions consisting of the Wall, roadblocks, the obligation to use separate roads and a permit regime that only impacts the Palestinian population.<sup>15</sup> (Emphasis added)

The Human Rights Council's Fact Finding Mission on the Israeli settlements (2013) concluded that Israeli settlements in the West Bank, including East Jerusalem, are "leading to a creeping annexation that prevents the establishment of a contiguous and viable Palestinian State and undermines the right of the Palestinian people to self-determination,"<sup>16</sup> and that,

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<sup>9</sup>ICJ Advisory Opinion, par.74, 87 and 117. The ICJ refers to the UN Charter, Article 2(4), UN Security Council Resolution 242 (1967) and General Assembly Resolution 2625 of 24 October 1970: *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, A/Res/2625.

<sup>10</sup>*Supra*, par. 88. The ICJ refers to the UN Charter, UN General Assembly Resolution 2625 and Article 1, ICESCR)

<sup>11</sup>*Supra*, par. 126, 133 – 134

<sup>12</sup>*Supra*, par. 123 – 134, 136.

<sup>13</sup>*Supra*, par. 151 – 153 and 163.

<sup>14</sup>*Supra*, par. 159. *See also* at par.138, 155 - 157 and 161.

<sup>15</sup>CERD/C/ISR/CO/14-16, 9 March 2012

<sup>16</sup>*Report of the Independent International Fact-Finding Mission to Investigate the Implications of the Israeli Settlements on the Civil, Political, Economic, Social and Cultural Rights of the Palestinian Peoples Throughout the Occupied Palestinian Territory Including East Jerusalem*, (hereafter: FFM/Settlements), A/HRC/22/63, 7 Feb., 2013, para 101.



The settlements are established for the exclusive benefit of Israeli Jews, and are being maintained and developed through a *system of total segregation between the settlers and the rest of the population* living in the Occupied Palestinian Territory. This system of segregation is supported and facilitated by a strict military and law enforcement control to the detriment of the rights of the Palestinian population.

The existence of the settlements has had a heavy toll on the rights of the Palestinians. *Their rights to freedom of self-determination, non-discrimination, freedom of movement, equality, due process, fair trial, not to be arbitrarily detained, liberty and security of person, freedom of expression, freedom of access to places of worship, education, water, housing, adequate standard of living, property, access to natural resources and effective remedy are being violated consistently and on a daily basis (...)* [D]ispossession, evictions, demolitions and displacement points to the magnitude of these practices. These are particularly widespread in certain areas and *acute in East Jerusalem*.<sup>17</sup> (Emphasis added)

8. In occupied East Jerusalem, racial segregation, discrimination and denial of self-determination are inherent in the **doctrine of “demographic balance”**, which defines the ratio of 30% Palestinians and 70% Jews as an official Israeli policy objective in “united” (West and East) Jerusalem. Formulated in 1973 by an inter-ministerial committee to examine demographic development in Jerusalem (Gafni Committee), the Israeli Municipality of Jerusalem has developed master plans for urban development on this basis. In fact, “democratic balance” has been adopted by all Israeli governments and public entities as a guiding principle in the design of discriminatory policies, which transform occupied Palestinian East Jerusalem into a predominantly Jewish-Israeli city (a process of so-called “Judaization” or “De-Palestinization”), with the declared aim of making the annexation permanent and non-negotiable.<sup>18</sup>

9. Among these discriminatory policies are:

**Israeli settlements and the Wall:** Expropriation of Palestinian land and construction of Israeli settlements in occupied East Jerusalem began immediately after the occupation in 1967 and are ongoing. At present, there are 16 large urban settlements inhabited by approximately 200,000 Jewish Israelis. An estimated 2,000 live in small settlements in and around the Old City. These settlements are strategically arranged in the centre of town and around the northern, eastern and southern outskirts, having the effect of dismembering and limiting the growth of Palestinian quarters and villages in the area. That effect has been enhanced by the Wall since 2002, which bisects Palestinian neighbourhoods in the outskirts and separates them from the centre of town;

Since the beginning of Israeli-Palestinian peace negotiations in 1993, Israel has, moreover, established four “settlement blocs” with a population of approximately 152,000 Israelis outside the municipal borders in the occupied West Bank. Together, these “settlement blocs” form an Israeli metropolitan area (so-called “Greater Jerusalem” or “Jerusalem periphery”) extending from the outskirts of Ramallah in the North, to the Dead Sea in the East, and Hebron in the South. The route of the (partially completed) Wall, as well as a system of Israeli highways and a light rail providing direct and rapid connection from the settlements in “Greater Jerusalem” and East Jerusalem into Israeli territory, have resulted in the annexation *de facto* of the entire area;<sup>19</sup> **and,**

A set of **additional discriminatory Israeli policies** applied exclusively to Palestinians, which will be addressed in detail in this report, including:

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<sup>17</sup> FFM/Settlements, par.103, 105 and 106.

<sup>18</sup> See for example John Dugard, Special Rapporteur of the Commission on Human Rights, *Israeli Practices Affecting the Human Rights of the Palestinian People in the Occupied Palestinian Territory, Including East Jerusalem*, par. 29-32 A/60/2715 of 18 August 2005.

<sup>19</sup> OCHA oPt, *East Jerusalem: Key Humanitarian Concerns*, March 2011, p. 51 – 52.

- i) The so-called “Jerusalem closure policy”, including the Wall, which deprives the entire occupied Palestinian population of their freedom of movement and residency in East Jerusalem and results in forcible removal (exclusion) of Palestinians from the city;
- ii) Residency policies (separate legal status, residency/ID card revocation, arbitrary policies of family reunification and child registration) directed at East Jerusalem Palestinian, negating their Palestinian origin and identity, depriving them of full and secure residency for themselves and their families, and resulting in deportation, forced separation of families and forcible displacement.
- iii) Urban planning and budget allocation policies that result in expropriation, destruction of Palestinian homes and property, inadequate public services and forced evictions and displacement; and,
- iv) Policies that undermine freedom of religion, expression of Palestinian culture and national identity, freedom of assembly and operation of Palestinian institutions in occupied East Jerusalem.

### **The scope of the human rights crisis for Palestinians in occupied East Jerusalem**

(illustrative data compiled by CCPRJ)

47 years of government-sponsored transfer of the civilian Israeli population has resulted in a situation where Jewish Israeli settlers constitute up to 45% of the population in occupied East Jerusalem, and approximately 30% in Israeli “greater Jerusalem” in the adjacent West Bank.

Based on official Israeli and Palestinian statistics, between 246,000 and 293,000 Palestinians lived in East Jerusalem in 2012. No exact Palestinian population data can be collected because of (the fear) of forcible transfer.

Palestinians in East Jerusalem are a population of multiply displaced persons:

Approximately **20% are** (descendants of) **refugees of 1948** originating mainly from western Jerusalem

**At least one quarter** (61,000 – 70,000) of all Palestinians in East Jerusalem today have been multiply displaced **in, from and back into** the city since 1967.

- Most of the above (74%) were **compelled to move back into the city between 2006 and 2012** – mainly by fear of having their Jerusalem residency status revoked by Israel – after having been **forced to leave the city in the past**, mainly for lack of adequate housing.
- At least 16,000 Palestinians (26%) were forcibly **displaced inside the city between 2006 and 2012**, mainly due to home demolitions, forced evictions and difficulties with access to services caused by the Wall.

The total number of Palestinians who have been forced to leave East Jerusalem **permanently** since 1967, without the option of return, is **unknown**. Among these are approximately 44,000, who were excluded from the Israeli population register in 1967 or had their Jerusalem resident status revoked since then.

*\*Sources: Israeli Central Bureau of Statistics (ICBS); Palestinian Central Bureau of Statistics (PCBS); Displaced by the Wall, Badil and IDMC/Norwegian Refugee Council, 2006; Unpublished survey commissioned in 2012 by OCHA (published with permission of OCHA-oPt).*

10. Carried out in parallel and in combination with the construction of the illegal Israeli settlements and Wall, these discriminatory policies have severely undermined the right to self-determination of the Palestinian people and resulted in the acute crisis of dispossession, demolitions, forced evictions and displacement among Palestinians in East Jerusalem, as attested by Fact Finding Mission on the Israeli Settlements in 2013.

11. In occupied East Jerusalem, the Palestinian Authority (PA) and the international system of aid supporting it have largely been unable to mitigate the negative impact of the above Israeli policies on Palestinians. Under the interim

agreements signed between Israel and the PLO in the early 1990s (“Oslo Accords”), which were to last for five years, the PA was not authorized to operate in the Israeli-annexed occupied East Jerusalem during the interim period. Absent a permanent peace agreement, Israel continues to bar PA public services to Palestinians in occupied East Jerusalem until today. Israel also rarely grants permits for protective humanitarian and development assistance, in particular projects involving improvement of infrastructure.

#### **Question 5:**

#### **Equality and non-discrimination in Israeli law, courts and through other measures**

12. Israel does not have a general provision for equality and prohibition of racial discrimination in its (quasi-constitutional) basic laws, although human rights committees, including this Committee and CERD, have since 1998 called on Israel to ensure that these are incorporated and to abrogate all discriminatory laws. Case law presented in the current State Report (par. 12 – 14) to demonstrate that a right to equality can be enforced in Israeli courts - such as examples of courts obliging bars to grant equal access irrespective of colour and race, or even businesses to employ Palestinian citizens - is largely irrelevant for East Jerusalem Palestinians seeking redress for violations of their fundamental human rights. Israel’s *Basic Law: Human Dignity and Liberty* 5752-1993, which defines Israel as a “Jewish and democratic state”, bars petitions for equal status of all Israeli citizens and permits derogations from the prohibition of racial discrimination, is only one in a complex system of Israeli laws that renders East Jerusalem Palestinians fundamentally unequal before Israeli law (Article 26).

#### ***The separate Israeli legal system governing Palestinians in occupied East Jerusalem***

13. As a result of the annexation, Palestinians in East Jerusalem are governed by domestic Israeli law and not subject to the Israeli military regime governing Palestinians elsewhere in the OPT. Even within its domestic legal framework, however, Israel maintains a three-tiered system of laws which accords different civil status, rights and legal protections for Jewish Israeli citizens, Palestinian citizens of Israel and Palestinian residents of East Jerusalem. The skeleton of this three-tiered system is composed of laws, including many basic laws, which:<sup>20</sup>

Define East Jerusalem as a part of “Jerusalem, united and complete”, which is the capital of Israel (*Basic Law: Jerusalem, Capital of Israel*, 1980);

Define Israel (including occupied East Jerusalem) as the “state of the Jewish people” (e.g., *Basic Law: the Knesset* (1958), Amendment 9 of 1985; *Basic Law: Human Dignity and Liberty* of 1992);

Grant superior civil status (“Jewish nationality”) and rights to Jewish immigrants and citizens (e.g., *Law of Return* of 1950; *Citizenship Law* of 1952);<sup>21</sup> convey second-class citizenship (without the rights and privileges of “Jewish nationality”) to Palestinians in Israel;

Ensure/authorize confiscation of private and public Palestinian property, and the transfer of confiscated property to the permanent ownership to the State and the Jewish National Fund/Keren Kayemet (e.g., *Absentees’ Property Law* of 1950; *Development Authority (Transfer of Property) Law* of 1950; *Land Acquisition for Public Purposes Ordinance* of 1943 (incorporated British Mandate law); *Basic Law: Israel Lands* of 1960);

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<sup>20</sup> See also: <http://adalah.org/eng/Israeli-Discriminatory-Law-Database>

<sup>21</sup> As pointed out correctly by Miloon Kothari, former UN Special Rapporteur on adequate housing, the official Israeli translation of the *Ezrahut* (Hebrew for Citizenship) Law (1952) as “Nationality Law” is misleading, because under Israeli law there is no Israeli nationality, only Israeli citizenship and Jewish nationality which are distinct: *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living*, Miloon Kothari’, UN Commission on Human Rights, Fifty-ninth session, 15 June 2002, Footnote #4, p.23.

Convey public status and functions in Israel, in particular in the development of land and settlements and the provision of public services, to Zionist organizations mandated to cater for the “Jewish people” and operating as private charities abroad (e.g., *World Zionist Organization-Jewish Agency "Status" Law* of 1952; *Keren Kayemet Le-Israel Law* of 1953; *Covenant with Zionist Executive* of 1954).

Assign the status of “permanent residents” to East Jerusalem Palestinians, i.e., a civil status that does not recognize their Palestinian origin and identity, and does not convey secure residency rights (*Entry into Israel Law* of 1952; *Entry into Israel Regulations* of 1974).

