



**Submission from the Internal Displacement Monitoring
Centre (IDMC)
to the Human Rights Committee**
For consideration at its 112th session (7-31 October 2014)

Israel

12 September 2014

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Question 4: the applicability of the International Covenant on Civil and Political Rights (ICCPR) to occupied Palestine (arts. 2, 6, and 22)

With reference to the Human Rights Committee's (HRC) previous Concluding Observations (para. 5), question 4 requested updated information on developments aimed at ensuring the full application of the ICCPR in Israel, as well as in the Occupied Palestinian Territory, including East Jerusalem and the Occupied Syrian Golan.

In its response to Question 4, Israel stated that the ICCPR did not apply to areas "beyond [Israel's] national territory".¹ Israel accepted that the ICCPR extends to East Jerusalem and the Golan Heights where it applies Israeli law on account of its unilateral annexation of these territories, but considered the ICCPR non-applicable to the occupied Palestinian Territory.

1. Israel is under a clear obligation to respect and protect the rights of Palestinians living in all parts of occupied Palestine, i.e. the Gaza Strip and the West Bank including East Jerusalem, in accordance with international human rights law and its obligations as an occupying power under international humanitarian law.² In its report, Israel did not respond to any of the issues regarding violations of civil and political rights in these parts of the Palestinian Territory, stating that the ICCPR "[did] not apply, nor was it intended to apply, to areas beyond a state's national territory"³. With respect to the West Bank and the Gaza Strip in particular, this means that Israel, as a State party to the ICCPR, has not addressed the civil and political rights of four million Palestinians, thus violating Article 2 of the ICCPR.

Question 6 (b): right to privacy, right to participate in public life, right to equality and non-discrimination and rights of persons belonging to minorities (arts. 2, 17, 25, and 26)

In line with the Concluding Observations of September 2010,⁴ question 6(b) requested information on measures taken to review Israel's housing policy and the issuance of construction permits, to ensure that municipal planning systems are not discriminatory and to increase the legal construction of houses in the West Bank and East Jerusalem.

In its report, Israel reiterated its position that the ICCPR did not apply outside the state's territory.

With regards to East Jerusalem, which was illegally annexed by Israel, the report stated that the new outline plan for Jerusalem, which is currently in authorization process, determines the planning policy in the city's jurisdiction. In the eastern neighbourhoods of Jerusalem, the plan addresses two main issues which are meant to facilitate the construction of additional housing units:

- *Substantial increase of construction rates in all of the authorized residential areas in the eastern neighbourhoods of Jerusalem [...]*

¹ Fourth Periodic Report of Israel, 12 December 2013, (CCPR/C/ISR/4), paragraph 48.

² Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) ICJ Rep 2004, paragraphs 102 – 113; Concluding Observations of the Human Rights Committee, paragraph 5, 3 September 2010, (CCPR/C/ISR/CO/3).

³ Fourth Periodic Report of Israel, 12 December 2013, (CCPR/C/ISR/4), paragraph 48.

⁴ Consideration of reports submitted by States parties under article 40 of the Covenant: concluding observations of the Human Rights Committee, Israel (CCPR/C/ISR/CO/3, 3 September 2010), paragraph 17.

- *In addition, the plan, for the first time, sets 14 new residential areas. Hereinafter are several examples: a master plan for the Arab Al-Sawhara neighborhood which includes about 2,500 housing units, a detailed plan for the Dir Al-Amoud and Al Mountar neighbourhoods [...], an outline plan for the Tel Adasa neighbourhood which includes about 2,500 housing units.*

Discriminatory practices relating to planning in the West Bank and displacement

2. Displacement in occupied Palestine results from many triggers, such as demolition of civilian property, forced evictions, land expropriation, settlement establishment or expansion, the construction of the Wall, movement and access restrictions, settler violence and Israeli military operations.⁵ Housing policies, the issuing of construction permits and spatial planning practices are some of the overarching causes which explain both the patterns and frequency of displacement. Throughout the West Bank, Israel has implemented a set of policies that restrict Palestinian participation in the planning process and impairs their enjoyment of housing land and property rights. At the same time, Israeli settlements have enjoyed substantial advantages in access to land and other natural resources despite their illegal status under Article 49 of the IV Geneva Convention.⁶
3. In its most recent Concluding Observations on the report submitted to it by Israel, the Committee on the Elimination of Racial Discrimination, stated that it was *“extremely concerned at the consequences of policies and practices which amount to de facto segregation, such as the implementation by the State party in the occupied Palestinian territory of two entirely separate legal systems and sets of institutions for Jewish communities grouped in illegal settlements on the one hand and Palestinian populations living in Palestinian towns and villages on the other hand. The Committee is particularly appalled at the hermetic character of the separation of two groups, who live on the same territory but do not enjoy either equal use of roads and infrastructure or equal access to basic services and water resources”*.⁷

