

Introduction:

Scope and purpose of the submission

1. This report submitted by the Civic Coalition for Palestinian Rights in Jerusalem (“the Coalition”) deals with the “greater Jerusalem” which is being established by Israel in occupied East Jerusalem and adjacent areas of the occupied West Bank in violation of international law. The report provides basic background information as well as information about developments since the first UPR of Israel in 2008.
2. The particular focus of our report is motivated by (i) the importance of occupied East Jerusalem for the exercise of the right to self-determination by the Palestinian people, (ii) the particularly large scope of Israeli violations in and around the occupied Palestinian city, (iii) the serious crisis of human rights and the protection gap which have resulted for Palestinians in occupied East Jerusalem from the implementation of Israel’s “greater Jerusalem” plan, and, iv) the fact that the emergency situation in occupied East Jerusalem was not sufficiently addressed by the 2008 UPR and the Human Rights Council’s Independent Fact Finding Mission on the Israeli settlements in 2012/13.
3. With this submission to the second UPR of Israel, the Coalition wishes to encourage all States to:
 - solicit concrete and explicit answers from the State of Israel to a number of principled issues pertaining to the violations of the UN Charter and international humanitarian and human rights law which result from its “greater Jerusalem” enterprise;
 - issue recommendations which specifically address the unlawful situation created by Israel in occupied East Jerusalem and adjacent areas of the occupied West Bank;
 - ensure that Israel will provide a clear response by either adopting or rejecting the recommendations from the 2013 UPR, in order to correct the shortcomings of the 2008 UPR outcome document which did not include specific information about which of the more than 50 recommendations Israel was willing to adopt;
 - consider what further measures can and should be taken in light of the lack of a good-faith effort by Israel to implement the recommendations from the 2008 UPR – and in light of Israel’s decision to suspend cooperation with the Office of the High Commissioner on Human Rights, the Human Rights Council and affiliated initiatives and mechanisms, such as Fact Finding Mission on the Israeli settlements and the UPR.
4. The Coalition believes that the above are vital steps for safeguarding the effectiveness and credibility of the UPR, and for avoiding that the UPR will become a fruitless and wasteful exercise which will neither promote Israeli respect of international law and Palestinian human rights nor enhance the prospects of Israeli-Palestinian peace.

I. Annexation and Transfer of Israeli Civilians into “Greater Jerusalem”

5. Many recommendations from the 2008 UPR dealt with the expansion of the illegal settlements in the context of Israel’s prolonged occupation of the West Bank and Gaza Strip, including East Jerusalem. Most of these recommendations reiterated the calls of previous UN resolutions, including resolutions of the Security Council,¹ and the ICJ Advisory Opinion of 2004. The latter have clarified that Israel, with its policy of annexation, the settlements and the Wall in occupied Palestinian territory, including East Jerusalem, violates the prohibition on the acquisition of territory by force and the right of the self-determination of the Palestinian people, which are peremptory norms under customary international law and the UN Charter, as well as international humanitarian and human rights law, including the prohibition of forced population transfer (Article 49, Fourth Geneva Convention) and its obligations under Article 47 of the Geneva Convention (see paragraph 17 below). The Security Council has called on Israel to rescind its annexation and settlement policy, and the ICJ opinion has recommended that Israel dismantle the Wall and make full reparation.
6. Since 2008, the Human Rights Council’s Independent Fact Finding Mission on the Israeli settlements has concluded that the illegal Israeli settlements in the occupied West Bank, including East Jerusalem, result in war crimes which fall under the jurisdiction of the International Criminal Court. It recommended that Israel cease all settlement activity and withdraw the settlers. Israel has not implemented any of the above and continues to pursue these unlawful policies, in particular in the so-called “greater Jerusalem” area.
7. **“Greater Jerusalem”**: the concept of “greater Jerusalem” originates from the “Metropolitan Jerusalem Plan”, which was developed by the right-wing Jerusalem Institute for Israel Studies in 1994/95 for the declared purpose of boosting Jewish settlement in and around occupied East Jerusalem. The plan was adopted informally by the Israeli Labour government in the early period of the Israeli-Palestinian peace process.² Since then, the unofficial plan has served as a blueprint for official development plans, such as the current *Jerusalem Local Outline Plan 2000* (Jerusalem 2020 plan) and the *Jerusalem Regional/District Outline Plan*.³ Today, “greater Jerusalem” has become a reality in form of a large Israeli metropolitan area extending deep into the occupied West Bank, from the outskirts of Ramallah in the north, to the edge of the Dead Sea in the east and the border of the district of Hebron in the south, and with the annexed occupied East Jerusalem and West Jerusalem as its inner core.
8. **Annexed occupied East Jerusalem**: in June 1967, Israel annexed the occupied East Jerusalem by means of two law amendments: the *Municipalities Ordinance (Amendment No. 6) Law* for the

¹ The ICJ refers, inter alia, to UNSCR 298 (1971), 446 (1979), 452 (1979), 465 (1980) and 478 (1980).

