



Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ)

**Parallel Report to the Committee on the Elimination of Racial
Discrimination on Israel's Seventeenth to Nineteenth Periodic Reports**

100th SESSION

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Introduction

1. The Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ) presents this submission to the 100th session of the United Nations (UN) Committee on the Elimination of Racial Discrimination (CERD or 'the Committee'), highlighting its recommendations for the Committee's review of the seventeenth to nineteenth periodic reports submitted by Israel ('State report'),¹ on its implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).²
2. The CCPRJ highlights how, since 1967, Israel has designed and applied in Jerusalem an institutionalized regime of racial discrimination, based on Israel's attempted alteration in Jerusalem, seeing the city as the capital of the Jewish State and of the Jewish people. In this vein, the indigenous Palestinian people in Jerusalem have always been treated as intruders in their own land, subjected to racial discrimination and other human rights violations, in breach of Israel's obligations under ICERD and other international law instruments. The presence of Palestinian Jerusalemites in occupied East Jerusalem has been tolerated by Israel, the occupying power, to the extent that it does not endanger Israeli-Jewish demographic majority in the city.

Institutionalized Regime of Racial Discrimination and Apartheid

3. CCPRJ argues that Israel has severely violated the prohibition of apartheid enshrined in Article 3 of the Convention, by designing and applying a regime of discriminatory laws, policies, and practices with the aim of preserving racial domination of one group (Israeli-Jews) over another (the Palestinian people). This regime is not a distorted policy of one government, but rather lies at the very foundation of the Zionist project that brought about the creation of the State of Israel. Furthermore, Zionism is not a reminiscence of the past, rather still representing the system of values actively pursued by the State of Israel.
4. Israel has imposed its apartheid regime over the Palestinian people as a whole, as described in a compelling report published in March 2017 by the UN Economic and Social

¹ CERD, Seventeenth to nineteenth periodic reports of States parties due in 2016, Israel, 2 March 2017, UN Doc. CERD/C/ISR/17-19

² International Convention on the Elimination of All Forms of Racial Discrimination (adopted 7 March 1966, entry into force 4 January 1969) 660 UNTS 195 (hereinafter ICERD).

Commission for Western Asia (ESCWA).³ The report analyses how Israel has strategically divided the Palestinian people into four different domains, covering Palestinians holding Israeli citizenship; Palestinians in Jerusalem holding permanent residency status; Palestinians under military law in the West Bank and the Gaza Strip; and Palestinian refugees living in exile, denied their right of return as a matter of State policy.

5. The ESCWA report exposes how this fragmentation of the Palestinian people has been used to hide the very existence of Israel's apartheid regime of racial domination and oppression. Even though the ESCWA report has been taken down from the UN website, the result of political pressure exerted on the UN from Israel and the United States, the findings shed light on the institutionalized regime of racial domination and oppression implemented by Israel. **The CCPRJ urges the Committee to adopt the conclusions of the ESCWA report and to denounce Israel's regime of apartheid, as a way to promote accountability and international justice for the Palestinian people.**
6. This submission focuses specifically on the situation of Palestinians in occupied East Jerusalem. However, the CCPRJ stresses how the conditions of Palestinian Jerusalemites have to be considered together with the treatment of Palestinians elsewhere and in light of Israel's creation of an apartheid regime over the Palestinian people as a whole.

Forcible Transfer of Palestinian Jerusalemites

7. On 27 June 1967, immediately after the Israeli occupying forces had occupied the West Bank, including East Jerusalem, and the Gaza Strip, comprising the occupied Palestinian territory (oPt), the Israeli Parliament (the Knesset) extended Israeli law, jurisdiction and administration to any area of "Eretz Israel" (comprising Israel and the oPt) designated by an order of government. The following day, an order was issued to apply this law to occupied East Jerusalem, annexing the occupied territory and placing it under full Israeli judicial and administrative control.⁴
8. At least 30,000 Palestinian residents of East Jerusalem were excluded from the first Israeli population census, which was conducted shortly after 1967 in the city, before

³ ESCWA, *Israeli Practices towards the Palestinian People and the Question of Apartheid Palestine and the Israeli Occupation*, Issue No. 1, 2017, UN Doc. E/ESCWA/ECRI/2017/1.

⁴ Human Sciences Research Council of South Africa, *Occupation, Colonialism, Apartheid?*, A re-assessment of Israel's practices in the occupied Palestinian territories under international law, May 2009, Cape Town, South Africa, p. 69

Palestinians displaced or absent during the war could return to their homes and property.⁵ Some 66,000 Palestinians were present and recorded by the census,⁶ classified as “residents of Jerusalem” and issued distinct (blue) Israeli ID cards. For the majority of the Palestinians, this meant that they could no longer choose residence in the city of Jerusalem or return to their homes and property therein.

