

**REPORT BY THE  
INTERNAL DISPLACEMENT MONITORING CENTRE  
TO THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL  
RIGHTS**

**List of issues to be taken up in connection with the consideration of the third  
periodic reports of Israel concerning articles 1 to 15 of the International  
Covenant on Economic, Social and Cultural Rights**

**August 2011**

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## EXECUTIVE SUMMARY

Forced displacement in the oPt has manifested itself through Israeli policies of demolitions of civilian property, forced evictions, land expropriation, settlement establishment and expansion, construction of the Wall, restricted access to services, settler violence and military operations in all locations.

Israel's policies and practices, both individually and in combination, are a major cause of forced displacement for Palestinians in the oPt. The displacements, affecting urban as well as rural communities, impact on a range of fundamental human rights and basic humanitarian needs. Over the last decade thousands of Palestinians within the oPt have been forcibly evicted, have had their homes demolished for non-adherence to planning regulations and have been forced to seek alternative housing or to construct makeshift shelters for fear of losing their rights over their land.<sup>2</sup> Many thousands more live in unsafe, uncertain and unsanitary conditions with poor infrastructure. Others, such as Bedouin communities in the Jordan Valley, have faced multiple displacements whilst their traditional rights over land and lifestyle remain unrecognised. Significant numbers are also forced to move because of prolonged lack of access to essential services, in particular education and water and sanitation services. These continuing cycles of displacement have resulted in a loss of family unity, socio-economic collapse of the family and loss of livelihoods, with lands and property no longer accessible. The displacements have also entailed wide-ranging physical and psychological impacts, including trauma and anxiety for children and adults as well as lack of access to health care, clean water, and education.

As an international non-governmental organisation with a developed expertise in working on issues of displacement and durable solutions, this Shadow Report is submitted to the Committee on Economic, Social and Cultural Rights (CESCR) for its consideration of Israel's compliance with its obligations under the ICESCR, obligations that IDMC considers are not presently being met by the State party. The report focuses in particular on violations of housing, land and property-related issues and addresses alleged violations of Articles 2, 11, 13 and 15 of the ICESCR.

## ARTICLE 2 – PROHIBITION AGAINST DISCRIMINATION

1. The overall approach of Israeli authorities to issues of land, housing, settlements and planning in the oPt is clearly discriminative against Palestinians as it encourages Jewish

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<sup>1</sup> The IDMC is an independent, international non-governmental organisation that provides assistance, protection and durable solutions internally displaced persons worldwide.

<sup>2</sup> "Lack of Permit" Demolitions and Resultant Displacement in Area C, UN Office for the Coordination of Humanitarian Affairs (UN OCHA), May 2008; No Place Like Home: House Demolitions in East Jerusalem, Israeli Committee Against House Demolitions, March 2007.

settlement over the rights of Palestinians as ‘protected persons’ under principles of international humanitarian and human rights law. Under international law Israeli settlements in the oPt are unlawful and no settlement activities are permitted.<sup>3</sup>

2. The allocation of land in Area C is a clear demonstration of the discriminatory practices against Palestinians in the oPt. Seventy percent of land in Area C of the West Bank has been allocated for either Israeli military or civilian purposes or for settlements. Of the remaining 30% of Area C, only 1% is, in practice, available for Palestinian development and much of that land is built up already.<sup>4</sup> Whilst Palestinians comprise 36% of the population of the municipality of Jerusalem, they receive only 12% of the municipal budgetary allocation.<sup>5</sup> In Area C, over 94% of applications for building permits to construct homes, livelihood structures and other buildings, submitted to the Israeli authorities by Palestinians between January 2000 and September 2007, were denied.<sup>6</sup> Failure to receive an Israeli-issued building permit can lead to a demolition. The UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 has concluded that house demolitions in the oPt take place in a discriminatory manner.<sup>7</sup>

3. To compound the violation of the introduction of settlements into the oPt, the settlers themselves receive preferential treatment through the use of ‘state land’ allocated for settlements, provision of infrastructure such as roads and water systems, high approval rates for planning permits and the establishment of Special Planning Committees comprised of settlers for consultative decision making processes. They also come under Israeli domestic law rather than the mostly Jordanian law amended by military orders which regulate Palestinians’ lives in Area C of the West Bank.<sup>8</sup> In contrast, Palestinian communities have no access to planning decisions that affect them directly, are rarely consulted in the drafting or preparation of plans and face prohibitively expensive and bureaucratic procedures to object to plans already established.