² <http://www.fmep.org/reports/special-reports/greater-jerusalem/greater-jerusalem> . Also: B’tselem, *Land Grab*, 2002, p. 100 – 114.

³ http://www.civiccoalition-jerusalem.org/system/files/urban_planning_in_jerusalem_final.pdf
<http://adalah.org/eng/Articles/1829/Adalah-and-the-Civic-Coalition-Jerusalem:-New-for>

enlargement of the area of jurisdiction of the Israeli municipality of Jerusalem and inclusion of the 1967 occupied area defined as “eastern Jerusalem”, and the *Legal and Administration Ordinance (Amendment No. 11)* under which Israeli law was extended to the entire area of the enlarged Israeli Jerusalem municipality. In 1980, Israel adopted the *Basic Law: Jerusalem Capital of Israel* which provides that “united Jerusalem” is to be the permanent capital of Israel.

9. The 1967 annexed occupied East Jerusalem comprises an area of approximately 70,000 dunams (70 km²). Only some 9% (6,000 dunams) of this area were part of Palestinian Jerusalem under Jordanian rule. The remaining 91% belong to 28 Palestinian communities in the occupied West Bank, including the towns of Beit Jala and Bethlehem. Since 1967, Israel has constructed 16 large residential settlements, including the expanded Jewish Quarter in the Old City, and transferred at least 200,000 Jewish Israeli civilians into occupied East Jerusalem, thus altering its demographic composition. Based on widely varying estimates of the size of the Palestinian population (see para. 20), Israeli settlers today constitute between 35 - 45% of the population in East Jerusalem.

10. Since the UPR in 2008, Israel has continued – and even accelerated - the above policy. In 2011, at least 823 housing units were under construction in East Jerusalem, and tenders were issued for 2,057 units.⁴ Among them were 55 new settlement housing units in the heart of Palestinian neighbourhoods adjacent to the Old City of Jerusalem, including in Souwwana (18 units), the former Shepherd Hotel in Sheikh Jarrah (20), and in the former police station of Ras al-Amoud (17). Construction of the second stage of the Ma’ale Zeitim settlement project in Ras al-Amud was completed with 60 housing units, which were immediately populated. Based on a resolution adopted by the Israeli cabinet in 2005 and the “Open Spaces Project”, Israeli authorities cooperate in this area with private settler organizations, such as Ateret Cohanim, Elad and Nahlat Shimon, with the aim of changing the character and demographic composition in and around the Old City, including the Mount of Olives and Mount Scopus, and creating a physical link with the E1/Ma’ale Adumim settlement bloc to the east of the city.⁵ Also in 2011, an unprecedented number of construction plans were at various stages of approval, mainly in Ramat Shlomo, Gilo, Har Homa C (983 housing units) and the new settlement of Givat Hamatos (4,000 units in four stages). In December 2012, almost all pending plans for settlements in occupied East Jerusalem comprising a total of 6,500 housing units were fast-tracked and approved, including Ramat Shlomo (1,500 units), Gilo (1,000) and Givat Hamatos (stage A with 2,610 units). In August 2013, construction plans and/or tendering of some 1,730 of these units were approved by the Israeli Ministry of Construction and the Jerusalem Municipality.⁶

⁴http://peacenow.org/entries/972_settlement_roundup_thousands_new_homes_planned_for_east_jerusalem_west_bank#more

⁵ OCHA-OPT, *East Jerusalem. Key Humanitarian Concerns*, 2011, p. 54 – 59.

⁶ <http://t-i.org.il/LatestDevelopments/tabid/1370/currentpage/7/articleID/690/Default.aspx>

11. Israel has expanded not only its illegal settlements but also the transport infrastructure for the “greater Jerusalem”, such as the Jerusalem Light Rail,⁷ the Eastern Ring Road,⁸ the A1 Train,⁹ and the extension of the Begin Highway. The new section of the Begin Highway under construction since 2012 - and destroying the Palestinian community of Beit Safafa, occupied East Jerusalem (see also para. 30) - will create one continuous piece of highway for Israeli traffic from the Gush Etzion settlement bloc in the southern West Bank (Road 60), through West and East Jerusalem (Begin Highway), to the Ma’ale Adumim settlement bloc and the E1 area in the east (Road 1), and to the Givat Ze’ev settlement bloc near Ramallah and onward to Tel Aviv (Road 443).¹⁰

Proposed Questions & Recommendations to Israel:

Q 1: Please explain how the State of Israel justifies the annexation of occupied East Jerusalem, and how the State considers its annexation and settlement policy in occupied East Jerusalem to be compatible with the **prohibition of the acquisition of territory by force** and the **prohibition of forced population transfer** (Article 49, Fourth Geneva Convention) ?