9. Palestinians registered as residents of Jerusalem were given the vulnerable status of “permanent residents” under the Entry into Israel Regulations (1974). This status, which is otherwise reserved for foreigners on long-term stay in Israel, does not entitle Palestinians to a legal right to stay in their city of birth: their residency permits and the status of their children in Jerusalem are subject to conditions, which are at the discretion of Israel’s Ministry of Interior; “permanent residency” also does not convey a legal right to unite in the city with non-resident family members, including spouses and children.

Settlement Expansion and Discriminatory Planning and Zoning

10. In its 2012 Concluding Observations, the Committee draws Israel’s attention “to its general recommendation 19 (1995) concerning the prevention, prohibition and eradication of all policies and practices of racial segregation and apartheid, and urges the State party to take immediate measures to prohibit and eradicate any such policies or practices which severely and disproportionately affect the Palestinian population in the Occupied Palestinian Territory and which violate the provisions of article 3 of the Convention.”⁷ In particular, the Committee urged Israel, as State Party, “to eliminate any policy of ‘demographic balance’ from its Jerusalem Master Plan as well as from its planning and zoning policy in the rest of the West Bank.”⁸ Despite the Committee’s recommendations, Israel has continued to pursue its official policy of demographic balance in Jerusalem. This policy is indeed at the very core of the Israeli conception of Jerusalem as the capital of the Jewish State, clearly disregarding the inalienable rights of the indigenous Palestinian people, including their right to self-determination and permanent sovereignty.

⁵ *Eviction, Restitution and Protection of Palestinian Rights in Jerusalem*, (incl. primary sources), Badil (1999).

⁶ 1967 Census of the West Bank and Gaza Strip, digitized version: <http://www.levyinstitute.org/palestinian-census/>

⁷ CERD, Concluding observations of the Committee on the Elimination of Racial Discrimination on the fourteenth to sixteenth periodic reports of Israel, 3 April 2012, UN Doc. CERD/C/ISR/CO/14-16, para. 24

⁸ *Idem*, para. 25

11. Since Israel's illegal annexation of East Jerusalem in 1967, the Israeli authorities have consistently pursued the publicly-declared objective of ensuring that occupied East Jerusalem would remain permanently a part of "Israeli Jerusalem" or "Greater Jerusalem," Israel's conception of the city with a large and stable Israeli-Jewish demographic majority. This objective, in place since the beginning of the occupation, has guided Israel's discriminatory planning in the city, as clearly outlined in current master plans for the city, such as the current Jerusalem "2020 Outline (Master) Plan," which explicitly highlights Israel's policy objective of ensuring a Jewish-Israeli demographic majority in the city of Jerusalem, setting the goal for its so-called "demographic balance" at a 60 to 70 per cent majority of Israeli-Jews in the city.⁹
12. The expansion of existing Israeli settlements and the construction of new illegal settlements is a means through which the State party increases the presence of Israeli-Jews in East Jerusalem, in violation of international law. Of the 71 square kilometres annexed by the State party in 1967, 35 per cent of the land was confiscated for illegal settlement construction. Another 30 per cent is zoned as 'unplanned areas,' and 22 per cent as 'green areas' and for public infrastructure. Today, only 13 per cent of the land in East Jerusalem is allocated for Palestinian use, most of it already built-up. East Jerusalem is dotted with 15 official settlements, housing approximately 200,000 Jewish settlers, making up about 40 per cent of Israel's total settler population in the oPt, whose presence therein is in clear violation of international law.
13. Many of Israel's settlements are extensively developed and resemble large towns or small cities complete with hospitals, schools and industries. Indicative of the intended permanence of these settlements is the infrastructure that supports them. Settler-only roads and overpasses and the new Jerusalem Light Rail – a rapid transit project that connects settlements deep in occupied East Jerusalem with West Jerusalem – serve to accommodate and to normalize settlers' illegal presence.
14. The Absentee Property Law of 1950 is a means by which the Israeli government expropriates Palestinian land. Following its illegal annexation to the State of Israel in 1967, East Jerusalem came under the subject of Israeli laws, including the Absentee Property Law. In 1970, the Israeli government declared that the property ownership of Palestinians who were not physically present in East Jerusalem during the time of its