Area C: discriminatory spatial planning and destruction of Palestinian homes

4. Area C, defined in the Oslo Agreements as the part of the West Bank under full Israeli control, corresponds to approximately 62 percent of the West Bank and is home to at least 297,000 Palestinians. The Palestinian communities in Area C include some of the poorest in the West Bank and also the most vulnerable to displacement caused by the triggers listed above.⁸ In Area C, the Israeli military’s control over spatial planning and the manner in which it is exercising it, including by demolishing Palestinian-owned structures, violates provisions of Article 25 in regards to the right to participate in public affairs and the right to equality and non-discrimination.
5. In April 2014, during a meeting of the Knesset’s Foreign and Security Committee’s Subcommittee on Judea and Samaria on the question of *“illegal Palestinian construction in Area C”*, some members as well as military officials, stated that the

⁵ IDMC, overview, 2011 (available at: <http://www.internal-displacement.org/middle-east-and-north-africa/palestine/2011/no-end-to-internal-displacement/>)

⁶ ICRC, Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 49 (available at: <https://www.icrc.org/ihl/WebART/380-600056>).

⁷ CERD, *Concluding Observation* (CERD/C/ISR/CO/14-16), 9 March 2012, paragraph 24 (available at: <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.ISR.CO.14-16.pdf>).

⁸ UNOCHA, Area C Vulnerability Profile, March 2014, p. 1 (available at: http://www.ochaopt.org/documents/ocha_opt_fact_sheet_5_3_2014_En.pdf).

Israeli military was enforcing spatial planning regulations in order to cause the displacement of Palestinians from areas in Area C which are a priority for the Israeli settlers movement, namely the Jerusalem periphery, the Jordan Valley, and the south Hebron hills. This included the destruction of residential and livelihood structures, and the seizing of humanitarian aid materials for displaced communities.⁹ Maj. Gen. Mordechai stated: *“We demolish inhabited houses, skeletons at advanced stages of construction, high-rise buildings (...) and we do it very frequently. [...Regarding] Bedouins (...), the first main challenge (...) is the multiple petitions submitted to the Israeli High Court of Justice [against the demolitions]. [...] The second challenge is around E-1¹⁰ [...] there is construction that takes place very close to an area under the consideration of the Israeli High Court of Justice, so our ability to physically enforce [the demolition orders] is limited and difficult. This is why we are trying to arrange outline plans so that later we have the moral and legal validity to enforce [the demolition orders].”*¹¹

6. In recent years, hundreds of Palestinian homes and other structures have been demolished on the ground that the Israeli authorities had not issued the required building permits, which led to the displacement of their residents.¹² In 2013, Palestinian residents in 88 per cent of localities in Area C listed spatial planning as the major obstacle to access their livelihood, while residents of 61 per cent of localities mentioned settlement activities as being directly responsible for their limited access to land.¹³ In 2013, the Israeli authorities demolished 565 structures (homes as well as other buildings such as schools, etc), which led to the displacement of 805 people, including 405 children.

The planning system in the West Bank: institutional discrimination and the constant risk of displacement

7. Prior to the occupation of the West Bank in 1967, local Palestinian communities had control over spatial planning of their surroundings and played a participatory role in district and regional level planning committees. In 1971, the Israeli Military Commander operating in the West Bank issued Military Order No. 418 “Concerning Towns, Villages and Buildings Planning”¹⁴ that abolished the local and the district planning committees, transferring their powers to a military controlled institution composed of six Israeli officers, the Planning and Licensing Subcommittee of the Higher Planning Council.¹⁵ In contrast, and despite the fact that settlements are illegal

⁹ Amira Hass, “IDF uses live-fire zones to expel Palestinians from areas of West Bank, officer admits”, *Haaretz*, 21 May 2014, (available at: <http://www.haaretz.com/news/diplomacy-defense/.premium-1.591881>).

¹⁰ “E1” refers to a controversial master plan which covers an area of approximately 12 kilometres and is intended for the expansion of settlements in the West Bank. The implementation of the plan implies the forced displacement of a large number of Palestinian, particularly Bedouin communities, and the further reduction of the already narrow corridor that connects the northern and southern West Bank, impeding the establishment of a Palestinian state with territorial contiguity. It will result in Palestinian lands inside E-1 becoming enclaves surrounded by built-up areas of settlements.

¹¹ Knesset hearing leaked minutes, pp. 12-13 (available at: UNOCHA, Forced Displacement: Overview, August 2014, (available at: <http://www.ochaopt.org/content.aspx?id=1010137>).

¹² UNOCHA, Forced Displacement: Overview, August 2014, (available at: <http://www.ochaopt.org/content.aspx?id=1010137>).

¹³ Ibid

¹⁴ Order concerning Towns, Villages and Buildings Planning Law (Judea and Samaria) (No. 418), 1971. The original order has been amended many times and in this guide we refer to its current version (as of 2010).

¹⁵ Appointment and Delegation of Powers by the Higher Planning Council (Judea and Samaria), 2009, Section 2 & Order concerning Towns, Villages and Buildings Planning Law (Judea and Samaria) (No. 418), 1971, Section 2A

under international humanitarian law, Israeli settlers were afforded substantial control over planning and licensing through local representation.