4. The application of certain laws impermissibly discriminates between Israeli-Jews and Palestinian land owners. Under the Law of Legal and Administrative Matters of 1970, the Israeli General Custodian<sup>9</sup> is authorised to return to Jewish owners properties in occupied East Jerusalem that were previously under Jordanian control during 1948-1967. Conversely, Palestinians who are internally displaced are prevented from reclaiming their pre-1948 owned property in West Jerusalem or other parts of Israel and are therefore blocked from reasserting their property rights and have little access to restitution.<sup>10</sup>

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<sup>3</sup> ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory Advisory Opinion, 43 IL M 1009 (2004); Article 49 (6), Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949.

<sup>4</sup> Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank, OCHA Special Focus, December 2009; Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories, Human Rights Watch, 19 December 2010.

<sup>5</sup> Meir Margalit, “Seizing Control of Space in East Jerusalem”, June 2010, pp. 27-28.

<sup>6</sup> “Lack of Permit” Demolitions and Resultant Displacement in Area C, OCHA Special Focus, May 2008.

<sup>7</sup> Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, para 41, UN Doc. A/HRC/7/17 (21 January 2008).

<sup>8</sup> See Separate and Unequal: Israel’s Discriminatory Treatment of Palestinians in the Occupied Palestinian Territories, Human Rights Watch, 19 December 2010.

<sup>9</sup> The General Custodian, a body under the Israeli Ministry of Justice, acts as a trustee for land in East Jerusalem which is determined to be owned by Jewish individuals prior to 1948.

<sup>10</sup> Properties have been returned to Palestinians in very rare cases.

5. For example the residents of part of the "Sheikh Jarrah"<sup>11</sup> area in East Jerusalem are Palestinian refugees from 1948 who were housed in a cooperative project of the government of Jordan and UNRWA. Israeli courts have upheld a preliminary registration of the land by Jewish claimants which is based on their pre-1948 ownership claims. Whilst land registration in East Jerusalem has effectively been frozen since 1967, these Jewish claimants have succeeded in obtaining land in East Jerusalem, while there is no equivalent legal provision for Palestinians to do the same. Palestinian families who owned property in Israel prior to 1948 are unable to initiate similar legal proceedings to reclaim their land. The lack of reciprocal entitlements indicates that such proceedings are based on a discriminatory and arbitrary legal foundation. Under the Absentees' Property Law of 1950,<sup>12</sup> the definition of an 'absentee' includes Palestinians who are found to be absent although they are present in Israeli or the oPt (as detailed below).

6. In 2003, Israel declared the area of land between the 1949 Armistice 'Green Line' and the Wall a closed military zone to Palestinians, and the West Bank Seam Zone permit regime was introduced. The permit regime, recently upheld by the Israeli High Court of Justice, is a policy which obligates Palestinians to obtain special and provisional permits from the Israeli army to enter the Seam Zone and access their own homes and lands. Only those that can prove permanent residency in the Seam Zone can live there. Conversely, the regime allows Israelis and foreigners to access the land freely by specifically exempting them. The regime is non-transparent and highly bureaucratized requiring multiple applications for continued access. Moreover, whilst Israel has increased the area of land subject to the regime by 30% since the initial declaration, since 2007 there has been an 87% decrease in the number of permits issued.<sup>13</sup>

#### ARTICLE 11 – THE RIGHT TO AN ADEQUATE STANDARD OF LIVING

7. The CESCR has noted that the right to adequate housing, as derived from the right to an adequate standard of living, should not be interpreted in a narrow or restrictive sense but should be seen as the right to live somewhere in security, peace and dignity.<sup>14</sup> Other corollary and implicit rights include rights to access to land, to food and water, to legal security of tenure, reasonable planning regimes and the provision of proper infrastructure and services, as well as prohibitions on forced evictions and the arbitrary destruction of civilian property. This section of the report addresses some of those issues thematically, supported by practical examples, to demonstrate the individual and collective impact of Israeli government housing and land planning policies and practices on the Palestinians in the oPt.