⁹ Civic Coalition for Palestinian Rights in Jerusalem, *Urban Planning in Jerusalem*

annexation would revert to the Custodian of Absentee Property (the State of Israel).¹⁰ One can see clear examples of the use of the Absentee Property Law in the confiscation of two sites in the East Jerusalem neighbourhood of Sheikh Jarrah: the Shepherd Hotel and the Karm el Mufti olive tree grove. Both sites were expropriated, and eventually taken over by private settler organizations. In January 2011, when the Shepherd Hotel was razed so that settlement construction could begin, the office of the UN Secretary-General stated that the action only served to heighten tensions and that: “[i]t is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict.”¹¹

15. Another means for property confiscation in East Jerusalem is claims of religious and historic significance for the Jewish people. Such claims are generally made by private settler organizations. The government of Israel often works in close coordination with these private settler organizations to make claims to land and to create a bias version of Jerusalem’s history through archaeological projects. In 2011, a European Union (EU) report on Jerusalem declared that such activity is part of a “concerted effort to utilize archaeology to enhance a claimed historic Jewish continuity in Jerusalem, thereby creating the sense of a historic justification for the establishment of Jerusalem as the eternal and undivided capital of Israel.”¹²
16. The expansion of existing settlements and the construction of new settlements within occupied East Jerusalem continue unabated, despite the fact that one of the State party’s core obligations under the Roadmap for Peace was to “freeze all settlement activity (including natural growth).”
17. The continued presence and expansion of Israeli-Jewish settlements throughout the oPt raise several issues under international law. The UN Security Council and General Assembly have repeatedly declared settlements to be illegal, and in its 2004 advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, the International Court of Justice (ICJ) stated that Israel’s transfer of its own population into occupied territory was in flagrant violation of the Fourth Geneva

¹⁰ Ir Amim, *Absentees Against Their Will: Property Expropriation in East Jerusalem under the Absentee Property Law* (July 2010).

¹¹ OCHA, *East Jerusalem: Key Humanitarian Concerns* (March 2011), page 54.

¹² EU Heads of Mission Report on East Jerusalem (2011), paragraph 25.

Convention of 1949.¹³ The Rome Statute of the International Criminal Court (ICC) further defines such population transfer as a war crime.

18. Additionally, international law only permits the imposition of domestic law on an occupied territory under very limited and defined circumstances in which it is for the exclusive benefit of the occupied population or military necessity and public order. The policy of controlling the city's demographics and of artificially creating a Jewish majority in East Jerusalem falls outside this criterion, thus constituting a violation of international law.
19. Israel has pursued a colonial policy of settlement expansion in East Jerusalem, and the rest of the occupied West Bank, in clear breach of international humanitarian law.¹⁴ Currently there are around 210,000 Israeli civilians living in illegal East Jerusalem settlements; these Israeli settlers make up almost half of the city's population.¹⁵
20. Successive Israeli governments and the Israeli courts have systematically requisitioned and confiscated Palestinian land, businesses and homes, and transferred confiscated Palestinian land and property to the ownership of the State. Approximately one-third of the land in occupied East Jerusalem was confiscated for "public purpose" under one law alone. All of the confiscated Palestinian land has been allocated by the State for the construction of Israel's large illegal urban settlements, transport infrastructure that integrates these settlements into Israeli territory, and for projects pursued by Israeli settler groups and authorities with the aim of advancing Israel's claim of sovereignty in and around the Old City of Jerusalem, including housing for settlers, Israeli national parks and tourism projects.¹⁶
21. Israeli planning authorities have, in addition, restricted the area in which private Palestinian construction is permitted to an area of no more than 13 per cent of occupied East Jerusalem, most of which is already densely built-up and populated.¹⁷

¹³ "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Fourth Geneva Convention of 1949, Article 49.

¹⁴ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949, article 49

¹⁵ B'Tselem, *East Jerusalem*, 11 November 2017, updated on the 27th of January 2019, at <https://www.btselem.org/jerusalem>

¹⁶ Ibid.

¹⁷ United Nations Office for the Coordination of Humanitarian Affairs, *Fragmented Lives*, Humanitarian Overview 2016, May 2017, p. 6

