



הוועד הישראלי נגד הריסת בתים
The Israeli Committee
Against House Demolitions
الحركة الاسرائيلية ضد هدم البيوت

ISRAEL / OCCUPIED PALESTINIAN TERRITORY PARALLEL REPORT TO THE UN COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION (CERD)

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The Israeli Committee Against House Demolitions (ICAHD) is a human rights and peace organization established in 1997 to end Israel's Occupation over the Palestinians. ICAHD takes as its main focus, as its vehicle for resistance, Israel's policy of demolishing Palestinian homes in the Occupied Palestinian Territory and within Israel proper.

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Introduction

The Israeli Committee Against House Demolitions (ICAHD) submits the following information for consideration by the United Nations (UN) Committee on the Elimination of Racial Discrimination (the Committee) in advance of its examination of Israel's 14th to 16th periodic reports, submitted under article 9 of the Convention on the Elimination of All Forms of Racial Discrimination (the Convention).

This report focuses on Israel's failure to comply with the Convention in relation to the Occupation of the Palestinian territory, and its responsibility to respect, protect and fulfill Palestinians human rights, in accordance with international law and standards.

Since 1967 Israel demolished more than 26,000 Palestinian homes in the Occupied Palestinian Territory. The motivation for demolishing these homes is purely political, and racially informed: to either drive the Palestinians out of the country altogether or to confine the four million residents of the West Bank, East Jerusalem and Gaza to small, crowded, impoverished and disconnected enclaves, thus effectively foreclosing any viable Palestinian entity, the realization of Palestinian self-determination, and solidifying Israeli domination and illegal settlement expansion and de-facto annexation of the occupied territory. Taken against the background of Israel's systematic destruction of more than 500 Palestinian villages, towns and urban neighborhoods in the 1948 war and after, and its ongoing policy of demolishing the homes of Palestinian citizens of Israel in the so-called "unrecognized villages and neighborhoods" the picture that emerges is one of institutional racial discrimination, and promulgated ethnic displacement.

Such policies violate fundamental human rights and international law, such as the commitments taken by state parties to the International Convention on the Elimination of Racial Discrimination and constitute a major obstacle to achieving justice, peace and reconciliation between the Peoples of the region.

The following submission, while not exhaustive, highlights the state party protracted non-compliance with obligations stemming from the ICERD and other human rights instruments. While Israel persistently refuses to provide information on ICERD implementation in the Occupied Palestinian Territory, this submission provides the Committee with pertinent information on the plight of Palestinians under the effective control of Israel. The Committee had in its 2007 concluding observations negated the Israeli position that the Convention does not apply in the Occupied Palestinian Territories, nor did it accept Israel's assertion that it can legitimately distinguish between Israelis and Palestinians in the Occupied Palestinian Territory on the basis of citizenship. The Committee recommended that the State party review its approach and interpret its obligations under the Convention in good faith.



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When examining Israel's policies and practices toward the Palestinian population in East Jerusalem in this report, it must be noted, at the outset, that ICAHD supports the position taken by much of the international community, and specifically by the United Nations, that East Jerusalem is occupied territory; the fact that Israel has annexed this part of the West Bank and has imposed its full jurisdiction on the area does not alter this position. Furthermore, it is ICAHD's position that international human rights law, including ICERD, is applicable to all territory over which a state exercises effective control, including occupied territory, as was expressed by the UN Human Rights Committee in General Comment 31¹ and the International Court of Justice.²

Israel's Country Report to the Committee on the Elimination of Racial Discrimination (CERD), submitted 17 January 2011, addresses Jerusalem as a specific issue, including in the area of housing, which will form the focus of this report, but it does not acknowledge the Palestinian East Jerusalemites as protected (or occupied) persons under international law. Furthermore, it does not address racial discrimination against Palestinians in the occupied West Bank, to be discussed in this report.

Article 2

Article 2 sub-articles (1)(a) and (1)(c) deal with States Parties' obligations to ensure that their governments and public authorities and institutions, as well as their laws and policies, both on the local and the national level, do not engage in any practice or act of racial discrimination.

Israel's Country Report does not address the planning, building, housing or residency policies applied in East Jerusalem under this Article, but rather exclusively under Article 5. This report will address them in relation to Articles 2, 3 and 5.

1 Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004).

2 See, e.g., Legal Consequences, supra note **Error! Bookmark not defined.** at pp. 177-181; and, Legality of the Threat or Use of Nuclear Weapons, I.C.J. Reports 1996 (Advisory Opinion), p. 226, at p. 240.



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Since the June 1967 occupation and immediate annexation and incorporation of the area now known as “East Jerusalem” into Israel, the various Jerusalem municipal governments, along with the Ministry of Interior, have applied policies that aim, directly and indirectly, to maintain a Jewish majority in the city of Jerusalem. These demographic motivations have been expressed explicitly by public officials over the past several decades and even the past several years, and they are evidenced by the consistent and overwhelmingly telling results of the policies and practices applied to Palestinian East Jerusalem, which serve to maintain a Jewish majority. Alongside the restrictions placed on Palestinian growth in the city, Jewish population growth is encouraged and enjoys state support, including the continuous expansion of Jewish neighborhoods – or settlements – in East Jerusalem (which are prohibited in occupied territories under international law).

