



Mr. Ban Ki-Moon  
United Nations Secretary-General  
760 United Nations Plaza  
New York, NY 10017

30 January 2012

Dear Secretary-General,

As a Palestinian network of human rights organizations dedicated to the promotion and protection of human rights in East Jerusalem, the Civic Coalition for Palestinian Rights in Jerusalem (the Civic Coalition) welcomes you on your visit to observe the dire situation facing Palestinians living in the occupied Palestinian territory, including in East Jerusalem.

In 1967, the State of Israel illegally occupied and annexed East Jerusalem. Since then, Israel has attempted to alter the geographic and demographic makeup of the city towards the creation of a Jewish majority, and has implemented discriminatory policies in favor of the city's Jewish population. Such actions are in violation of numerous United Nations Security Council Resolutions, the UN Charter and international humanitarian law.<sup>1</sup>

According to the international community, East Jerusalem is part of the occupied Palestinian territory (oPt) along with other parts of the West Bank and Gaza Strip. Therefore, the laws of war under the Fourth Geneva Convention and Hague Regulations apply, qualifying Palestinians in the oPt as Protected Persons and governing Israel's conduct as a belligerent Occupying Power.

Israel consistently acts in flagrant violation of its obligations under international humanitarian law. Violations of Palestinians' human rights have become increasingly severe, including discriminatory laws and actions regarding residency rights, settlements and land confiscation, home demolitions, freedom of movement and access to education, with the ultimate goal of changing the reality on the ground in Jerusalem and ensuring that it is no longer a viable capital for a future Palestinian state.

### **Settlements and Land Confiscation**

Since 1967, Israel has expropriated 35% of Palestinian land in East Jerusalem for use by an estimated 200,000 illegal settlers. Another 30% is zoned as Unplanned Area and 22% as Green Area and Public Infrastructure. Today, Palestinians are only permitted to build on 13% of their own land.<sup>2</sup>

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<sup>1</sup> United Nations Security Council Resolutions 252 (1968) and 446 (1979).

<sup>2</sup> The Office of the Coordination of Humanitarian Affairs (OCHA), East Jerusalem: Key Humanitarian Concerns (March 2011), page 29.

The Absentee Property Law of 1950 is a means by which the Israeli government has expropriated Palestinian land. When it was illegally annexed by the State of Israel in 1967, East Jerusalem came under the subject of all Israeli laws, including the Absentee Property Law. In 1970, the Israeli government declared that possession of Palestinian property of any Palestinians who were not physically present in East Jerusalem during the time of its annexation would revert to the Custodian of Absentee Property (the State of Israel).<sup>3</sup> Examples of the use of the Absentee Property Law are the confiscation of two sites in the East Jerusalem neighborhood of Sheikh Jarrah: the Shepherd Hotel and the Karm el Mufti olive tree grove. Both sites were expropriated, and eventually taken over by private settler organizations. In January of 2011, when the Shepherd Hotel was razed so that settlement construction could begin, the office of the Secretary General of the UN itself stated that the action only served to heighten tensions and that: “It is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict.”<sup>4</sup>

Though the Absentee Property is no longer in use, no expropriated Palestinian land has been returned to its rightful owners.

Another means for property confiscation in East Jerusalem is the claim that it was historically owned by Jews. Such claims are generally made by private settler organizations. The Holy Basin – which includes Silwan, Ras al Amoud, At-Tur, Wadi al Joz and Sheikh Jarrah - is an especially vulnerable area to such claims. The government of Israel often works in close coordination with private settler organizations to make claims to land and to create a bias version of Jerusalem’s history through archaeological projects. The recent EU report on Jerusalem declared that such activity is part of a “concerted effort to utilize archaeology to enhance a claimed historic Jewish continuity in Jerusalem, thereby creating the sense of a historic justification for the establishment of Jerusalem as the eternal and undivided capital of Israel.”<sup>5</sup>

Israeli settlers and settler organizations are often able to purchase land from Palestinian Jerusalemites by taking advantage of the ubiquitous poverty of the area. Settler organizations often acquire properties from Palestinian families in dire financial situations and purchasing them through independent settler and international groups.

The international community views Israeli settlement in East Jerusalem as a violation of international humanitarian law and a grave violation of the Fourth Geneva Convention of 1949.<sup>6</sup>

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<sup>3</sup> Ir Amim, *Absentees Against Their Will: Property Expropriation in East Jerusalem under the Absentee Property Law* (July 2010).