<sup>11</sup> At the time of writing, four extended households in that part of Sheikh Jarrah have been forcibly evicted from their homes and 11 are currently facing civil eviction proceedings.

<sup>12</sup> The definition of 'absentee' in the law is very broad, encompassing, among others, anyone visiting any of the countries listed in the Law commencing from November 29th 1947; any person who had or received a status in those countries during the relevant period; and also even anyone who merely departed for a short time from his ordinary place of residence in Palestine to another place in Palestine that was held at that time by anyone fighting against Israel and returned to his home shortly afterwards. Even those people who returned after a short while to Israel and became Israeli citizens were considered 'absentees' in relation to their properties, which were vested in the Custodian.

<sup>13</sup> Petition HCJ 9961/03 HaMoked: Center for the Defense of the Individual and The Association for Civil Rights in Israel (ACRI) v. Government of Israel (permits regime). Figures cited by the Government of Israel in their response to the petition.

<sup>14</sup> CESCR General Comment No. 4 (1991), 'The Right to Adequate Housing', para 7

a. Access to land; declarations of 'state land' and 'closed military zones'

8. Access to land is a critical aspect of the right to an adequate standard of living.<sup>15</sup> Without land and access to it other key rights that fall within the category of guarantees essential to an adequate standard of living, such as the right to adequate housing, and the right to food and water cannot be realised.

9. Rather than facilitating access to land for Palestinian communities, especially within Area C of the West Bank and East Jerusalem, policies and practices of Israeli authorities reduced access to land through a package of measures, regulations and actions which have the effect of forcing Palestinian communities from their land. As the Palestinian population increases within the oPt, conversely, their access to land is shrinking, thus placing greater pressure on communities and severely impacting on their basic rights and existence.

10. Israel's denial of access to land occurs through a variety of measures including declarations of 'state land' and 'closed military zones'; requisition/land seizure orders; use of the Absentees' Property Law (discussed below); the Seam Zone permit regime<sup>16</sup>; expansion of settlements; and expropriation of property. The package of measures should be viewed in their cumulative impact on communities. Whilst Area C of the West Bank, under full Israeli military and civil control, comprises at least 60% of the entire West Bank, the majority of Area C (70%) is not designated for the use of the Palestinian population.<sup>17</sup> Instead, this land is allocated for Israeli settlements, military zones, nature reserves, 'state land' and the 'buffer zone' around the Wall. Of the remaining 30%, only 1% is available, in practical terms, for Palestinian development.<sup>18</sup>

11. Between 1967 and 2011, the percentage of land in the oPt declared as 'state land' by Israel has more than doubled from 700,000 dunums (70,000 hectares) to over 1.4 million dunums (140,000). Not only has this resulted in a decrease in land available to Palestinian communities, but the vast majority of the 121 Israeli settlements in the West Bank<sup>19</sup> are located on this declared 'state land', mainly on mountain ridges not far from the built-up areas of hundreds of Palestinian villages. The majority of Bedouin communities at risk of forced displacement live on 'state land'. These Bedouin are not only at constant risk of having their homes and livelihood structures demolished, but also of becoming subject to 'relocation' by the Israeli authorities through a non-consultative process. Further, the declaration of closed military zones on the boundaries of settlements has reduced the ability of local communities to use land outside their villages for herding and agriculture.

b. Legal security of tenure; difficulties in registration of property rights and use of the Absentees' Property Law

12. A key guarantee of the right to land and housing, and thus to an adequate standard of living, is through legal security of tenure.<sup>20</sup>

<sup>15</sup> Ibid., para 8(e)

<sup>16</sup> The Seam Zone is the area between the Wall and the 1949 Armistice 'Green' Line.

<sup>17</sup> Restricting Space: The Planning Regime applied by Israel in Area C of the West Bank, OCHA Special Focus, December 2009.

<sup>18</sup> Ibid.

<sup>19</sup> In addition to the 121 official settlements recognised by the Israeli Ministry of the Interior, there are currently some 100 additional unauthorised outposts which the Israeli government does not officially recognise as separate communities, even though various government agencies have been involved in the establishment of these outposts. See Hook and by Crook – Israeli Settlement Policy in the West Bank B'Tselem, July 2010, p.9.