One of the main methods of controlling Palestinian growth in East Jerusalem is via the imposition of restrictions on planning and building in the Palestinian sector. To begin with, only 13 percent of the total land area in East Jerusalem is zoned for Palestinian building (with less than nine percent zoned for housing), ostensibly based on the need to maintain open, “green spaces” (such as parks, nature reserves and agricultural zones), to preserve holy sites and archaeological areas, and for other municipal construction (such as roads and infrastructure).

However, given the major housing shortage among the Palestinian sector, these restrictions place grave burdens on Palestinians seeking housing whose only option is to build new housing. Based on the aforementioned planning policies and restrictions toward Palestinians in the city, there is an “artificial housing shortage” of over 25,000 housing units in the Palestinian sector. It has been estimated that if the planning and building policies of today vis-à-vis East Jerusalem remain in place, by 2030 there will be a housing shortage that will directly affect 150,000 Palestinians.

It should be noted that in Israel's Country Report, the number of housing units available for Palestinians in East Jerusalem includes the number of unauthorized (illegal) buildings – a figure that ICAHD believes to be misleading, as these units cannot be considered a housing solution when they may be demolished at any point. Furthermore, the Israel Country Report boasts an additional 29,000 units to be added in the new city plan – without mentioning that the plan has been stalled in implementation for years primarily for political reasons, including complaints by some political parties that the new plan allows for too much housing among the Palestinian sector.

Additionally, Palestinian areas are typically zoned for lower “plot ratios” than in Jewish areas. In other words, the approved building density in the Palestinian sector (the percentage of the total land area on which the building may be constructed, as



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well as its approved height) allows for fewer housing units than in the Jewish areas of the city, oftentimes even with regard to neighboring communities.

Naturally, proper zoning is a prerequisite for obtaining a permit to build. Additional requirements include adequate infrastructure, proof of land ownership, as well as significant costs and fees. While these requirements are identical for both Jewish and Palestinian building permit applicants, the two communities' respective socio-economic and political realities vary significantly. Firstly, many areas of the Palestinian sector lack adequate infrastructure, mainly due to underinvestment in the Palestinian sector over the years and disproportionate allocation of municipal funds between Palestinian and Jewish areas in the city. Given that installing the necessary infrastructure without municipal support is often either unauthorized or cost-prohibitive, many areas in which Palestinians would wish to build, even when properly zoned for building, do not meet the standards for obtaining building permits.

In Israel's Country Report, paras. 533 and 535, it is stated (under a discussion of economic, social and cultural rights in the context of Article 5) that in 2010 NIS 40 Million (USD \$ 10.8 million) was allocated for improvement of infrastructure in East Jerusalem, and that since 2007 over NIS 300 Million (USD \$ 81 million) has been invested for this purpose.

However, according to a survey prepared for the Jerusalem Municipality at the end of 2010 by Ehud Tayar Management & Engineering, Ltd., "Survey of Infrastructure East Jerusalem," NIS 1.8 billion (USD \$535 million) is needed in order to complete the necessary infrastructure in East Jerusalem.

Secondly, unlike in West Jerusalem where the Property Registry has been maintained, proving land ownership in East Jerusalem is extremely complex. The majority of the area was not registered during the periods of British and Jordanian control prior to 1967, and in that year Israel froze the process of land registration there. In fact, the ownership of over half of the land in East Jerusalem is not registered, thereby rendering it effectively impossible under the current procedures for landowning residents to obtain permits for new construction on their land.

Lastly, the building permit process entails high costs and fees. While in the Jewish sector, the costs of construction projects are typically shared by construction companies and home purchasers, Palestinian building endeavors are often carried out by individuals or small groups of individuals – particularly given that Palestinian areas are almost without exception zoned for smaller buildings, rather than apartment complexes and high-rise condominiums. The high costs therefore present an additional obstacle to Palestinians in obtaining building permits in East Jerusalem.



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The situation is merely worsened by the major population growth experienced by the Palestinian sector in East Jerusalem. As it stands, Israel has not updated the regional urban plan for East Jerusalem since its occupation and annexation in 1967, and no new Palestinian neighborhood has been created since. Meanwhile, in the more than 44 years that have since passed, the Palestinian population has more than quadrupled (from 66,000 in 1967 following the war to 300,000 today). This growth is partly explained by natural population growth (notably at slightly higher rates than the Jewish population), and partly by the current laws and policies regarding residency rights for Palestinians and their family members, which will be addressed below with regard to Article 5.

Article 2 sub-article (2) requires States Parties to ensure the adequate development of racial groups and the individuals belonging to them such that their human rights and freedoms may be fully enjoyed by them.