8. As of March 2014, only 14 per cent of the 532 Palestinian communities in Area C had a planning scheme approved by the Israeli Civil Administration (ICA), the military governing body for the West Bank. These schemes cover a total area of merely 0.5 per cent of Area C.¹⁶ Communities living outside the boundaries of detailed outline plans are at constant risk of forced displacement and any construction or renovation there is illegal according to Israeli military law, which increases the risk that they be demolished.¹⁷ Since 1988, the ICA has issued 12,570 demolition orders regarding Palestinian structures built without permits in what has been designated after the Oslo Agreements as Area C.¹⁸ According to data released by the ICA, 3,750 applications for building permits were submitted by Palestinians in Area C between 2000 and 2012, but ICA approved only 5.6 per cent. By contrast, during the period between 2002 and 2010, at least 15,000 residential units in settlements were built, with or without permits, in violation of international humanitarian law.¹⁹
9. Plans for building Palestinian structures are restricted to land registered as privately owned by Palestinians, while Israeli-declared 'state land' is reserved for the use of the Israeli military and Israeli settlements.²⁰ Since only 30 per cent of the land in the West Bank is registered to private owners, and since Israel has frozen the land registration process for private Palestinian land since 1967, the ICA considers that the majority of land in Area C is 'state land', and thus ineligible for Palestinian construction. In contrast, planning schemes approved for Israeli settlements include extensive areas, which encompass over 15 per cent of Area C.²¹

East Jerusalem: discriminatory planning and residency policies and risks of displacement

10. The Israeli planning policies in occupied East Jerusalem are similar to those used by the Israeli military in Area C of the West Bank. Israel has used spacial planning to prevent the development of the Palestinian communities, limit the areas designated for Palestinian construction, and assert its control over East Jerusalem by expanding areas available for Israeli settlements.²² According to UN OCHA, the lack of adequate planning prevents at least 33 per cent of all Palestinian homeowners in East Jerusalem from obtaining a building permit from the Israeli authorities, potentially placing at least 93,100 residents at risk of displacement.²³ In 2013 alone, UN OCHA recorded the

¹⁶ UNOCHA, *Fragmented Lives: Humanitarian overview 2013*, March 2014, p. 28, (available at: http://www.ochaopt.org/documents/ocha_opt_annual_review_2014.pdf)

¹⁷ UNOCHA, "Lack of Permit" Demolitions and Resultant Displacement in Area C, Special Focus, May 2008, and "Statement on the increase in house demolitions in the West Bank and East Jerusalem", by Mr. Maxwell Gaylard, the United Nations Humanitarian Coordinator for the occupied Palestinian territory, 22 December 2010.

¹⁸ UNOCHA, *op. cit.*, March 2014, p. 30.

¹⁹ B'Telem, *Acting the Landlord: Israel's Policy in Area C the West Bank*, June 2013, pp. 16, 21.

²⁰ A recent freedom of information request by the Association for Civil Rights in Israel and Bimkom revealed that only 0.7 per cent of state land in the West Bank has been allocated to Palestinians. 51 per cent of state land has been allocated to settlements and related infrastructure, according to government figures (available at: <http://www.hrw.org/news/2014/09/03/israel-reverse-illegal-plans-west-bank>).

²¹ UNOCHA, *op. cit.*, March 2014, p. 28. These include unplanned areas within the settlements' municipal boundaries.

²² B'Tselem, *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem*, May 1995, p. 73.

²³ UNOCHA, *East Jerusalem: Key humanitarian concerns*, December 2011, (available at: http://www.ochaopt.org/documents/ocha_opt_Jerusalem_FactSheet_December_2011_english.pdf).

demolition of 98 structures in East Jerusalem, which displaced 298 people, including 153 children.²⁴