<sup>20</sup> CESCR General Comment No. 4 (1991), 'The Right to Adequate Housing', para 8(a).

13. Israel's freeze in place on land registration procedures in the West Bank, introduced in 1968 through an Israeli military order,<sup>21</sup> has prevented the finalisation of land registration procedures that were in process at the time of the occupation. As a result, nearly 70% of land in the West Bank remains unregistered in the Land Registry,<sup>22</sup> leaving the traditional owners/residents of the land vulnerable to confiscation or expropriation of their land and thus at risk of forced displacement; a situation which has been fully utilised by Israeli authorities.

14. The official reason given by the Israeli authorities for stopping the land settlement process in the West Bank following its occupation in 1967 was its duty to protect the rights of absentees; those Palestinians who fled the West Bank in 1967 and left much property behind them, including hundreds of thousands of dunums (tens of thousands of hectares) of land. Carrying out land settlement investigations under such circumstances, Israel argued, would lead to much of the land belonging to absentees being registered in the Land Registry in the names of local residents who had not fled the area, thus seriously harming the absentees' property rights.<sup>23</sup> However, this has not prevented the Israeli authorities from allocating 'absentee'-owned land – fully registered in the Land Registry before 1967 – for the construction of Israeli settlements. Israel's own State Comptroller found that in the 1960s and 1970s thousands of dunums (hundreds of hectares) of absentee land in the Jordan Valley were allocated for the construction of Israeli settlements.<sup>24</sup>

15. Security of tenure also requires that processes for ensuring legal tenure be affordable and accessible. This is not the case for members of Palestinian communities wishing to challenge the declaration of their land as state land. The costs involved with the procedure are prohibitive, including fees for lawyers, architects and surveyors, and a great many owner/occupants are consequently unable to protect their property interests. For those with sufficient funds to challenge the declaration, the prospects of success are remote on account of the onerous procedural and legal requirements imposed by the Israeli Civil Administration and Israeli Military Committees.

16. The extensive and controversial use of the Absentees' Property Law to land and property mainly owned by Palestinians within Israel as well as within occupied East Jerusalem, is a further infringement of the right to secure tenure and of the ability to use land owned (for building, developing, etc.). The Absentees' Property Law severely impinges on Palestinians' right to an adequate standard of living as it is used as a method to deprive Palestinians of use of, access to and ownership of their housing, land and property in areas under Israeli occupation. Its essence is to transfer the property left behind by Palestinians after they fled or were deported during the 1948 War to the exclusive control of the state of Israel. Although the Law is theoretically applicable to a wide sector of Israel's citizens and residents, it has been applied almost exclusively to Arab citizens and residents of Israel and Palestinians living in the occupied territory.<sup>25</sup> Under the auspices of this Law, properties have been expropriated from the hands of Palestinians who, under international law, are protected residents in an occupied territory, and in an area (East Jerusalem) on which the application of the sovereignty of Israel (including use of its domestic law) is contrary to the provisions of international law and the position of the

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<sup>21</sup> Order concerning Land and Water Settlement (Judea and Samaria) (No.291),1968.

<sup>22</sup> Talia Sasson, (Interim) Opinion concerning Unauthorised OutpostsJerusalem, 2005, p. 61.

<sup>23</sup> Eyal Zamir, State Lands in Judea and Samaria, p. 27.

<sup>24</sup> State Comptroller, State Comptroller's Annual Report 56a, 2005, pp. 222.

<sup>25</sup> In Area C of the West Bank, 'absentee' property is confiscated using a number of military orders, rather than the Israeli Absentees' Property Law, but the effect is the same.



international community. In its most absurd application the illegal annexation of East Jerusalem to Israel has meant that East Jerusalem properties of West Bank-resident Palestinians, who do not have the requisite Israeli identity documentation to reside in Jerusalem, became absentee property, since the property became located in 'Israel' while the owner was located in 'any part of Palestine outside the area of Israel'.

c. Planning regime; unreasonable requirements and discriminatory application

17. As a signatory to the ICESCR, Israel, as an occupying power, is obliged to put in place the necessary regulatory and administrative measures to ensure the rights to adequate housing, to water and to an adequate standard of living for persons under its control. In this context, planning regimes, including issuance of building permits, should be in accordance with human rights principles and standards. Planning must address the needs of the local population, be reasonable and capable of compliance by the local population and be applied in a non-discriminatory manner.

