



## **Submission to the 15<sup>th</sup> Session of the Universal Periodic Review**

**Israel**

**July 2012**

At the request of the United Nations, the Geneva-based IDMC runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries. Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards. The IDMC also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people (IDPs). In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

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## **Submission to the Universal Periodic Review – Israel**

1. Israel, as the occupying power of the Palestinian territories, is bound by International Humanitarian Law. International human rights law also applies in the occupied Palestinian territory (oPt) due to Israel's effective jurisdiction over the territory. Israel has the obligation to administer the occupied territory to the benefit of the local Palestinian population and needs to put in place the necessary regulatory and administrative measures to ensure the right to an adequate standard of living for people under its control.

2. Of particular concern since Israel's last Universal Periodic Review in 2008,<sup>1</sup> are Israel's policies and practices, which individually and in combination, cause the forced displacement of Palestinians in oPt. Displacement manifests itself through demolition of civilian property, forced evictions, land expropriation, settlement establishment/ expansion, construction of the Wall, movement and access restrictions, settler violence and military operations. Affecting both urban and rural communities, displacement negatively impacts on a range of fundamental human rights, including: freedom of movement and choice of residence; respect for privacy, the home and the family; health and education; and an adequate standard of living, including housing, water, food and development. Discrimination on ethnic, racial, national or religious grounds is at all times prohibited.

3. The military rule in the West Bank, and particularly the Israeli Civil Administration (ICA) which deals with all aspects of civilian life in areas under its control, has authority over planning and zoning. Israel's freeze on land registration procedures in the West Bank, introduced by military order in 1968, prevented the finalization of these registration procedures and prohibited future Palestinian land settlement. Therefore, nearly 70% of land in the West Bank remains unregistered in the Land Registry,<sup>2</sup> leaving the traditional owners/residents of the land vulnerable to confiscation or expropriation of their land by the Israeli authorities. The lack of land registration makes it difficult for Palestinians to develop legally, as proof of registration is often required.

4. Large parts of unregistered land have come under the control of Israel (as '*state lands*') and continue to do so. Between 1967 and 2011, the percentage of land in oPt declared as '*state land*' has more than doubled from 700,000 dunums (70,000 hectares) to over 1.4 million dunums. This resulted in a decrease in land available to Palestinian communities, while the majority of Israeli settlements in the West Bank—illegal under international law – are located on '*state land*'.

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<sup>1</sup> Israel's commitment to the Universal Periodic Review has been minimal, with it not responding during the review process (A/HRC/10/76) nor in the following National Report (A/HRC/WG.6/3/ISR/1) to any of the recommendations put forward by IDMC or States in their submissions to the Universal Periodic Review in July 2008, which raises the question of Israel's genuine engagement in the UPR process.

<sup>2</sup> Order concerning Land and Water Settlement (Judea and Samaria) (No.291),1968; and Talia Sasson, (Interim) Opinion concerning Unauthorised Outposts, Jerusalem, February 2005, page 61.

5. Area C – the area under complete Israeli control<sup>3</sup> – constitutes 60% of the West Bank and is crucial for the development and territorial contiguity of the Palestinian state, as well as the Palestinians’ right to self-determination. However, Israeli policies resulted in the increased fragmentation of Palestinian land and are threatening the presence of approximately 150,000 Palestinians in Area C. Seventy percent of Area C has been allocated for settlements or other Israeli military and civilian purposes.<sup>4</sup> Of the remaining 30% of Area C, only 1% is in practice, available for Palestinian development; much of that is built-up.

6. In East Jerusalem, which Israel has unilaterally annexed and where it applies domestic law over the Palestinian residents in contravention of international law, the process for land registration is equally complicated and also requires proof of land ownership. For many Palestinians, ownership is insufficiently documented, leaving them at-risk of losing their property if their claims are called into question during the verification process. Therefore, many Palestinians in East Jerusalem avoid registering their property. Additionally, the Jerusalem Municipality is implementing discriminatory zoning and planning policies so as to maintain a “demographic balance”, as stated in official municipal planning policy documents.<sup>5</sup> The Municipality aims to maintain a demographic balance of approximately 70% Jews to 30% Palestinians within the city of Jerusalem.<sup>6</sup> The most recently proposed city master plan<sup>7</sup> calls for a 60/40% demographic balance and stresses the importance of maintaining a Jewish majority.<sup>8</sup> Therefore, just 13% of East Jerusalem is zoned for Palestinian construction; again, much of this is already developed. In comparison, 35% of East Jerusalem is zoned for settlements.

7. The Absentee Property Law constitutes a further infringement of the right to secure tenure to land and property owned by Palestinians within Israel and oPt, including East Jerusalem. The law is used to deprive Palestinians of the use of, access to, and ownership of their land and property in areas under Israeli control. 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 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/residents of Israel and Palestinians living in oPt, who under international law, are protected residents.