Israel is obligated under international human rights law to create and maintain conditions for Palestinians' realization of their rights to self-determination, participation without discrimination in public affairs, and their right, as individuals and as a collective, to develop and advance their respective communities economically, socially, culturally and politically, according to their needs. Additionally, Israel's obligations under international humanitarian law are relevant here, as the occupying power has a paramount duty to maintain public order and safety in the occupied territory, which it cannot be said to uphold when the lack of development either for or by Palestinians in East Jerusalem leads to housing shortages and a general violation of the right to adequate housing, sets the stage for the violation of the right to nationality (residency revocation, which will be discussed below) – and together set into motion a process of ethnic displacement of Palestinians from Jerusalem and the preservation of Jewish demographic control over the city.

Article 3

The normative definition of apartheid, drawn from ICERD, applies to a situation where the following elements exist: (i) that two distinct racial groups can be identified; (ii) that 'inhuman acts' are committed against the subordinate group; and (iii) that such acts are committed systematically in the context of an institutionalized regime of domination by one group over the other. The 1973 Apartheid Convention refers directly to Article 3 of ICERD in its preamble and is intended to complement the requirements of Article 3 of ICERD. The Convention obliges States parties to adopt legislative measures to suppress, discourage and punish the crime of apartheid and makes the offence an international crime which is subject to universal jurisdiction.



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Article 2 of the Apartheid Convention provides a clear definition of what constitutes apartheid for the purposes of international law. It defines apartheid as “inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them”, and goes on to enumerate a list of such inhuman acts. The following analysis addresses the elements of the definition of apartheid: the requirement of two distinct racial groups; the commission of acts listed as ‘inhuman acts’ of apartheid; and the institutionalized nature of the domination.

ICERD gives a broad edifice to the meaning of the term ‘racial’, with racial discrimination including discrimination based on race, color, descent, or national or ethnic origin. The meaning of a racial group for the purposes of ICERD is established as a broad and practical one. In essence, it means an identifiable group. The UN Committee on the Elimination of all forms of Racial Discrimination has included groups that would not be considered ‘races’ in a traditional sense, including caste groups in South Asia, non-citizen groups such as migrant workers, and nomadic Peoples.

Article 2 of the Apartheid Convention refers to inhuman acts that may constitute apartheid when committed in a context of racial domination, while Article 5 of ICERD enumerates a list of rights which must be guaranteed to all humans free from racial discrimination.

Palestinians, regardless of current geographic location or constructed legal status, are considered a single people entitled to collective self-determination. While the state of affairs in Israel/Palestine is not defined in terms of traditional conceptions of ‘race’ as it was in apartheid South Africa. ICAHD details in this submission that house demolitions, residency revocation and displacement are a form of inhuman and degrading treatment with severe psychological consequences for men, women and children. Palestinian refugees and internally displaced persons, who remain displaced, are also victims of apartheid by virtue of the ongoing denial of their right to return to their homes in safety and dignity.

Israeli policy vis-à-vis Palestinians is called “apartheid” or its equivalent in Hebrew: *hafrada*, “separation” or apartheid, which in turn is part and parcel of the declared policy of “Judaizing” the entire country. *Hafrada* is the term used by Israel to describe its policy towards the Palestinians, reflected most graphically in the official name of the Wall: the “separation barrier” (*mikhshol ha-hafrada*). Separation and domination, accompanied by systematic and deliberate ethnic displacement affecting Palestinians in every part of the country, all part of broad, permanent and systematic process of Judaization, is most precisely termed apartheid.



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The Occupied West Bank is dominated by exclusively Israeli-Jewish settlements and their associated regime of separate roads, security buffer zones, checkpoints and the Separation Wall which interrupts the contiguity of Palestinian territory, and ensures that Palestinian communities are confined to isolated enclaves. Israeli settlers enjoy the protection of the authorities and military, with their own laws and preferential access to resources such as water, to the detriment of the Palestinian population. 40% of the West Bank is closed to its Palestinian population. These settlements are linked by roads for the exclusive use of Israeli Jews. Palestinian movement restricted and access to farm land is restricted by a pervasive permit system. Since 1948 the Israeli authorities have pursued concerted policies of colonization and appropriation of Palestinian land. Israel has through its laws and practices divided the Israeli Jewish and Palestinian populations and allocated them different physical spaces, with varying levels and quality of infrastructure, services and access to resources. The end result is wholesale territorial fragmentation and a series of separate enclaves, with the two groups largely segregated.

The Russell Tribunal on Palestine (an International People's Tribunal created by a large group of citizens involved in the promotion of peace and justice in the Middle East) concluded that Israel subjects the Palestinian people to an institutionalized regime of domination amounting to apartheid as defined under international law. This discriminatory regime manifests in varying intensity and forms against different categories of Palestinians depending on their location. The Palestinians living under colonial military rule in the Occupied Palestinian Territory are subject to a particularly aggravated form of apartheid. Palestinian citizens of Israel, while entitled to vote, are not part of the Jewish nation as defined by Israeli law and are therefore excluded from the benefits of Jewish nationality and subject to systematic discrimination across the broad spectrum of recognized human rights. Irrespective of such differences, the Tribunal concludes that Israel's rule over the Palestinian people, wherever they reside, collectively amounts to a single integrated regime of apartheid.

East Jerusalem

East Jerusalem is currently home to approximately 300,000 Palestinians. They experience racial discrimination in many spheres of life, from education to cultural development to housing, and, as will be discussed further, are even the subjects of a *process of ethnic displacement* that is the cumulative result of the policies and practices applied to them, particularly those pertaining to housing and legal status.

