



**The Civic Coalition for the Palestinians Rights in Jerusalem**

**Request for urgent action to the UN Special Rapporteurs on the deteriorating situation of housing rights of Palestinians in East Jerusalem**

Submitted by the Civic Coalition for the Palestinians' Rights in Jerusalem (**“the Civic Coalition”**)

January 2012



## Request for urgent action to the UN Special Rapporteurs on the deteriorating situation of housing rights of Palestinians in East Jerusalem

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Submission in relation to the Government of Israel for the attention of Mrs Raquel Rolnik, UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context.

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This Request for Urgent Action is submitted by the Civic Coalition for the Palestinians' Rights in Jerusalem (“**the Civic Coalition**”) and the Palestinian victims residing in East Jerusalem subject to discrimination in the conduct of the Israeli Occupation, especially in the context of their housing rights (together, “**the Authors**”). The Request for Urgent Action is structured as follows:

- a) **Section 1** is an Executive Summary that provides a brief overview of the submissions and reasons for the Request for Urgent Action.
- b) **Section 2** provides details relating to the Authors and the State party.
- c) **Section 3** is a detailed summary of the discriminatory measures involved in the conduct of the Israeli Occupation of East Jerusalem.
- d) **Section 4** is a detailed account of the demolition and eviction cases of Sheikh Jarrah, Silwan (Bustan) and the Bedouins of East Jerusalem.
- e) **Section 5** briefly addresses the impact of the housing situation on women and children.
- f) **Section 6** addresses concerns of the Authors under international law.
- g) **Section 7** provides a conclusion.
- h) **Section 8** is a summary of urgent measures requested to be taken to end violations of human rights, especially housing rights, of Palestinians in East Jerusalem.

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## 1. Executive Summary

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### 1.1 Executive summary

1. The Request for Urgent Action concerns the housing problems in East Jerusalem, where many Palestinians are affected by demolition of their homes and forcible evictions in an ongoing process that has been characterized as ethnic cleansing. As part of a widespread and systematic policy of discrimination, Palestinians are excluded from access to housing or any adequate or inhabitable housing in East Jerusalem on equal footing with Jewish settlers who have been illegally transferred to the occupied territory.
2. The Request for Urgent Action is made due to the urgent and pressing housing needs of the Palestinian population which is characterized by a severe housing shortage in East Jerusalem due to the limited number of building permits issued to Palestinians since 1967, or lack thereof. Since 1967, permits have been issued, while Palestinian homes have been demolished. This has had and continues to have a profound and dire consequence on the development of the Palestinian community in East Jerusalem.
3. The Request for Urgent Action focuses on the particular building and planning policies and practices as well as citizenship laws implemented by the State party which indicate the deep structural discrimination and unfair treatment experienced by Palestinians in East Jerusalem, particularly where their right to adequate housing is concerned.
4. The majority of violations that stem from the State party's planning and citizenship policies relate to the forcible transfer of Palestinians from the occupied territory, the confiscation and destruction of Palestinian-owned private property, and the transfer of the civilian population into the occupied territory, all constituting grave breaches under international humanitarian law and therefore subject to universal jurisdiction which requires State parties to seek out and either prosecute or extradite the suspected perpetrators irrespective of the location of the crime and nationality of the perpetrator.
5. The following submissions are summarised in greater detail in **Section 3** and provide the particulars of the Request.