<sup>4</sup> OCHA, *East Jerusalem: Key Humanitarian Concerns* (March 2011), page 54.

<sup>5</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 25.

<sup>6</sup> “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” Fourth Geneva Convention of 1949, Article 49.

## Residency Rights

According to the Israeli Nationality Law of 1952, Palestinian Jerusalemites are considered “residents in Israel and not Citizens”. While they hold an Israeli ID and may vote in local elections, they are not given the right to vote in national elections. In order to maintain their residency status, Palestinians must be able to prove that their “center of life” is in Jerusalem. If they are unable to provide extensive documentary evidence that they continuously reside in the city, they risk losing their status. Palestinians can also lose their status by gaining citizenship or residency in another country. Since 1967, approximately 14,500 Palestinians have had their residency status revoked.<sup>7</sup>

Palestinians in East Jerusalem are also subject to harsh family unification laws. A Palestinian Jerusalemite who marries a non-permanent resident or citizen of Israel must apply for family unification. The application process is governed by the Interior Ministry. Family unifications involving opt residents have been frozen since the issuance of *Executive Order 1813* in 2002 and the *Nationality and Entry into Israel Law* of 2003.<sup>8</sup> While certain amendments have been made over the years, the freeze on family unification effectively means that a Palestinian Jerusalemite cannot live with a spouse from the West Bank or Gaza Strip. Such policies are blatant violations of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the rights of the family.<sup>9</sup>

Permanent residency status is only passed from parent to child under very specific circumstances governed by section 12 of the *Entry into Israel Regulations of 1974*.<sup>10</sup> As a result, there are approximately 10,000 unregistered Palestinian children living in Jerusalem who do not have access to education and health care, nor to any other social benefits awarded to permanent residents, in violation of the ICCPR.<sup>11</sup>

There are between 80,000 and 100,000 Palestinian residents of East Jerusalem living throughout the West Bank. These people must pass through checkpoints in order to access education and health services to which they are entitled in Jerusalem. The mayor of Jerusalem recently discussed potential plans to redraw the municipal borders along the Wall, which would result in the loss of residency for all Palestinian Jerusalemites living on the West Bank side.

The vulnerability of Palestinian residency rights in Jerusalem was most recently demonstrated in June of 2010 when Israel’s invoked a “breach of loyalty to the state of Israel” as a means to revoke the residency rights of three members of the Palestinian Legislative Council (PLC) and the former Palestinian Minister of Jerusalem. Three of the men took refuge in the East Jerusalem headquarters of the International Committee of the Red Cross (ICRC) while the fourth was deported to Ramallah. The three who stayed in

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<sup>7</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 32.

<sup>8</sup> OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011), page 19.

<sup>9</sup> International Covenant on Civil and Political Rights (ICCPR) Articles 17, 23 and 26.

<sup>10</sup> OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011) page 22.

<sup>11</sup> “Every child shall have, without any discrimination...the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State; Every child shall be registered immediately after birth...; Every child has the right to acquire a nationality.” ICCPR, Article 24.

Jerusalem have all since been arrested from the ICRC headquarters by Israeli authorities, in blatant disregard for the organization's immunity and sanctuary. Arrest, deportation and revocation of residency rights on the basis of breach of trust are extreme and sweeping actions and are in violation of international humanitarian law and Israel's commitments under the Oslo agreements.<sup>12</sup>

### **Home Demolitions and Housing Rights**

Israeli authorities have destroyed approximately 2,000 Palestinian homes in East Jerusalem since its occupation in 1967.<sup>13</sup> According to Amir Chesin, the former adviser on Arab Affairs to the Mayor of Jerusalem, "Israel's leaders adopted two basic principles in their rule of east Jerusalem. The first was to rapidly increase the Jewish population in east Jerusalem. The second was to hinder growth of the Arab population and to force Arab residents to make their homes elsewhere."<sup>14</sup>

Accordingly, in their recent report on Jerusalem, the EU report on Jerusalem found that Israeli urban planning policies in the city were politically motivated and lead to a 'de facto discrimination on the ground'<sup>15</sup> against the Palestinian population and that "[Palestinian families] have the choice between immigrating outside the municipal area of Jerusalem (and losing their residency status) or building without the necessary building permit."<sup>16</sup>