14. For the State of Israel and the privileged Jewish Israeli population, the above has resulted in a system of strong legal protections that legitimizes and facilitates expropriation and settlement activities in occupied East Jerusalem. For East Jerusalem Palestinians, however, the result is a legal system that conveys a precarious civil status (see Section C, par. 31), and almost no legal protections of the rights to land and property.

15. The following is an example illustrating how Palestinians have been made vulnerable to confiscation of their land and property in East Jerusalem through Israeli legislation:

*The Israeli Absentees' Property Law* (1950): Based on this Law, millions of acres of Palestinian land were confiscated after the 1948 war. The law roughly defines as “absentee” any legal or natural person who – at any time in the period between 29 November 1947 and the end of the state of emergency in Israel – **leaves his/her residence in Israel (i.e. the area where Israeli law applies)** to any Arab state or any area in the country held by enemy forces, and provides that **his/her property in Israel is subject to confiscation** by the Custodian of Absentee Property and to the transfer of ownership to the State or the Jewish National Fund. With the annexation in 1967, the Law became, in principle, applicable also in East Jerusalem.

*Military Order No. 150* (1968) allowed the Israeli Custodian of Absentee Property to expropriate land belonging to **Palestinians not recorded in the official East Jerusalem census** that Israel conducted following the 1967 war.<sup>22</sup>

*The Legal and Administrative Matters (Regulation) Law (Consolidated Version)* (1970), which laid out the rules for how Israeli law is to be implemented in East Jerusalem, provided that,<sup>23</sup>

- A person is to be treated as an “absentee” vis-a-vis his/her property under the *Absentees' Property Law* only **if s/he was not present in East Jerusalem on the day of annexation** (27 June 1967);
- Individual claims for restitution of pre-1948 property **are permitted in East Jerusalem** (where abandoned Jewish property is located) but **not in West Jerusalem** (where abandoned Palestinian property is located).

16. In practice, Palestinians inside and outside of East Jerusalem have been affected by confiscation of “absentee” property, because property ownership is often shared by family members to whom the definition applies and as a result of lack of due diligence by the Custodian who confiscated property based on hearsay and fraudulent information presented by settler organizations. Property has at times also been confiscated because government legal advisers and Israeli courts have been unable to agree upon the interpretation of the above provision. In an around the

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<sup>22</sup> Ardi Imseis, *Facts on the Ground: An Examination of Israeli Municipal Policy in East Jerusalem*, 15 Am U Inter L. R. 1039, 1053 (2000), at 1051.

<sup>23</sup> Usama Halabi, *Israel's Absentees' Property Law: A tool for taking control of Palestinian Land*, Civic Coalition for Palestinian Rights in Jerusalem, September 2013

Old City, settler organizations, have successfully claimed Palestinian homes and evicted their Palestinian residents backed by the second provision.

**See ANNEX 1** (CCPRJ): *Case of Sheikh Jarrah*, where more than 60 Palestinians, including 24 children, have been forcibly evicted from their homes in this manner since 2008 (CCPRJ).

17. Palestinians regularly seek redress through recourse to Israeli courts and administrative objections to planning schemes but find only temporary or very partial relief, mainly in form of delays in the execution of land and property confiscations, home demolitions and settlement expansion plans. **Palestinians cannot find effective redress because their inferior status and rights are firmly enshrined in the discriminatory legal framework, which courts, in particular the Israeli High Court of Justice, have helped shape** (Article 14). As illustrated by numerous examples, the Israeli High Court upholds discriminatory laws, such as the *Citizenship and Entry into Israel (Temporary Provision) Law (2003)*; deferrals to the Israeli army in cases considered to be political or a matter of national security (e.g., the case of the Wall) may result in decisions based on considerations of “proportionality” between the needs/interests of the State/the Army and the damage caused to the petitioner. Delayed decisions or avoidance of principled decisions through the declaration of issues to be non-justiciable (for example, the question of the legality of Israeli settlements in the OPT), focusing on technicalities, are also possibilities, as is the simple non-issuing of a verdict.<sup>24</sup>

One example for the latter is the case of the *Absentees’ Property Law (1950)* before the Israeli High Court. The Palestinian appellants are seeking a principled decision that will establish once and for all that this Law is not applicable to the East Jerusalem property of Palestinians living in the West Bank. In the hearing held on 10 September 2013, the State Attorney sought to avoid a principled decision by offering the partial release of properties confiscated from the appellants. Judges suggested that the Law should not be applicable in the future, arguing that a retroactive decision would open up a “Pandora’s box” of litigation over past confiscations. At the end of the hearing, the appellants and the legal aid centre Adalah were requested to submit additional arguments regarding the question of whether a decision should be retroactive or only prospective. Arguments have been submitted, but the decision of the Court remains pending.<sup>25</sup>

18. It is important to clarify in this context, that the State party has, in fact, never adopted a law that recognizes the land rights of the indigenous Palestinian people anywhere in Israel or the OPT, and that **Israel continues to claim sovereignty over the OPT under its law**, for example, the *Area of Jurisdiction and Powers Ordinance*, No. 29 of 5708-1948;<sup>26</sup> Section 11B of the *Law and Administration Ordinance (Amendment No. 11)* Law of 27 June 1967, and the *Basic Law: Jerusalem, Capital of Israel* (1980).

19. **Israel has also never adopted a law or other measures to promote and ensure respect of the right of the Palestinian people to full self-governance and succession, including sovereignty over the natural resources and the territory of the OPT.** In the interim agreements (Oslo Accords) signed with the PLO in the early 1990s for a period of five years, Israel conceded only very limited self-rule to the Palestinian Authority (PA) in the occupied West Bank and Gaza Strip. The Israeli-annexed occupied East Jerusalem was excluded from self-rule. Palestinians wishing to participate in PA elections have been permitted by Israel to do so only through **out-of-country voting**, i.e., by sending their ballot by mail as if they were voting from abroad. The self-rule powers transferred to the PA pertain mainly to the administration of the resident Palestinian population and the provision of public services; the PA has partial territorial jurisdiction over no more than 40% of the occupied West Bank (the so-called Areas A and

<sup>24</sup> John Reynolds, *Legitimizing the Illegitimate*, 20 (Al-Haq 2010).

<sup>25</sup> CCPRJ, press release, 11 September 2013. See also <http://adalah.org/eng/Articles/2202/-The-Supreme-Court-Defers-the-Decision-on-the-Status>

<sup>26</sup> This law is still valid, although Section 11B of the *Law and Administration Ordinance* Law of 27 June 1967, which was enacted in order to annex East Jerusalem, gave the government a choice whether or not to incorporate all or part of the OPT into the State.

B), i.e., areas with a high Palestinian population density and without geographic contiguity. Israel treats the remaining 60% of the occupied West Bank (the so-called Area C), as if it was part of its sovereign territory. It has undermined the territorial integrity of the OPT with the annexation of occupied East Jerusalem, the expansion of Jewish settlements, the Wall and the annexation *de facto* of Area C, and the administrative (since 1967) and physical (since the late 1980s) separation of the occupied Gaza Strip, which was followed by the blockade in force since 2007. Just recently, moreover, on 30 July 2014, the Committee of the Israeli Knesset adopted a decision which authorizes all permanent Knesset committees to discuss matters related to the areas of “Judea and Samaria”, i.e., the OPT. This decision is understood as a step toward deeper *de facto* annexation of occupied Palestinian territory.

20. Under Article 1, *State parties are to promote the realization of the **right to self-determination**, and to respect that right, in accordance with the provisions of the UN Charter.* In this section, the submitting NGOs present information which shows that Israel, with its legal framework and policies in occupied East Jerusalem, clearly **violates these obligations to the Palestinian people under Article 1 of the Covenant.** By applying two separate systems of laws and policies to Palestinians and Jewish Israeli settlers, i.e., one which undermines fundamental human rights and causes large-scale forcible displacement among Palestinians vs. one which privileges Jewish Israeli settlers and encourages the growth of this population in occupied East Jerusalem, Israel carries out institutionalized **racial segregation and discrimination and forcible transfer of populations, resulting in a clear violation of Article 2 of the Convention, as well as Articles 14 and 26.**

21. Israeli breaches of Article 1 and 2 in connection with Palestinians in occupied East Jerusalem are **overarching**, which **prevent the realization of all Covenant-protected fundamental individual rights by Palestinians in occupied East Jerusalem.** We thus recommend that the Committee conclude that Israel is in breach of the Covenant.

22. We encourage the Committee to take into consideration that the Israeli measures, which have resulted in these violations, are on-going. Israel did not cease any of the above in the course of the internationally-sponsored peace process that has lasted for more than 20 years. **Claims by the State party that it meets its obligation to respect and promote the right to self-determination of the Palestinian people under the ICCPR, Article 1, by engaging in the peace process are, therefore, to be considered void.**

#### **Recommended Questions to Israel** (self-determination and non-discrimination)

*Does the State party consider the Covenant to be applicable to Israeli citizens residing in settlements in the OPT?*

*Please provide an example of (draft) legislation that seeks to ensure respect and protect the land rights of Palestinians in East Jerusalem?*

*Which measures is the State party undertaking in order to ensure the free and unhindered participation of East Jerusalem Palestinians in the upcoming elections to the Palestinian Legislative Council, Presidency of the Palestinian Authority and the PLO National Council (PNC)?*

*Please explain the status and meaning of the following:*

*Area of Jurisdiction and Powers Ordinance, No. 29, 5708-1948;*

*Section 11 B of the Law and Administration Ordinance (Amendment No. 11) Law, 27 June 1967;*

*The decision adopted by the Committee of the Israeli Knesset on 30 July 2014, authorizing all permanent Knesset committees to discuss matters related to the areas of “Judea and Samaria”.*

#### **B. State of Emergency (Article 4) and derogations from international standards**

## Questions 12 and 19:

### Progress in review of Israel's state of emergency; derogations from international standards

The submitting NGOs would like to encourage the Committee to examine the following **complementary issues**:

23. **Israel's Absentees' Property Law (1950)**, which continues to be applied exclusively to Palestinians in order to confiscate their property, including land and homes, in occupied East Jerusalem and in Israel (see par. 15 – 17), is defined in the text of the Law (Article 1b) as a law that is in force from 29 November 1947 **until the end of the state of emergency is declared by Israel**. This Law discriminates Palestinians and violates their right to privacy (Art 2, 17) on the grounds of race in its application, and no derogation is permissible. There is also no apparent connection between the Israeli state of emergency (public emergency), Israel's declared derogation from Article 9 (prohibition of arbitrary detention), and the on-going theft of Palestinian property by means of this Law and associated administrative and judicial procedures.

24. Israel moreover, violates international standards of anti-terrorism and national security measures in connection with the *Citizenship and Entry Into Israel Law* (2003) by claiming the law aims to reduce the risk of terrorist acts carried out by Palestinians inside Israel, whereas **legislative debate and the drafting history indicate clearly that the main purpose of the Law is to preserve the "demographic balance", i.e. the Jewish demographic majority required for a Jewish state, especially in Jerusalem.**<sup>27</sup> International standards are violated in particular, because, under the pretext of security, the small number of Palestinian spouses of East Jerusalem residents, who have been able to enter the family reunification process under the exceptions authorized by the Law, are subjected to annual security background checks before their one-year permits to stay are renewed. A request for a **temporary stay permit may also be denied based on "indirect" security information concerning a relative of the foreign spouse**. The High Court of Justice (HCJ) has directed the Ministry of Interior to consider indirect security information carefully and to ensure that permits are denied only when it is almost certain that the presence of the foreign spouse in Israel and his relationship with his/her relative, who is an alleged security risk, would actually jeopardize national state security. However, the Israeli **Ministry of Interior often uses security information concerning relatives of foreign spouses as a pretext to deny family-unification applications.**<sup>28</sup>

#### ***Recommended Questions to Israel (Article 4)***

***Please explain the connection between Israel's state of emergency and confiscation of Palestinian land under the Absentees' Property Law. On what grounds does the State party consider this connection justified?***

***Which practical measures is the State party planning to adopt in order to ensure that the Ministry of Interior in East Jerusalem stops using "indirect" security information, i.e., information concerning relatives of foreign spouses of Palestinian residents of Jerusalem, as a pretext to deny family-unification applications?***

25. The following sections (C - F) of this report discuss issues pertaining to fundamental *individual* rights of Palestinians in occupied East Jerusalem. All of these issues are situated in the above-described context of racial discrimination and undermining self-determination. Israeli policies and measures discussed in these sections are **applied only to the Palestinian population in occupied East Jerusalem, and not to Jewish Israelis, including Israeli settlers in East Jerusalem or elsewhere in the OPT**. They are discriminatory, deprive Palestinians of the protections of the Fourth Geneva Convention and ICCPR-protected individual rights, result in forcible displacement of Palestinians - and violate, therefore, Articles 2, 12, 14 and 26, in addition to other specific provisions of the Covenant.