6. Since 1967, the State party has implemented legal and non-legal measures in the form of legislation, unofficial and official government policies, and practices of the local municipal authority that discriminate between Palestinians and Jews in favour of the latter, in access to housing, availability of public services and infrastructure and ease in obtaining building approval.
7. These legal measures are constituted by the following domestic legislation:
  - a. the National and Entry into Israel Law which governs Palestinian entitlement to residency in East Jerusalem and the conditions to maintain legal residency under the ‘center of life’ policy; and
  - b. the Building and Planning law which regulates all building and land use in Israel and controls the development of land. Despite providing a legal mechanism by which applicants may participate in the building process, in practice Palestinians have largely been excluded from this process.
8. Together these two laws serve to limit Palestinian presence in East Jerusalem by creating grounds for their exclusion by imposing severe conditions on their ability to maintain their residency status and the possibility to build and expanded their homes where necessary.
9. The non-legal policy-based measures discriminate towards Palestinians by creating further obstacles to their ability to gain access to adequate housing through a wide variety of ways, including the following:
  - a. summarily rejecting Palestinian applications for a building permit;
  - b. revoking residency and social rights of Palestinians who stay abroad for at least 7 years, or who are unable to prove that their center of their life is in Jerusalem;
  - c. creating and employing a demographic policy that openly aims to limit the number of Palestinian residents while substantially increasing the number of Jewish settlers in East Jerusalem;
  - d. regularly demolishing Palestinian homes and forcible evictions based on alleged ‘nonconforming’ or unlicensed structures or property claims by settler organisations with no alternative housing provided or assigned residence;
  - e. building and expanding Jewish settlements and supporting infrastructure which confiscates and builds on privately owned Palestinian land;

- f. stimulating the growth of the settler population in East Jerusalem under the official demographic policy found in the Jerusalem Master Plan;
  - g. designating Jerusalem a Jewish national priority of the first order under Regional Urban Plan TMM1 under ‘Plan Number 30’ including East Jerusalem and dividing the budget under this plan between the two parts of the city, with harmful affects on public services and infrastructure in East Jerusalem
  - h. physically isolating East Jerusalem from the West Bank, in part through the construction of the Separation Wall
- (together, “**Occupation measures**”).

10. The measures constituting the Israeli Occupation apply only to Palestinian residents of East Jerusalem or Palestinians seeking a right of return. As a result, these measures which directly affect (insert total number of Palestinian women, men and children in East Jerusalem), predominantly apply to Palestinians.

11. Taking these measures into account, the Authors submit that:

- a. the Occupation, and
- b. actions by the State party in the conduct of the Occupation constitute *serious, massive and persistent discrimination against Palestinians* in the context of their right to adequate housing and have constituted and continue to constitute multiple violations under international humanitarian and human rights law.

12. There is a continuing need to address the unacceptably high level of disadvantage and displacement experienced by Palestinians living in East Jerusalem, as well as a need for action by the international community to compel the State party to respect its human rights obligations and to conform to the treaties which it has ratified in this regard.

## 1.2 Request for Urgent Action

13. The Request for Urgent Action arises from the flagrant breach by the State party of its obligations under international humanitarian and human rights law. The Authors consider the issue of housing rights in

East Jerusalem should remain a matter of serious concern to the international community. That the demolition and forced evictions of Palestinians from their homes in East Jerusalem can be carried out by the State party with impunity warrants real and immediate action to stop the displacement of Palestinians, particularly in light of the gravity and scale of these measures. That is particularly the case when in question are the fundamental human rights of the Palestinian people of East Jerusalem.

14. The Authors' detailed submissions on the indicators demonstrating the need for action are provided in **Section 3.**

## 2. Details relating to the Authors and the State party

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### 2.1 Information on the Authors

#### *The Civic Coalition*

15. 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.
16. Our vision: To preserve Palestinian presence in Jerusalem and ensure the Palestinian people are able to effectively realize and exercise their fundamental human rights.
17. 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.
18. 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.
19. 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).

*The Palestinian Victims*

- 20. The Victims are the affected Palestinian community subject to discrimination in access to housing and development rights and includes, but are not limited to, Sheikh Jarrah, Silwan Al-Bustan and Wadi Hilweh and the Bedouins of East Jerusalem. The Victims reside in a number of areas across East Jerusalem targeted for intensive demolition and forced eviction under the measures of the Occupation.
- 21. Although the Request for Urgent Action focuses on the first three communities as representative of the housing problems, characterised by forced eviction and house demolitions, these issues cover similar or identical experiences of the other communities listed above.
- 22. The Authors submit that the UN Special Rapporteur is competent to receive complaints from groups or individuals and that anyone may approach the UN Special Rapporteur to invoke an urgent appeal for action.