Exploitation of Palestinians' Precarious Legal Status

22. The State report mentions that “permanent residents receive the same rights as citizens, excluding an Israeli passport and the right to vote in general elections.”¹⁸ The report continues to state that the residency status can expiry if the person leaves the country for a period longer than seven years.¹⁹ This statement fails to recognize how Israel’s discriminatory policy severely affects the freedom of Palestinian Jerusalemites, who cannot move out of the city for fear they will never be able to come back and live in the city of their ancestors. The racial discrimination underpinning this law and Israeli policy becomes even clearer if it is considered that any Jew, no matter if he/she has no personal connection to Israel or to Jerusalem, can move to the city and be entitled to live there on the basis of Israel’s 1950 Law of Return.²⁰
23. Contrary to the State report, since 1967 the occupying power has systematically taken advantage of the vulnerable legal status of Palestinians Jerusalemites to further undermine the Palestinian people’s presence in Jerusalem and to unlawfully alter the city’s demographic composition. Israel’s Interior Ministry has pursued a policy of “quiet deportation,” revoking the residency status of at least 14,630 Palestinians in Jerusalem on various and changing grounds since 1967: because they were abroad for more than seven years, or held residency or citizenship in another country, or could not prove to the Ministry that their “centre of life” was in Jerusalem.²¹
24. Many Palestinian Jerusalemites have been unable to secure Jerusalem residency status for their new-born children because of the Israeli Ministry of Interior’s many and frequently-changing requirements in situations where a child is not born in an Israeli or East Jerusalem hospital and/or one of the parents does not hold Jerusalem residency status. In fact, the Ministry has registered as Jerusalem residents – always and automatically – only those Palestinian children born in Israel or in East Jerusalem to parents who both hold Jerusalem residency status.
25. Through foot-dragging, changing criteria and lack of transparency, the Israeli Ministry of Interior has also prevented tens of thousands from obtaining family unification, which – until 2002 – was the only way for Palestinians to achieve “permanent residency” in

¹⁸ CERD, Seventeenth to nineteenth periodic reports of States parties due in 2016, Israel, 2 March 2017, UN Doc. CERD/C/ISR/17-19, para. 139

¹⁹ Ibid.

²⁰ *Law of Return* (1950)

²¹ ID card confiscation 1967 – 2016, at: www.hamoked.org

Jerusalem for non-resident family members. In the 1980s, the Ministry of Interior refused to even receive requests from female applicants (because Palestinian women were expected to move to their husband's place of residence outside of Jerusalem); it also denied applications for spouses (because it did not consider marriage to be a sufficient humanitarian reason). Later on, Palestinian applicants would wait for many years, or never receive an answer, because of the huge backlog of requests accumulated by the Ministry.²²

26. Since 2002, Israel has explicitly prohibited the grant of permanent residency status in Israel or occupied East Jerusalem for spouses and children who are Palestinian residents of the occupied West Bank or Gaza Strip. For alleged security reasons, permanent residency through family unification is prohibited for this particular group, as well as for citizens of certain Arab countries, under Israel's Citizenship and Entry into Israel Law, which has been renewed annually since 2003. As a matter of exception, Palestinian residents of Jerusalem may file applications for husbands above the age of 35, wives above the age of 25 and children. However, even if approved, these spouses and children can only receive temporary stay permits in the city, i.e., a status that is even more precarious than permanent residency.²³

Illegal House Demolitions and the Right to Adequate Housing

27. The broad legal and policy measures involved in the Israeli occupation's practices in East Jerusalem are directly targeted at the Palestinian people, and particularly affect their right to adequate housing.
28. Israeli authorities have demolished approximately 2,000 Palestinian homes in East Jerusalem since its occupation in 1967.²⁴ According to Amir Chesin, the former adviser on Arab Affairs to the Mayor of Jerusalem, "Israel's leaders adopted two basic principles in their rule of East Jerusalem. The first was to rapidly increase the Jewish population in East Jerusalem. The second was to hinder growth of the [Palestinian] Arab population and to force [Palestinian] Arab residents to make their home elsewhere."²⁵

²² HaMoked, *ID card confiscation 1967 – 2016*, at: www.hamoked.org

²³ *Ibid.*

²⁴ OCHA, *East Jerusalem: Key Humanitarian Concerns* (March 2011), page 38.

²⁵ Amir Chesin, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem* (1999), pages 31-32.