Israel's policies and practices vis-à-vis the Palestinian sector in Jerusalem constitute institutionalized discrimination and domination of one population over the other with the intent to perpetuate this domination through strengthening the numbers and socio-economic well-being of one population at the expense of another.



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Since obtaining building permits in the Jewish sector is a virtual non-issue, and infractions are penalized disproportionately in the Palestinian sector both in frequency and size – combined with the fact that in many cases permits are granted for Jewish homes and community buildings on plots formerly held by Palestinians – the result is a clear situation of illegal discrimination in violation of international human rights law.

The maintenance of a demographic balance based on ethnicity or nationality constitutes, *prima facie*, an illegal and repugnant practice of discrimination that is reminiscent of the motivation behind policies of racial segregation and apartheid. What is more, the results of these policies are already tangible. Israel's discriminatory planning and housing policies and practices in East Jerusalem, including administrative home demolitions and discriminatory residency policies (particularly since the start of the Second Intifada), have set into motion a process of "ethnic displacement" of parts of the Palestinian population of East Jerusalem. Should the status quo of policies and practices remain – or worsen – this process of ethnic displacement will only intensify.

Article 5

House demolitions and forced evictions are among Israel's most heinous practices in the Occupied Palestinian Territory (OPT). In 2011, a record year of displacement, a total of 622 Palestinian structures were demolished by Israeli authorities, of which 36% (or 222) were family homes; the remainder were livelihood-related (including water storage and agricultural structures), resulting in 1,094 people displaced, almost double the number for 2010. The Jordan Valley sustained the largest number of demolitions (32% of total structures demolished, 40% of residential structures demolished, 37% of people displaced), with 199 structures demolished and 401 people displaced.

For a viable Palestinian state to be established, the Jordan Valley represents an essential land reserve, agricultural hinterland and strategic economic infrastructure. Not only that, the area provides the potential state's sole land entrance. However, since 1967, Israel has coveted the Jordan Valley both for its economic potential and its strategic importance in forestalling the creation of a viable Palestinian state. Israel justifies its presence in the area as necessary for security. For example, in his May 2011 address to the US Congress, Israeli PM Netanyahu asserted that "Israel will never cede the Jordan Valley. Israel would never agree to withdraw from the Jordan Valley under any peace agreement signed with the Palestinians. And it's vital – absolutely vital – that Israel maintain a long-term military presence along the Jordan River." Running the length of the West Bank, the Jordan Valley covers 29% of the West Bank, with a total area of 1,600 km². Prior to the 1967 occupation, some 320,000 Palestinians lived there, but according to a recent survey by the Palestinian



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Central Bureau of Statistics, fewer than 65,000 remain today. At present, Israel controls approximately 90% of the Jordan Valley and has “Judaized” it: 119 km² (12%) are held by 37 illegal settlements, housing 9,500 settlers; 318 km² (20%) comprise 26 declared nature reserves (only 4 are open to the public); and 736 km² (46%) are closed military zones.

The civilian population in the OPT, including East Jerusalem, continues to endure violence, displacement, dispossession and deprivation as a result of prolonged Israeli military occupation and on-going conflict, in violation of their rights under IHR and IHL. In the West Bank, including East Jerusalem, demolitions are a major cause of the destruction of property, including residential and livelihoods-related structures. Demolitions target vulnerable communities including Bedouin and herder communities, who have often been displaced several times since 1948. In 2011, 60% of the total structures demolished were in pastoral communities; these residents represent more than 80% of the total people displaced. The Palestinian-Bedouin communities living in the hills to the east of Jerusalem are at an exceedingly growing risk of forced ethnic displacement. The communities have been informed by the Israeli authorities that they have no option but to leave the area (as part of a larger plan to relocate Bedouin communities living in Area C). The forced displacement of the Bedouin would also be detrimental to their semi-nomadic way of life.

Displacement has particularly overwhelming effect on women and children especially because of the disruption of primary education, resulting in post-traumatic stress disorder, depression, and anxiety. In 2011, 609 children under the age of 18 (60% of total people displaced) were displaced.

The demolition of Palestinian homes is politically motivated and racially informed. The goal is to sequester the 4 million residents of the West Bank, East Jerusalem, and Gaza to small enclaves, thus effectively foreclosing any viable Palestinian state and ensuring Israeli control, and to allow for the expropriation of land, the ethnic displacement of Palestinians, and the Judaization of the Occupied West Bank.

In the cantonization plan pursued by the current and previous Israeli governments, Israel would annex the settlement blocs containing 80% of the settlers in addition to “greater Jerusalem” and the Jordan Valley. It would Judaize approximately 85% of the country, leaving the Palestinians with disconnected enclaves on only 15% of the land. Israel would control all the borders, all the sea- and airports, Palestinian airspace, the electro-magnetic sphere (communications), and West Bank seam zones. In this version of the two-state solution, the Palestinians would be deprived of meaningful national self-determination. The Palestinian “state” would have only limited sovereignty and no viable economy. While it would be expected to absorb all the refugees who wish to return, it would have no economic potential for development and could offer no prospect for its future generations.