<sup>27</sup> ([http://www.hamoked.org/files/2014/1158460\\_eng.pdf](http://www.hamoked.org/files/2014/1158460_eng.pdf))

<sup>28</sup> (<http://www.hamoked.org/Document.aspx?dID=Updates1292>)

### **C. Freedom of movement and residence (Articles 12, 2; also 14, 17, 23, 24, 26)**

#### **Questions 20 and 21:**

#### **Complementary information on Palestinians in East Jerusalem**

26. The State Report refers to Israel's position that the Covenant is not applicable in the OPT and does not provide information concerning the Committee's questions regarding freedom of movement, residency permits and expulsions of Palestinians in the occupied Gaza Strip and West Bank (outside of East Jerusalem).

27. The submitting NGOs wish to draw the Committee's attention to **urgent issues pertaining to the freedom of movement and residence of Palestinians in occupied East Jerusalem** and present complementary information for this purpose. Israeli violations of Article 12 in East Jerusalem undermine a range of other ICCPR-protected rights of Palestinians, including the right to family (Article 23), the rights of the child (Article 24), the right to privacy (Article 17) and the freedoms of religion, expression and assembly (Articles 18, 19, 21). They are the **primary cause of the multiple forced displacement of East Jerusalem's Palestinian population and the forced movement of Palestinians from the city** (*See Question 4, section "The scope of the human rights crisis for Palestinians in occupied East Jerusalem"*), which is a strong and cross-cutting concern of human rights, legal aid and development NGOs, UN agencies and governments in the OPT.

**Israel's "Jerusalem closure policy", including the Wall, deprives the entire occupied Palestinian population of their freedom of movement and residency in East Jerusalem and results in forcible removal (exclusion) of Palestinians from the city.**

28. Directly after the 1967 war, Israel conducted a population census in the OPT. Only Palestinians who were physically counted within the annexed area of East Jerusalem were entitled to legal status in the city. Those counted elsewhere in the OPT and those outside of the country, including Jerusalem refugees, were - regardless of their origin, family ties or habitual residency in the city - excluded from legal status. Approximately 30,000 Palestinian residents of East Jerusalem were absent at the time of the 1967 Israeli population census. They and their descendants currently have no right to return and stay in the city under Israeli law.<sup>29</sup>

29. More than 4 million Palestinians in the occupied West Bank and Gaza Strip are denied the right to free access and residence in occupied East Jerusalem by the separate legal status created for East Jerusalem Palestinians (since 1967), and by the system of access permits (since early 1990s) and the Wall (since 2002), which are enforced by Israel for alleged security reasons. The Wall also prevents unhindered access to the centre of town by Palestinian residents of East Jerusalem, whose neighbourhoods are located inside the Israeli-annexed area but separated by the Wall. (See also Question 12)

**Israeli residency policies directed at Palestinians living in occupied East Jerusalem negate their Palestinian origin and identity, deprive them of secure resident status for themselves and their families, and result in deportation, forced separation and forcible displacement of Palestinians.**

#### ***"Permanent resident" status***

30. The separate legal status accorded in occupied East Jerusalem to Palestinians registered in the 1967 population census is regulated by the *Entry Into Israel Law* (1952) and the *Entry to Israel Regulations* (1974). These laws give

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<sup>29</sup> *Civic Coalition Fact Sheet*, *supra* note 26, at 5.



wide discretion to the Minister of Interior in the grant of various types of visas to enter and stay in Israel for persons, mainly citizens of foreign countries, who are not “Jewish nationals” (*Law of Return*, 1950) and do not meet the requirements for citizenship under the *Citizenship Law* (1952).

Under these laws, East Jerusalem Palestinians are accorded the status of “permanent residents”, which is a status otherwise granted to foreign citizens on long-term stay in Israel.

31. “Permanent residency” is a precarious status for Palestinians, conveying limited rights: East Jerusalem Palestinians are required to pay all Israeli taxes, entitled to receive Israeli social benefits and travel documents, and can participate in Israeli municipal but not national elections. Their Palestinian origin and identity and their right to stay – as the indigenous people, habitual residents of the country and as protected persons under the Fourth Geneva Convention – are not recognized. The Minister of Interior who grants their status is also empowered to revoke it.

### ***Revocation of Jerusalem residency***

32. “Permanent residency” of an East Jerusalem Palestinian can be revoked if the Minister of Interior concludes that Jerusalem is not, or is no longer, the “centre of life” of the concerned person. This was confirmed by the Israeli High Court of Justice in 1988 in a petition known as the case of Mubarak Awad. In this case, the Court reviewed a decision by the Ministry of Interior to deport Mr. Awad, a Jerusalem Palestinian who had lived in the USA for almost a decade and obtained citizenship there. The Court rejected the argument of Awad’s lawyer that Jerusalem residency rights could not be revoked because East Jerusalem Palestinians cannot be considered immigrants from a foreign country. The Court ruled, for the first time, that the *Entry Into Israel Law* (1952) and the *Entry Into Israel Regulations* (1974), which were issued in accordance with Article 14 of the Law, are applicable to East Jerusalem Palestinians, and that permanent residency “expires automatically” in two situations: if the concerned person is absent from his/her address in Israel (including East Jerusalem) for a period of seven years, and if s/he obtains citizenship or permanent residency in another country.

33. The precedent-setting Awad case paved the way for the systematic revocation of Jerusalem residency and ID cards from Palestinians. Subsequent case law of Israeli courts confirmed the discretionary powers of the Ministry of Interior to interpret and apply the 1952 Law and 1974 Regulations even beyond the criteria specified in the case of Awad. The policy of residency revocation has thus been applied not only to East Jerusalem Palestinians residing abroad, but also to East Jerusalem Palestinians who have moved to live outside the municipal borders of Jerusalem in the occupied West Bank or Gaza Strip. Between 1967 and 2013, Israel revoked the permanent resident status of at least 14,309 East Jerusalem Palestinians.<sup>30</sup> In 2013 alone, Israel revoked the status of 106 persons, including 50 women and 24 minors. The Interior Ministry does not provide information about the grounds for revocation in each case.

34. **The submitting NGOs urge the Committee to raise the strongest possible concerns about the systematic manner in which Israel, with its “Jerusalem closure policy” and the restrictive “permanent residency” policy directed at Palestinians in occupied East Jerusalem, has failed to meet its obligations under the Article 12 and 2, thereby also violating Articles 14, 17, 23, 24, 26 of the Covenant.** Under international law, States may subject entry and stay of aliens to certain conditions. This, however, does not apply in the case of the Palestinian population of the OPT, whom originate from the country. By creating a separate legal status for Palestinians in East Jerusalem that deprives most of the Palestinian population in the OPT of their freedom to choose residence in their **own country**, including East Jerusalem, and by treating East Jerusalem Palestinians as “permanent residents”, as if they

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<sup>30</sup> Response of the Interior Ministry to a freedom of information request of Hamoked Center for the Defense of the Individual; *Siyang v. Minister of Interior*, HCJ 08/2392.

were alien immigrants from a foreign country, Israel imposes **restrictions on the freedom of movement which violate international standards and are not permissible under Article 12.**<sup>31</sup> By applying this status and associated restrictions to Palestinians but not to Jewish Israeli settlers in East Jerusalem, and by forcibly displacing/deporting Palestinians by means of residency revocation, Israel also violates **the prohibitions on racial discrimination and forcible transfer of populations from which no derogation is permitted.** (See also Question 12.)

**D. Protection of the Family, Protection of the Rights of the Child**  
(Articles 23, 24, 2; also 12, 14, 17, 24, 26)

**Question 25**

**Measures taken by the State party to revoke the Citizenship and Entry Into Israel Law; right to marriage**

***Citizenship and Entry Into Israel Law; Family reunification in East Jerusalem***

35. The State Report (par. 451 – 454) refers merely to the responses of Israel to the List of Issues taken up in connection with the third periodic review and informs about the 11 January 2012 Israeli High Court of Justice verdict on additional petitions that had challenged the constitutionality of *The Citizenship and Entry into Israel Law* (Temporary Provision), 5763-2003.<sup>32</sup> The Court ruled that, even if the Law harmed the rights of Israeli citizens, the infringement was proportional and did not violate Basic Laws.<sup>33</sup> Israel does not inform of any additional measures or plans to repeal the law.

36. This Law, initially enacted in 2003 as “temporary provision”, prohibits the grant of citizenship and permanent residency in Israel (**including occupied East Jerusalem**) to residents of the OPT (Gaza and West Bank other than East Jerusalem) and designated “enemy countries” (Syria, Lebanon, Iraq and Iran). In the meantime, on 19 March 2014, the Israeli parliament extended – for the 15<sup>th</sup> time - the validity of the Law for another year. Family reunification with Palestinian residents of the Gaza Strip remains barred based on a special resolution adopted by the Israeli government in 2008 (Cabinet Resolution 3598).<sup>34</sup>

37. Although exceptions to the ban on family reunification are permitted in cases where the husband is over 35 years of age or the wife over 25, for special medical or work reasons, and for children under the age of 14, the **Law has had the effect of preventing almost all family reunification for Palestinian citizens of Israel and Palestinian residents of East Jerusalem with non-resident spouses and children.** In the exceptional cases where applications are approved, only **temporary residency permits** have been granted.

38. In East Jerusalem, the Law, combined with the lack of transparency and effectiveness of administrative procedures, has resulted in a drastic reduction of successful cases of family reunification with spouses and children in occupied East Jerusalem. In February 2011, for example, the Israeli Ministry of Interior rejected 364 of the 841 applications received. Less than 4 percent (31 applications) were accepted, while the remainder were still being processed. Those rejected were informed that they must leave Jerusalem.<sup>35</sup>

39. Lack of access to family reunification – in combination with the requirement to prove “centre of life” in order to

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<sup>31</sup> See Human Rights Committee, *General Comment 27*, par. 4, emphasizing that the meaning of a person’s “own country” is broader than the country of his/her nationality and should be recognized as such.

<sup>32</sup> H.C.J. 466/07, 544/07, 830/07, 5030/07, MK ZehavaGalon et al. v. The Minister of Interior et al.

<sup>33</sup> <http://www.adalah.org/eng/?mod=articles&ID=1185>

<sup>34</sup> [http://www.hamoked.org/files/2014/1158460\\_eng.pdf](http://www.hamoked.org/files/2014/1158460_eng.pdf)

<sup>35</sup> OCHA-OPT, East Jerusalem: Key Humanitarian Concerns, p.23, citing Hamoked

maintain “permanent residency” in Jerusalem and fear of status/ID card revocation - has severely undermined the quality of life and community of Palestinian families in and outside occupied East Jerusalem. It has created a situation where housing addresses and ID types obstruct the realization of marriage choices and the ability of East Jerusalem Palestinians and their loved ones elsewhere in the OPT to maintain ordinary family lives.

### ***Registration of children***

40. Since East Jerusalem Palestinians as “permanent residents” cannot automatically convey Jerusalem residency to their children, many parents are forced to undergo ambiguous, arbitrary, lengthy and often costly registration or family reunification procedures. The Israeli Ministry of Interior does not, for example, automatically register Palestinian children with only one Jerusalem parent, or a child not born in East Jerusalem or Israel. Many fail to obtain permanent resident status in Jerusalem for their children, with severe consequences. Unregistered children forgo a secure family unit and access to public education and health services, cannot cross Israeli checkpoints and face the threat of deportation from East Jerusalem. No reliable information is available about the number of unregistered Palestinian children.

### ***Ineffective and arbitrary implementation of administrative rules and procedures***

41. Restrictions of movement into East Jerusalem are not only the lot of unregistered children and spouses, or of West Bank residents without access permits. Even Palestinian children and spouses who hold temporary stay permits in Jerusalem as part of the family reunification procedure and live in East Jerusalem neighbourhoods separated from the centre by the Wall are regularly prevented from crossing the Israeli checkpoint in Shu’fat. They are required to take bypass roads instead, which prolong their commute to work, their children’s schools and medical facilities, although they have already undergone extensive security screening. Under Israeli rules, individuals who have passed this such screening and were issued a stay permit are in fact entitled to move freely within Israeli territory. This right, however, is violated for arbitrary and disproportionate reasons.<sup>36</sup>

**See ANNEX 4** (St. Yves): Illustrative cases of hardship in the process of family reunification and child registration

### ***Lack of access to effective redress; complicity of Israeli courts***

42. The discriminatory legal framework created for East Jerusalem Palestinians by the Entry Into Israel Law (1952), the Entry Into Israel Regulations (1974) and the Citizenship and Entry into Israel Law (2007) has been upheld by the Israeli High Court of Justice (see par. 35 and 36). Palestinians seeking legal recourse in order to realize their right to a family have, therefore no means of effective redress.