**2.2 Address for correspondence**

23. Please address all correspondence in relation to this Request for Urgent Action to:

Name: Mr. Zakaria Odeh

Position: Executive Director of the Civic Coalition for the  
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### 2.3 State Party against which the Request for Urgent Action is directed

24. The Request for Urgent Action is made against the Government of Israel including the head of state, legislature, executive and judiciary down to its regional and local councils (“**State party**”).
25. The State party has ratified the following relevant treaties under international humanitarian and human rights law:

<b>Treaty</b>	<b>Date of ratification</b>
Four Geneva Conventions of 1949	6 July 1951
International Covenant on Economic, Social and Cultural Rights (ICESCR)	19 December 1966
International Covenant on Civil and Political Rights (ICCPR)	19 December 1966
Convention on the Rights of the Child (CRC)	20 November 1989

### 3. Detailed Submissions on the Measures of the Occupation in East Jerusalem and their Impact

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#### 3.1 Introduction

26. The broad legal and policy measures involved in the conduct of the Occupation in East Jerusalem are targeted directly at people of Palestinian heritage and descent, particularly in the context of their right to adequate housing. This Request for Urgent Action concerns the unfair treatment of Palestinians in respect of housing rights in East Jerusalem.

27. The following section provides details of the legal and policy measures that constitute the Occupation by the State party, Israel, and the submission made in respect of the Request for Urgent Action.

#### 3.2 Legal measures

28. The main legal measures, for the purposes of this Request for Urgent Action, are constituted by application of the following domestic legislation:

- a. Nationality and Entry to Israel Law (1952); and
- b. Building and Planning Law (1965).

##### *Nationality and Entry to Israel Law (1952)*

29. The Nationality and Entry to Israel Law governs the issue of entry to, and residency within Israel by non-citizens, which extends to permanent residents. It poses a key threat to Palestinian housing and to

maintaining a Palestinian presence in East Jerusalem by providing very broad grounds on which Palestinian residency may be revoked by the Minister of Interior of Israel. Often Palestinians of East Jerusalem who leave the city for an extended period (7 years or more) for work or study, gain employment in the West Bank, marry a 'foreign' spouse (including one from the West Bank or Gaza Strip), or receive a second nationality fail to meet the requirements of the State party's 'center of life' policy.

30. Since  
December 1995, Israel has relied in part on the strict enforcement of the Jerusalem residency permit regime through the center of life policy to reduce the number of Palestinians in East Jerusalem. This policy requires Palestinian permanent residents to consistently prove they hold continuous residence in East Jerusalem by providing extensive documentary evidence including rental agreements, home ownership documents, tax receipts, school registration and receipts of medical treatment in Jerusalem. Palestinians risk loss of their residency rights if they cannot provide proof of this status.

31. Through  
the Separation Wall, Palestinians have literally been cut in half. By threatening to deny residency status to those living on the eastern side of the Wall, the State party prevents families from entering the city. Over 100,000 Jerusalemites live on the other side of the Wall in order to live with their spouses who hold West Bank identification or to live in more affordable housing. They live with the real fear that the State party may redraw the municipal borders and as a result revoke their residency. Children born in the occupied Palestinian territory (“oPt”) who has one West Bank parent and one Jerusalemite parent are not permitted to live in Israel or occupied East Jerusalem. This effectively freezes Palestinian family unification.

*Building and Planning Law (1965)*

32. This law  
provides another key threat to Palestinian housing. It regulates all building and land use in Israel and controls the development of land. It provides legal justification for house demolitions of nonconforming building structures. Since mainly Palestinian houses are targeted by the Occupation measures, this law has a disproportionate impact on Palestinians, resulting in a high number of demolitions.

33. As a natural result of Israel's zoning and building policy, the Palestinian population of East Jerusalem has been forced to resort to unlicensed building in order to meet their housing needs. The Jerusalem Municipality has responded to this by issuing administrative orders of demolition under the Building and Planning Law. The Municipality has also filed lawsuits before the Municipal Affairs Court against those who have already built and inhabited an unlicensed house and obtained court orders of demolition. Right wing political groups in the Knesset or parliament often pressure the Municipality to enforce demolition orders in East Jerusalem.<sup>1</sup>

### **3.3 Non-legal policy-based measures**

34. The policy measures are constituted by the following policies, plans and practices of the State party regarding the building and planning system in East Jerusalem:

#### *The building and planning system in East Jerusalem as a basis of unfair treatment towards Palestinians*

35. In 1967, the State of Israel unilaterally annexed and occupied East Jerusalem. It redefined the boundaries of Jerusalem by annexing 6.5 square kilometres from the Old City and 64.5 square kilometres of land belonging to 28 villages within the municipal districts of Bethlehem and Ramallah in the West Bank. This expanded the municipal boundary of Jerusalem from 6.5 square kilometres to 71 square kilometres.<sup>2</sup>

36. Since 1967, the State party has adopted broad legal and policy measures targeting the living space and presence of the Palestinian population in East Jerusalem. These measures have coincided with attempts by the State party to alter the legal status of East Jerusalem by declaring all of Jerusalem, including East Jerusalem 'the Capital of Israel', and implementing policies aimed at achieving the State party's demographic objectives for Jerusalem.

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<sup>1</sup> H.C 1901/94 *Uzi Landau and others vs. Jerusalem Municipality and others*, published in compilation of High Court Decisions, Vol. 48(4), p. 403.

<sup>2</sup> Israeli Law Administration Ordinance (No. 1)

37. The demographic objectives follow the recommendations of the Inter-Ministerial Committee, also known as the Gafni Commission, conducted in 1973 on behalf of the State party. The findings of the Commission then identified a ‘demographic problem’ in Jerusalem based on an ‘imbalance’ in the ratio of Jews to Palestinians. The most significant recommendation of the Gafni Commission, which was adopted as official policy by the State party and its local arm of government, the Jerusalem Municipality, was the creation and maintenance of a demographic balance of Jews to Palestinians at the level of the population at the end of 1972: 73.5% Jews and 26.5% Palestinians.

38. Since 1973, successive Israeli governments have reaffirmed that maintaining the ‘demographic balance’ is the foundation and guiding principle of all urban planning policy of the Jerusalem Municipality aimed at thwarting any future attempts to challenge the State party’s sovereignty over Jerusalem. Former director of the Planning Policy Section of the Jerusalem Municipality, Israel Kimhi, publicly and explicitly stated this policy as follows:

A cornerstone in the planning of Jerusalem is the demographic question. The city’s growth and the preservation of the demographic balance among its ethnic groups was a matter decided by the government of Israel. That decision, concerning the city’s rate of growth, serves today as one of the criteria for the success of the process of Jerusalem’s consolidation as the capital of Israel.

39. The policy was reiterated in December 2009 with the launch of the Jerusalem Master Plan 2030. A primary objective of Plan 2030, ‘in accordance with governmental decisions’, is to ‘maintain a ratio of 70% Jews and 30% Arabs’ within the Jerusalem Municipality. The authors of the Master Plan, however, concede that this goal is not attainable, and if the current demographic trends continue, the population of the Jerusalem Municipality by 2020 is projected to be ‘60% Jews and 40% Arabs, but only under the condition that assumptions at the base of the outline plan are actualized’.

40. As official policy, the ‘demographic balance’ has been expressed and understood as the calculated increase in the Jewish population of Jerusalem, dictated by the growth rate of the non-Jewish population. Essentially, the State party’s policy is to reduce the Palestinian presence in Jerusalem and its suburbs as much as possible so that it will account for less than 22% of the population in both parts of the City, as per the 1973 recommendations of the Inter-Ministerial Committee (Gafni Commission) on ethnic balance.

41. It implies equilibrium between two distinct populations within a single city. However, the foundation of all subsequent Israeli policy has been to achieve and maintain a demographic majority of Jews in

order to consolidate its claim to Jerusalem as the 'united and eternal capital of Israel'.