11. After the illegal annexation of East Jerusalem in 1967, Israel nullified all Jordanian planning schemes for the city, and did not establish alternative new statutory plans that would have met the needs and natural growth of the Palestinian residents. Of the 17,625 acres which were annexed by Israel and constitute the area known as occupied East Jerusalem, 30 per cent have remained unplanned since 1967, 35 per cent has been expropriated for the construction of Israeli settlements, and 35 per cent has outline plans which partly provide for the construction for Palestinian communities.²⁵ However, out of this area, approximately 63 per cent is designated as roads, infrastructure, and “green areas” in which no construction is allowed. This leaves only 13 per cent of the total East Jerusalem area available for Palestinian construction but most of it is already built up.²⁶
12. The Israeli government has been striving to maintain what has been known as a “demographic balance” in Jerusalem, in violation of the principle of non-discrimination. In 1973, a governmental “Committee to Examine the Rate of Development for Jerusalem” (the Gafni Committee) recommended to maintain the “*ratio of Jews and Arabs at the same level it was at the end of 1972*” (i.e. 73.5 per cent Israeli Jews and 27.5 per cent Palestinians).²⁷ Despite the fact that at the end of 2012, Palestinians made up 39 per cent of the population within the boundaries of the Jerusalem municipal area, the roughly 30 to 70 ratio continues to inform the planning schemes for East Jerusalem. As a consequence, planning for the Palestinian residents of East Jerusalem fails to meet their basic housing and development needs.²⁸
13. Discriminatory policies based on demographic ratios are also embedded in the new City Outline Plan, the “Jerusalem 2000” Outline Plan. Although this plan is pending approval, it is currently informing smaller scale plans for different parts of both West and East Jerusalem. The Outline Plan fails to provide Palestinian communities in East Jerusalem with sufficient areas for residential development and fails to meet the needs of the Palestinian population in terms of public centres, parks, and employment.²⁹ The plan does not designate sufficient parts of East Jerusalem for densification and expansion; it leaves approximately 750 existing houses and densely populated areas in “green areas” not designed for residential use, leaving their residents at imminent risk of displacement. It also declares large areas in the centre of Palestinian communities and significant portions of the Palestinian communities in proximity to the Old City of Jerusalem as “areas for conservation” in which no development is allowed. Even in the areas where development is permitted, the plan sets restrictive procedures for the construction of additional floors on top of existing buildings. In addition, natural growth among Palestinians in East Jerusalem would require the construction of 1,500 housing units per year to meet housing needs, whereas current plans authorize only an average of 400 new housing units per year.

²⁴ UNOCHA, op. cit., March 2014, p. 38.

²⁵ Bimkom and Ir Shalem – Jerusalem, *The Planning Deadlock: Planning Policy, Land Regularization, Building Permits and House Demolitions in East Jerusalem*, 2004, p. 7.

²⁶ *Ibid*, p. 8

²⁸ UNOCHA, op. cit., December 2011

²⁹ Bimkom, *Notes on the Jerusalem 2000 Outline Plan*, May 2006, (in Hebrew).

15. Under Israeli law, most Palestinians living in East Jerusalem are granted “permanent” residency status by Israel, and their residency status is conditional on their proving that their ‘*centre of life*’ lies within the Israeli-defined municipal boundary of Jerusalem. Extended stays by Jerusalem Palestinians outside either in Jerusalem or Israel, such as in the rest of occupied Palestine, can result in the revocation of their Jerusalem ID cards.³⁰ Since 1967, the Israeli authorities have revoked the residency status of approximately 14,000 East Jerusalem Palestinians³¹. Over 4,500 were revoked in 2008 alone³², in a process that OCHA has referred to as “quiet deportation”.³³ Current laws and practices make it nearly impossible for spouses from the West Bank or Gaza Strip to be granted residency status in East Jerusalem through family reunification processes, and children face a number of legal challenges to obtain a secure residency status. From 2000 to 2013, the Israeli authorities rejected 43 per cent of family reunification applications and 24 per cent of child registration applications. Currently, there are at least 10,000 children unregistered in East Jerusalem.³⁴
16. Planning and zoning in East Jerusalem combined with other triggers put East Jerusalemites particularly at risk of being forced out of their homes. In 2013, the insecure residency status of East Jerusalem Palestinians was confirmed to be a major cause of displacement. According to a survey commissioned by the UN, approximately 70,000 Palestinians had changed their place of residence between September 2000 and June 2012 due to Israeli policies and practices. Most of the displacement captured in the survey was triggered by the potential revocation by the Israeli authorities of the Jerusalem identification documents of Palestinians if they lived outside the municipal boundary of Jerusalem and by concerns related to family reunification and restricted registration of children.³⁵ The majority of the displaced persons were living in the suburbs of Jerusalem and moved back into the city to avoid revocation of their status.

Question 6(d): the forced displacement of Palestinians due to restrictions on access to land and livelihood in the Gaza Strip (Art. 2 and 12)

Question 6(d) requested information regarding support to the livelihood of farmers and fishing communities in the context of the military blockade of the Gaza Strip.

*In its report, Israel refused to address the question, reiterating its position that the ICCPR did not apply outside the state’s territory.*³⁶

17. Israel’s imposition of restrictions on the movement of Palestinians living in the Gaza Strip directly impacts their ability to access farming and fishing areas necessary in order to generate adequate livelihood. Restrictions on access to areas in the perimeter of the Gaza Strip, known as the “Access Restricted Areas” (ARA) also put their lives at

³⁰ UNOCHA, op. cit., December 2011

³¹ OCHA, “East Jerusalem, Key Humanitarian Concerns, August 2014” (available at <http://unispal.un.org/UNISPAL.NSF/0/D0378180CEC6DEFB85257D3800543D5A>)

³² UNOCHA, op. cit., December 2011 p. 15

³³ UNOCHA, op. cit., December 2011 p. 15.

³⁴ St Yves, op. cit., 16 September 2013,

³⁵ UNOCHA-commissioned survey, 2013, quoted in OHCHR, “Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/”1, (A/HRC/25/40) 13 January 2014.