Recommendation-1:

Israel should rescind the unlawful annexation and settlement policy in occupied East Jerusalem and take practical steps in this regard, beginning with an immediate halt of all settlement activity and revocation of the annexation laws.

12. **“Greater Jerusalem” in the occupied West Bank:** in the occupied West Bank, “greater Jerusalem” consists of a system of urban infrastructure, including some 35 residential settlements, public institutions and service facilities, industrial zones, the Wall, security installations and a network of highways and other transport infrastructure (see para 11), which connects the settlements with East and West Jerusalem and annexes them *de facto* to Israel. The “greater Jerusalem” settlements are grouped into four interconnected clusters or so-called “settlement blocs”: the two blocs around the settlements of Giv’at Ze’ev and Kokhav Ya’akov (47,000 settlers) in the north-west and north-east of Jerusalem, the eastern bloc around Ma’aleh Adumim and the E-1 area (42,000 settlers), and the southern Gush Etzion bloc (63,000 settlers). Israel treats “greater Jerusalem” as a non-negotiable part of its territory. Already by 2002, Israeli settlement municipalities and regional councils, including the Jerusalem municipality, controlled approximately 220 km² of the 330 km² of Palestinian land projected for “greater Jerusalem.”¹¹ Since then, most of the Israeli settlement expansion has been located in this area.

⁷ <http://www.civiccoalition-jerusalem.org/human-rights-resources/publications/reports/jerusalem-light-rail-train-consequences-and-effects>

⁸ <http://adalah.org/Public/files/English/News/Briefing%20Paper%20on%20the%20Eastern%20Ring%20Road.pdf>

⁹ <http://www.whoprofits.org/sites/default/files/Train%20A1.pdf>

¹⁰ <http://www.civiccoalition-jerusalem.org/human-rights-resources/publications/submissions/urgent-appeal-action-0>

¹¹ B’tselem, *Land Grab*, p. 114 – 116.

13. Reliable and disaggregated data about the recent scope of settlement expansion in “greater Jerusalem” are difficult to obtain: no such official data are published, Israel did not cooperate with the Human Rights Council’s Independent Fact Finding Mission in 2012/13, and plans, tenders and construction starts are repeatedly announced for the same new housing units. An official Israeli database from 2006 which was leaked to the press,¹² however, reveals some of the scope and the extent of long-term Israeli planning. With regard to the E1 area in the eastern Ma’ale Adumin settlement bloc, for example, plans for the construction of 3,500 apartments and commercial areas were documented already in 2006. In December 2012, a plan for 4,426 housing units was approved and will eventually be announced for public review and objections. Also documented since 2006 are plans to expand the settlements in the south-western Gush Etzion bloc, including Beitar Illit, where 106 units were under construction and 642 tendered in 2011, Efrat (317 units tendered in 2011) and the former military (NAHAL) outpost of Gva’ot, currently a small settlement of 12 families, which is planned to be transformed into a large settlement with 5-6,000 housing units that will create territorial contiguity with Israel’s pre-1967 borders.¹³ Tenders for 523 housing units in Gva’ot, as well as more forthcoming tenders for Gva’ot and Efrat were part of the approximately 3,000 new housing units announced in December 2012.¹⁴ Also announced in December 2012 were forthcoming tenders in Giv’at Ze’ev in the north-western settlement bloc, where 80 housing units were under construction in 2011.
14. By 2011, Israel had transferred at least 152,000 of its own civilians into the four “greater Jerusalem” settlement blocs, most of them since the start of the peace process in the early 1990s. Israel has, thus, changed the demographic composition of the Palestinian districts of Bethlehem and Jerusalem in the occupied West Bank (outside of East Jerusalem), where these Israeli settlers now constitute at least 30.4% of the population. The entire Israeli settler population of “greater Jerusalem” (occupied East Jerusalem and the four settlement blocs) increased from 246,600 in 2002 to at least 352,000 in 2011, accounting for most of the growth of the Israeli settler population in the Occupied Palestinian Territory (OPT) in this period.