18. In East Jerusalem, only 13% of the available area is designated for Palestinian construction and only 7.5% of the entire area of Jerusalem, despite the Palestinian population comprising 36% of the municipality. In most of the neighbourhoods, the building possibilities in areas designated for building in the valid plans have already been exhausted. This has precipitated a housing crisis for Palestinians living in East Jerusalem with at least 32% of Palestinian homes in East Jerusalem built in contravention of the Israeli zoning regime, placing about 86,500 Palestinians in East Jerusalem at risk of demolition orders and displacement.<sup>26</sup> Given their inability to obtain Israeli building permits, many Palestinians no longer apply and instead build without permits in order to meet their needs, despite the ever-present risk of demolition.

19. Between January 2000 and September 2007, over 94% of building permit applications submitted by Palestinians to Israeli authorities in Area C were rejected,<sup>27</sup> thus forcing many Palestinians to build without permits.

20. The lack of reasonable and meaningful consultation with Palestinian communities by Israeli authorities in relation to planning decisions affecting the communities is a further infringement of Article 11. For example, a community master plan prepared by the Palestinian residents of the Al Bustan area in East Jerusalem in 2009 which would allow them to 'legitimise' and maintain their residential and livelihood structures, was effectively rejected by the Jerusalem Municipality, which recommended its own plan for further consideration. The Municipality plan designates the area a site of historical and tourist interest and would result in the displacement of up to 500 residents of the Al Bustan area. The Municipality's plan was created without any consultation with the Palestinians affected by it. While the planning procedures are ongoing, the community still faces numerous demolition orders and uncertainty over what will happen to them.

d. Demolitions of civilian property

21. In ensuring respect for the right to adequate housing, the CESCR emphasises the fundamental obligation of States to protect and improve houses and residential areas, rather than

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<sup>26</sup> East Jerusalem: Key Humanitarian Concerns, OCHA, March 2011.

<sup>27</sup> "Lack of Permit" Demolitions and Resultant Displacement in Area C, OCHA Special Focus, May 2008.

to damage or destroy them.<sup>28</sup> Inflexible and onerous Israeli planning regimes in the oPt result in Palestinian construction without building permits, which consequently results in the demolition of the property by Israeli authorities.

22. Demolitions of civilian property, including homes, schools and water cisterns, has markedly increased over the last two years, having a devastating impact on individual families and whole communities, and has been a major trigger for Palestinians' displacement in the oPt. There are an estimated 8,000 pending demolition orders in East Jerusalem, potentially putting at risk of displacement approximately 48,000 Palestinians.<sup>29</sup> Many of the demolition orders and proceedings in East Jerusalem are criminal and result in large fines payable by the residents, uncertainty about when orders will be implemented and potential other related criminal indictments.

23. Paralleling the increase in the issuance of stop work and demolition orders OCHA recorded 439 actual demolitions in 2010, including 82 in East Jerusalem, affecting 14,753 people. This is the highest number of demolitions OCHA have recorded in Area C since they started monitoring in 2005, and an 88% increase in the number they recorded in Area C for 2009. In 2011, 201 residential and community structures have already been demolished in East Jerusalem and Area C, impacting an estimated 886 people.

24. A marked increase in demolitions of community infrastructure, such as water sources, has had a particularly severe impact on villages, whose viability as a community rapidly diminishes without access to such basic services. The demolition of four water wells in Jenin Governorate in October 2010 affected 11,583 people alone, as the wells were used by the separate villages of Deir Abu Da'if, Beit Qad, Wad Ad Dabi', Jalbun and Faqu'a.<sup>30</sup> Such actions are in direct contravention of the obligation to refrain from interfering directly or indirectly with the enjoyment of the right to water and the prohibition on destroying water services and infrastructures in breach of principles of international humanitarian law.<sup>31</sup>