42. The policy has involved the considerable reduction and restriction in the growth, presence and urban development of the Palestinian population in East Jerusalem in order to increase the Jewish population.
43. Consequently, the planning system of the Jerusalem Municipality as guided by the State party's demographic policy remains a source of serious concern as it places severe restrictions on the building of Palestinian housing in East Jerusalem. Many Palestinians live under the threat of having their house demolished and being evicted, adding to the existing tensions. These restrictions have resulted in a housing shortage in East Jerusalem and the regular demolition of Palestinian-owned structures.
44. A significant mechanism by which Palestinian construction has been curtailed is through the State party's zoning policy in East Jerusalem. Only 13% of the land is zoned for Palestinian construction and only within this 13%, which is already densely built upon, may Palestinians have the possibility of obtaining an Israeli-issued permit to build, repair or maintain their homes and livelihood-related structures. In line with the demographic policy to limit the number of Palestinians in Jerusalem, the Jerusalem Municipality has generally failed in its duty to approve building permits submitted by Palestinian applicants. The imposition of onerous administrative requirements has compounded the extreme difficulty experienced by Palestinian residents in East Jerusalem to obtain such permits. In addition, the procedures take several years with no guarantee of success and usually entail a prohibitive cost. Families that build without the requisite permit are often fined for having constructed their houses without a permit and charged the costs of the demolition. Increasingly, families are being ordered to self-demolish their own homes, resulting in significant psychological harm to the members of the family.
45. Depending on the location, the total costs associated with a building permit to construct a small 100 square metres building on a 500 square metres plot of land will amount to approximately 75,000 to 100,000 NIS or 20,000 to 25,000 USD. More often than not, the fees associated with the building permit exceed the total costs of construction. Taking into consideration that over 66% of Palestinian families in occupied East Jerusalem live under the poverty line, these costs function as a significant obstacle and economic barrier for Palestinians to access adequate housing in East Jerusalem. Such barriers effectively preclude a majority of Palestinians from undertaking licensed construction in East

Jerusalem.

46. Over the past years Palestinians have received fewer than 200 building permits per year. Based on the population growth, permits for 1,500 housing units annually would be necessary to cover their housing needs. As a consequence of the practice of restrictive planning for Palestinians, there is an acute housing shortage in East Jerusalem. In addition, Palestinian houses are overcrowded and in poor, run-down condition. The planning system poses a difficult dilemma for Palestinian families: they have the choice between migrating outside the municipal area of Jerusalem (and losing their residency status) or building without the necessary building permit. According to UN OCHA, at least 32% of Palestinian structures in East Jerusalem lack such a permit, putting approximately 88,000 Palestinians at risk.
47. Buildings constructed without a permit are considered illegal under the Israeli Building and Planning Law which provides the legal basis for their subsequent demolition. Unofficial sources estimate that up to 1500 ‘illegally’ built residential buildings in East Jerusalem currently have demolition orders against them. In the course of 2011, UN OCHA recorded the demolition of 50 Palestinian owned structures in East Jerusalem, affecting over 250 people (half of whom are children).
48. The Jerusalem Municipality acknowledges the planning crisis in East Jerusalem, but has nevertheless failed to adopt measures to address the problem.
49. Despite the fact the Palestinian population of East Jerusalem has increased by 289% since the annexation of East Jerusalem, the possibility of issuing legal building permits for new construction in East Jerusalem has been practically non-existent for decades.
50. As a direct consequence of decades of failure to issue building permits, most buildings in East Jerusalem have been built, and continue to be built, without permits. They are densely crowded, and their occupants live in constant fear of a demolition order or forced eviction.

#### *Unlicensed Construction*

51. Obtaining a building permit in East Jerusalem is a rare exception rather than a basic right. A growing population, a severe housing shortage, and a grim prospect of successfully navigating through the planning system has forced many of East Jerusalem’s Palestinian residents to build without a license.