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<sup>3</sup>Under the Oslo Agreements, a temporary land classification was made: in Area A the Palestinian Authorities have security and civilian control; in Area B Israeli and Palestinian authorities share control over security issues; and in Area C Israel has full control over civilian and security matters.

<sup>4</sup>Office for the Coordination of Humanitarian Affairs (OCHA), “Restricting Space: The Planning Regime Applied by Israel in Area C of the West Bank,” Special Focus, December 2009. There are some 120 settlements and 100 settlement outposts in Area C; some 20% of the land (often overlapping) is allocated to military zones and 10% to nature reserves.

<sup>5</sup>Talia Sasson, (Interim) Opinion concerning Unauthorised Outposts, Jerusalem, February 2005, note 1, paragraph 10.

<sup>6</sup>Israeli Coalition Against House Demolitions, “No Home, No Homeland: A New Normative Framework for Examining the Practice of Administrative Home Demolitions in East Jerusalem, December 2011, page 14.

<sup>7</sup>The co-called “Jerusalem 2000” plan.

<sup>8</sup>Bimkom, “Planning in Jerusalem: The Implications of the New Outline Plan of Jerusalem for Palestinian Neighbourhoods”, December 2009, p. 2.

8. Palestinian communities have no access to planning decisions that affect them directly, are rarely consulted in the preparation of plans and face prohibitively expensive and bureaucratic procedures to object to plans already established. 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 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 approximately 500 residents of the Al-Bustan area. The Municipality’s plan was created without consultation with the Palestinians affected by it and they still face numerous demolition orders and uncertainty over what will happen to them.

9. Restrictive and discriminatory zoning and planning prevents Palestinians in Area C or East Jerusalem from obtaining permits to construct or rehabilitate homes, schools, animal shelters, or water collection systems. Permit application procedures are complex, expensive and rarely successful. The same planning regime facilitates Israeli settlement expansion in Area C and East Jerusalem. Settlers receive preferential treatment through the use of ‘*state land*’, provision of infrastructure such as roads and water systems, high approval rates for permits and the establishment of Special Planning Committees comprised of settlers for consultative decision making processes. Settlers also come under Israeli domestic law. This discriminatory policy results in *de facto* confiscation of land and resources, and undermines the livelihood of Palestinian communities and their ability to develop.

10. In Area C, over 94% of applications for building permits, submitted by Palestinians to the ICA between January 2000 and September 2007, were denied. Between January 2007 and December 2010, the permit delivery rate declined further to 4.4%,<sup>9</sup> exposing the vast majority of area C to displacement. In East Jerusalem, the zoning and planning regime has precipitated the housing crisis for Palestinians, with at least 32% of Palestinian homes built in contravention of the Israeli zoning regime. Resulting in some 93,100 people at risk of forced displacement because they are unable to obtain building permits.

11. Palestinians who build without Israeli-issued permits live under the constant threat of demolitions and displacement, which often materializes. The demolition of private property is generally illegal under international law, except in very specific circumstances. The ICA prioritizes the execution demolitions to advance broader Israeli policies, many of which are in contravention of international law, such as: proximity to settlements, the separation Wall, location on ‘*state land*’,<sup>10</sup>

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<sup>9</sup> ICA Response to Binkom Planners for Human Rights Freedom of Information Request: of the 1,426 permit applications submitted by Palestinians in Area C from 2007-2010; 106 were approved in principle (7.4%), but only 64 were actually granted (4.4 %). This follows previous trends from 2000 to 2007 when less than six percent of applications were accepted.

<sup>10</sup> Israel considers that *state lands* in the West Bank are all lands that are not categorized as private. For the ICA, there are two main categories of private lands: plots of land which have been formally registered by their owners before Israel halted the land registry process in 1967 and plots that have been continuously cultivated by their owners, establishing a status of legally-recognized *de facto* ownership.

or major roads/infrastructure often serving only Israelis.<sup>11</sup> Over 60% of the Palestinian-owned structures demolished in 2011 were located in areas allocated to settlements.<sup>12</sup>

12. An example relating to the Wall is Cremisan where the Israeli authorities are confiscating religious property for Wall construction, through land seizure orders issued in 2006. Most of Cremisan, which includes a convent and school,<sup>13</sup> is located in Area C, but parts lie within the Jerusalem municipal boundaries. The Israeli authorities suggested two routes for the Wall: One that would position the school on the “Jerusalem Municipality” side of the Wall whilst the community it serves would remain on the “West Bank” side, making it challenging for the children to access the school.<sup>14</sup> In the second, the Wall would be built on Cremisan’s agricultural land, disconnecting the land from the school and the convent, resulting in agricultural losses and access restrictions. In 2010, the Silesian Sisters sought legal assistance to challenge the construction of the Wall along either route and to demand the rerouting of the Wall’s so as not to deny access to basic services (education) and livelihoods (agriculture). As court proceedings continue, the ICA issued new seizure orders in October 2011 to the convent and other landowners in the area to construct the Wall along the second route – supposedly because it is the less damaging option. While legal avenues remain available, previous experience shows that other cases against the Wall have, at best, only slightly altered its route – resulting in displacement risks.