25. Whilst demolitions can be stayed through legal petitions to obtain temporary court-ordered injunctions, recent developments have indicated that even such legal protection is in jeopardy. In Fasayil Al-Fauqa, a West Bank village north of Jericho, the High Court of Justice has decided to review previous decisions to issue injunctions in relation to 11 of 33 demolition and eviction orders, one of which was for a school providing education for about 95 students. This is a dangerous development which could result in accelerated displacement.

e. Forced evictions

26. The right to protection against forced evictions is linked to the right to adequate housing and is increasingly recognised as human right under international law.<sup>32</sup>

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<sup>28</sup> Global Strategy for Shelter to the Year 2000, adopted by the General Assembly in its resolution 43/181 as set out in CESCR General Comment No. 7, para 2.

<sup>29</sup> This estimates that there are, on average, six people per household.

<sup>30</sup> Demolition Summary Table, Displacement Working Group, Protection Cluster, oPt, 31 December, 2010.

<sup>31</sup> CESCR General Comment No. 15 (2002), 'The Right to Water', para 21.

<sup>32</sup> CESCR General Comment No. 7 (1997), 'The Right to Adequate Housing; Forced Evictions'.



27. Evictions in the context of the oPt are typically arbitrary and/or illegal as they disproportionately target certain communities, such as Palestinian communities, are the consequence of the near impossibility of compliance with onerous planning regulations and are often the result of the unlawful application of domestic Israeli law over occupied territory where international humanitarian law is applicable, such as in East Jerusalem. The Sheikh Jarrah case concerns ongoing legal proceedings for the eviction of nine Palestinian families who lived in what is now the state of Israel, prior to 1948. After the 1948 War they were resettled to the area of Sheikh Jarrah as refugees. While families have already been evicted from their homes (which have been taken over by Israeli settlers) and other families face the threat of eviction, the Israeli courts are determining the ownership of the land and giving rights to Jewish individuals and groups in occupied East Jerusalem, which is strengthening Israel's unlawful annexation of East Jerusalem, failing to protect the occupied population and further limiting the property rights of Palestinians now and in the future.

28. The CESCR notes that many forced evictions are 'associated with violence, such as evictions resulting from international armed conflicts, internal strife and communal or ethnic violence'.<sup>33</sup> In East Jerusalem this has been demonstrated, both by settler violence before and during eviction proceedings in the Sheikh Jarrah area and also by the state's failure to provide adequate protection for evicted families during these proceedings, or accountability for incidents when they do occur. Sheikh Jarrah residents have also reported that settlers who have taken over buildings in their area have, on occasion, been accompanied by supporters who have, under the protection of the police, also verbally abused and harassed residents with impunity.

f. Availability of services, facilities and infrastructure

28. In addition to the requirements for adequacy of housing, the CESCR has stressed the necessity of associated services, facilities and infrastructure for the delivery of food, water, health and sanitation services.<sup>34</sup>

29. The Palestinian communities in occupied East Jerusalem suffer from discriminatory neglect in the provision of public infrastructure, facilities and services. Despite the fact that all residents of Jerusalem are required to pay municipal taxes, the services provided to Palestinian residents in East Jerusalem differ significantly. Specifically, East Jerusalem residents, who make up 36% of the population of Jerusalem, receive 12% of the municipal budget, while the 64% of the population who reside in West Jerusalem receive 88% of the budget.<sup>35</sup> This discriminatory allocation of budgetary resources has resulted in substantial inequalities between Palestinian and Israeli areas of Jerusalem, including a lack of over 50 kilometres of sewage lines forcing multiple Palestinian neighbourhoods to rely on open drains for sewage disposal.<sup>36</sup> Similarly, over 160,000 Palestinian residents have no suitable and legal connections to the water network.<sup>37</sup>

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<sup>33</sup> CESCR General Comment No. 7 (1997), 'The Right to Adequate Housing; Forced Evictions', para 16.

<sup>34</sup> CESCR General Comment No. 4 (1991), 'The Right to Adequate Housing', para 8(b).

<sup>35</sup> Meir Margalit, 'Seizing Control of Space in East Jerusalem', Jerusalem, June 2010, pp.27-28.