43. Another example of the failure of the Israeli Supreme Court to provide effective legal redress is its treatment of a petition regarding child registration filed by Hamoked in 2013. Until then, the Interior Ministry required proof of a child’s **“centre of life” in East Jerusalem for at least two years before an application for registration could be filed**, if the child was not born in East Jerusalem or Israel, or if only one of the parents was a Jerusalem resident. The two-year “centre of life” requirement had very negative implications, particularly for older children. A child who moved to East Jerusalem at age 13, for example, cannot ask for permanent residency status until the age of 15. By then, however, s/he is no longer entitled to resident status and may only receive temporary permits from the Israeli

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<sup>36</sup> <http://www.hamoked.org/Document.aspx?dID=Updates1286>

military government (DCO). Moreover, a child arriving in East Jerusalem at age 16 and one month is not able permitted to visit his/her family in East Jerusalem, because s/he is no longer considered a minor two years later.<sup>37</sup>

44. The Supreme Court, in its decision, merely recommended that the State should consider accepting child registration applications before the two-year period in Israel. The Court did not instruct the State to do so, and it did not order the equal and retroactive applicability of the new policy to all concerned Palestinian children. The State subsequently undertook a piecemeal revision of its child registration protocol: the new procedure provided that **applications filed before the end of the two-year “centre of life” period will not be rejected automatically, but will be treated as pending until the family can prove that its members had lived in Jerusalem for two whole years.** Only then will a decision be made whether to approve or reject the application, and the child’s eligibility for status in Jerusalem or a DCO permit will be determined based on his or her **age at the time the application was filed**, rather than at the end of the two-year period. These revised procedures, however, only apply to applications filed after 1 September 2013. The children’s best interest was once more jeopardized due to technical and procedural issues.<sup>38</sup>

**45. With the above laws and policies regulating family reunification and child registration for the occupied Palestinian population in East Jerusalem, Israel violates its obligations under the Covenant, Articles 2, 23 and 24, as well as Articles 12, 14, 17 and 26.**

**E. Right to Privacy**  
**(Articles 17, 2; 12, 14, 26)**

**Israeli planning and budget-allocation policies in occupied East Jerusalem and the adjacent West Bank continue to result in expropriation, demolition of houses and private property, in-adequate housing and public services, as well as forced evictions and displacement of Palestinians, including Bedouin populations.**

**Question 6 (a):**

**Measures taken by the State party to cease punitive demolition of Palestinian (Bedouin) houses and private property**

46. Despite the Human Rights Council’s previous recognition of the prejudiced nature of Israel’s home demolition policy<sup>39</sup>, the State party continues to execute this discriminatory practice in and around occupied East Jerusalem, resulting in the displacement of hundreds of Palestinian Jerusalemites.

47. In a situation where almost no public housing is made available for Palestinians in East Jerusalem (see Question 6(d)), the population depends almost entirely on private construction subject to Israeli permits. Palestinian homes and structures built without permits are systematically demolished.<sup>40</sup>

From 2009 – 2013 alone, Israel demolished 370 Palestinian structures, primarily homes, forcibly displacing 909 persons.<sup>41</sup> The UN Office for the Coordination of Humanitarian Affairs (OCHA) estimates that 98 structures in East Jerusalem were demolished in 2013 – an increase of over 50% compared to 2012 – resulting in the displacement of

<sup>37</sup> <http://www.hamoked.org/Document.aspx?dID=Updates1340>

<sup>38</sup> <http://www.hamoked.org/Document.aspx?dID=Updates1340>

<sup>39</sup> “Moreover, the Committee is concerned at frequent administrative demolition of property, homes and schools in the West Bank and East Jerusalem owing to the absence of construction permits, their issuance being frequently denied to Palestinians.” CCPR/C/ISR/CO/3. 12-30 July 2010.

<sup>40</sup> UN OCHA Fact Sheet: East Jerusalem, Key Humanitarian Concerns, December 2012:

[http://www.ochaopt.org/documents/ocha\\_opt\\_Jerusalem\\_FactSheet\\_December\\_2012\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_Jerusalem_FactSheet_December_2012_english.pdf)

<sup>41</sup> OCHA Displacement Working Group.

298 Palestinians.<sup>42</sup> This figure differs dramatically from the mere 13 demolished structures in East Jerusalem during the same year cited by the State party's report [par. 63]. Since its submission, Israel has continued with its mass demolitions, destroying 31 structures as of May 2014 and subsequently displacing an additional 101.

48. In this reporting period, Israeli settlers, authorities and courts have colluded in efforts to evict Palestinians from Palestinian neighbourhoods adjacent to the Old City (Sheikh Jarrah, Silwan, Issawiya, Al Tour) and destroy their homes and heritage for the development of Israeli-Jewish "national parks" and tourist sites – often taking advantage of Israeli law, which permits claims for pre-1948 Jewish properties in East Jerusalem – but not in West Jerusalem where the properties of many Palestinians are located (See par. 15).

In the outskirts of East Jerusalem, Palestinian homes and communities (Beit Hanina, Shu'fat, Beit Safafa, Bedouin communities) are destroyed to make space for Israeli settlements and highways constructed on expropriated land for Israeli "Greater Jerusalem" in the occupied West Bank.<sup>43</sup> (See also 6(c)).

49. It is also critical to note the erroneous language that the State party's report employs in comparing the number of demolitions carried out in "western neighbourhoods" and "eastern neighbourhoods" [par. 62]. In equating East Jerusalem with West Jerusalem, the State party again fails to acknowledge the former as occupied territory and as such its obligations to the Palestinian population in East Jerusalem under international law. Numbers of home demolitions carried out in West Jerusalem vs. East Jerusalem are therefore irrelevant; instead, the State party should be reporting on numbers comparing planning and demolitions between the Palestinian population and Jewish-Israeli population residing in illegal settlements within East Jerusalem. As such, we would like to draw the Committee's attention to the fact that demolitions of Palestinian homes are carried out chiefly for the purpose of making room for implementation of plans that foster Jewish Israeli development in East Jerusalem.

#### **Question 6 (b):**

**Measures taken by the State party to ensure non-discriminatory municipal planning, housing and construction-permit policies, facilitate legal construction for Palestinians in East Jerusalem**

#### ***Urban planning***

50. The Municipality allocates only 13% of East Jerusalem for Palestinian use. 35% is allocated to Jewish-Israeli settlements, 22% is zoned as "green areas" and 30% is entirely without a planning scheme.<sup>44</sup> Under the zoning rules, municipal authorities may zone any un-expropriated Palestinian land as "green area", thus blocking Palestinian development and stunting the natural growth of East Jerusalem's Palestinian community, when in fact such designation is used to ensure these lands remain clear for future Jewish settlement construction, as occurred with the settlements of Reches Shu'fat and Har Homa.<sup>45</sup> More recently, "green zones" have been designated for the construction of so-called Jewish "national" or "historical" parks, particularly in the vicinity of the Old City "holy basin" region that surrounds the Old City. (See also Question 7).

#### ***The Jerusalem "Master Plan"***

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<sup>42</sup> *Fragmented lives: Humanitarian Overview 2013*. United Nations Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory. March 2014.

<sup>43</sup> Civic Coalition-Jerusalem, *Update and Urgent Appeal: Beit Safafa*: <http://civiccoalition-jerusalem.org/press-releases/israeli-supreme-court-rules-allow-completion-illegal-israeli-settlement-highway-throu>

<sup>44</sup> *Ibid* 2.

<sup>45</sup> *id.*, at 1056.

51. Though the State party claims in its CCPR submission that a new city plan will give way to a “substantial increase of construction rates in all of the authorized residential areas in the eastern neighbourhoods of Jerusalem,” (par. 78) Palestinians in East Jerusalem remain subjected to a complex network of policies intended to diminish their presence in the occupied city.

52. Development of Jerusalem, including occupied East Jerusalem, is executed by the municipality in accordance with *Local Outline Plan Jerusalem 2000*. Also referred to as the *Master Plan*, the document serves as a blueprint for the city’s expansion as a “united Jewish capital” until the year 2020. Though never ratified, the plan is used by the municipality as a “policy document”<sup>46</sup> and thus acts as a baseline for all citywide development actions.

Without official ratification, the Master Plan has accordingly been exempt from public review and transparency processes typically required by law, including from the Palestinian population of East Jerusalem. The Jerusalem District Planning and Building Committee has consequently been free to implement the outline’s discriminatory policies, standing with declared intent to preserve a Jewish majority in the city<sup>47</sup> and with absolute negation of East Jerusalem’s status as occupied territory.

53. All policies outlined within this report should thus be reviewed with consideration that they exist as part of a clearly defined strategy by the municipality to establish and maintain a demographic imbalance that favours the Jewish population and simultaneously works to de-Palestinianize Jerusalem.

54. Israel’s Town Planning Scheme (TPS), an extensive ten-step process requiring coordination and cooperation with municipal authorities, is used in addition to prevent Palestinian development. The Israeli government provides Jewish settlers in East Jerusalem with funding, urban planners, and architects; yet, all such costs and resources necessary for a TPS fall on Palestinians for development proposals by East Jerusalem Palestinians.<sup>48</sup>

55. The Municipality further discriminates against Palestinians by illegally prolonging the TPS approval process and reducing development plans; for instance, municipal authorities issued decisions for Palestinian submissions for the communities of Shu’fat and Beit Safafa 13 years after first submission, 12 years for Abu Tor submission, when the authorities are legally required to issue a decision within 3 years; the Municipality also minimizes Palestinian applications by reducing the number of planned units, as occurred with the Shu’fat application of 17,000 units which the Municipality reduced to 500 units.<sup>49</sup>

#### ***Housing and construction permit policy for Palestinians in East Jerusalem***

56. The imposition of severe restrictions on housing development in East Jerusalem is one of Israel’s key methods in diminishing Palestinian presence in the occupied city. Permit restrictions and subsequent home demolitions are largely an outcome of the discriminatory planning processes.

*“[The Committee] is concerned at **discriminatory municipal planning systems**, in particular in “area C” of the West Bank and in East Jerusalem, disproportionately favouring the Jewish population of these areas.”*

- Par. 17, CCPR/C/ISR/CO/3.  
12-30 July 2010.

<sup>46</sup> Planning petition to the Jerusalem District Court Acting as Court of Administrative Affairs, submitted by Bimkom – Planners for Planning Rights and Association for Civil Rights in Israel (ACRI). 21 April 2013.

<sup>47</sup> The plan explicitly states its aim to maintain a ratio of 70% Jews and 30% Arabs in Jerusalem.

<sup>48</sup> Imseis, *supra* note 16, at 1057-1058.

<sup>49</sup> Imseis, *supra* note 16, at 1058.

57. A mere 14% of East Jerusalem land is zoned for housing<sup>50</sup> and 92% remains unregistered.<sup>51</sup> Palestinian landowners oftentimes avoid the required registration procedures out of fear of Israel's discriminatory Custodian of Absentee Property law, which can result in subsequent state-seizure of their privately owned land. Compounded with infrastructure requirements that are largely unfeasible for such a dense area as well as high costs in planning and permits, Palestinians are all but compelled to build without the required authorizations in order to accommodate for the growing populace. Consequently, an estimated 70% of construction carried out between 2001-2010 was done "illegally" and is thus vulnerable to Israel's punitive measures.<sup>52</sup> Discriminatory restrictions remain even in cases where permits are obtained. In most instances, for example, building limitations are imposed that prohibit construction ratios from exceeding 25-50% of total plot area, depending on the neighbourhood. In contrast, Jewish areas of Jerusalem are typically allowed to build on 75-125% of the land.<sup>53</sup>

58. As the construction of housing continues to grow more costly and bear greater risks for East Jerusalemites, and with essentially no public housing options available to those in particular need, an increasing number of Palestinians are moving elsewhere in the West Bank. Neighbourhoods – such as Kufr 'Aqab – that lie beyond Israel's Wall but remain within the municipal boundaries of Jerusalem offer cheaper land with little enforcement of building laws. There, Jerusalem ID holders are also permitted to live with West Bank ID-holding spouses and family members. This migration outside of Jerusalem's J1 district only helps to realize Israel's intent to de-Palestinianize the city.