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We are witnessing a process of Ethnic Displacement and Judaization, institutionalized policies designed to alter the ethnic, religious and racial composition of an affected population – Palestinian residing in Area C of the Occupied West Bank – that has led to a situation in which many members of that population leave the area to Areas A and B, which are under Palestinian Authority control, not necessarily by choice, but due to the lack of alternatives or, in other words, because they to leave. Israel’s policies also create a situation not only of displacement but also of de facto forced deportation, which may rise to the level of a war crime. In cases in which Palestinians have been physically deported from their communities and/or denied return, Israel has indeed committed the war crime of forced deportation. Additionally, Israel’s policies and practices in the West Bank may comprise what are defined as “inhuman acts” in Article 7(1)(d) of the Rome Statute of the International Criminal Court as well as constitute a violation of the UN Convention on the Suppression and Punishment of the Crime of Apartheid of 1973.

While Palestinian families are forced to witness the destruction of their homes and livelihoods, Israeli settlements which remain illegal under international law have continued to expand, seizing more land and natural resources. Restrictive zoning and planning regimes often result in demolitions. Lack of respect for international HR and humanitarian law and impunity for violations continued to drive and compound protection concerns. Recognizing this, initiatives addressing accountability for violations and promoting access to justice continue to be key elements of the protection response.

In order to build homes in East Jerusalem and Area C (which accounts for 70% of the Occupied West Bank controlled by Israel), Palestinians must apply for a permit from those who control these areas – the Israeli authorities. The vast majority of demolition orders are issued because a home or structure has been built without an Israeli permit. Under Israeli zoning policy, Palestinians can build in just 13% East Jerusalem and in just 1% of Area C. In both cases these areas are already heavily built up. More than 94% of all Palestinian permit applications have been rejected in recent years. This means that when a family expands or a community wants to build infrastructure to meet its basic needs, the choice faced is between building without a permit and not building at all. Many end up building to meet their immediate needs in the hope that they will be able to avoid demolition. Unfortunately, the number of people affected by demolition continues to steadily grow.

Israel’s practices in the OPT violate the right to adequate housing enshrined in several bodies of international human rights law. Specifically, the human right to adequate housing is contained, inter alia , in the Universal Declaration of Human Rights of 1948 (Art. 25(1)); the International Covenant on Economic, Social and Cultural Rights of 1966 (Art. 11); the International Covenant on Civil and Political



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Rights of 1966 (Art. 17); the International Convention on the Elimination of All Forms of Racial Discrimination of 1969 (Art. 5(e)(iii)); the Convention on the Rights of the Child of 1990 (Arts. 16, 27); and General Comments 4 (1991) and 7 (1997) of the UN Committee on Economic, Social and Cultural Rights.

The right to adequate housing is an essential component of the right to a decent standard of living. When guaranteed, it provides a foundation for the realization of other rights, including the rights to family, work, education and, ultimately, national self-determination. Israel is party to, and bound by, the International Covenant on Economic, Social and Cultural Rights (ICESCR) which explicitly guarantees the right to adequate housing (Article 11.1): “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.” The UN Committee on Economic, Social and Cultural Rights interpreted the content of human rights provisions in the Covenant (General Comment 4 – The right to adequate housing), so that the “right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.” That includes the security of tenure, availability of services, and cultural adequacy. The Committee has also determined in its General Comment 7 (The right to adequate housing – forced evictions) that forced evictions are *prima facie* incompatible with the requirements of the Covenant, and that appropriate procedural protection and due process, and adequate alternative housing, resettlement, or access to productive land must be guaranteed by a state party to the Covenant, as is Israel. Israel’s claim that the Covenant does not apply in the Occupied Palestinian Territory has been dismissed by all the UN human rights treaty bodies that oversee compliance with treaties.

The UN Committee on Economic, Social and Cultural Rights, a body of independent experts that monitors implementation of the Covenant, in its 2011 concluding observations (which constitute the decision of the Committee regarding the status of the Covenant vis-à-vis a given State party) called on Israel to stop forthwith house demolitions, forced evictions, and residency revocation in the Occupied Palestinian Territory and East Jerusalem. After considering the state report by Israel on compliance with the International Covenant on Economic, Social and Cultural Rights, and the ICAHD parallel report, the Committee recommended that Israel review and reform its policies to align with recommendations made by ICAHD and partner human rights and peace organizations.



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"The Committee is deeply concerned about home demolitions and forced evictions in the West Bank, in particular Area C, as well as in East Jerusalem, by Israeli authorities, military personnel and settlers. The Committee urges the State party to stop forthwith home demolitions. The Committee also recommends that the State party review and reform its housing policy and the issuance of construction permits, in order to prevent demolitions and forced evictions and ensure the legality of construction in those areas." **United Nations Committee on Economic, Social and Cultural Rights**, December 2011

The Committee on the Elimination of Racial Discrimination recommended in its 2007 concluding observations (CERD/C/ISR/CO/13) that Israel ensures that Palestinians enjoy full rights under the Convention without discrimination based on citizenship and national origin. The Committee noted with concern the application in the Occupied Palestinian Territory of different laws, policies and practices applied to Palestinians on the one hand, and to Israeli-Jews on the other hand. It was concerned, in particular, by information about unequal distribution of water resources to the detriment of Palestinians, and about the targeting of Palestinians in house demolitions. The Committee called for a halt to the demolition of Palestinian properties, and for respect for property rights irrespective of the ethnic or national origin of the owner.