<sup>36</sup> Also see The Civic Coalition for Defending Palestinians' Rights in Jerusalem, 'Aggressive Urbanism: Urban Planning and the Displacement of Palestinians within and from Occupied East Jerusalem', December 2009, pp.47-49.

<sup>37</sup> Association of Civil Rights in Israel, 'Human Rights in East Jerusalem: Facts and Figures', May 2010, p.52.

g. Lack of sufficient housing in Gaza

30. A range of different violations of the right to adequate housing and the right to an adequate standard of living manifest themselves in Gaza.

31. As a result of the December 2008 – January 2009 Israeli military operation in the Gaza Strip, over 20,000 people were displaced, many of whom have subsequently been unable to rebuild their damaged homes because of the Israeli and Egyptian blockade of the strip. Almost a year after the Israeli announced ‘ease’ of the Gaza blockade, shelter reconstruction is still at a standstill. As of May 2011, humanitarian agencies have only been able to rebuild 1,072 majorly damaged and 106 totally damaged homes of the 6,280 houses that were completely destroyed or received major damage during the ‘Cast Lead’ operation. They have not been able to provide shelter assistance to the 2,886 families who were already suffering from pre-‘Cast Lead’ housing destruction, or the 5,611 refugee families who are still living in derelict and unsanitary shelters.<sup>38</sup>

32. While the ‘ease’ in the blockade has seen an increase in foodstuffs, consumer goods and even cars coming through official Israeli checkpoints, vital building materials like steel, aggregate and cement remain on the Israeli ‘Dual Use List’ which Israel categorises as materials liable to be used, side-by-side with their civilian purposes, for the development, production, installation or enhancement of military capabilities and terrorist capacities, and are therefore banned from import into the strip.

33. Inflow of construction materials is still at only 11% of pre-blockade levels. Only 7% of the building plan for UNRWA projects in Gaza has been approved and, in practice, only a small fraction of the necessary construction material has been allowed to enter for those projects, including for schools and health centres.

34. In addition, in the two years since the end of ‘Cast Lead’, Israel has further destroyed or damaged over 600 homes in Gaza, through ongoing military incursions and air strikes on the strip, affecting an estimated 3,600 people.

35. Population growth and the strain on the scarce housing stock means an estimated 75,000 additional housing units need to be built to meet current needs.<sup>39</sup> Because of the blockade, families are unable to support themselves by accessing livelihoods outside of the strip and are, in some cases, wholly dependent on aid. In the absence of the possibility for people to leave Gaza, the blockade imposes severe stress on families who are hosting those who lost their homes. This presents a myriad of protection issues as well as the long term degradation of the housing stock and an overburdening of already weak infrastructure networks.

#### ARTICLE 13 – RIGHT TO EDUCATION

36. Palestinian children do not fully enjoy access to an adequate standard of education or a protected educational environment for various reasons, including the difficulty of obtaining building permits from the Israeli Civil Administration for the construction, expansion or rehabilitation of schools, resulting in sub-standard school infrastructure and a chronic shortage of classrooms. Restrictions on access and movement owing to the Wall and other closures is also

<sup>38</sup> Shelter Advocacy Fact Sheet 3, Shelter Sector Gaza, January 2011.

<sup>39</sup> Shelter Advocacy Fact Sheet 3, Shelter Sector Gaza, January 2011.

another major factor. Incidents of violence perpetrated by settlers and the Israeli military against children and educational staff are regular occurrences.

37. Approximately 5,000 students in East Jerusalem will not attend school in 2011 due to the shortage of over 1,000 classrooms.<sup>40</sup> In Area C of the West Bank, 24 schools remain at risk of demolition by the Israeli authorities, including a school for the Jahalin Bedouin community which has been the subject of repeated demolition orders and which provides a key educational access point for primary school-age Bedouin girls. Data from the Monitoring and Reporting Mechanism for Children Affected by Armed Conflict show that at least 19 schools in the West Bank, including East Jerusalem, currently have either demolition or stop work orders against them.