#### **Question 6(c):**

#### **Measures taken by the State party to ensure recognition and promotion of Bedouin right to ancestral land and livelihood**

59. Palestinian Bedouin have been exceptionally vulnerable to forced displacement throughout East Jerusalem. Bedouin are routinely categorized by Israel as "trespassers" or "squatters" on state land, with their land rights consistently ignored, in spite of many having lived on the land before the establishment of the State. As a small community of between 2,000-3,000, over 65% of Bedouin are under the age of 18 and more than 80% are refugees.<sup>54</sup> In Jerusalem, most of the Bedouin population reside within the E1 periphery – a strategic portion of land that serves as a narrow connection between the northern and southern parts of the West Bank. Israel accordingly works to remove the Bedouin from this area in order to expand the illegal settlement of Ma'ale Adumim. Most have demolition orders on their homes and over 755 were displaced as a result in 2011 alone.<sup>55</sup>

#### **Question 6(d):**

#### **Measures taken by the State party to ensure Palestinian access to adequate public housing, health and education services**

#### ***Public Housing***

60. Zoning and planning policies combined with demolitions have resulted in a dramatic housing shortage in East Jerusalem that the State party continues to neglect. Since 1967, Israel has developed between 60,000 to 70,000

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<sup>50</sup> Administrative Petition 36572-04-13, Bimkom – Planners for Planning Rights and The Association for Civil Rights in Israel vs. Chairman of the Jerusalem District Planning and Construction Committee, et al.

<sup>51</sup> *East Jerusalem Housing Review*. International Peace and Cooperation Center. 2013.

<sup>52</sup> *Ibid* 7.

<sup>53</sup> *Ibid* 6.

<sup>54</sup> *Ibid* 2.

<sup>55</sup> *Bedouin Relocation: Threat of Displacement in the Jerusalem Periphery*. United Nations Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory. September 2011.

housing units in East Jerusalem, yet only 600 of these units were intended for Palestinian use, the last of which was constructed over 30 years ago.<sup>56</sup>

### ***Public Health***

61. The Palestinian Ministry of Health is prohibited from operating within occupied East Jerusalem. Consequently, Palestinian Jerusalemites are forced to seek services from institutions within the Israeli health care system. There are currently 6 medical facilities that operate within East Jerusalem, catering to the city's 300,000+ Palestinian residents as well as those with West Bank IDs who are able to obtain medical permits. These hospitals suffer from major financial crises, in large part as a result of severe restrictions on movement through military checkpoints; these inevitably hinder the ability of patients to reach hospitals for treatment as well as the ability of West Bank staff to travel to work. Hospitals in East Jerusalem are likewise subject to similar building restrictions as those aforementioned regarding housing construction.<sup>57</sup> Renovation and expansion of medical facilities is thus an extremely costly and arduous – if not impossible – task that many hospitals struggle with.

### ***Education***

**Though the Committee raised concerns regarding Palestinians' access to education, including in East Jerusalem, this issue remains unaddressed by the State party in its responding report.**

62. There are currently four different bodies that oversee the education system in East Jerusalem: the Islamic Waqf-Palestinian Authority, Israeli municipality, UNRWA, and private operators. With each of these authorities managing different sets of schools, a standardized curriculum is lacking, as is consistency in quality of education.

63. In 2011, the Israeli Supreme Court accepted a petition calling for the Jerusalem municipality to provide physical space for every East Jerusalem child to enrol in a municipal school by 2016; in cases until then where this is not possible, the municipality was ordered to refund tuition for children enrolling in privately operated institutions.<sup>58</sup> In spite of this ruling, there remains an estimated shortage of at least 2,200 classrooms in East Jerusalem and this deficiency is expected to continue to grow at a rate of 3-4% per year. A critical reason for this shortage is the municipality's misallocation of space. Though city authorities often cite lack of available land as justification for the lacking in East Jerusalem schools, it continues to encourage the development and expansion of illegal Jewish settlements throughout the area. Discrimination extends up to Israel's Ministry of Education, which was found to allocate a mere NIS 12,000 per Palestinian high school student in Jerusalem, while each Jewish high school student is allocated NIS 25,500.

64. Lack of educational cohesion, mounting discriminatory processes, and an oppressive surrounding environment all contribute greatly to a skyrocketing rate of school dropout amongst Palestinian youth in East Jerusalem. An estimated 36% of East Jerusalemites fail to complete high school, with many defaulting into the child labour workforce. The Jerusalem municipality does little to deter this trend from growing, as 30% of East Jerusalem schools lack any dropout prevention program whatsoever and another 40% have only minimal services related to such prevention.<sup>59</sup>

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<sup>56</sup> Civic Coalition-Jerusalem, *supra* note 26, at 1-2.

<sup>57</sup> *The Palestinian economic in East Jerusalem: Enduring annexation, isolation and disintegration*. United Nations Conference on Trade and Development (UNCTAD). 2012.

<sup>58</sup> Eitan, Uri, Aviv Tatarsky, Oshrat Maimon, Ronit Sela, Nisreen Alyan, and Keren Tzafrir. *Annual Status Report: The Failing East Jerusalem Education System*. Ir Amim and The Association for Civil Rights in Israel. 2013.

<sup>59</sup> *Supra*, p. 11.



#### Question 7:

##### **Linguistic and cultural rights of Palestinians in occupied East Jerusalem**

65. The State Report does not mention efforts undertaken specifically in East Jerusalem to ensure that Israel's public administration is fully accessible for Palestinians, or for promoting the above rights of Palestinians there. In fact, Israeli authorities have been implementing measures that systematically undermine the cultural rights of Palestinians in East Jerusalem, some of which are included in this report under Question 24.

66. In addition, the submitting NGOs wish to inform the Committee that adequate Arabic translation is **frequently not available in Israeli courts**, and **never offered in the public hearings of Israel's local and regional planning committees**. Palestinian communities that have submitted objections to Israeli municipal and regional planning schemes regularly attend these hearings but can neither understand nor participate in the discussions.

67. The Israeli Municipality has, moreover, **removed most of the habitual and often historical Arabic names** of streets and places in East Jerusalem and given them new names in Hebrew. Municipal signs carry these new names in Hebrew, in addition to transliterations in English and Arabic.

#### Question 9:

##### **Access to natural resources; Sewage and waste water**

68. Israel's policy of land confiscation for illegal settlement use (See par. 7) has detrimental effects on Palestinian access to natural resources in East Jerusalem. As a result of the discriminatory nature of the Israeli land regime, Palestinians likewise largely fail to obtain redress in these matters as a result of their inferior status in the eyes of the State party (See par. 12).

69. Israel's State Report is silent about the fact that sewage and water infrastructure is constructed in and around occupied East Jerusalem, mainly for the benefit of the Israeli settlements there; Palestinian communities are connected, at best, as secondary beneficiaries. In the autumn of 2013, the Royal Haskoning DHV engineering company cancelled its participation in building an Israeli sewage treatment plant for this reason, and because Israel withholds approval of projects submitted by the Palestinian Authority.<sup>60</sup> Soon after, Vitens, the largest supplier of drinking water in the Netherlands, terminated cooperation with Israel's national water company, Mekorot, because of its illegal exploitation of Palestinian ground water in the occupied West Bank.<sup>61</sup> Both companies took these decisions in consultation with the Dutch government and with reference to their commitment to international law and human rights.

Note: for more information pertaining to Question 9, please refer to the NGO report submitted by *al-Haq*.

#### **F. Freedom of Religion, Expression, Right to Peaceful Assembly**

**(Articles 18, 19, 21; also 2, 9, 12, 14, 17 and 26)**

**Israeli policies undermine free expression of Palestinian religion, culture and national identity, and operation of Palestinian public and civil society institutions in occupied East Jerusalem**

#### Question 22:

##### **On freedom of religion**

<sup>60</sup> <http://electronicintifada.net/blogs/adri-nieuwhof/dutch-firm-withdraws-sewage-plant-settlers-east-jerusalem>

<sup>61</sup> <http://www.timesofisrael.com/dutch-water-giant-nixes-projects-with-israels-mekorot/>

70. Regardless of the State party's claims of freedom of religious worship as a basic principle of Israeli law in their latest CCPR submission (par. 408), Palestinian Christians and Muslims continue to face numerous obstacles in their pursuit to practice their faiths. These include discriminatory permit processes, military checkpoints, and age restriction policies – all of which severely impede access to religious sites and ability to participate in worship.

71. Since the early 1990's, when Israel cut off East Jerusalem from the rest of the occupied Palestinian territories, Palestinian residents of the West Bank and Gaza Strip have been required to obtain permission from the Israeli military before being permitted to enter Jerusalem. This situation only worsened following the construction of the apartheid wall around East Jerusalem, further obstructing both Muslim and Christian Palestinians from reaching holy sites in the city.

72. As of 2007, the Israeli authorities have prohibited Gaza's Muslim population from access to the holy places in Jerusalem and the West Bank on an absolute basis. On August 8, 2012, the Israeli Supreme Court rejected an appeal submitted by the Legal Centre for Freedom of Movement (Gisha) and reaffirmed this total ban of Muslims from Gaza to visit East Jerusalem and the West Bank for religious worship.<sup>62</sup> This policy is a flagrant violation of article 18 and acts in direct defiance of the Human Rights Committee's 2010 CCPR concluding observation, which calls for "equal and non-discriminatory access to places of worship" (par. 20).

*"While noting the State party's argument regarding security concerns, the Committee is nevertheless concerned at frequent disproportionate restrictions on access to places of worship for non-Jews."*

- Paragraph 20, CCPR/C/ISR/CO/3. 3 September 2010.

73. In 2013, the State party continued to impose restrictions on access to Al Aqsa during the month of Ramadan. Only men and women over the age of 60 and children under the age of 12 were permitted to enter during the month without permit. Those who did not fall into these age brackets were required to obtain special permits for the purpose of attending prayer or family visits, and no persons were allowed to enter on Saturdays.<sup>63</sup> Entrance to the city was yet again tightened in 2014, after three Israeli teens went missing in the Hebron area of the West Bank; all residents of Hebron – a city of over 250,000 Palestinians – were subsequently denied permission into Jerusalem to perform Ramadan prayers.

74. Christians Palestinians are also severely impacted by Israel's discriminatory policies. Only 40% of Christians from elsewhere in the West Bank received permission by the State party to enter Jerusalem to for 2014's Easter celebrations. As part of its efforts to further fragment the population, Israel continued its trend of allocating merely 1 or 2 permits to the majority of families,<sup>64</sup> compelling Palestinians to make the difficult decision of whether to observe the religious holiday alone or forfeit the permit in favour of remaining with other family members.

75. Moreover, West Bank Palestinians from both East Jerusalem and elsewhere are collectively subjected to impediments to worship within the city itself. Pop-up or "Flying" checkpoints and road blockages regularly appear and make direct access to sites including Al Aqsa and the Church of the Holy Sepulchre difficult, if not impossible. The Israeli military likewise imposes age restrictions for Palestinians wishing to pray at Al Aqsa at its discretion, frequently denying entry to men under the age of 50.

<sup>62</sup> Supreme Court ruling, Court of Appeals of Administrative Matters (Hebrew). Gisha. <[http://gisha.org/UserFiles/File/LegalDocuments/prayers/worshippers\\_verdict7.8.pdf](http://gisha.org/UserFiles/File/LegalDocuments/prayers/worshippers_verdict7.8.pdf)>

<sup>63</sup> *Fragmented lives: Humanitarian Overview 2013*. United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory. March 2014.

<sup>64</sup> *Accesses to worship in Jerusalem*. Jerusalem Inter-church center. Occupied Palestinian territory. April 2014.

76. In addition to restriction of access to religious sites, East Jerusalem continues to face substantial neglect with regard to the preservation of its religious structures. The State party continues to impose tremendous obstacles for Palestinians to receive permits to alter properties, particularly in the Old City. Consequently, many religious sites in the Muslim, Christian and Armenian quarters in critical need of renovations are left to deteriorate; this is in stark contradiction to conditions in the Jewish quarter, which are constitutently maintained.

#### **Question 24:**

#### **Freedom of expression of Palestinian culture and identity; freedom of assembly**

##### ***On oppression of Palestinian identity in East Jerusalem education***

77. Imposition of Israeli curriculum on Palestinian schools has been enshrined within Israeli law since the 1953 State Education Law. Amended in 2000, the law states an objective for curriculum to emphasize Jewish history and culture.<sup>65</sup>

78. On March 7, 2011, the Jerusalem Municipality began mandating all private schools in East Jerusalem that receive budgetary allocations from the Israeli authorities to purchase only textbooks prepared by the Jerusalem Education Administration (a joint body of the municipality and the Israeli Ministry of Education). Doing so obligated these schools to abandon the Palestinian Authority-issued curriculum previously employed and instead impose a syllabus that conveys a biased perspective of historical events in favour of the occupying State. This order was extended to public schools in September 2011.