As the Occupying Power, Israel is obligated to safeguard the homes of the protected persons (Palestinians) under international humanitarian law (namely the Hague Regulations and the Fourth Geneva Convention). Israel is bound by the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, to which Israel is a signatory. Article 53 prohibits destruction of property that is not justified by military necessity. The Fourth Geneva Convention also prohibits the transfer of an occupying power's civilian population into the territory it is occupying and the transfer of an occupied civilian population out of its territory. Article 49 stipulates: "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive." Israel's claim that the Fourth Geneva Convention does not apply to the Occupied Palestinian Territory has been rejected by the international community, including the UN Security Council and the International Court of Justice (ICJ). Further, the Hague Convention of 1907 calls on state parties to respect, protect, and fulfill family honor and rights, the lives of persons, and private property, as well as religious convictions and practices.

According to the Israeli-Palestinian Interim Agreement of 1995, powers and responsibilities related to zoning and planning in Area C should have been transferred to Palestinian control within 18 months. However, that has not happened in the 17 years since its signing, and Israel continues to displace the



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Palestinian inhabitants of the West Bank, in contravention of international law and bi-lateral agreements. The illegal Israeli practice of demolishing homes, basic infrastructure and sources of livelihoods continues to shatter Palestinian communities in East Jerusalem and Area C. Demolitions lead to a significant deterioration in living conditions for entire communities. Large numbers of Palestinians face increased poverty and long-term instability as well as limited access to basic services, such as education, health care, water, and sanitation as a result of these practices.

Area C

Following the 1995 Interim Agreement on the West Bank and the Gaza Strip and the subsequent agreed division of the Occupied West Bank, Area C - consisting of 70% of the West Bank - remained under full Israeli security and civil control, an arrangement that has remained following the halt in negotiations. This partition severely fragments Palestinian communities as well as isolates a great expanse of rural area in Area C, while enclosing heavily built-up enclaves in Areas A and B. This cramps the natural expansion of Palestinian communities in the West Bank required to maintain an adequate standard of living. Thus, while 150,000 Palestinians reside in Area C, the remaining 2.3 million are squeezed into 40% of the territory. Due to the discriminatory planning and zoning policies that Israel currently administers in an area, which already lacks basic public infrastructure, families are struggling to meet their basic needs. This has triggered a growing trend of displacement from Area C to both Areas A and B and within Area C, threatening the very existence of these communities and coupled with Israeli settlement activity, setting the ground for the Judaization of the West Bank.

Despite Israel's commitment in the ICERD to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the rights to housing, Israel's housing policy in Area C makes enjoying this basic right nearly impossible. In practice, construction is currently permitted in less than 1% of the area. The overwhelming majority of Area C is allocated to Israeli settlements and military installations, thus denying Palestinians building permits in 70% of the land.

Allocating land for military training is not confined to unpopulated areas but can occur in the heart of Palestinian residential communities. In the remaining 30% of the land, intended construction is conditional on complementarity with a plan endorsed by the Israeli Civil Administration, of which less than 1% satisfies this requirement. Thus Palestinians are faced with the choice of building irregularly or leaving their communities. This policy is violently enforced with the demolition of homes and other infrastructure such as schools and health clinics being a regular occurrence. In the meantime, the expansion of illegal Israeli settlements in Area C



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flourishes under detailed plans approved by the Israeli Civil Administration which incorporate expansion areas nine times the size of the current built-up areas. Furthermore, the fact that some of the officials staffing the Israeli Civil Administration and influencing planning and zoning policy are themselves settlers is worrying as it highlights an almost inevitable conflict of interest.

A considerable contributing factor to the displacement of Palestinians in Area C is the restriction on movement and access to water, land and basic services. This is particularly severe in the herding communities such as the Bedouin and the sedentary villages which are often located in remote areas. Due to the barrier, settler expansion and violence, and the isolation of land as closed military zones, access to land to graze livestock, collect hay and water, and cultivate agriculture is severely restricted. Communities are now forced to purchase such necessities at a premium. This has resulted in a dramatic decrease in herd sizes and increase in debt.

The principal impact of Israel's policies in Area C is an ethnic displacement of the Palestinians from their rural communities with thousands more at risk and the foreseeable obliteration of entire communities. This in turn has emotional and socio-economic effects on the displaced families especially considering a large proportion of the community has the added vulnerability of a history of displacement, being made refugees in 1948. Symptoms range from dependency on humanitarian aid to a deep psychological trauma especially in children including anxiety, depression and post-traumatic stress disorder. The severity of this impact is exacerbated by Israel's interference with the aid provided by the humanitarian community as is evidenced by the recurring demolitions of tents provided following house demolitions.