38. In the Gaza Strip, over 80% of the damage inflicted on 200 schools and 60 kindergartens affected during the 2008/2009 'Cast Lead' military offensive has yet to be repaired owing to the blockade. Additionally, 525 schools in Gaza (approximately 80% of all schools) are currently double-shifted, leading to reduced hours in school, extreme pressure on students and teachers to cover curriculum and a reduction in overall quality. A minimum of 200 new schools will need to be built to cope with current needs, without taking into account projected needs for the next five years.

39. In addition to the overcrowding, the lack of school time has a disproportionately negative effect on the most vulnerable children. Schools with high proportions of very poor students suffer high rates of dropout. In boys' schools in Rafah many boys are absent or pushed out from school to work in the tunnels. Children with learning difficulties and special needs are becoming increasingly excluded as teachers struggle to cope with reduced classroom time and social services.

40. Negative impacts on academic achievement are felt in all areas, as a result of conflict, overcrowding, and lack of access to classroom space for children. There is also a close connection between lack of access to education and forced displacement, as many families are forced to either move or to send children away to larger towns to access educational services.

#### ARTICLE 15 – CULTURAL RIGHTS

41. The right to respect for cultural rights includes the right for indigenous communities to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired. State parties are required to respect, protect and prevent the degradation of their particular way of life, including their means of subsistence, the loss of their natural resources and their cultural identity.<sup>41</sup>

42. The Bedouin communities resident in the West Bank are at particular risk of multiple displacements and loss of their traditional way of life through restrictive Israeli planning regulations and the declaration of lands the Bedouin have traditionally used for herding and grazing as 'state land' or 'closed military zones'. Most of the Bedouin are recognized as 1948 refugees and have already suffered from displacement. Israeli land appropriations have reduced the amount of pasture land available to the Bedouin and impacts on the viability of their traditional way of life. No reasonable alternatives are provided to the Bedouin other than

<sup>40</sup> State Comptroller, Annual Report 59b, May 2009, cited in ACRI, Ir Amim, Failed Grade, p. 5.

<sup>41</sup> CESCR General Comment No. 21 (2009), 'Right of Everyone to take part in Cultural Life', para 36.

relocation to urban townships, measures which are incompatible with their cultural identity and traditional lifestyle. As permission for the construction of residential and livelihood structures is routinely denied, Bedouin communities are forced to build without permission, resulting in destruction of property, forced eviction and multiple displacements.

43. The Jahalin community in Area C of the West Bank is at imminent threat of forced eviction from land they have resided on for more than 60 years as a result of demolition orders over their residential structures and community school. The Khirbeit Tana community in the northern West Bank near Nablus is similarly affected. The prohibition on construction prevents them from erecting shelter to protect their livestock. The Israeli state prosecutor has recently sought the lifting of 11 injunction orders preventing the demolition of residential structures for the Fasayil Al-Fauqa community north of Jericho. The current upsurge in demolition orders for Bedouin communities in the West Bank, particularly the Jordan Valley, will dramatically increase their displacement if implemented and impact on the sustainability of the communities and their ability to maintain their cultural life.

## RECOMMENDATIONS

44. Israel should immediately cancel and cease issuance of all stop work and demolition orders on Palestinian structures in the occupied Palestinian territory, including on homes; livelihoods structures; public infrastructure such as schools, water cisterns, electrical networks; the uprooting of trees; and the destruction of agricultural land. IDMC believes this is a practical and realistic goal that would have an enormous impact on the quality of life for Palestinians at risk of forced displacement in Area C and East Jerusalem. A freeze on demolitions does not need legislative change and could be implemented immediately through a decision by the Minister of Defence for Area C and the Minister of Interior for East Jerusalem.

45. Israel should cancel all pending orders for forced evictions in East Jerusalem and a moratorium should be placed on future forced evictions until such time as the law is amended in a manner that complies with international standards, or the final status of East Jerusalem is decided by the two parties.

46. Israel should grant building permits for Palestinians living in Area C and East Jerusalem, consistently with the humanitarian needs of the communities and the right to adequate housing. In the context of the expansion of town planning schemes, Israel should grant retroactive building permits for structures already built without a permit.

47. Planning in Area C should be handed to a purely civilian body that involves genuine consultation, participation and representation from local Palestinian communities.

48. Israel should immediately end restrictions on raw reconstruction materials entering Gaza, specifically steel, cement and aggregate.