29. Accordingly, in its 2011 report on Jerusalem, the EU found that Israeli planning policies in the city were politically motivated and lead to “de facto discrimination on the ground,”²⁶ detrimentally impacting the rights of Jerusalem’s Palestinians and that “[Palestinian families] have the choice between immigrating outside the municipal area of Jerusalem (and losing their residency status) or building without the necessary building permit.”²⁷
30. Israeli housing procedures utterly fail to meet the needs of the Palestinian people of East Jerusalem. Palestinians are only permitted to build on 13 per cent of their own land, and obtaining a building permit is close to impossible. They face unreasonably high fees, undue delays and onerous requirements.
31. Registering land and proving ownership is particularly difficult for Palestinian Jerusalemites. Israel considers many Palestinians to be ‘absentees’ in accordance with the above-mentioned Absentee Property Law, making the registration process difficult, if not entirely impossible. For many Palestinians, attempting to register their land effectively results in its confiscation by the Custodian of Absentee Property. Therefore, many have no choice but to build without permits.
32. Without a permit, the home will be classified as an “illegal” structure and slated for demolition. As a result of the severe housing shortage in East Jerusalem and the discriminatory and harmful planning policies by the Municipality, over 20,000 Palestinian homes are considered “illegal,” putting some 85,000 Palestinians at risk of house demolitions and displacement.²⁸
33. Israel’s Building and Planning Law is a key threat to Palestinian housing. It regulates all building and land use in Israel and controls development. It provides legal justification for house demolitions for any non-conforming buildings. The Jerusalem Municipality responds to this by issuing administrative demolition orders in accordance with the Building and Planning Law. Carried out in the absence of military necessity, Israel’s house demolitions violate international humanitarian law and further breach the right of the Palestinian people to adequate housing under international human rights law.
34. The right to adequate housing is an essential component of the right to an adequate standard of living. It is a foundation for the realization of other rights, including the right to family life, work, education and ultimately, collective self-determination. Israel is a

²⁶ EU Heads of Mission Report on East Jerusalem (2011), paragraph 26.

²⁷ EU Head of Mission Report on East Jerusalem (2011), paragraph 28.

²⁸ EU Heads of Mission Report on East Jerusalem (2011), paragraph 28.

party to, and is bound by, the International Covenant on Economic, Social and Cultural Rights (ICESCR), which explicitly states in Article 11(1) that States parties “recognise 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 State party’s claim that the Covenant does not apply to the oPt has been dismissed by all UN human rights treaty bodies.

Access to Education

35. The educational sector in East Jerusalem is negatively impacted by a shortage of classrooms, a substandard quality of existing facilities, and severe access restrictions for teachers and students. While Palestinian children in East Jerusalem between the ages of five and 18 are legally entitled to free public education, approximately 5,300 registered children are not able to enrol in schools,²⁹ with an additional 4,000 unregistered children in the city also unable to access education.
36. According to the Association for Civil Rights in Israel (ACRI), shortage of classrooms is one of the most pressing issue in occupied East Jerusalem; there is a shortage of 2,200 classrooms for students in East Jerusalem. In 2017, only 41 per cent of the total students in East Jerusalem were enrolled in public schools. Many Palestinian children in Jerusalem attend unsuitable schools with makeshift classrooms and without necessary facilities such as libraries, computer labs, sports facilities and playgrounds.
37. The majority of schools are located in former residential buildings that are unsuitable and extremely overcrowded. Such shortages are due, in no small part, to Israel’s discriminatory zoning and planning restrictions that prevent new construction, building expansion and threaten several pre-existing schools. Due to such constraints, many schools have been forced to add facilities without the necessary permits and have since been served with demolition and closure orders.
38. Some 32 per cent of Palestinian students in Jerusalem do not complete 12 years of schooling, compared with 1.5 per cent of Israeli-Jewish students in Jerusalem. Of the 3,800 missing classrooms in the city, 1,983 (some 52 per cent) are in East Jerusalem. Of the 370 salaried positions for educational psychologists in the city, only 30 are for Palestinians in East Jerusalem.

²⁹ EU Heads of Mission Report on East Jerusalem (2011) paragraph 38.

39. The Municipality's neglect for the rights of Palestinian students in East Jerusalem is clearly reflected in its discriminatory budget allocation to Palestinian schools. While Palestinian students represent 30 per cent of the city's student body, they only receive 11% per cent of the Municipality's educational budget.
40. Furthermore, in March 2011, the Israeli authorities imposed government-censored textbooks on both public and private Palestinian schools in East Jerusalem. These versions remove references to subjects related to Palestinian history, culture and heritage such as the *Nakba*.
41. The discriminatory and unequal education system in Jerusalem and the imposition of Israeli curriculum on Palestinian students amounts to a serious violation of Israel's obligations as occupying power under the Fourth Geneva Convention of 1949. Article 50 of the Fourth Geneva Convention states that the occupying power will "facilitate the proper working of all institutions devoted to the care and education of children." Furthermore, Article 13 of the ICESCR enshrines that "States Parties ... recognize the right of everyone to education. Primary education shall be compulsory and available free to all."