Proposed Questions & Recommendations to Israel:

Q 2: Please explain the concept of “greater Jerusalem”, in terms of its current geographic scope, the settlements and “settlement blocs” included, and projected development.

¹² B’tselem, *By Hook and by Crook*, p. 18. The data was compiled by Brig. Gen. (res.) Baruch Spiegel at the instruction of the Israeli Defense Ministry. The secret database was published by the Israeli journalist Uri Blau and analyzed by the Israeli NGO Bimkom.

¹³ <http://peacenow.org.il/eng/2011Summary>

¹⁴ http://peacenow.org/entries/972_settlement_round-up_thousands_new_homes_planned_for_east_jerusalem_west_bank#more
<http://www.alternativenews.org/english/index.php/news/jerusalem/5917-israels-settlement-offensive-in-greater-jerusalem.html>

Recommendation-2:

Israel should present disaggregated data showing the number of housing units currently existing, under construction and planned in the “greater Jerusalem” settlements, including occupied East Jerusalem, for inclusion in the UPR outcome report.

Q 3: Please elaborate how Israel considers development of “greater Jerusalem” in the occupied West Bank to be compatible with the **prohibition of the acquisition of territory by force** and the **prohibition of forced population transfer** (Article 49, Geneva Convention)?

Recommendation-3:

Israel should recognize that the construction of the “greater Jerusalem” settlement blocs in the occupied Palestinian West Bank violates international law and cease these violations. As a first step, Israel should immediately halt all construction of settlements and related infrastructure in the area and dismantle the Wall.

II. Peace Negotiations and the Rule of Law

15. Since the beginning of the Israeli-Palestinian peace process in the early 1990s, Israel has argued that international law and initiatives that hold Israel accountable to its legal obligations are “an obstacle to peace” and must be suspended for negotiations with the PLO to succeed. Israel argues, moreover, that it has been entitled to carry out its annexation and settlement policy, because the latter belongs to the so-called “final status issues” which are to be discussed and resolved later, in the framework of the bilateral negotiations over a permanent peace agreement.

16. With the question of the future status of Jerusalem and the settlements defined as “final status issues”, Israel has meanwhile systematically changed the laws, institutions and demographic composition of the annexed occupied East Jerusalem in a manner that has deprived the Palestinian population of its rights under the Fourth Geneva Convention and relevant human rights treaties. Israel has held that, according to the agreements reached with the PLO, all rights of Palestinians in occupied East Jerusalem are yet to be determined in the bilateral negotiations over the future status of the city. As a consequence, Palestinian human rights and livelihoods in occupied East Jerusalem have deteriorated at a rapid pace. Since the last UPR in 2008, the international community has declared East Jerusalem as a priority area for emergency humanitarian assistance and protection but has been unable to stymie the crisis.¹⁵

17. Israel, with this approach, violates Article 47 of the Fourth Geneva Convention providing that,

“Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the

¹⁵ See, for example, OCHA-OPT, *supra*. Also: EU Heads of Mission Jerusalem Report 2012, at: http://www.eccpalestine.org/wp-content/uploads/2013/02/EU_Homs_Jerusalem_Report_2012-1.pdf

result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.”

Proposed Questions & Recommendations to Israel

Q 4: Please explain how the State of Israel in the OPT, in particular in **occupied East Jerusalem**, applies Article 47 of the Fourth Geneva Convention, which provides, *inter alia*, that the occupied Palestinian population must **not be deprived in any case or manner of the benefits of the Convention by any agreement** concluded between the authorities of the occupied territories and the Occupying Power?

Recommendation-4:

*Israel should respect and protect the rights of Palestinians in occupied East Jerusalem under the Fourth Geneva Convention and international human rights law at all times, **including during peace negotiations.***

III. Systematic Violation of Palestinian Human Rights and Forced Transfer of Palestinians in/from occupied East Jerusalem