52. The phenomenon of unlicensed construction is a direct consequence of the Israeli planning system in East Jerusalem and obtaining a building permit is one of the greatest obstacles to Palestinian life in East Jerusalem, as mentioned. A building permit is not an uncommon requisite for urban construction, however for the Palestinian residents of East Jerusalem the complex and multifaceted application process, coupled with exceptionally high associated fees, makes obtaining a building permit effectively impossible.
53. Before the application process for a building permit can be initiated, proof of ownership is required. The vast majority of land in East Jerusalem is privately owned and therefore not registered with the Israeli Land Registration Bureau, nor included in the incomplete Land Registry and Title Settlement inherited from Jordan, a registry that successive Israeli governments have consistently avoided completing.
54. Previously the Jerusalem Municipality accepted a combination of ‘traditional’ and ‘administrative’ forms of ownership, however, more recently, a new series of procedures were implemented that have imposed further obstacles on Palestinians seeking a building permit.<sup>3</sup> Such procedures include the obligation to prove ownership by means of registration; confirmation from the Ministry of Justice that no additional claims to the land exists; confirmation from the Custodian of Absentee Property that the land is not under its ‘management’; and finally, confirmation from the Israel Mapping Center that the land is plotted and has no competing claims. Further requirements require landowners to prove that that area in question has no environmental protections in place or any archeological or Jewish religious significance.
55. A majority of Palestinian families acquired their land through traditional family inheritance and so have lived on the same land for several generations. As a result many do not possess what the Jerusalem Municipality accepts as official documentation necessary to prove land ownership. In such cases the Jerusalem Municipality requires the physical presence of both the new and previous owner to transfer entitlement at the Ministry of Justice, a criteria that for obvious reasons has consistently proved impossible to fulfill. Even if a Palestinian family were in possession of the official documentation and sought to register their land at the Israeli Land Registry, they would currently be unable to do so as land registration claims have been frozen as far back as 1967. The dubious legal pretext for this administrative deadlock on land registry was allegedly enacted because contemporary registration could be prejudicial to the rights of owners defined as ‘absentees’, who are unable to

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<sup>3</sup> Margalit, M., ‘No place like home: House Demolitions in East Jerusalem’ *Israeli Committee Against House Demolitions*, 2007, at page 20.

express opposition to the registration of a third party. Thus for the Palestinian residents of East Jerusalem, land registration within the Israeli Land Registration Bureau – the primary avenue to prove land ownership and secure a building permit – is currently not possible.

56. As a result of building without a permit, thousands of Palestinians live under the unrelenting threat of impending demolition or forced eviction and the ensuing inevitability of displacement from, or within, East Jerusalem.

### *House Demolitions*

57. Home demolitions are a well known and widely documented feature of the State party's occupation of Palestinian territory including East Jerusalem. Since 1967 Israeli authorities have conducted over approximately 9,000 'administrative' and 'judicial' demolitions of Palestinian homes throughout the occupied Palestinian Territory. Two thousand of these have occurred in Jerusalem alone.<sup>4</sup>

58. Between 2000 and 2008 more than 670 homes were demolished in East Jerusalem resulting in the displacement of thousands of Palestinian residents. In 2008 the Jerusalem Municipality issued 959 demolition orders and demolished 87 homes within East Jerusalem, a 32% increase in demolitions from 2007. Since January 2009 the Municipality has issued an additional 1,052 demolition orders and demolished 60 Palestinian homes in East Jerusalem. According to UN OCHA, 82 houses were demolished by the Israeli authorities in 2010. The overwhelming majority of these actions have occurred under the pretext of unlicensed construction.<sup>5</sup>

59. In addition, as reported by the Special Rapporteur, in its latest Report on the situation of human rights in the oPt, in 2009 more Palestinians (approximately 4,577) were stripped of their residency rights than in any year between 1967 and 2007.

60. Amir Cheshin, the advisor on Arab Affairs to the former Israeli Mayor of Jerusalem, Teddy Kollek, notes that since 1967: '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'. The Jerusalem Master Plan reiterates this policy and accelerates the policy of demolition of Palestinian

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<sup>4</sup> This number excludes houses demolished during military operations, punitive house demolitions, and 'voluntary demolitions'. In total, since 1967, 24, 145 Palestinian homes have been demolished Israeli authorities.

<sup>5</sup> Full statistics available through the Israeli Committee Against House Demolitions. See 'Statistics on House Demolitions 1967-2009'

homes which continues unabated. For example, the Master Plan explicitly states that: ‘The Old City's population density will be decreased by governmental intervention’ (p.148).

61. The Authors are concerned about the fate of 15,000 Palestinian housing units which the Master Plan states are ‘unlicensed’, particularly in light of the Master Plan’s recommendation for ‘enforcement of planning laws’ (p. 18).