13. Since 2008, demolitions and subsequent forced displacement occur at an increasing rate. In 2011, 1,233 Palestinians were forcibly displaced (139 as a direct result of settler violence and 1,094 because of demolitions); more than half of these are children. The number of people forcibly displaced in 2011 due to demolitions doubled compared to in 2010 (606) and 2009 (643). The livelihoods of 4,164 others were adversely affected by demolitions in 2011. The trend of increased forced displacement continued in 2012, with 628 Palestinians displaced (615 in demolitions and 13 in one eviction incident) and another 2,150 adversely affected to July. In 2011 and to July 2012, 1,000 structures were demolished (at least 322 homes).<sup>15</sup>

14. Most demolitions (90%) and forced displacement (92%) take place in already vulnerable communities in Area C.<sup>16</sup> Bedouin and herding communities, who have often experienced multiple displacements in the past, are disproportionately targeted.

15. Demolitions in East Jerusalem resumed in the last quarter of 2011. This overturns a ‘freeze’ since 2010 by the Jerusalem Municipality, which was generally

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<sup>11</sup> HCJ 5377/09 Regavim v the Minister of Defence, Military Commander and the Head of the Civil Administration.

<sup>12</sup> OCHA, Demolitions and Forced Displacement in the Occupied West Bank, January 2012.

<sup>13</sup> The school, which the Silesian sisters have run for over 50 years, serves more than 400 children in Bethlehem governorate.

<sup>14</sup> Israel restricts movement of Palestinians between the West Bank and Jerusalem, people with West Bank identification papers require a special permit to enter Jerusalem.

<sup>15</sup> Displacement Working Group oPt, Demolition Summary Table 2009, 2010, 2011 and 03 July 2012.

<sup>16</sup> OCHA, Demolitions and Forced Displacement in the Occupied West Bank, January 2012.

assumed to be the result of international pressure not to jeopardize the political balance in Jerusalem. The number of Palestinians forced to demolish their own homes in 2011-2012 increased compared to previous years, particularly as people are unable to pay the fines imposed for building without a permit.<sup>17</sup>

16. While demolitions are probably the most direct cause of displacement, there is an intricate set of triggers at play. Usually, people suffering from demolitions also have difficulties reaching basic services, live in substandard housing, see their movements restricted, have difficulties making a livelihood, and suffer from settler or military harassment. For example, the permit regime instituted by Israeli authorities requires Palestinians to obtain permits from the Israeli army to enter certain areas of oPt, which have been declared off-limits to them. These areas include almost 95% of the Jordan Valley, the ‘Seam Zone’ area between the Wall and the 1949 Armistice ‘Green Line’, and all of the settlement areas and land reserved for settlement construction. Only Palestinians who are able to prove permanent residency in these areas can obtain permits allowing them to continue to access their own homes and land. The permit regime is non-transparent, arbitrary and bureaucratic, requiring multiple applications for continued access, while applications are not always successful. While Israel has increased the land subject to the regime in the Seam Zone by 30% between 2007 and 2011, there has been an 87% decrease in the number of permits issued.<sup>18</sup> In April 2011, the Israeli High Court rejected a legal challenge against the legality of the permit regime, effectively upholding this discriminatory system,<sup>19</sup> which violates many of Palestinians’ basic human rights. This regime has resulted in an increasing number of Palestinians being unable to access their homes and lands, effectively displacing them from these areas.

17. The impact of displacement cannot be overestimated, it results in increased poverty, as people are deprived of their main source of physical and economic security and see their livelihoods negatively affected. In many cases, it also further reduces their access to their rights and basic services (water, electricity, healthcare, education). Displacement has negative psychosocial consequences, increasing anxiety and stress among communities and within households.

18. Particularly vulnerable are the Bedouin/herding communities, the majority of whom live on ‘state land’, making them at constant risk of forced displacement, but also of becoming subject to ‘relocation’ by the Israeli authorities through a non-consultative process.

19. Since July 2011, the ICA has become more vocal about its intentions to forcibly relocate Bedouin and herding communities in Area C (up to 50,000), starting with 20 communities (2,300 people) in the strategically important eastern periphery of Jerusalem. These 20 communities, originally from the Negev and displaced

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<sup>17</sup> Displacement Working Group oPt, Demolition Summary Table 2009, 2010, 2011 and 03 July 2012.