18. Since the 2008 UPR of Israel, CERD (2012) has raised serious concerns about Israeli violations of the prohibition of segregation and apartheid (Article 3, ICERD) through the separation of infrastructure and the unequal treatment of Israeli settlers and the occupied Palestinian population under Israeli law. In 2013, the Human Rights Council’s Independent Fact Finding Mission concluded that the illegal Israeli settlements in the occupied West Bank, including East Jerusalem, are maintained through a system of total segregation which systematically discriminates the occupied Palestinian population, violates their civil, political, social, economic and cultural rights, and leads to forced displacement. The Fact Finding Mission recommended that Israel cease these violations and provide effective remedy for all Palestinian victims.
19. Israel, with its “greater Jerusalem” project, has systematically and deliberately segregated and discriminated Palestinians in a manner that violates international humanitarian and human rights law. Occupied East Jerusalem has been especially affected, because Israel –based on the unlawful annexation and in violation of Article 47, Geneva Convention – has imposed its own laws and institutions and abused its exclusive and direct control over the occupied Palestinian population for the purpose of segregation, discrimination and forced transfer. Since 1973 (Gafni Committee), Israeli policies in occupied East Jerusalem have been informed by the **official grand policy of “demographic balance”**, i.e., a policy seeking to prevent growth of the Palestinian population in Jerusalem (West and East) beyond the limit of 30%.¹⁶ In the period since the 2008 UPR, Israeli authorities have pursued this objective based on the *Jerusalem Local Outline Plan 2000*, which

¹⁶ Btselem, *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem*, 1995, p. 30 – 38, 45 – 48.

recommends a ratio of 60/40 in favor of the Jewish population by 2020, if the 70/30 goal cannot be met because of the higher birthrate among the Palestinian population.

20. The overall scope of forced transfer of Palestinians from occupied East Jerusalem is difficult to assess for lack of reliable data. Since 1967, Israel's discriminatory entry- and residency legislation has denied the right to choose residence in occupied East Jerusalem to the large majority of Palestinians in the OPT and resulted in the revocation of the rights of return and residency of at least 44,000 East Jerusalem Palestinians (see para. 21-22). Based on Israeli statistics, between 293,000 and 371,844 Palestinians were East Jerusalem residents in 2012,¹⁷ whereas the Palestinian Bureau of Statistics estimates that 246,000 Palestinians were living in the Israeli-annexed East Jerusalem in 2012. This data suggests that at least 47,000 Palestinians, who still hold legal status in Jerusalem, may have left and are at risk of having their Jerusalem resident status revoked in the future. Also at risk are the approximately 55,000 Palestinians of Kufr Aqab, Samiramis, Ras Khamis, Dahiyet al-Salam/Anata, al-Sawahra al-Sharqiya and the UNRWA-administered Shu'fat refugee camp, whose communities are located in occupied East Jerusalem but have been cut off from the city by the Wall.¹⁸ With Israeli municipal services hard to access, these people will find it increasingly difficult to provide the documentation required for maintaining their Jerusalem resident status. Moreover, according to Israeli press reports from 2012, Israel's Jerusalem municipality is already exploring a possible transfer of these communities to the responsibility of the Israeli military.¹⁹ The rest of this section describes the main Israeli policies of discrimination and forced transfer which are applied against Palestinians specifically in occupied East Jerusalem. None of these are applied to Jewish Israeli citizens and residents, including the settlers in occupied East Jerusalem or elsewhere in the occupied West Bank.

21. **Denial of freedom of movement into occupied East Jerusalem; denial of the rights to return and establish residence in occupied East Jerusalem:** in the first Israeli population and housing census following the occupation and annexation in 1967, only Palestinians physically present in East Jerusalem were recorded. Approximately 66,000 Palestinians were recorded; as many as 30,000 internally and externally displaced Palestinians were excluded.²⁰ Persons recorded in the census were subsequently entered into the Israeli population register, accorded legal status and issued blue ID cards. From that point on, only Palestinians holding such blue IDs were entitled to enter and live in occupied annexed East Jerusalem under Israeli law. Since the mid-1990s, Israel has institutionalized its discriminatory "Jerusalem closure policy" through a system of checkpoints, magnetic cards, access permits and the Wall. Since 2005, severe access restrictions to basic services in the town have also been faced by the Palestinians who are lawfully (under Israeli law) living in occupied East Jerusalem in neighborhoods that have been separated by the Wall.

¹⁷ The lower figure is from the Israeli Central Bureau of Statistics for the end of 2011. The higher number is from the Israeli Interior Ministry's population register at the end of 2012.

¹⁸ OCHA-OPT, 2011, *supra*.

¹⁹ <http://www.civicoalition-jerusalem.org/press-releases/more-90000-palestinian-jerusalemmites-risk-forcible-displacement-israel-urgent-appeal->

²⁰ Badil Resource Center for Palestinian Residency and Refugee Rights, *Eviction, Restitution and Protection of Palestinian Rights in Jerusalem*, 1999.