Discrimination in Access to Services

42. About 72 per cent of all Palestinian families in Jerusalem live below the poverty line, compared to 26 per cent of Israeli-Jewish families. Some 81 per cent of Palestinian children in Jerusalem live below the poverty line, compared to 36 per cent of Israeli-Jewish children. The average population per home in Jerusalem is of approximately six individuals per dwelling amongst Palestinians in Jerusalem, compared to 3.2 individuals per dwelling amongst the Israeli-Jewish population.
43. In addition, Palestinians face a shortage of welfare services in the city. Only six welfare offices operate in occupied East Jerusalem, compared with 19 operating in the western part of the city. The average number of clients per welfare office in East Jerusalem is estimated at 55,796 individuals, whereas in West Jerusalem, the estimated number of individuals in need of welfare services is 29,990 individuals. In East Jerusalem, 533 families await welfare services, compared to 211 families in the rest of the city. In addition, only 44 per cent of East Jerusalem residents are connected to the water network in a regulated and formal manner.

Fragmentation, Segregation and Freedom of Movement Restrictions

44. Israel, by means of its illegal annexation regime, has effectively separated occupied East Jerusalem – legally, administratively and physically – from the rest of the occupied Palestinian territory, through a permanent system of military checkpoints, pass-permits and the Wall, which was declared in violation of international law by the ICJ in 2004.³⁰
45. Israel constructed the illegal Wall in occupied East Jerusalem to serve its “demographic balance” policy, by routing the Wall in a manner that separates a number of densely-populated East Jerusalem neighbourhoods, including Shu’fat refugee camp, from the city centre. Since then, municipal services for Palestinian areas behind the Wall have been reduced to a bare minimum and law enforcement has stopped, while Israeli politicians and lawmakers are examining options for the exclusion of these Palestinian neighbourhoods from the jurisdiction of Israel’s Jerusalem Municipality.³¹ Currently, approximately 130,000 Palestinians live in unsafe, overcrowded, slum-like conditions in East Jerusalem behind the Wall, while more and more are being pushed to move there by the Israel-induced housing crisis, the need to unite with family members who cannot obtain Jerusalem residency, and/or fear having their residency status revoked, if they seek appropriate housing elsewhere in the occupied West Bank.
46. East Jerusalem used to be the centre of Palestinian political, economic, social and cultural life and a hub of economic activity for Palestinians. Israel’s closure policy has deprived the Palestinian people of the West Bank and Gaza Strip of their right to freedom of movement, denying them the right to access Jerusalem for education, work, business, social and medical services, family visits, leisure or religious worship, thereby undermining the functioning of Palestinian institutions in the city, including schools and hospitals, and resulting in detrimental economic impacts on Palestinian businesses in the city. Israel’s closure policy has also restricted access to work and work opportunities for Palestinians in occupied East Jerusalem in a manner that is prohibited under international humanitarian law; it has exacerbated unemployment and induced Palestinians to seek work in the Israeli labour market, including in illegal Israeli settlements.

³⁰ ICJ *Advisory Opinion on the Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory* of 9 July 2004

³¹ <http://www.haaretz.com/news/diplomacy-defense/jerusalem-municipality-asks-idf-to-take-responsibility-for-residents-who-live-east-of-the-separation-fence.premium-1.453149>.

Collective Punishment

47. Since 2014, Israel has (re)introduced punitive measures in occupied East Jerusalem that amount to unlawful collective punishment, in violation of international humanitarian law, and/or have resulted in excessive, indiscriminate or deliberate use of force against protected Palestinian civilians, including Palestinian children. These punitive measures are characteristic of Israel's military regime elsewhere in the occupied West Bank and Gaza Strip. These practices stand in stark contrast to the pervasive impunity granted to Israeli civilians, including settlers, for violent attacks carried out against Palestinians.³²
48. Relaxation of open-fire regulations, permission of the use of sniper rifles, which may be lethal, and calls by Israeli officials on citizens to arm themselves and help security forces identify and "neutralize" alleged "Palestinian terrorists,"³³ have resulted in the killing of 36 Palestinians and the injury of 2,924 during both peaceful protests and violent attacks on Israeli security forces and civilians in Jerusalem in 2015 according to UN OCHA. This was accompanied by sweeping arrests of Palestinian protestors, and new punitive measures, including imprisonment terms of three to 15 years for stone-throwing, including for children aged 14 to 18. Moreover, in 2015, Palestinian children from East Jerusalem were held in Israeli administrative detention, without charge or trial, for the first time since 2000, according to Defense for Children International-Palestine.
49. Israel's measures of collective punishment have become institutionalized since 2014, when Palestinian protests were first met with a punitive campaign of the Israeli police and municipal authorities, including arbitrary traffic and other fines, cuts of the water supply and night-time raids of Palestinian neighbourhoods. Since then, the Israeli police has been authorized to impose "closures" by means of concrete blocks and police check points on Palestinian neighbourhoods and other "centres of friction" at any point of time.
50. Punitive house demolitions, an additional form of collective punishment, have been resumed and approved by the Israeli High Court of Justice, including demolition of rented homes. In October 2015, the Israeli Security Cabinet decided that "no new construction will be permitted at the site where a terrorist's home has been demolished. The property of terrorists who perpetrate attacks will be confiscated."³⁴ In the period of 2014 to 1