#### *Forced Evictions*

62. The use of forced evictions is another means by which the State party has sought to minimise the number of Palestinians in the city inline with achieving a ‘demographic balance’ and is a continuously employed means of the Municipality’s planning policy in East Jerusalem.
63. Throughout 2010 there have been three cases where Palestinians have been forcibly evicted: two in the old city and one in Jabal Mukabber in East Jerusalem. Together, these evictions have affected approximately 70 people. The properties have since been handed over to Jewish settlers or settler organizations under police protection. In Sheikh Jarrah, over 60 Palestinians lost their homes and an estimated 500 remain at risk of forced eviction, dispossession and displacement in the near future.
64. The removal of people from their homes absent their will creates an unrelenting burden on those residents who have lost their homes as well as those who live under the trepidation caused by their susceptibility to the potential of eviction, not to mention a humanitarian tragedy.

#### *Local Planning Schemes*

65. The Jerusalem Municipality and Israeli Ministry of Interior has consistently invoked the complex, and conveniently unresolved, land ownership issues that exist in occupied East Jerusalem as the pretext for the absence of approved Local Planning Schemes in East Jerusalem’s Palestinian neighborhoods.
66. In West Jerusalem, the drafting, implementation and approval process for Local Planning Schemes is a responsibility undertaken by the State party to ensure the basic needs and rights of the city’s residents. State party agencies are responsible for, and cover all costs associated with, the hiring of planners and architects to develop and oversee the approval process of Local Planning Schemes. In occupied East Jerusalem, however, the State party and local authorities have proved unwilling to fulfill such obligations for the Palestinian residents, forcing them to initiate and negotiate the drafting and approval process on their own.

67. The numerous statutory and administrative obstacles, coupled with excessive delays and extensive associated fees, not only effectively discourage, but in many cases entirely prohibit Palestinian residents from initiating this process. The glaring disparity of land use, building density and public infrastructure between Palestinian and Jewish neighborhoods illustrates the systematic and adverse discrimination in the drafting, approval and implementation of local planning schemes in occupied East Jerusalem.
68. Since 1967, the Israeli occupation authorities have constructed approximately 60,000 residential units in Jewish settlements throughout occupied East Jerusalem. During the same period however, the local authorities constructed fewer than 600 residential units for Palestinian residents - the last of which were built over 30 years ago.
69. Tenders that were issued in 2008 for the construction of 1,761 residential units for Jewish settlers in occupied East Jerusalem represent 300% more residential units than the total number of units built for Palestinians residents in occupied East Jerusalem from 1967 until December 2009.
70. In 2008, Palestinian residents submitted 190 local planning schemes to the planning institutions for public review; however, only 18 building permits were issued. The exceptionally limited number of permit approvals allegedly resulted from either the absence of 'approved Local Planning Schemes' or areas being zoned as 'green' rather than 'residential'.
71. More alarming is the fact that numerous Palestinian neighborhoods have no local planning scheme covering their area whatsoever, prohibiting all construction and rendering illegal all existing residential units. Such neighborhoods include Wallaje which houses 450 people in approximately 100 buildings; Nooman-Mazmooria, housing 350 people in 50 buildings; Wadi Hilwe, housing 4,500 people in 250 buildings and Al-Bustan – housing about 1000 people in 90 buildings.
72. In stark contrast, since the Annapolis summit in 2007, announcements released to the Israeli press from the Jerusalem Municipality and the Ministry of Housing reveal plans to construct an estimated 32,000 housing units in occupied East Jerusalem exclusively for Jewish settlers. Of these plans, 9,617 (approximately one third) are based upon existing local planning schemes, and approximately half of these, amounting to 4,370 residential units, possess approved local planning schemes, require no further approval and are slated for immediate construction.
73. The remaining 5,247 residential units are under an accelerated process of planning, 3,000 of which are projected for Givat Hamatos, and will therefore lay the foundation for an entirely new Jewish settlement in occupied East Jerusalem.