<sup>18</sup> HCJ 9961/03 HaMoked: Center for the Defence of the Individual et al. v. Government of Israel et al. (published in “Nevo”, 5.4.2011). Figures cited by the Government of Israel in their response to the petition.

<sup>19</sup> HaMoked: Center for the Defence of the Individual. “High Court Approval of West Bank ‘Permit Regime’ – A Green Light to Expulsion of Palestinians from their Lands” Press Release, 5 April 2011.

several times since, mostly live in the expansion area of Ma'ale Adumim settlement. This includes the area of the so-called "E1 project", which aims to create an Israeli urban continuum between Ma'ale Adumim and East Jerusalem, while also linking up smaller settlements. The E1 project, which has remained largely unimplemented due to political pressure, would disrupt the territorial contiguity of the West Bank and make expansion of East Jerusalem impossible –endangering the viability of the Palestinian state. All 20 communities have experienced increased pressure on their lives and livelihoods, including repeat demolitions, settler violence, access restrictions and disruption of basic services. In 2012, the ICA started informing the communities of their need to "relocate" and asked detailed questions concerning this issue. Members of the same communities have been forcibly evicted from their homes in the late 1990s and were forced to live in a semi-urban setting close the Jerusalem Municipality garbage dump, resulting in a loss of their traditional Bedouin lifestyle. While not officially confirmed, Israel anticipates to forcibly move at least some of the 20 communities also to this site which poses health risks.<sup>20</sup> This violates the communities' cultural rights, which includes the need 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.

20. The pressure on the communities and their vulnerable living conditions; and a lack of respect for the communities' wishes to return to the Negev or develop in their current location; raise concerns about forced transfer and the communities' ability to make a free and informed choice about their future. An indication might be that, regarding one of the schools<sup>21</sup> in that area at risk of demolition (Khan al-Ahmar school), the Israeli Minister of Defence responded in April 2012 to the Israeli High Court noting that he "...decided to move the school from its current location to another one... and to implement the relocation during the next upcoming months."<sup>22</sup>

21. 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, for example through legal procedures by settlers attempting to hasten displacement of Palestinians in East Jerusalem and Area C, including the above-mentioned school. Most notable is the Regavim settler organization's request of December 2011 to be recognized as *amicus curiae*<sup>23</sup> regarding 162 pending Palestinian demolition cases. The petition alleged that the High Court was deficient in responding to outstanding petitions relating to the enforcement of demolition orders in Area C. In a response, the Attorney-General declared that his office will file the State's replies to these cases to the High Court,

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<sup>20</sup>Summary of the ICA response to the "Dump site": petition 3930/12.

<sup>21</sup> 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 ICA 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 constitute another major factor. Incidents of violence perpetrated by settlers and the Israeli military against children and educational staff are regular occurrences.

<sup>22</sup> Appeal 5665/11, Message from the Minister of Defence to the High Court of Justice regarding Khan al-Ahmar school, 18 April 2012.

<sup>23</sup>Friend of the court.

“in accordance with the priorities of the competent parties”<sup>24</sup> by 8 August 2012. The Attorney-General stated that for new cases lengthy adjournments will no longer be requested, instead priority cases will be listed – presumably for demolition within a reduced timeframe.

22. Legal assistance providers have noted with concern a reduction in the time provided by the ICA in which to object to demolition and eviction orders to three days or less. One example is Khan al-Ahmar Kurshan (a Bedouin community in the eastern Jerusalem periphery) where people were given 24 hours to leave their homes. Further, due to additional resources given to the ICA, the legal process is speeded up and rejections issued more rapidly. These policies seem to prevent people’s access to justice, as lawyers do not have sufficient time to prepare their legal interventions. The shortened timeframes also raise questions about whether adequate time is allocated for the ICA to review the cases in sufficient detail.

23. The above clearly shows that many basic rights of the Palestinians, as protected people of an occupied territory, are systematically being violated. Zoning and planning are a major contributor to these violations leading to forced displacement. Therefore, Israel should transfer planning authorities to a civilian, Palestinian body that ensures fair and equal access, genuine consultation, participation and representation from Palestinian communities in Area C and East Jerusalem. Until this transfer happens, Israel should immediately cease demolitions of Palestinian property and the issuance of demolitions orders, while canceling current orders affecting homes, livelihood structures, and public infrastructure (schools, water cisterns, electrical networks), or agricultural land. Israel should cease construction of Jewish settlements, national parks, and the Wall in oPt. Israel should ensure fair and equal access to legal remedy for Palestinians.

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<sup>24</sup>These are the priorities of the ICA for demolitions of Palestinian structures in Area C, as outlined in response to an earlier Regavim petition (HCJ 5377/09 Regavim v the Minister of Defence, Military Commander and the Head of the Civil Administration).