Israeli housing procedures utterly fail to meet the needs of the Palestinian residents of East Jerusalem. Palestinians are only permitted to build on 13% of their own land and obtaining a building permit is close to impossible. Palestinians face unreasonably high fees, undue delays and onerous requirements. Without a permit, the home will be classified as an "illegal" structure and slated for demolition. As a result of the severe housing shortage in East Jerusalem and the discriminatory and harmful planning policies by the Israeli municipality, 32% of Palestinian structures are "illegal," making 85,000 Palestinians at risk of demolition and displacement.<sup>17</sup> Additionally, the Israeli government cites section 212/5 of the Israeli Building and Planning Law of 1965 to demolish homes when it is unable to locate the owner.

The East Jerusalem neighborhoods of Sheikh Jarrah and Al Bustan/Silwan are extremely vulnerable and constantly targeted by the Israeli government and private settler organizations. Sheikh Jarrah has been a focal point for private settler groups and organizations that claim the land was inhabited by Jewish communities before 1948 and

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<sup>12</sup> "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Fourth Geneva Convention of 1949, Article 49(1); the Interim Agreement on the West Bank and the Gaza Strip (Oslo II) provided for the establishment of democratic elections to the Palestinian Legislative Council, in which Palestinian Jerusalemites could participate.

<sup>13</sup> OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011), page 38.

<sup>14</sup> Amir Chesin, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem* (1999), pages 31-32.

<sup>15</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 26

<sup>16</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 28.

<sup>17</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 28.

want to gain possession of the land. Four families have already been evicted and are now homeless. If current Israeli building plans are implemented, they would result in the evictions of nearly 500 Palestinian residents and the demolition of their homes.<sup>18</sup> In Al Bustan, Israeli authorities are working to forcefully evict Palestinians from the area in order to construct a Biblical Park. There are currently 88 homes in Al Bustan under threat of demolition, putting 1,400 people at risk of displacement.<sup>19</sup>

### **The Separation Wall and Restrictions on Freedom of Movement**

One of the most glaring human rights violations in Jerusalem is the Separation Wall and resulting restrictions on freedom of movement. Only 3% of the 168 kilometers of the Wall in the Jerusalem area follows the 1967 Green Line and serves to merge 12 West Bank settlements within Israel's defined municipal borders.<sup>20</sup>

According to the Special Rapporteur on the oPt, the Wall is “an exercise in social engineering, designed to achieve the Judaization of Jerusalem by reducing the number of Palestinians in the city.”<sup>21</sup>

The Wall disconnects economically and socially dependent urban centers as well as severing ties between rural communities and Jerusalem. It also leaves between 80,000 and 100,000 East Jerusalem residents on the West Bank side of the Wall, forcing them to cross checkpoints to access health and education services, and West Bank communities on the Jerusalem side of the Wall, leaving them at high risk of displacement.

The Wall also has the powerful long-term effect of separating East Jerusalem from the rest of the oPt. The strict system of permits and checkpoints in order to reach Jerusalem restrict Palestinian access to health and education institutions, and religious sites. The Wall changes not only the municipal borders of Jerusalem, but other de facto realities on the ground, decreasing the possibility of East Jerusalem as the capital for a Palestinian state in the future.

### **Access to Education**

The educational sector in East Jerusalem is negatively impacted by an inadequate number of classrooms, a substandard quality of existing facilities, and severe access restrictions for teachers and students. While Palestinian children in East Jerusalem between the ages of five and 18 are legally entitled to free public education, approximately 5,300 registered children are not enrolled in school<sup>22</sup>, with an additional 4,000 unregistered children in the city also unable to access education.

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<sup>18</sup> Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), *Dispossession and Eviction in Jerusalem: a summary of the story of Sheikh Jarrah* (December 2009) page 10.

<sup>19</sup> CCPRJ, *Jerusalem Facts and Statistics*.

<sup>20</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 38.

<sup>21</sup> UN Special Rapporteur Richard Falk, *Report on the situation of human rights in the Palestinian Territories occupied since 1967, (A/HRC/13/53/Rev.1 7)* (June 2010).

<sup>22</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraph 44.

According to the Association for Civil Rights in Israel (ACRI), the shortage of classroom space is one of the most pressing issues in East Jerusalem, and, in 2009, only 50% of classrooms were deemed suitable for learning. Many Palestinian children in Jerusalem attend school in makeshift classrooms without facilities such as libraries and playgrounds.