79. The syllabus accordingly omits any recognition of Palestinian national identity, the *Nakba*, the occupation, expansion of illegal settlements, resistance efforts, or Jerusalem as the capital of a Palestinian state.<sup>66</sup> It likewise entails the removal of the following:<sup>67</sup>

- The Palestinian Education Ministry logo (replaced with the Israeli Jerusalem Municipality logo).
- A portion in the first-grade book requiring children to draw/colour the Palestinian flag.
- Passages about the Palestinian refugee right of return.
- Lessons about significant cities in Palestinian history, such as Akka (Acre).

80. Imposition of Israeli-centred curriculum in schools serves the State party's broader aims of eliminating Palestinian culture and heritage from occupied Jerusalem. The policy brazenly contravenes Article 1 of the Covenant by deliberately undermining the pursuit of social and cultural development amongst Palestinian youth and attempting to erase Palestinian history from the peoples' collective consciousness.

##### ***On oppression and closure of Palestinian institutions in East Jerusalem***

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<sup>65</sup> See *State Education Law*, art. 2 (1953) ("The objective of the State education is to base elementary education... on the values of the Jewish culture... on the love and loyalty to the State and the Jewish people...") <http://adalah.org/Public/files/Discriminatory-Laws-Database/English/24-State-Education-Law-1953.pdf>; see also *Adalah*, *The Inequality Report*, 39 (2011) [http://adalah.org/upfiles/2011/Adalah\\_The\\_Inequality\\_Report\\_March\\_2011.pdf](http://adalah.org/upfiles/2011/Adalah_The_Inequality_Report_March_2011.pdf) (State Education Law sets educational objectives that emphasize Jewish history and culture); see also *Civic Coalition for Defending Palestinian Rights in Jerusalem*, Briefing note regarding De-Palestinization of education in occupied East Jerusalem, 1-2 (2014) [http://www.civiccoalition-jerusalem.org/system/files/note\\_on\\_de-palestinization\\_of\\_education.pdf](http://www.civiccoalition-jerusalem.org/system/files/note_on_de-palestinization_of_education.pdf) (Jerusalem Municipality pressures East Jerusalem schools to adopt the Israeli curriculum, while the Israeli Ministry of Education removes Palestinian identity, culture, geography, and history from Israeli-revised textbooks).

<sup>66</sup> "Palestinian Schools in East Jerusalem Forced to Use Israeli-Censored Textbooks". Civic Coalition for Palestinian Rights in Jerusalem. 5 April 2012.

<sup>67</sup> *Easter alert statement*. Kairos Palestine, occupied Palestinian territory. April 2014.

81. Israel inhibits thought, expression and assembly through such laws as the Boycott of the State of Israel (2011) and Amendment 40 to the Budgets Foundations Law (2010). The law of Boycott of the State of Israel, enables the filing of civil lawsuits against anyone who calls for boycott, and declares boycott a civil wrong and tort.<sup>68</sup> Amendment 40 to the Budgets Foundations Law permits the Minister of Finance to reduce funding to any entity that commemorates Independence Day as a day of mourning or 'rejects the existence of the State of Israel as a 'Jewish and democratic State.'<sup>69</sup> These laws particularly inhibit Palestinians rights to thought, expression, and assembly and seek to punish those who consider and express views against the Israeli government.

82. East Jerusalem continues to face an intensive campaign, imposed by the State party, to rid the city of Palestinian social and political infrastructure. Israel has forced the closure of over 120 Palestinian institutions in Jerusalem since its 1967 seizure, including more than 32 since 2001. Amongst these institutions are the Orient House, the Jerusalem Chamber of Commerce, the Arab Studies Society, and Land and research Centre.<sup>70</sup> More recently, Al Quds for Development Association and the Shua'a Women's Association were both closed in 2011. Numerous additional institutions, such as Yabous Cultural Centre, are frequently closed temporarily, often when hosting political or nationally inclined forums. As a result, many organizations have been forced to transfer their operations elsewhere in the West Bank in order to avoid complete shutdown. Those that have remained continue to face tremendous pressure to avoid conducting events that cater to the development of Palestinian identity, and regularly face punitive actions when this pressure goes unheeded.

83. In its 2013 Heads of Missions Report, the European Union contends that the State party's policy of closing Palestinian institutions "continues to seriously affect all spheres of life of Palestinians in East Jerusalem (political, economic, social and cultural)," and concludes that "it fosters a growing fragmentation of society at all levels, the isolation of communities and a weakened collective sense of identity."<sup>71</sup> This practice likewise violates both Article 19 and 21 of the Covenant, which jointly protect the rights of individuals to express their opinions and obtain information without interference – both independently and collectively.

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## List of Annexes

**The following documents are annexed to assist in the Committee's full comprehension of policies and subsequent humanitarian consequences referenced in the report.**

1. "Forced Eviction in Occupied East Jerusalem: The Case of Sheikh Jarrah". Civic Coalition for Palestinian Rights in Jerusalem.
2. "Destruction of Palestinian Homes and Heritage in occupied East Jerusalem: The case of Silwan". Civic Coalition for Palestinian Rights in Jerusalem.
3. "Case Studies on Family Unification & Child Registration in East Jerusalem". Saint Yves.
4. "Family Unification Procedure". Saint Yves.

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<sup>68</sup> See <http://adalah.org/Public/files/Discriminatory-Laws-Database/English/34-Bill-to-Prohibit-Imposing-Boycott-2011.pdf>

<sup>69</sup> See <http://adalah.org/Public/files/Discriminatory-Laws-Database/English/33-Budget-Foundations-Law-Amendment40-Nakba-Law.pdf> (unofficial translation).

<sup>70</sup> "Right to Freedom of Opinion and Expression in East Jerusalem". Civic Coalition for Palestinian Rights in Jerusalem. 5 December 2011.

<sup>71</sup> *EU HOMS Report on Jerusalem*. European Union. Jerusalem. 18 March 2014.

## Forced Eviction in Occupied East Jerusalem: The Case of Sheikh Jarrah

Civic Coalition for Palestinian Rights in Jerusalem: [civiccoalition-jerusalem.org](http://civiccoalition-jerusalem.org)



Sheikh Jarrah is a Palestinian neighborhood in occupied East Jerusalem, located between the Old City and Mount Scopus. Sheikh Jarrah has become the site of a protracted legal battle, the implications of which concern the status and rights of at least 28 Palestinian extended families, as well as the status and rights of Palestinians in occupied East Jerusalem at large.

12 Palestinian households – one household from the Fawzia al Kurd family, three households from the Hanoun family, seven from al Ghawi family, and one from the Rifqa al Kurd family – have already been forcibly evicted from homes, in which they had lived for three generations. These families had moved to Sheikh Jarrah after they had been displaced in 1948 from their villages and cities of origin now located in Israel and, for months, slept on the street in small, hastily constructed tents. Another 9 households have received eviction orders.



### Historical Development of Sheikh Jarrah

#### Jordanian Government Land Agreement

- In 1956 UNRWA chose 28 Palestinian families who had become refugees in 1948 for a humanitarian initiative, in cooperation with the Jordanian government. The Jordanian government provided land on which UNRWA sponsored the construction of 28 housing units.
- The agreement between the families and the Jordanian government stipulated that they would receive legal title to the property in three years, assuming that, during that time, they paid a nominal rent and forfeited their refugee ration cards.
- Despite having fulfilled the terms of the contract, the families did not receive legal titles to the land before the 1967 war.

#### 1967 Annexation, extraterritorial application of Israeli domestic law

- Following the 1967 occupation, Israel annexed East Jerusalem, taking control of property previously held by the Jordanian government and extending its domestic law to the annexed area, including discriminatory property and land laws used for the expropriation of Palestinians since 1948. This Israeli move was strongly condemned by the UN Security Council.

The Israeli *Legal and Administrative Matters Law of 1970*, which provided the rules for how Israeli law should be applied in annexed East Jerusalem, **allowed Israelis to reclaim property they had owned in East Jerusalem before 1948, whereas Palestinian refugees in East Jerusalem, such as the families of Sheikh Jarrah, were not allowed to claim their pre-1948 property in West Jerusalem under the law.**

This law has provided the basis for claims by Jewish settlers that they own Palestinian homes, legal proceeding and forced evictions of Palestinians, such as the inhabitants of Sheikh Jarrah.

#### 1972 Settler claims

- Soon after, Sheikh Jarrah became a target of Jewish settlers. Settlers occupied one of the homes whose owner was abroad, and gained control of the cave in the neighborhood.

- In 1972, two settler groups<sup>1</sup> claimed ownership of four houses in Sheikh Jarrah since 1885. They presented an Ottoman *koshan*, i.e. a property registration document that is evidence of a preliminary form of ownership.
- *Koshan* documents do not meet the land location and border criteria required for formal ownership title. Moreover, the authenticity of this document has never been verified. Similar and contradictory documents were filed regarding the same area, raising serious doubts as to their validity.
- The Israeli court ruled against the settlers' claim.
- Nevertheless, several of the 28 Sheikh Jarrah families began receiving demands of rental payments from these two settler groups. Legal proceedings began on this basis, and actions aimed at removing the families from their homes were undertaken.

#### 1982 Toussia-Cohen Agreement:

- In 1982 the settler groups filed a joint civil suit against 23 of the Sheikh Jarrah families. Yitzhak Toussia-Cohen, the Israeli attorney representing 17 of the Palestinian families, reached an agreement without consulting the families, through which they would be considered "protected tenants" rather than owners of their homes.<sup>2</sup> This meant that the families were to pay rent to the settlers.
- The agreement was sanctioned by an Israeli court and became a precedent for subsequent similar disputes.
- The Toussia-Cohen agreement utterly failed to address the validity of the settlers' ownership claims, and it appears that at no point did the families give consent to the settlement negotiated by their lawyer.
- This formed the basis for court-ordered evictions of the involved Palestinian families, because the settlers could simply claim that they were not dutifully paying rent and had, therefore, forfeited protected tenancy. Indeed, all four families who have been evicted were a party to the agreement. For many years, the agreement also effectively prevented further investigation into the validity of the settlers' ownership claims by Israeli courts.<sup>3</sup>

#### Forced Evictions in Sheikh Jarrah

- The Fawzia al Kurd family was the first to be evicted. After a series of appeals, an Israeli court accepted the settlers' claim that the family had violated the Toussia-Cohen agreement by renovating their home and failing to pay rent. In the middle of the night on 8 November 2008, Israeli Special Forces broke into the home and forcibly evicted the family.
- The cases brought against the three Hanoun and seven al Ghawi families followed a similar pattern. The settlers claimed that the families had violated the Toussia-Cohen agreement and requested their eviction. All ten families were evicted in August of 2009.



<sup>1</sup> The Sephardic Community Committee and the Knesset Yisrael Committee are ideological Jewish settler groups. Approximately 15 years ago the two groups authorized Nahalat Shimon International to act on their behalf. Nahalat Shimon International is a well-funded private settler association, working to advance the Jewish presence in Jerusalem. The association functions both as a settler organization and a real estate company.

<sup>2</sup> Protected tenancy is a status derived from the Israeli *Tenant Protection Law of 1972*. It is intended to provide, *inter alia*, protection from evictions.

<sup>3</sup> Competing Palestinian property claims were made, for example by Suleiman al Hijazi in 1997. Although Hijazi presented relevant documents, the Israeli Supreme Court rejected his claim, arguing that it was not possible to verify the documents. Such inability to verify documents was not brought up to argue against the claims of the settlers.



- In 1999 the Jerusalem Municipality and the Sephardic Community Committee filed two claims against the Rifqa al Kurd family. The court ruled against the family, imposing a large fine, sealing a newly renovated section of the home, and taking possession of the keys. Not long afterwards, a group of settlers moved into the renovated section.

“We refused to accept a tent from the UN or Red Cross. We will not become refugees for a second time...The eviction destroyed our lives...It kills my family to watch strange faces living in the same home in which we spent our lives.” Maher Hanoun, evicted resident.