- 22. Denial of secure legal status; revocation of the right to residency in occupied East Jerusalem:** unlike the majority of the Palestinian population, whose quasi-constitutional right to enter and reside in the occupied West Bank and Gaza Strip was recognized by Israeli in the Oslo interim agreements, the Palestinian inhabitants of occupied East Jerusalem do not enjoy secure legal status. Israel has accorded them the status of “permanent residents” under the *Entry into Israel Law* (1952) and the *Entry into Israel Regulations* (1974). This status, which is usually accorded to foreigners in Israel, conveys some of the rights (e.g., entitlement to public education, health and welfare) and most of the duties (e.g., payment of national and municipal taxes) of Israeli citizens. It does not convey a constitutional right to residency, but is a privilege granted solely at the discretion of the Israeli Interior Minister. The latter may determine that permanent residency in Jerusalem has expired if a Palestinian Jerusalemite “leaves Israel and settles in another country.”²¹ Since 1996, Israeli authorities and courts have interpreted the meaning of “another country” to include the OPT outside of East Jerusalem. Residency permits for Palestinians in occupied East Jerusalem have been conditioned upon physical presence in the area (permanent domicile, “center of life”) which must be documented during any interaction with the Interior Ministry. Based on partial official data, Israel has revoked the permanent resident status from 14,203 Palestinians in occupied East Jerusalem since 1967, among them 5,705 in the period since the first UPR in 2008.²² A new regulation requiring Israeli citizens and residents to renew their ID cards every 10 years gives rise to concerns that additional official scrutiny of personal documents may result in even more ID card confiscations from East Jerusalem Palestinians in the future.
- 23. Denial of Jerusalem residency to Palestinian children:** the status of “permanent residents” does not grant East Jerusalem Palestinian parents a legal right to convey Jerusalem resident status to their children. Since the 1980s, the Israeli Interior Minister has used his vast powers of discretion under Article 12 of the *Entry into Israel Regulations* to deny registration of Palestinian children, if the child’s father was not a Jerusalem resident or if the child was not born in Israel or East Jerusalem; to condition child registration with proof of “center of life” in Jerusalem, or to require parents to submit a request for family reunification for their children instead of simple registration. Since the ban on family reunification in 2003 (see para. 24-25), many children born outside Israeli-defined Jerusalem, or having one parent who is not a Jerusalem resident, have been issued only short-term permits to stay, rendering their future right to enter and stay in occupied East Jerusalem unclear.²³ Confronted with a myriad of un-transparent and frequently changing procedures, many Palestinian parents are unable to secure permanent residency in Jerusalem and the associated free public healthcare, education and welfare services for their children.
- 24. Denial of family reunification:** under Israel’s discriminatory system of nationality/citizenship and entry laws, Palestinian residents of occupied East Jerusalem and citizens of Israel require a family reunification permit in order to unite with foreign spouses and children, including husbands, wives

²¹ Regulations 11(a) and (c) of the Entry into Israel Regulations (1974).

²² <http://www.hamoked.org/Document.aspx?dID=Updates1224>

²³ Btselem: http://www.btselem.org/family_separation/child_registration_in_east_jerusalem

and children who are residents of the OPT. Until 1994, the Israeli Minister of Interior held that marriage by itself was not a sufficient reason for the grant of family reunification, and that the ‘sanctity of family life could be maintained by East Jerusalem Palestinians elsewhere in the region’. Moreover, the Ministry systematically denied requests of Palestinian women on the grounds that women ‘customarily go to live with their husbands’.²⁴ In 1994, Ministry announced that requests by East Jerusalem women would be approved if the couple could document “center of life” in Israel and no criminal or security grounds existed to deny the application. Thousands of applications were, thus, submitted in 1994 – 2000, but many remained unhandled. By 1998 the Ministry was still handling requests submitted in 1991 - 1995 and had reportedly issued a permit in 4,622 cases.²⁵ Family reunification for both, East Jerusalem Palestinians and Palestinian citizens of Israel, ground to a halt in 2000 (second intifada) in the wake of an aggressive public campaign against Palestinians for allegedly using family reunification as a “back-door for the right of return” and for engaging in terrorism.²⁶ This campaign resulted in the adoption of the discriminatory *Citizenship and Entry into Israel (Temporary Act) Law* in 2003 (last amended in 2007), which prohibits family reunification in Israel and occupied East Jerusalem with Palestinian spouses and children from the OPT and designated “enemy countries” such as Syria, Lebanon, Iran and Iraq.