³² Al Haq, *Special Focus on Jerusalem*, 2015

³³ See, for example: <http://www.timesofisrael.com/jerusalem-mayor-calls-on-residents-to-carry-guns/>

³⁴ Ministry of Foreign Affairs, *Security Cabinet Approves Anti-Terror Measures*, 13 October 2015, at:

<http://mfa.gov.il/MFA/PressRoom/2015/Pages/Security-Cabinet-approves-anti-terror-measures-13-Oct-2015.aspx>

June 2016, Israeli authorities carried out five punitive demolitions of Palestinian homes and sealed another four; one home was targeted for demolition, and 17 further homes had been surveyed but no demolition orders were issued as of then.³⁵ The targets of punitive house demolitions and sealing (by pouring-in concrete) have been homes of Palestinian families with a family member who is accused of an alleged attack against Israeli occupation forces or civilians and, in most cases, was shot dead at the site of the incident. Homes of neighbours are frequently damaged or made uninhabitable in the process of demolition.

51. Punitive residency revocation, on grounds of “breach of allegiance” to the State of Israel, has also been resumed based on a decision of the Israeli Cabinet. In January 2016, the Israeli Interior Minister revoked the residency status of four East Jerusalem Palestinians on these punitive grounds.³⁶ The total number of punitive residency revocations is unclear. Included are cancellations of temporary stay permits issued in the context of family unification processes and the freeze of Israeli medical insurance for their children.

Applicable International Law

52. The State party claims that much of international law, including the Fourth Geneva Convention of 1949, does not apply to the oPt, including occupied East Jerusalem. This claim has been overwhelmingly rejected by the international community, including the UN Security Council and the ICJ. In its 2004 advisory opinion on the Legal Consequences of the Construction of a Wall in the oPt, the Court reaffirmed that East Jerusalem, the rest of the West Bank, and the Gaza Strip are occupied territory and that Israel holds the status of occupying power under international humanitarian law therein. The Court held that East Jerusalem is occupied territory that has been illegally annexed by Israel, and to which both international humanitarian law and international human rights law apply.
53. As occupying power, the State party has an obligation to protect the Palestinian civilian population and to administer the territory for the benefit of said population. Article 27 of the Fourth Geneva Convention of 1949 places extensive obligations on the State party, as occupying power, *vis-à-vis* protected Palestinians, stating: “[p]rotected persons are entitled, in all circumstances, to respect for their persons, their honour, their family

³⁵ HaMoked, “Updated Summary on punitive home demolitions” (01/06/2016), at: <http://www.hamoked.org/Document.aspx?dID=Updates1726>

³⁶ “Punitive Residency Revocation: The Most Recent Tool of Forcible Transfer”; documentation reproduced in *Journal of Palestine Studies*, 2016, issue 66; p. 114.

rights, their religious convictions and practices, and their manner and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.”

54. As occupying power, Israel is vested only with temporary powers of authority and not with sovereignty. The implementation of domestic law in the occupied territory violates Article 43 of the Hague Regulations of 1907. Under this provision, the occupying power is obliged to respect the law in force, except when it is absolutely prevented from so doing, and is also prohibited from making permanent changes.
55. Article 46 of the Hague Regulations of 1907 guarantees protection of private property, stating that it cannot be “confiscated.” Article 53 of the Fourth Geneva Convention of 1949 prohibits, in clear terms, the “destruction” of property unless it is “absolutely necessary” for military operations.
56. The Fourth Geneva Convention of 1949 also states that the occupying power may only carry out total or partial “evacuation” of an area if “the security of the population or imperative military reasons so demand.” If this must occur, then any population so evacuated must be returned to their homes as soon as the hostilities in the area have ceased. In the meantime, the occupying power must ensure those evacuated have “proper accommodation.” The eviction from, confiscation and demolition of Palestinian homes in Sheikh Jarrah, Silwan and throughout occupied East Jerusalem for the construction of illegal Israeli-Jewish settlements is a clear breach of international law.
57. Such displacement is also in clear violation of Article 49(1) of the Fourth Geneva Convention, which states that “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.”
58. Israel’s practice of constructing and expanding Israeli-Jewish settlements is in clear violation of the same article of the Fourth Geneva Convention. Article 49(6) of the Fourth Geneva Convention states: “[t]he occupying power shall not deport or transfer parts of its own civilian population into the territory it occupies.” This means that any government plans to stimulate growth of the Israeli settler population in occupied East Jerusalem, and measures to Judaize the city amount to a grave breach of the Fourth Geneva Convention giving rise to individual criminal responsibility.