### Resuming Challenge of Settler Ownership Claims

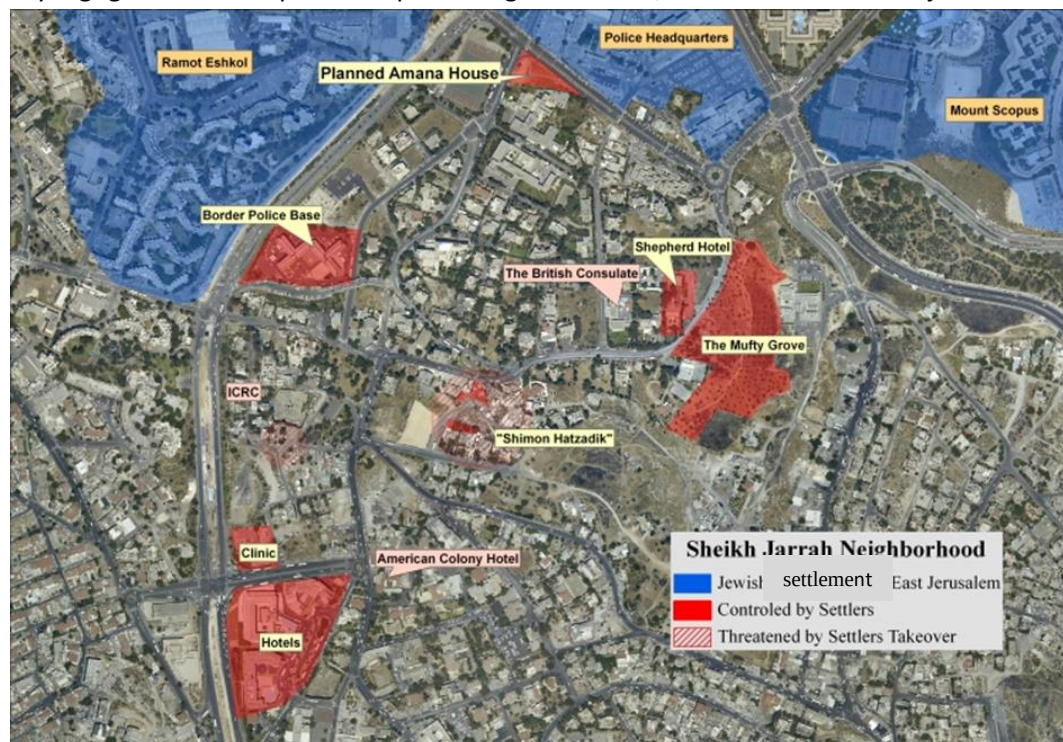
- Eviction orders were subsequently received also by the families of Sabbagh, Hammad, Diab, Jaouni, Skafi, al Dawoodi, al Dajani and al Qasem. Among them were families who were not a party to the Toussia-Cohen agreement, indicating the intention of Jewish settlers to widen the scope of their claims.
- In 2013, an analysis of the historical maps and property records of the Ottoman period was completed by experts on behalf of the Palestinian families. The analysis showed that the plot of land claimed by the settlers is not located in the area of the Palestinian homes.
- The families decided to challenge settler ownership claims in court on this basis. Legal proceedings are ongoing, as the Jerusalem District court has requested a second expert opinion on the matter.

### Israeli Settlements and Expansion Plans in Sheikh Jarrah

Today, a Jewish settlement already exists in the Palestinian neighborhood. Three plans for some 350 additional housing units are proposed by settler associations in expropriated Palestinian property.<sup>4</sup> These plans are at various stages of review by the Israeli authorities. By 2011, at least 20 units had been approved in two main sites:

**The Shepherd Hotel:** demolished on 9 January 2011 for construction of some 100 settler housing units, a kindergarten and a synagogue with the sponsorship of Irving Moskowitz, a US national and major donor to settlement projects in East Jerusalem.

**Karm al Mufti (Mufti Grove):** a 40 dunum olive grove near the site of the former Shepherd Hotel; leased by the Israel Land Authority to the settler association Ateret Cohanim, who intend to construct 250 housing units, although the



<sup>4</sup> Town planning schemes TPS 12705 (submitted by Nahalat Shimon in 2008), and TPS 2591 and 11536. Property was expropriated mainly under the Absentees' Property Law of 1950, which has been used to confiscate East Jerusalem property of Palestinians living outside the annexed city, abroad or in the occupied West Bank.

land is zoned as a “green area” where all construction should be prohibited. Also planned in the area is Glassman campus, a conference center funded by Canadian philanthropists, Max and Gianna Glassman.

### Sheikh Jarrah in the Context of Israeli Settlement Expansion in East Jerusalem

*Our strategic plan for open areas will prevent invasions and illegal construction by Palestinians who live near the Old City.*

Former Member of  
Knesset, Binyamin Elon

- Israeli settlement activities in Sheikh Jarrah are part of a much larger scheme aimed at establishing Israeli-Jewish ownership and control over the so-called “historic basin” extending from the Old City to Sheikh Jarrah in the north, Silwan in the south, and the Mount of Olives to the East.
- Through forced evictions of Palestinians, establishment of Jewish residential settlements and development of Jewish archaeological and tourism sites (the “Open Spaces Project”), Israel is transforming the demographic composition and the cultural character of this entire area into an area of Israeli-Jewish population, landmarks and infrastructure, thereby consolidating its domination from West Jerusalem, via the core of Palestinian Jerusalem, to the West Bank settlement of Ma’aleh Adumim in the East.<sup>5</sup>

### Consequences for the Palestinian families in Sheikh Jarrah

- Palestinian families in Sheikh Jarrah have been systematically deprived of the protections of the Fourth Geneva Convention and fundamental human rights, such as the rights to return, freedom, equality and non-discrimination, security, property, home, family and effective remedy.
- Over 100 persons, members of Palestinian refugee families who lost their homes in western Jerusalem in 1948, have been evicted once more from their second homes in Sheikh Jarrah to make space for Jewish settlers.
- Many more are at risk of forced eviction.

Today, it is universally recognized that East Jerusalem, including Sheikh Jarrah, is occupied territory where sovereignty belongs to the Palestinian people.

Israeli practices in Sheikh Jarrah are part of the Israeli policy of annexation and population transfer in occupied East Jerusalem. These practices contradict the UN Charter, are serious violations of international humanitarian and human rights law, and result in war crimes.

- **Israel is to stop these violations and make full reparation to the victims, including the Palestinian refugee families in Sheikh Jarrah**
- **All states are to abstain from assisting these Israeli violations, and to cooperate in order to bring them to an end – for example by freezing the assets of Jewish settlers.**
- **Private entities are to abstain from (business) involvement in illegal Israeli activities in occupied East Jerusalem, such as those in Sheikh Jarrah.**

Sources: UN Security Council Resolutions 465 and 478 (1980); ICJ Advisory Opinion on the Israeli Wall (9 July 2004) adopted by the UN General Assembly on 20 July 2004; the Report of the International Fact Finding Mission on the Israeli Settlements endorsed by the UN Human Rights Council on 22 March 2013

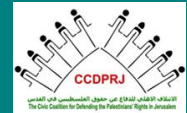
<sup>5</sup> UN OCHA-oPt, “East Jerusalem – Key Humanitarian Concerns”, March 2011, p. 58.



## Destruction of Palestinian Homes and Heritage in occupied East Jerusalem

### The case of Silwan

Civic Coalition for Palestinian Rights in Jerusalem: [www.civiccoalition-jerusalem.org](http://www.civiccoalition-jerusalem.org)



Silwan is a Palestinian community with approximately 45,000 inhabitants and located in occupied East Jerusalem, just below the southern Old City wall. Silwan is known for its natural spring and its location next to the Al Aqsa Mosque. Since Jerusalem became occupied in 1967, Silwan has been targeted by the Israel's Jerusalem Municipality and the Jewish settler movement. Palestinian residents of Silwan have witnessed efforts by the Israeli authorities to confiscate their land and demolish their homes in order to establish Israeli-Jewish control of the area. The settler association Ela'ad has carried out most of the settlement activity in the area, operating the "City of David Park" and managing the archaeological excavations that started soon after 1967. Israeli authorities justify the home demolitions in Silwan on grounds of historical and religious Jewish (Talmudic) and promote development of the so-called Jewish "Holy Basin" in and around the Old City.

#### Background on Silwan

- Many different civilizations have lived in the area, including the Arab Canaanites, who built the underground system to divert the water. Jews also lived here, as well as Assyrians, Babylonians, Egyptians, Greeks, Romans and Muslims, who ruled the city for 1300 years.
- Silwan village is an area of 5.64km<sup>2</sup> (5,640 dunams, 1,410 acres).
- It includes the neighbourhoods of Wadi Qadoun, Ras Al-Amoud, Ein Al-Loza, Al-Thowri, Al-Shiyah, Wasat Al-Balad, Kharat Al-Tank, Bir Ayoub, Hart-Al-Yaman, Al-Bustan, Wadi Hilweh, and Wadi Yasul.
- Like all East Jerusalem Palestinians, the inhabitants of Silwan, are "permanent residents" under Israeli law. They do not have secure civil status, and their right to live in their hometown is at the discretion of the Israeli interior minister.

#### The Israeli policy of forced transfer

##### Discriminatory urban development and demolition of Palestinian homes

- Israeli authorities, including the Jerusalem Municipality and planning committees, have all participated in the systematic and deliberate neglect of occupied Palestinian Jerusalem, including Silwan. Although inhabitants pay high taxes, there has been no investment in community development. Only a tiny portion (if any) of public budgets is allocated to community services, education, economy, development, infrastructure, housing, or recreational facilities.
- Since 1967, the Israeli authorities have not approved a master plan for Silwan, and building permits for new Palestinian homes or expansion of existing ones are almost impossible to obtain.
- Due to the lack of building permits, with the natural increase in the population, Palestinian inhabitants have no other choice but to build without a permit. In response, the Israeli authorities impose huge fines - many families owe hundreds of thousands of shekels. In the end, most Palestinian homes built without a permit are demolished, resulting in forcible displacement of the Palestinian residents.

##### Expropriation for the development of Jewish settlements and the "City of David National Park"

- Due to its strategic location next to the Old City and the Al-Aqsa Mosque, Silwan has been a priority target of the Israeli settler movement, the municipality and the Israeli government.
- Collusion between the Israeli Custodian of Absentees' Property, the Jewish National Fund and the Jewish settler association Ela'ad resulted in expropriation of Palestinian property, and evictions of Palestinian tenants and owners, based on fraudulent sales and protected tenant agreements issued to Jewish settlers.
- Today, approximately 400 Jewish settlers live in 54 settlement locations in midst of the Palestinian community of Silwan.

- In 1997, Ela'ad assumed for the first time management of "City of David National Park", located in the heart of Wadi Hilweh. Israeli archaeologists petitioned against the decision in court and the contract was cancelled.
- In 2002, the Israeli Nature and Parks Authority reverted management of the site to Ela'ad.

In Silwan, Ela'ad acts as a *de facto* Israeli authority and is supported by the municipality and the police.

Ela'ad is a private settler association aiming to claim land and increase the Jewish presence in occupied East Jerusalem. It was founded in 1986 by David Be'eri, former deputy commander of the Israeli Duvdevan special forces unit. Under the guidance of Ela'ad, the Israeli settler movement has targeted in particular two neighbourhoods in Silwan: Al Bustan and Wadi Hilweh.

#### The case of Musa El Abbasi

The founder of Ela'ad, David Be'eri, took over one of the first houses in Silwan. Pretending to be a tour guide, taking tourist groups to visit the Abbasis' family house and garden, he collected information about the family and the owners of the house. He informed the Israeli Custodian of Absentees' Property that some of the owners were "absentees" whose property can be confiscated under Israeli law. The home was confiscated by the Custodian without further investigation. It was transferred to Ela'ad, who occupied the house in October 1991.

### Israeli plans to eradicate neighbourhoods of Silwan for the "City of David National Park"

Residents of this neighbourhood of Silwan have for long lived in a state of uncertainty regarding the status of their land, residency and property rights. Israeli plans for the area call for the demolition of 88 buildings, inhabited by 114 families (1123 persons) under planning scheme TPS 11555. Under this plan, Israel's Jerusalem Municipality would seize 70% of the land of Silwan for a park in a site claimed to have been King David's Garden.

#### The Case of Al-Bustan

- Since the late 1970s, Israel's Jerusalem Municipality has designated the neighbourhood a "green area" (Plan A/M/9), prohibiting residential construction. No measures were taken, however, to prevent Palestinian residents from building homes for their families.
- Former Mayor Lupolianski led the initiative for Al-Bustan to be declared a "national park" or "archaeological garden". Such a declaration would rule out residential building in the area. In addition, the Israeli authorities would not be required to compensate the residents, because they would not be confiscating property. Palestinian owners and tenants would "only" not be allowed to use it. The plan was rejected by the residents of Al-Bustan.
- Since then, demolition orders have been issued, including against homes built before the Israeli occupation in 1967, and against homes built five or more years prior to the issuance of the demolition order.
- In 2005, Al-Bustan residents proposed a plan that would change the status of the area from "green land" to "residential", in order to prevent the demolition of homes. This plan was rejected in 2009 by the Jerusalem Regional Planning Committee.
- On 2 March 2010, the Jerusalem Municipality launched the "Kings Garden Plan" for Al-Bustan. This plan called for a division between the eastern and western parts of the Al Bustan neighbourhood. All houses in the western part would be demolished. According to the plan, families in the eastern part of the community would have to accommodate the families who lose their homes.
- In 2010, the Al-Bustan Community, with the help of an urban planner and the support of the Al-Quds Foundation for Development, prepared a new, alternative plan that would develop the neighbourhood without demolishing the homes.<sup>1</sup> The plan provides several square kilometers of gardens and planted areas, including rooftop gardens and public parks where historical artefacts are displayed and protected, as per guidelines laid out by Israel's Jerusalem municipality. A central element in the plan are the rehabilitation of the natural spring and the historic Ottoman building once used for water redistribution, housing for the

<sup>1</sup> Rejected plan for Silwan includes zero forced evictions, Ma'an News Agency, 20 May 2010. Available online at <http://www.maannews.net/eng/ViewDetails.aspx?ID=285150>

Palestinian residents – and zero evictions. The plan was submitted to the Jerusalem Municipality and the Israeli National Planning Committee.