25. Since the first UPR in 2008, the law has been upheld by the Israeli high court in a decision rendered in 2012, stating that ‘even if the law harmed the constitutional rights of citizens of Israel, such as the right to equality, this infringement was proportional and did not violate Israel's Basic Laws.’²⁷ Although the law permits exceptions to the ban, if the husband is over 35 years of age or the wife over 25, in special medical or work cases, and for children under the age of 14,²⁸ a positive decision results in the grant of temporary residency permits only, leaving the future legal status of spouses and children unclear.
26. **Unlawful expropriation and forced evictions:** based on the illegal annexation, Jewish Israelis were granted the right to reclaim property in East Jerusalem that had been held by the Jordanian Custodian of Enemy Property since 1948, and the right to compensation where such property was confiscated by the State of Israel.²⁹ No such rights were accorded to East Jerusalem Palestinians with property in West Jerusalem. Since 1967, Israel has rather expropriated at least one third of the entire land in the occupied and annexed East Jerusalem by means of domestic property laws which discriminate against Palestinian land owners and used this land to build the settlements, the Wall and associated infrastructure.
27. Most of the land used for construction of the 16 large urban settlements, including the Jewish Quarter in the Old City, was expropriated for alleged “public purpose” under the *Land Acquisition for*

²⁴ Hamoked and Btselem, *The Quiet Deportation*, p. 9-10

²⁵ Badil, *Eviction, Restitution and Protection*, *supra*, p. 22.

²⁶ See, for example: <http://www.danielpipes.org/10524/palestinian-right-of-return>

²⁷ <http://www.adalah.org/eng/?mod=articles&ID=1185>

²⁸ http://www.adalah.org/eng/?mod=db&dld_page=law&slg=citizenship-and-entry-into-israel-law-temporary-order

²⁹ Legal and Administrative Matters (Regulation) Law (Consolidated Version) of 1970, Section 5.

Public Purposes Ordinance (1943), a British Mandate regulation incorporated into Israeli law. As persons who were “outside of Israel” or in “enemy territory” until 1967, all East Jerusalem Palestinians qualify as “absentees” and their property is subject to confiscation under the *Absentees’ Property Law* (1950).³⁰ Israel has avoided wholesale expropriation by excluding Palestinian owners of property in East Jerusalem who were present in the occupied city on 28 June 1967 from the scope of the law. However, the law has been used to expropriate real estate and homes where one or more of a group of owners/heirs is residing outside the annexed East Jerusalem, and due to fraudulent practice by the Custodian of Absentees’ Property, a subordinate of the Israeli Ministry of Justice, who has seized property based on hearsay and false information and transferred user rights - via the Jerusalem Municipality – to Jewish settler organizations, in particular in and around the Old City. Once a property is transferred to the State, restitution is barred by the law, even if the owner was designated to be an “absentee” by mistake or fraud, because transfers from the Custodian to the State are deemed made in good faith and, thus, irreversible.³¹

28. Since the 2008 UPR, confiscations under the Absentees’ Property Law have been appealed in the Israeli high court, with the appellants requesting a principled decision to halt all application of the law to Palestinian residents of the occupied West Bank and their property in occupied East Jerusalem. The decision of the court is still pending.³² Approximately 5,000 Palestinians were forcibly evicted in 1968 in the context of the expropriation and demolition serving the new and expanded Jewish Quarter in the Old City. More than 600 have since been evicted in and around the Old City alone, as settler associations, backed by Israeli authorities and courts, continue to take over homes based on real or fraudulent claims of ownership or user rights of “absentee property” or “abandoned Jewish property”, or by harassing Palestinian tenants until they surrender their tenancy rights and vacate their homes.³³

29. **Denial of adequate services and housing; home demolitions and forced displacement:** Palestinians in occupied East Jerusalem suffer from inadequate public services, including health and education services, mainly due to discriminatory urban planning and budget allocation. Discriminatory urban planning and building laws and policies have resulted in a situation where Palestinians can build in only 13% of the entire East Jerusalem and building permits are costly and difficult to obtain. This has caused a severe housing shortage and unlicensed construction. In 2011, OCHA estimated that 86,000 Palestinians are at risk of forced displacement, because their homes were constructed without a permit and may be demolished by the Israeli authorities.

³⁰ <http://www.civiccoalition-jerusalem.org/human-rights-resources/publications/reports/israel%E2%80%99s-absentees%E2%80%99-property-law-tool-taking-control-pa>

³¹ Badil-Cohre 1503 Petition to the UN Human Rights Committee, “Israel: Large-scale Expropriation of Palestinian Property in Israel”, 2007, p. 8f.