Israel's practices in Area C violate the right to adequate housing enshrined in several bodies of international human rights law. Specifically, the human right to adequate housing is contained, inter alia, the International Convention on the Elimination of All Forms of Racial Discrimination of 1969 (Art. 5(e)(iii)), and in the Universal Declaration on Human Rights of 1948 (Art. 25(1); the International Covenant on Economic, Social and Cultural Rights of 1966 (Art. 11); the International Covenant on Civil and Political Rights of 1966 (Art. 17); the Convention on the Rights of the Child of 1990 (Arts. 16, 27); and General Comments 4 (1991) and 7 (1997) of the UN Committee on Economic, Social and Cultural Rights.

Additionally, Israel's policies and practices in Area C may very well constitute "inhuman acts" under Article 7(1)(d) of the Rome Statute of the International Criminal Court, as well as a violation of the UN Convention on the Suppression and Punishment of the Crime of Apartheid of 1973.



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East Jerusalem

Sub-articles 5(d)(ii)-(iii) deal with the individual right to leave and return to one's country and to have a nationality, as well as the right to non-discrimination in acquiring and maintaining nationality. Palestinian East Jerusalemites are eligible for permanent residency in Israel, but that status is conditioned upon many criteria that oftentimes pose challenges for Palestinians who work, travel and live in other parts of the world (including the West Bank and Gaza), in order to be with family or for various other reasons. Naturalization is allowed under strict circumstances, most Palestinians in East Jerusalem choose for political reasons not to obtain citizenship, and under international humanitarian law, the occupied population may not be required to pledge allegiance to the occupying power in order to obtain citizenship, as is the case here.

Israel's policy toward Palestinian permanent residents is the same as that of all foreigners with permanent residency, where the status is revocable if the holder cannot show presence for the past seven years. Even presence in the West Bank, the area contiguous (physically and culturally) to East Jerusalem, and under international humanitarian law an extension of the same occupied territory, is grounds for residency revocation. The policies and practices applied to East Jerusalem leave many Palestinians with little choice but to either remain in the area, build illegally and risk demolition of their homes and displacement, or to leave the area and risk losing their residency rights – and in most cases their right to return to Israel (and East Jerusalem).

This places many Palestinians at risk of becoming stateless (or "residency-less," as many already lack citizenship in any state). Even in cases in which a Palestinian former East Jerusalem resident has not been rendered stateless (or "residency-less") by her exclusion from Israel (as she has successfully obtained residency or citizenship elsewhere), she has been barred from returning to her place of habitual residence – and in most cases, her homeland. Additionally, Palestinian East Jerusalemites' inability to access, travel between and live in any part of the occupied territory (East Jerusalem, the West Bank and the Gaza Strip) violates several basic provisions of international humanitarian law, and the general right to freedom of movement.

Permanent residency status was revoked from over 14,000 Palestinian East Jerusalemites between 1967 and 2011, and revocations have increased over the past decade. Some 6,500 revocations took place between 2006 and 2008. In 2008 alone, 4,577 East Jerusalem residents lost their status, amongst which 99 were children under the age of 18. As opposed to when applied to foreign citizens and immigrants, this policy is wholly inappropriate when applied to a population that is native to the place and that lived there prior to Israeli rule. This issue was not addressed in Israel's Country Report.



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A different, but related phenomenon is that of lack of family unification. Article 5, sub-article (d)(iv) relates to the right to marriage and choice of spouse. Unlike Jewish Israeli citizens, Palestinian permanent residents and citizens alike do not have the right to obtain residency or citizenship for their non-citizen, non-resident spouses who wish to join them in Israel or East Jerusalem through family unification – if the latter are Palestinian residents of the West Bank or Gaza. While in the past there were obstacles to obtaining residency for Palestinian spouses, since 2003 the Israeli government has imposed a wholesale freeze on the family unification process between Palestinian non-citizens and non-residents wishing to live with their permanent resident spouses inside Israel and East Jerusalem.

Given the geographical, cultural, linguistic and political contiguity between East Jerusalem and the West Bank, separately merely by an artificial border Israel created in 1967, many East Jerusalem residents naturally find their spouses in the West Bank, and vice versa. These couples are then faced with the harsh choice between living in the OPT and risking the loss of one spouse's permanent resident status and accompanying benefits, and living in East Jerusalem while one spouse risks deportation. Given that the employment opportunities and social benefits are typically preferable in East Jerusalem than under the occupied Palestinian Authority, and entail far fewer restrictions on the freedom of movement, at least within Jerusalem, such families often prefer to remain illegally in East Jerusalem and build illegally there, if need be. Alternatively, these families will leave East Jerusalem, and the resident spouse, along with any children, may well lose her residency and thus her right to return to her home, or place of habitual residence.

Article 5, sub-article (e)(iii) deals with the right to housing. As was discussed above under Article 2, the cumulative effect of Israel's policies and practices in East Jerusalem is to leave many Palestinians with no option other than to build illegally or leave the area, in most cases the place of their birth. Many Palestinians choose to build illegally in order to remain in the area for the reasons described above, and thus to risk the demolition of their homes. Needless to say, this is not an adequate housing solution and it does not fulfill the right to obtain housing free of discrimination.