³⁶ Fourth Periodic Report of Israel, 12 December 2013, (CCPR/C/ISR/4), paragraph 111.

risk and jeopardize their access to adequate housing. The restrictions on access led to the displacement of Palestinians living in the ARA and continue to affect their ability to return home.

Access Restrictions Areas on land and sea

18. Israel maintains a 500m “no-go” zone along the entire length of the fence that separates the Gaza Strip from Israel, and Palestinians are at high risk of being shot as far away as 1.5km in some areas. Israel has never officially demarcated the ARA, and the only information available has been provided in leaflets dropped during “Operation Cast Lead” (December 2008-January 2009) and on few occasions since then.³⁷ Uncertainty over the extent to which farmers can regain access to their land continued even after the November 2012 ceasefire, following the Israeli military operation “Pillar of Defence”.³⁸ In practice, Israel enforces the ARA by:
 - o Levelling of land up to 300 m from the fence;
 - o Destroying crops and any structures taller than 80cm up to around 500m from the fence;
 - o Using live ammunition to deter Palestinians from approaching the fence at a distance of up to 1.5km.³⁹
19. Israel justified the levelling of Palestinian land in the Gaza Strip as a measure to protect Israeli towns and military installations. Such destructions became a widespread practice during the second intifada, when tens of thousands of dunams⁴⁰ were levelled and thousands of people displaced.⁴¹ Israeli military “levelling operations” resulted in direct losses in terms of destruction and future earnings, as well as damage to the soil, contaminating it with rubber piping from irrigation systems, metal poles and wire, concrete, other construction debris and the remains of trees and plants.⁴²
20. The ARA also extend to the sea and demarcates “no-go” zones along the boundaries with Israel and Egypt.⁴³ Israel has repeatedly changed the access restrictions at sea, alternating between 6 to 3 nautical miles without providing an explanation for the changes. There appeared to be no logical link between Israel’s fears for the security of its civilian population and its restrictions on access for fishing. Since 1998, the Israeli military has shot at Palestinian fishermen in or near the ARA at sea in at least 522 incidents, killing nine fishermen and injuring 47.⁴⁴ Marine geography determines that the vast majority of fishes are to be found between eight and 12 nautical miles from

³⁷ UNOCHA, op. cit., August 2010.

³⁸ Al Haq, “Shifting Paradigms: Israel’s Enforcement of the Buffer Zone in the Gaza Strip”, 2011, p.7; and Diakonia, *Within Range: An Analysis of the Legality of the Land “Buffer Zone” in the Gaza Strip*, 2011, p.12.

³⁹ Between 2007 and July 2013, 127 civilians are reported to have been killed by the Israeli military within 1.5km of the fence, while 825 were injured, including at least 761 civilians, in Internal Displacement Monitoring Centre and Centre and the Palestinian Centre for Human Rights, *Under fire: Israel’s enforcement of Access Restricted Areas in the Gaza Strip*, January 2014, p. 25.

⁴⁰ 0.25 acres to the dunam.

⁴¹ Simone Haysom & Wasseem al Sarraj, *Sanctuary in the City, Urban Displacement and Vulnerability in the Gaza Strip*, ODI, December 2012, (available at: <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/8042.pdf>).

⁴² Ibid, p. 26.

⁴³ Al Haq, op. cit., 2011, p.24.

⁴⁴ IDMC, op. cit., January 2014, p. 36.

the coast, namely beyond the reach of the Palestinian fishing community.⁴⁵ The implementation of the ARA at sea has turned fishermen and their families, who were some of the most affluent people in the Gaza Strip, into one of the most vulnerable communities.

Displacement from and within the Access Restricted Areas and loss of livelihood

21. Due to the levelling of land, the use of live ammunition and the loss of access to land and livelihood, people living in or near the ARA in the Gaza Strip continued to be most at risk of displacement. According to a survey carried out in 2009 in the ARA, up to 70 per cent of the households considered had been either temporarily or permanently displaced at least once since 2000, primarily as a result of house demolitions and heightened concerns for personal safety and security.⁴⁶ 50 per cent of the families surveyed had lost their source of income or livelihood, and 42 per cent had moved residence as a result. Indeed, until November 2012, access restrictions resulted in the annual loss of around 75,000 metric tons of agricultural produce, valued at US\$50.2 million. In a context where at least 41 per cent of the Gaza Strip's population is food insecure, the fact that farmers are unable to cultivate, and the movements of fishermen are severely restricted, has exposed entire households to extreme poverty. Because their livelihoods have been completely destroyed or have witnessed a substantial decrease, at least 95 per cent of the Gaza Strip's fishermen are recipients of international aid.⁴⁷ As a result, anecdotal evidence suggests that a large part of former residents of the ARA have chosen to head to larger cities of the Gaza Strip in search of employment. For many households, humanitarian assistance is the only financial support preventing their displacement.