³² <http://www.civiccoalition-jerusalem.org/press-releases/update-israeli-high-court-hearing-absentee-property-law-10-september-2013>

³³ Civic Coalition-Jerusalem submission to the Independent Fact Finding Mission on the Israeli Settlements, October 2012: http://www.civiccoalition-jerusalem.org/system/files/documents/ffm_civic_coalition_final_october_2012.pdf

30. Since the first UPR, more Palestinian homes and communities have been demolished in East Jerusalem, in particular in the Palestinian neighborhoods around the Old City, where Israeli authorities and settler associations cooperate in the creation of “national parks” and “tourist sites”, and in the eastern periphery, where Israel is engaged in the forced removal of Palestinian Bedouin communities. Between January and August 2013, the number of people displaced was over 200, higher than the combined total of 2011 and 2012, when the destruction of 106 structures resulted in the forcible displacement of 159 people and damages to 654 (OCHA-OPT, Protection Cluster/Displacement Working Group). Since 2008, moreover, the Israeli Jerusalem municipality has ceased all provision of public services to the East Jerusalem communities outside the Wall, although these communities face great difficulty accessing services in the center of town, leaving the Palestinian inhabitants without secure access to water, electricity, schools and health- and other public services, including garbage disposal and road repairs. No provisions have also been made to protect property, health, environment and freedom of movement of the approximately 10,000 Palestinian inhabitants of Beit Safafa, whose community is being bifurcated by the 6-10 lanes-wide illegal settlement highway (Begin Highway extension) under construction since September 2012, destroying orchards and obstructing access to kindergartens, schools, the health clinic and places of work and worship. The Israeli high court has rejected the residents’ request for a stop-work order and is yet pass a decision in their appeal.

31. **Denial of freedom of expression, assembly and political participation:** since 2001, Israeli authorities have closed at least 31 Palestinian institutions in occupied East Jerusalem based on alleged security risks or affiliation with the Palestinian Authority. Under the same pretext, authorities have stifled public conferences and cultural events, most recently a children’s festival, which had taken place consistently for the past 18 years,³⁴ imposed censorship on Palestinian school books used in East Jerusalem schools,³⁵ and adopted new laws, such as the “Nakba Law” and the “Anti-Boycott Law”,³⁶ which undermine Palestinian freedom of expression. These, and punitive measures, such as summons and fines, against organizers, hosts and suppliers of Palestinian civil society activities and schools, continue to undermine the national identity of Palestinian youth in occupied East Jerusalem, and the ability of the community to participate in the public affairs of their country.

Proposed Questions & Recommendations to Israel

Q 5: Please explain what has prevented the grant of a constitutional right to residency to the Palestinian population of occupied East Jerusalem? Please elaborate also on the practical measures Israel intends to implement in the short term, in order to end discrimination and forced displacement of Palestinians in/from occupied East Jerusalem?

³⁴ <http://www.haaretz.com/news/diplomacy-defense/israel-blocks-east-jerusalem-children-s-festival-citing-link-to-palestinian-authority-1.531576>

³⁵ OCHA, Key Humanitarian Concerns, *supra*.

³⁶ Reducing Budget or Support due to Activity that is Contrary to the Principles of the State” (“The Nakba Law”); Law for Prevention of Damage to the State of Israel through Boycott (2011) (“Anti-Boycott Law”): http://adalah.org/Public/files/English/Legal_Advocacy/Discriminatory_Laws/Discriminatory-Laws-in-Israel-October-2012-Update.pdf

Recommendation-5

Israel should undertake the following practical measures as immediate steps towards ending discrimination and forcible displacement of Palestinians in/from occupied East Jerusalem:

- a) Halt revocation of permanent resident status under the *Entry into Israel Law* (1952) and the *Entry into Israel Regulations* (1974); reinstate the resident status of Palestinians whose status was revoked in the past;
- b) Revoke the *Citizenship and Entry into Israel (Temporary Act) Law* which prohibits family reunification in occupied East Jerusalem; adopt legislation providing a constitutional right to residency and family unification to East Jerusalem Palestinians;
- c) Abolish the system of access permits for Palestinians to occupied East Jerusalem;
- d) Cease all expropriation of Palestinians in occupied East Jerusalem; revoke the application of the *Absentees' Property Law* (1950) in occupied East Jerusalem in a manner that reinstates ownership retroactively to all affected owners.
- e) Rescind the "demographic balance" policy limiting the Palestinian population in Jerusalem to 30-40%; adopt a development policy and budgets for East Jerusalem guided by the rights and needs of the occupied Palestinian population;
- f) Halt all demolition of Palestinian homes and property in East Jerusalem;
- g) Establish a reparation mechanism for Palestinians injured by the above laws and policies in occupied East Jerusalem.