- Israel's Mayor of Jerusalem ignored Al-Bustan's proposal. He informed that he had developed a new and different plan, without providing detail.
- **In early 2014, the Al-Bustan community and its lawyers were informed by the Municipality that they should prepare a new (update) version of their 2010 alternative plan, because planning rules and criteria have meanwhile been changed.**

### The Case of Wadi Hilweh

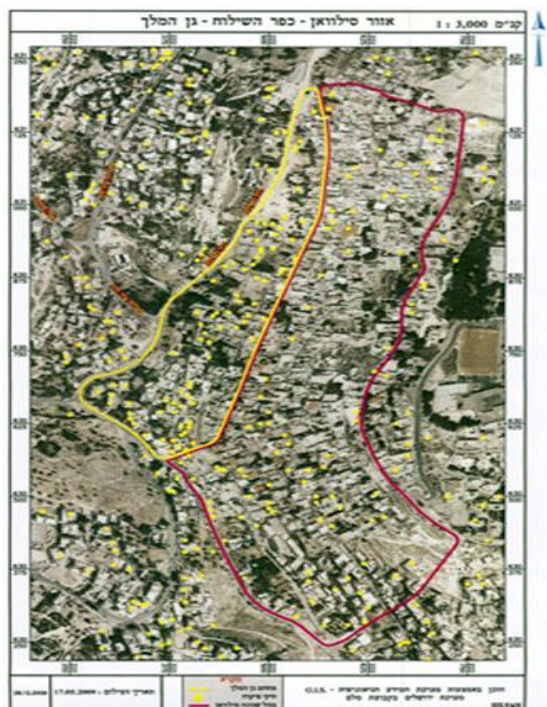
The neighbourhood of Wadi Hilweh, located on the southern slope of the Old City of Jerusalem, has an estimated population of 5,500 people. Five thousand years ago, thousands of people already inhabited this area because of the existence of the Silwan spring. In fact, Wadi Hilweh represents the area where old Jerusalem once existed.<sup>2</sup> Like al-Bustan, Wadi Hilweh has been targeted under planning scheme TPS 11555.

According to the Wadi Hilweh Information Centre, the Israeli plan would break down as follows:

|                                   |                                            |
|-----------------------------------|--------------------------------------------|
| 53.4 dunums for open spaces       | 9.6 dunums for roads                       |
| 18.7 dunums for residential units | 0.54 dunums for public/religious buildings |
| 8.14 dunums for cemeteries        | 0.65 dunums for parking lots               |

With the exception of the one mosque and the one church in Wadi Hilweh, the entire area will be seized for the Israeli Jerusalem Municipality and Archaeology Authority, who would lead the construction of tunnels and green space for Israeli settlers and tourists.<sup>3</sup>

### Demolition of Palestinian homes and heritage for archaeological excavations in the service of Israeli-Jewish domination



*Among the dozens of archaeological strata excavated in the City of David, there was no single evidence found that attested to the presence of King David, or in fact any Judean or other king. Even if we did find a Hebrew inscription saying 'Welcome to King David's palace', that would not justify Ela'ad's political aims. The residents of Silwan and their ancestors have been living here for hundreds of years and their rights cannot be ignored. Every time a Christian site is found in Israel should the Vatican be given the land and Israelis evicted from their homes?*

-Yonathan Mizrachi, Archaeologist

Excavations in Silwan started at the end of the 19<sup>th</sup> century, during the Ottoman rule and under international aegis. Charles Warren discovered the underground spring in the area and identified Wadi

<sup>2</sup> Al-Quds Foundation for Development (AFD), Al-Bustan Neighbourhood Committee, Silwan, Struggle for Survival and Presence, April 2010.

<sup>3</sup> Wadi Hilweh Information Centre: The Story behind the Tourist Site, <http://silwanic.net/?p=497>

Hilweh as the heart of historic Jerusalem. After the occupation of Jerusalem in 1967, Israeli archaeologists started excavations in the area. Excavations have intensified since the Israeli Nature and Parks Authority authorized Ela'ad to manage them in 2002, with Jewish settlers and Israeli authorities desperately trying to find archaeological evidence that can be used to justify their political and religious claims to the area.

- Excavations have involved digging tunnels under Silwan, causing damage to Palestinian homes and the Al-Aqsa Mosque. Several homes and UNRWA school facilities have collapsed.
- Ela'ad-managed excavations are carried out under the tight security protection, including monitoring by surveillance cameras.
- As a result of Ela'ad activities, several public areas have been closed for the use of Palestinians.
- Local names of streets have been changed and given Hebrew names.

### Consequences for the occupied Palestinian population of Silwan

- Palestinian inhabitants of Silwan have been **systematically deprived of the protections of the Fourth Geneva Convention and fundamental human rights**, including the rights to freedom, equality and non-discrimination, security, property, home, family and effective remedy. They are **at risk of forced displacement**, in particular those in Wadi Hilweh and Al-Bustan.
- Violence by Israeli settlers and security forces, led by Ela'ad, has a severe impact on Palestinian children in Silwan. Between November 2009 and October 2010 as many as 81 children were arrested detained for questioning. Many of them have undergone violent and inhumane treatment.
- Home demolitions result in displacement psychological distress, a reduced standard of living and increased financial hardship for Palestinian families.
- Children are particularly vulnerable to the negative impact of home demolitions, including gaps in education and behavioural and emotional problems. Documented symptoms of psychological distress in children include increased violence, depression, difficulty concentrating, and bedwetting.<sup>4</sup>

*When the Israeli occupation forces arrested me, they hit me a lot; they hit my head against the wall, threw me on to the street and started to kick me violently. This happened around my home in Silwan. When I fell after the soldiers hit me again on my face, the soldiers told me to stand up. They left me in a dirty cell completely isolated with no lighting and a bad smell. I heard the sounds of other people being tortured in the other rooms. The guard put a bucket in the cell for the toilet. Regarding the food, I was given one meal, which consisted of an apple, a piece of bread, and some water, and I was handcuffed the whole day.*

—Boy, 17, from Silwan

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<sup>4</sup> Survey by Palestinian Counselling Centre, Save the Children UK, and the Welfare Association, 2007. See more on: <http://www.silwannews.com>



### **ANNEX 3**

## **Case Studies on Family Unification & Child Registration in East Jerusalem**

### **Stories of Families Under Suspension and Unrecognized Children**

#### **Case 1:**

F.B., a Jerusalemite man, got married in 2002, to a woman who is originally from Gaza but holds Jordanian nationality. In 2002, F.B. applied for spousal unification in Jerusalem, however, presently lives in Jerusalem while his wife and five children live in Jordan with her parents. Their separation is enormously taxing on the couple and the children. Because of F.B.'s need to travel a long distance to spend time with his family, the family unification freeze has put a great strain on him financially and physically.

Further, his children lack a meaningful relationship with him because they have spent their entire lives away from their father. He is under constant stress because the Israeli Ministry of Interior Affairs continues to pose new requests for various official documents, a process he has engaged in for 12 years to date. The family unification application has not been rejected for any specific reason, but the never-ending requests by the Israeli Ministry of Interior Affairs for various official documents, has rendered F.B. tangled in a bureaucratic chokehold. The process of requests for official documents effectively hinders many Palestinians from gaining approval for their family unification applications. The right to establish a family free from vagrancy and dispersion is a basic and essential right for human beings. Israel's failure to approve the application has robbed F.B., his wife and his children of this right for 12 years.

#### **Case 2:**

R.Y., a Jerusalemite woman, married a man from Bethlehem in 1982 and moved to live with him in Bethlehem. Her family was comprised of herself, her husband, 4 daughters and 2 sons, one of whom was underage. However, in 2011, her husband was faced with emotional turmoil and committed suicide. In 2010, due to the psychological problems the husband was suffering from prior to the suicide, R.Y. left her home in Bethlehem with her children to reside with her parents in the Old City of Jerusalem.

Her family was now suffering from a stressful situation, where the children had Palestinian identification documents (IDs). All of the children had reached the age of majority, 18, except for the youngest son. In 2013, an application for family unification was started by the Society of St. Yves for the youngest son, however, the application is still pending and no answer has been provided to date. He is now 13 years old, however, the process to unify a child with a parent after he or she reaches





the age of 14 becomes more tenuous. The older children who have reached age 18 can no longer acquire Israeli ID's due to their age, which means they are residing with their mother in Jerusalem illegally, despite the family's extremely devastating and pernicious circumstance.

This situation, expounds upon R.Y. extreme physical and psychological distress. The four children's predicament is critical because if the Israeli authorities catch them, they are under the threat of being deported to the West Bank, causing more unnecessary grief on an already suffering family. An application to unify the rest of the children with R.Y. was also started by the Society of St. Yves and submitted to the Humanitarian Committee in Israel. Presently, no answer has been given for either of the applications.

### Case 3:

A.A., who is a Jerusalemite, in 2011, married a woman from BeitSahour in the West Bank. As the husband, A.A. submitted a Family Unification application the same year he got married, without facing any problems. Until presently their four children were living in Jerusalem with temporary residency papers, which were renewed yearly. In the past few years, A.A. was exposed to ocular health problems, resulting in 100% optical incompetency. This resulted in a dramatic change in quality of life for the family, because A.A. is the only member of the family who has the ability to handle official papers and provide transportation help.

Further, because his wife is merely given temporary residency, she is not permitted to do anything to help in such areas. She is not permitted to drive in Jerusalem and is not permitted to handle important documents with regards to filing the family's applications. This is not a sustainable burden for the family, where the children need their parents to transport them to school and to obtain essential needs for their daily lives. A.A.'s entire family is rendered paralyzed because of the invisible shackles the Israeli government has placed them in.

### Case 4:



F's family lives in a house in Jerusalem's BeitHanina neighborhood, but situated outside the boundaries of Jerusalem municipality. The mother of the family, S, holds an East Jerusalem ID, while her husband holds a Palestinian Authority ID. The family's children were educated in Jerusalem, and their lives depended on the city. Problems started when the separation wall was constructed next to their home, separating them from the city. The children who had no Jerusalemite status were offered monthly permits for three months to continue to access Jerusalem and attend their schools, after which they were denied entry into the city. Moreover, the Ministry of Interior revoked the residency status of the mother for failing to prove center of life in Jerusalem. St. Yves took the case and succeeded to reconstitute the residency of the mother. The organization's lawyer managed also to obtain permits for the children who are over 14, as well as, IDs for those who are less than 14. FZ (the 23 years old son) has early started to have problems with the law (getting into fights). This year the Ministry of Interior rejected his application for renewing his permit, on the grounds of files that the police has on him. St. Yves has is continuing to provide legal presentation to him in order to allow him to stay within his family.

#### Case 5:

F from Jerusalem got married to M (holding a Palestinian Authority ID) three years ago. He immediately applied for family unification, when his wife satisfied the age criteria. Although she already is holding a working permit for Jerusalem, requiring a prior security check, the application is more than two years after the application was submitted still pending for security approval. St. Yves lawyers state that if the security check for family unification reveals information about the applicant, her family and close circle that are considered as a "security threat", this also could cost her to lose her work permit. Nevertheless, St. Yves succeeded to register their child before the final approval for the mother's application for family unification.

#### Case 6:

L from southern West Bank (holding a Palestinian Authority ID) has married M in 1995 and resides with him in Jerusalem; they have applied for family unification in 1999. They have four children, one of whom is severely disabled. In 2012 M was arrested by the police for drug abuse and theft. In consequence, when L went to the Ministry of Interior to renew her permit, her application was rejected, due to her husband's criminal record. She turned to St. Yves with this problem. St. Yves lawyers had no other option than approaching the humanitarian committee within the Ministry of Interior for granting her a permit to stay legally in Israel. The requester was the disabled son, who requires the mother's attention – without him, notwithstanding the fact that she three other children, the mother would have been deported.



**ANNEX 4: Family Unification Procedure**