Question 20: freedom of movement (art. 12) and its impact on the right to life (art. 6)

Question 20 requested information on measures taken to allow Palestinians to travel between the Gaza Strip and the West Bank.

In its report, Israel refused to address Gaza related issues, reiterating its position that the ICCPR did not apply outside the state's territory.⁴⁸

The blockade on the Gaza Strip and the Israeli "Separation Policy"

22. Israel has not implemented any of the HRC's recommendations adopted in September 2010 regarding the blockade (Paragraph 8) and has not made any fundamental policy changes regarding the Gaza Strip. Israel's military blockade of the Gaza Strip is part of a wider "Separation Policy"⁴⁹ meant to cut off the Gaza Strip from the West Bank, despite the fact that the two areas form a single territorial unit according to the Oslo

⁴⁵ NRC interview with Jihad Salah, head of fishing directorate, Ministry of Agriculture, on 9 May 2013; also confirmed by FAO food security analyst Ruben Baert during an interview on 30 April 2013.

⁴⁶ Save The Children, Fact Sheet: Gaza Buffer Zone, October 2009, (available at: http://www.savethechildren.org.uk/sites/default/files/docs/English_Gaza_Fact_Sheet_and_Citations.pdf).

⁴⁷ UNOCHA, op. cit. July 2013.

⁴⁸ Fourth Periodic Report of Israel, 12 December 2013, (CCPR/C/ISR/4), paragraph 338.

⁴⁹ Gisha, What is the "Separation Policy"?, June 2012, (available at: <http://www.gisha.org/UserFiles/File/publications/Bidul/bidul-infosheet-ENG.pdf>).

Agreements.⁵⁰ The “Separation Policy” violates the right to freedom of movement (Article 12).

23. Travel from the Gaza Strip to Israel and the West Bank is prohibited for any purpose, including education and medical reasons, save for exceptional cases. Since November 2007, residents of the Gaza Strip who are present in the West Bank have been required to hold a special permit to remain in the West Bank. The Gaza Strip’s connections with Israel and the West Bank, which are vital for its economy and the welfare of its residents, are still subject to prohibitions on marketing goods from the Gaza Strip in Israel and the West Bank, and certain products and materials cannot enter the Gaza Strip. As a result, the blockade continues to limit Palestinian’s access to basic utilities, housing, education, work, health and an adequate standard of living, in effect denying Gaza residents a range of human rights and collectively punishing the entire civilian population⁵¹.

24. In July 2010, the Israeli Prime Minister Benjamin Netanyahu stated that Israel had lifted the “civil blockade” on the Gaza Strip and that it only maintained a “military blockade” that was not motivated by political interests.⁵² However, over the years, several Israeli officials have referred to the “Separation Policy”, acknowledging that restrictions regarding sale of goods from the Gaza Strip to the West Bank were “of a political nature, and thus [could] only be taken by the Prime Minister’s Office”.⁵³ In at least two rulings in 2012, the Israeli High Court of Justice also referred to the “Separation Policy” when deciding not to interfere with the Israeli military’s decision not to permit the passage of civilians between the West Bank and the Gaza Strip for the purpose of visiting sick family members and attending universities.⁵⁴

Displacement during “Operation Protective Edge” and freedom of movement

25. The restrictions on movement of Palestinians in and out of the Gaza Strip and within the Gaza Strip itself have often had a dramatic impact during Israeli military operations as they prevented Palestinians from fleeing the Gaza Strip to seek refuge elsewhere in the occupied Palestine or in a neighbouring country. These restrictions had a particularly dire effect during the last Israeli military operation “Protective Edge”, when civilians trapped in the middle of the fighting were denied even the most basic rights, such as their right to life (art 6). In a condensed urban environment, civilians had no safe place to flee to that could offer them safety, not even in overcrowded UNRWA schools, government schools and informal shelters. This resulted in a particularly high death toll with an excess of 2,100 Palestinians killed, including at least

⁵⁰ Article XI, Section 1, of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Signed in Washington, D.C., September 28, 1995.

⁵¹ Statement by the former Under-Secretary General for Humanitarian Affairs and Emergency Relief Coordinator, Briefing to the UNSC, 27 January 2009 (available at www.ochaopt.org/documents/ocha_opt_gaza_crisis_security_briefing_2009_01_26.pdf) ; 27 January 2009; OHCHR, “Collective punishment in Gaza must end: Israel’s blockade enters its 7th year – UN Special Rapporteur” (available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13455&LangID=E> January 2014).

⁵² Footage available at: https://www.youtube.com/watch?v=Ri-ut9R_F_o

⁵³ IRIN Humanitarian News and Analysis, *OPT: Promises of exports fall short for Gaza’s manufacturers*, 15 February 2012, (available at: <http://www.irinnews.org/report/94872/opt-promises-of-exports-fall-short-for-gaza-s-manufacturers>)

⁵⁴ HCJ 1912/12 Akra v. The Military Commander of the West Bank, 6 June 2012; HCJ 495/12 Izzat v. Minister of Defence, 16 August 2012.