While not all unauthorized homes have been issued demolition orders, there are approximately 1,500 demolition orders in East Jerusalem pending enforcement. According to figures published by the European Union, as of the end of 2009, more than 60,000 Palestinians in East Jerusalem (20 percent of the Palestinian population in the city) were at risk of their homes being demolished due to unauthorized building. An additional consequence of the planning and building reality in East Jerusalem is severe housing density and overcrowding, where the average density in East Jerusalem is nearly twice that of West Jerusalem.



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Enforcement of building and planning laws, including demolition and the levying of fines, is executed in a discriminatory manner. While Jews represent approximately 64 percent of the population in Jerusalem, demolitions of their buildings represented only 28 percent of the demolitions carried out during that period. Overall, more than 70 percent of demolitions in Jerusalem are carried out against Palestinian buildings, but Palestinians are accountable for only approximately 20 percent of the unauthorized building in the city. What is more, given the zoning and planning situation in Jerusalem, Palestinians are more likely to engage in more serious building infractions than Jews who face far fewer obstacles in obtaining permits. As the municipality ostensibly prioritizes more serious infractions, entire Palestinian homes and structures are more likely to be demolished than Jewish homes and structures.

Additionally, and contrary to the claim made in Israel's Country Report, based on practices on the ground, Palestinians in Jerusalem are more likely than Jews to experience expedited demolitions and evictions with limited opportunities to defend against them. As opposed to the types of orders more likely served on Jewish structures, the majority of demolition orders served on Palestinian structures are administrative order. These orders may be executed beginning 24 hours after their delivery, putting the owners on extremely short notice to launch a legal challenge to the demolition. Lastly, the more serious the offense the greater the fine that may be levied on the offender, and thus Palestinians pay a disproportionately higher amount of the fines to the Jerusalem Municipality and Ministry of Interior for building infractions.

An additional, related phenomenon present in East Jerusalem is forced (or court-ordered) evictions. Over recent years forced evictions have taken place in several neighborhoods in East Jerusalem, evicting over 200 Palestinians from their homes in order to allow Jewish building, typically based on claims of Jewish land ownership from prior to 1948 or based on the historical, religious or archaeological importance of an area. These evictions also increase the demand for housing, the motivation to build illegally, and indirectly, the number of demolitions, and naturally cause further displacement of Palestinians.

According to OCHA figures, as of October 2010 over 60 Palestinians had lost their homes in the Sheikh Jarah neighborhood alone, and an additional 500 stood to lose their homes in ongoing proceedings launched by the various settler groups active in the area; since late 2008 the Israeli authorities have evicted over 60 Palestinians from their homes in the Karm Al Ja'ouni neighborhood (or the "Tomb Quarter"), and current plans for the area threaten to evict an additional 300 Palestinians. The United Nations High Commissioner for Human Rights report of March 2011 reported that according to new development plans in the Al-Bustan area of Silwan, over 40



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Palestinian homes in the neighborhood are scheduled to be demolished, which would evict some 500 residents. These are among the more egregious cases of state- and municipality-sanctioned evictions of Palestinians in East Jerusalem in order to make way for Israeli settler development, and are an additional cause of displacement of Palestinians and the increasing demand for housing in decreasing spaces in East Jerusalem.

Recommendations

▀ ICAHD calls on the state of Israel to dismantle its system of apartheid over the Palestinian people forthwith, to repeal all discriminatory laws and practices, not to pass any further discriminatory legislation, and to cease forthwith acts of persecution against Palestinians in the Occupied Palestinian Territory and in Israel proper. ICAHD calls on the Committee to address the issue of apartheid in its review of Israel's periodic report, and indicate its position on Israeli apartheid practices in the concluding observations.

▀ ICAHD calls for an end to the Occupation of the Palestinian Territory, and a prompt realization of Palestinians' right to national self-determination, and an immediate cessation of the demolition of Palestinian houses, schools, and infrastructure, which causes displacement and dispossession. ICAHD calls for the transfer of powers and responsibilities related to planning and zoning in the West Bank, including Area C, to Palestinian jurisdiction in accordance with international law and bi-lateral agreements, to allow for a planning system to include community participation in all levels of the planning process.

▀ ICAHD calls for all refugees and internally displaced persons, which have been forcibly displaced to be allowed to repatriate, return to their homes in safety and dignity, and be given compensation for any harm they have suffered, including the destruction of land, homes and property.

▀ ICAHD calls all states, intergovernmental organizations and civil society to cooperate to bring to an end the illegal situation arising from Israel's practices of apartheid and persecution. In light of the obligation not to render aid or assistance, all states and IGOs must consider appropriate measures to exert appropriate pressure on Israel, including the imposition of sanctions and the severing of diplomatic relations. Further to that ICAHD calls for the suspension of the EU-Israel Association Agreement, and the US-Israel Free Trade Agreement until Israel complies with international law, and ends its illegal policy of house demolitions, forced evictions and colonization.

▀ ICAHD calls on the United Nations Committee on the Elimination of Racial discrimination to adopt the abovementioned recommendations and register them in the CERD concluding observations on the implementation of the Convention.