59. In 1979, the UN Security Council opined that such policies and practices by Israel “have no legal validity.” It has, in the past, called upon Israel to uphold its responsibilities under the Fourth Geneva Convention of 1949 and “to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories,” in accordance with Articles 49(6) and 47 of the Fourth Geneva Convention.³⁷

Conclusions and Recommendations

60. Palestinian residents of Jerusalem exist under exceptionally difficult living conditions. This harsh reality – in which their rights to housing, residency, movement and education are attacked on a daily basis – exists as part of Israel’s demographic objective, which openly seeks to create an Israeli-Jewish demographic majority, while minimizing and curtailing the Palestinian presence in the city of Jerusalem.
61. Despite what Israel claims, East Jerusalem remains occupied territory and is therefore governed by the laws of armed conflict relating to belligerent occupation. Under these laws, Israel, as occupying power, is prohibited from altering the ‘facts on the ground’ and imposing demographic and geographic restrictions through land confiscations, settlement construction, the ban on family unification and the refusal to grant building permits to Palestinians.
62. In defiance of the stated will of the international community and the inalienable right of the Palestinian people to self-determination, illegal settlement development continues unabated throughout occupied East Jerusalem and the rest of the occupied West Bank. While such actions may succeed in prejudicing final status negotiations by strengthening Israel’s claim to sovereignty over the divided city, the Palestinian people and particularly those families who have been displaced from their homes will bear the full brunt of actions taken by the State party.

³⁷ “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, not by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.” Fourth Geneva Convention of 1949, Article 47.

63. The United Nations and international community have yet to take serious action to support a Palestinian presence in East Jerusalem. As the largest and most influential actor in global politics, the UN is obligated to uphold the rights of Palestinians under international humanitarian law and international human right law. Its position cannot be limited to statements of objection. Rather, it must include strong political and diplomatic action. All High Contracting Parties to the Geneva Conventions of 1949 must fulfil their obligations under Common Article 1 to respect and to ensure respect for the provisions of the Convention under all circumstances by taking appropriate measures to compel the State party to abide by its obligations under international law.
64. **The CCPRJ urges the Committee to consider the violations of ICERD described in this report as part of an institutionalized regime that has been openly and publicly designed to uphold Jewish-Israeli racial domination over the indigenous Palestinian people. The rationale behind Israel’s human rights violations, stem directly from the Zionist aspiration of establishing a State for the Jewish people in complete disregard for the rights of the indigenous Palestinian people. We call on the Committee to condemn Israeli policies and practices as a violation of the prohibition of the crime of apartheid and Article 3 of ICERD. The obligation to cease apartheid policies and practices includes, among others, for Israel the obligation to dismantle its illegal regime of occupation and settler-colonialism in the oPt, including East Jerusalem, by withdrawing its military presence from the occupied territory, dismantling all settlements, the Wall and related infrastructure in the oPt, and ensuring the departure of Israeli settlers from the area and to halt all policies and practices of apartheid committed against the Palestinian people.**
65. **The CCPRJ calls on the Committee to condemn the measures taken by Israel to alter the legal status, character, and demographic composition of the city of Jerusalem, and not recognise any such changes as lawful.**
66. **The CCPRJ calls on the Committee to condemn Israel’s discriminatory policies and practices affecting the rights and presence of the protected Palestinian people in East Jerusalem, and the oPt, to ensure their protection from the imminent risk of forcible transfer, through house demolitions, forced evictions, and land appropriation.**
67. **The CCPRJ calls on the Committee to propose effective measures and a timeline for the enforcement of the obligations contained in the 2004 ICJ Advisory Opinion on the Wall, and ensure Israel, the occupying power, ceases all works on and dismantles the Wall.**

68. **The CCPRJ calls on the Committee to highlight the urgent need for justice and accountability by ensuring perpetrators are held accountable for widespread and systematic human rights violations committed against the protected Palestinian population by referring information on suspected war crimes and crimes against humanity committed in the oPt to the ICC, and urging the Office of the Prosecutor to open, without delay, an investigation into the situation in Palestine since 13 June 2014.**
69. **The CCPRJ urges the Committee to call for an end to Israel's annexation of the city of Jerusalem, and to highlight the responsibility of third States to take collective action to bring internationally wrongful acts to an end, including Israel's apartheid regime over the Palestinian people.**