Such shortages are due, in no small part, to zoning and planning restrictions that prevent new construction, building expansion and threaten several pre-existing schools.

Furthermore, in March of 2011 Israeli Authorities imposed government censored textbooks onto both public and private Palestinian schools in East Jerusalem. These versions remove references to subjects related to Palestinian history, culture and heritage such as the *Nakba*, the history of the occupation, the Palestinian flag and the national anthem. Such measures are an extreme and drastic attempt to deny Palestinian children the right to learn their identity and politics.

The unequal education system in Jerusalem is a violation of Israel's obligations as the Occupying Power under the Fourth Geneva Convention as well as of international human rights law.<sup>23</sup>

### **The International Community**

The international community consistently condemns Israel's behavior in East Jerusalem. The UN Security Council has issued multiple resolutions condemning Israel's attempts to change the character of the city. In 1999 and 2001 the High Contracting Parties to the Geneva Convention agreed that the Convention applied in the case of the oPt, including East Jerusalem. In its 2004 advisory opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, the ICJ reaffirmed this, further stating that Israel's transfer of its own population into occupied territory was in flagrant violation of the Fourth Geneva Convention. The Rome Statute of the International Criminal Court defines such population transfer as a war crime.

In light of its policies and actions towards the Palestinians of East Jerusalem, it is clear that the Israeli government is not committed to the two-state solution and to the peace process. The EU report on Jerusalem states, "Without Jerusalem as the future capital of two states, a sustainable peace agreement between Israel and Palestinians will not be possible" and that "over the past few years, Israel's actions in East Jerusalem have run counter to its stated commitment to a sustainable peace with the Palestinians through the two-state solution".<sup>24</sup>

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<sup>23</sup> "The occupying power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children" Fourth Geneva Convention of 1949, Article 50; "The States Parties to the present Covenant recognize the right of everyone to education. Primary education shall be compulsory and available free to all" International Covenant on Economic, Social and Cultural Rights (ICESCR), Article 13.

<sup>24</sup> EU Heads of Mission Report on East Jerusalem (2011), paragraphs 1 and 4.

In spite of this, the international community and the UN do not take serious action to support a Palestinian presence in East Jerusalem. As the largest and most influential actor in global politics, the UN is obligated to uphold the international humanitarian and human rights law it espouses. Its position cannot be limited to statements of objection. Rather, it must include strong political and diplomatic action. Member states of the UN should uphold their obligations under the Fourth Geneva Convention of 1949 to ensure that all High Contracting Parties respect the Convention and place harsh pressure on the government of Israel to conduct itself according to international law. The UN must also enforce past Security Council Resolutions and should vote in favor of a Palestinian membership in the UN.

### *Information about the Civic Coalition*

1. The Civic Coalition for Palestinian Rights in Jerusalem is a non-governmental, non-profit coalition of institutions, societies, associations and individuals with experience and mandate to work in Jerusalem on human rights issues. Established in 2005, the Coalition currently has a membership of 25 institutions.
2. Our vision: To preserve Palestinian presence in Jerusalem and ensure the Palestinian people are able to effectively realize and exercise their fundamental human rights.
3. Our mission: To mobilize efforts, capacities and resources to protect the political, civil, economic, social and cultural rights of Palestinians in Jerusalem based on international and human rights law.
4. Our objectives are to:
  - a. promote greater awareness amongst the Palestinian population of Jerusalem of their fundamental human rights as enshrined under international humanitarian and human rights law;
  - b. coordinate and facilitate advocacy efforts on both individual and collective human rights issues of the Palestinian people in Jerusalem;
  - c. provide legal services to Palestinians;

- d. strengthen the organizational capacity of the Civic Coalition and its members to enable the realization of the Civic Coalitions' vision and objectives.
5. Our programs include:
- a. monitoring and documenting violations of international humanitarian and human rights law within Jerusalem;
  - b. conducting national and international advocacy;
  - c. providing legal services to Palestinians;
  - d. facilitating capacity building workshops for human rights organizations;
  - e. developing a human rights database (in progress).

Sincerely Yours,  
Zakaria Odeh  
Executive Director\\ Civic Coalition  
Tel: 02-2343929  
Fax: 02-2342936