1,460 civilians, of whom 493 were children.⁵⁵ Towards the end of July 2014, the massive influx of IDPs into UNRWA shelters and schools and the shelling of Gaza's only power plant and water infrastructures placed a strain on the already overstretched capacity of the local authorities and humanitarian agencies to respond to public health concerns. At least six UNRWA schools that hosted thousands of IDPs were directly hit by Israeli shelling or affected by rocket fire in their immediate vicinity, causing serious loss of life and injuries, including among UN staff.⁵⁶

26. From July to August 2014, "Operation Protective Edge" created an unprecedented wave of displacement. At the peak of the fighting, as many as 520,000 Palestinians were forced to flee their homes and were registered as displaced.⁵⁷ This figure was more than four times the number of displaced during the 2008-2009 Israeli military "Operation Cast Lead", also in the Gaza Strip, and amounted to almost a third of the population of the Gaza Strip. Mass displacement escalated across the Gaza Strip when the Israeli authorities declared an estimated 43 per cent of the Gaza Strip's territory as a "no-go zone" forcing hundreds of thousands of IDPs to converge to the inner circles of Gaza City and Khan Yunis.⁵⁸ The declaration of the "no-go" zone also severely restricted the movement of IDPs and limited the ability of humanitarian agencies to carry out even the most basic life-saving activities.

Obstacles to return and durable solutions - the need for recovery post "Operation Protective Edge"

27. By 4 September 2014, 60,812 IDPs were still registered in 31 UNRWA shelters. This high number illustrates the many obstacles hampering their return home in safety and dignity, as provided for by the UN Guiding Principles on Internal Displacement. It is estimated that the Israeli military operation totally destroyed 108,000 IDPs homes, and their residents are likely to become protracted IDPs⁵⁹. With one of the highest population density of the world, the Gaza Strip was already witnessing severe overcrowding and a housing deficit of 71,000 housing units even prior to the military operation. Against this background, providing temporary housing solutions to the IDPs constitutes one of the most urgent challenges of the Palestinian authorities and the humanitarian community.
28. The impediments to return are rooted in the military blockade, in particular the restrictions on access to materials that have been in place since 2007. Under current restrictions on entry of goods to the Gaza Strip, the way to recovery remains uncertain. It is estimated that it will take approximately 20 years to import the aggregates required to complete the housing reconstruction⁶⁰. This time frame is based on the current operational capacity of Kerem Shalom, the only official crossing

⁵⁵ Statement by UNRWA Commissioner General, Pierre Kraehenbuehl, and Director of UNRWA Operations in Gaza, Robert Turner (7 August 2014, available at:

<http://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-un-general-assembly-situation-gaza-strip>)

⁵⁶ Ibid

⁵⁷ UNOCHA, Gaza Emergency Situation Report, 4 September 2014 (available at: http://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf).

⁵⁸ UNOCHA situation update 20 July 2014 (available at <http://reliefweb.int/report/occupied-palestinian-territory/occupied-palestinian-territory-gaza-emergency-situation-repo-9>)

⁵⁹ UNOCHA, op. cit., 4 September 2014.

60 Gaza Shelter Cluster, NRC statement "The rebuilding of Gaza will take 20 years" (available at: <http://www.nrc.no/?did=9183563>)

point open for the transfer of goods into and out of the Gaza Strip⁶¹. Undue restrictions on the delivery of building materials and the continued imposition of the “Separation Policy”, which prevents the development of the Gaza Strip, will perpetuate the state of displacement. Such restrictions negatively impact the rights of the Gaza Strip residents to privacy, family, and home, in violation of Article 17 of the ICCPR.

29. Israel prohibits the entrance of items it defines as “dual-use”, including construction materials.⁶² Between 2007 and 2013, the only construction materials that were allowed into the Gaza Strip were designated for international organisations and were subject to a complex and lengthy approvals process.⁶³ Following “Operation Pillar of Defence” in November 2012, Israel loosened some restrictions on the entrance of construction materials into the Gaza Strip, but banned “dual-use” items again in October 2013.⁶⁴ The “dual-use” list includes a number of items such as fertilizers, fibres, or textiles containing carbon, glass fibre-based materials, gas tanks, drilling equipment, water disinfection materials, cement and concrete, steel elements and cables, trailers, and shipping containers.
30. Those challenges cannot be comprehensively addressed without tackling the root causes of the barriers to return for IDPs, including assistance to meet the most basic needs. Before “Operation Protective Edge”, over 70 per cent of the population was already relying on international aid. The social and economic situation in the Gaza Strip has become extremely precarious, with almost the entire population living without adequate services such as electricity, clean water and quality health-care.⁶⁵ The majority of the population has lost access to their “productive assets”, such as crops, factories and fishing boats.⁶⁶ Israel, as the occupying power, has the international obligation to ensure that Palestinians have the means to fully and lastingly recover from the latest hostilities in a sustainable manner, and that displacement does not become protracted.

61 Ibid. This calculation is based on the current authorized delivery of 100 truckloads of aggregates daily, and the total amount of housing units required in the Gaza Strip. It does not include public infrastructure (e.g. schools, utilities, etc.)

62 Dual-use items are items that, according to the Civil Coordination Department in the office of the Coordinator of Government Activities in the Territories (COGAT), “have been designated for civilian use yet can be utilized in military situations.” See: Coordination and Liaison Administration to Gaza, COGAT, Ministry of Defence, Restricted Import List Gaza Strip, 2013, (available at: http://www.cogat.idf.il/Sip_Storage/FILES/4/4014.pdf).

63 Gisha, “Why Israel should allow construction materials to enter Gaza”, 14 August 2014, (available at: <http://gisha.org/en-blog/2014/08/14/why-israel-should-allow-construction-materials-to-enter-gaza/>).

64 When a Hamas-operated tunnel leading from the Gaza Strip into Israel was discovered.

65 UNOCHA, Gaza Crisis Appeal 9 September (available at: www.ochaopt.org/documents/Gaza_Crisis_Appeal_9_September.pdf)

66 FAO, “Gaza: Damage to agriculture will have long-lasting effects”, 14 August (available at: <http://www.fao.org/news/story/en/item/240924/icode/>)

Recommendations:

Question 4: Constitutional and legal framework within which the Covenant is implemented (arts. 2)

- Israel should recognise the *de jure* applicability of the ICCPR in the occupied territories, namely the West Bank, East Jerusalem and the Gaza Strip in line with international law (art.2).
- The HRC should not refer to Palestinians living in the West Bank, including East Jerusalem, and the Gaza Strip as a “minority” as questions 6 and 22 of the list of issues suggest, but as a protected population under occupation, whose rights Israel must respect in the exercise of its authority as an occupying power.

Question 6 (b): Demolition of illegal constructions and principles of equality and non-discrimination (arts. 2, 17, 25, and 26)

- Israel should return the control over spatial planning processes to the Palestinian communities that do not exercise it, and reverse the de-facto discrimination and segregation caused by the current planning system (arts. 2 and 26).
- Israel should immediately cease the demolition of Palestinian-owned structures in Area C and in East Jerusalem, which constitute a discriminatory, arbitrary and unlawful interference with privacy, family, and home (arts. 2, 17 and 26).
- In Area C, Israel should abolish Military Order No. 418 and the discriminatory policies therein, and return the planning powers in Area C of the West Bank to the Palestinian communities so that they can enjoy their right to take part in the conduct of public affairs, including spatial planning (arts. 2 and 25).
- In East Jerusalem, Israel should stop implementing a policy of ‘demographic balance’, in particular the spatial planning policy that violates the right to non-discrimination, including restrictions on Palestinian development set out in the “Jerusalem 2000 Outline Plan” (arts. 2, 23, 26).

Question 6 (d): Access to basic services and support to the livelihoods of farmers and fishing communities in the context of the military blockade of the Gaza Strip (arts. 2 and 12)

- Palestinians forcibly displaced from the ARA must be able to return in safety, dignity and in a sustainable way, to access their lands and receive adequate compensation for destruction caused by demolitions or land-levelling (arts. 2 and 12).
- Israel should cease its enforcement of the ARA at sea that has a deeply negative impact on the livelihoods of Palestinian fishermen in the Gaza Strip and respect their right to freedom of movement (art. 12).
- Israel should lift the blockade on the Gaza Strip that denies residents a whole range of basic rights and constitutes a form of collective punishment under international law.

- Israel should end policies and practices that separate the Gaza Strip from the rest of occupied Palestine, including by allowing the movement of people and goods from Gaza to the West Bank and vice-versa (arts. 2 and 12).
- Israel should facilitate the entry of building materials into the Gaza Strip in order to support recovery efforts after the latest military operation and provide durable solutions for Palestinian IDPs (art. 12).

Question 20: freedom of movement (art. 12) and its relation to the right to life (art. 6) in Gaza

- As the occupying power, Israel should take all measures to stop the forced displacement of the civilian population from the Access Restricted Areas (ARA) and to minimise risks to people and property in these areas (art. 6).
- Israel should lift all restrictions on the freedom of movement of Palestinians, especially when seeking safety in times of conflict. IDPs have the right to seek safety in another part of occupied Palestine, to seek asylum in another country and to be protected from forcible return or resettlement in any place where their life, safety and liberty and health would be at risk (art. 6).

About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) is the leading source of information and analysis on internal displacement. For the millions of people worldwide displaced within their own country, IDMC plays a unique role as a global monitor and evidence-based advocate to influence policy and action by governments, UN agencies, donors, international organisations and NGOs.

IDMC was established in 1998 at the request of the Interagency Standing Committee on humanitarian assistance. Since then, IDMC's unique global function has been recognised and reiterated in annual UN General Assembly resolutions.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org.

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