74. In addition, building plans have also recently been approved to expand existing ‘urban settlements’ in the heart of Palestinian neighborhoods in East Jerusalem, including an additional 60 residential units in Ma’ale Zeitim, in Ras al Amud, and 200 new residential units located in the Palestinian neighborhood of Sheikh Jarrah. Excessive delays in the preparation and approval of local planning schemes has left many Palestinian neighborhoods in a legal limbo, with residents unable to initiate licensed construction.
75. According to paragraph 62(a) of the Israeli Planning and Building Law of 1965, in the case of neighborhoods in which a Local Planning Scheme does not exist the ‘local commission shall prepare such a scheme and shall submit it to the District Commission for deposit within three years from the date of the coming into force of this law or from the date of coming into force of the planning order declaring the area’.
76. In most cases concerning Palestinian neighborhoods, however, excessive delays have far surpassed this legislated temporal scope. For example, the Local Planning Scheme for Beit Safafa was submitted in November of 1977 and approved in December of 1990, over 13 years later. The town planning schemes and subsequent re-parcellation plans for Beit Hanina and Shuafat has been pending approval for almost 20 years and still, as a result of continuous so called amendments, no approved local planning scheme exists. Even when one does exist, a comparison between the building percentages allotted for Palestinian and Jewish neighborhoods reveals a discriminatory manipulation of building percentages within Palestinian neighborhoods that effectively reduces the size of structures permitted on any single plot and the numbers of floors permitted within each structure.
77. In the majority of Palestinian neighborhoods, the building percentages for a one to two story building are set at 10 to 50%. In contrast, building percentages in Jewish neighborhoods of occupied East Jerusalem can reach as high as 200% and eight stories tall. Such overt discrimination is most visible within ‘urban settlements’ located in the heart of Palestinian neighborhoods. A building density of 115% was permitted in the Ma’aleh Zeitim settlement located in the Palestinian neighborhood of Ras El-Amud, whereas the building density of the adjacent Palestinian neighbourhoods is capped at 50%.
78. Together with the building permit application process, the discriminatory use of local planning schemes is an instrumental urban planning mechanism by the State party and its local authorities to restrict the development of Palestinian neighbourhoods and community.

*The Jerusalem Master Plan*

79. The State party's Local Outline Plan Jerusalem 2000 was approved for depositing by the Jerusalem District Committee for Planning and Building. Yet, it has not been formally finalised. Notwithstanding, the State party and the Jerusalem Municipality have endorsed it. The Plan serves as a mandatory map for land use in Jerusalem, including East Jerusalem until the year 2020. It promotes expansion of settlements and demolition of Palestinian homes in occupied East Jerusalem in violation of international humanitarian law. In addition, it promotes racial segregation and discrimination against Palestinians across East and West Jerusalem in access to housing or any adequate housing.

80. Significantly, the Plan outlines measures to enact demographic engineering in order to create the 70:30 ratio of Jews to Palestinians within Jerusalem (treating West and East Jerusalem as a single unit) by increasing the number of settlement housing units in occupied East Jerusalem and the promotion of 'spatial segregation' between Jewish and Palestinian communities.

81. Implementation of key aspects of the Master Plan's recommended policy of spatial segregation will facilitate further racial discrimination against Palestinians in planning and other sectors and entrench the segregated system which the UN Special Rapporteur on the situation of human rights has compared to apartheid. In its treatment of occupied East Jerusalem, the Master Plan has implemented measures that will result in violations of the Fourth Geneva Convention, including the transfer of Israeli civilian population into occupied territory through construction of illegal settlement housing units through the demolition of Palestinian homes.

82. In the introduction to the Master Plan document, the Director General of the Municipality explicitly links the Master Plan to the Jerusalem Light Rail project, which is designed to support the settlements. Expansion of settlements and supporting infrastructure in East Jerusalem is ongoing regardless of formal ratification of the Master Plan.

83. The domestic laws of the State party provide legal mechanisms to enforce the preferential treatment of

Jews in the sphere of land and housing within Israel. Since 1967, the State party has continued to implement discriminatory urban planning policy and has continued to implement measures designed to change occupied East Jerusalem's legal status, demographic composition and geographic character in violation of numerous resolutions of the United Nations Security Council and the prohibition on the acquisition of territory by the threat or use of force under Article 2(4) of the UN Charter. In this regard, the Special Rapporteur on the situation of human rights in the oPt has expressed concern about the State party's discriminatory planning policies.

*Jerusalem as a national priority for Jews under Regional Urban District Plan TMM1 (Plan 30*

84. On 24 October 2010, the Israeli Knesset Ministerial Committee on Legislative Affairs unanimously approved a draft law to officially judaize Jerusalem as a Jewish 'national priority' of the first order, including Palestinian neighbourhoods in occupied East Jerusalem based on amendments to Regional Urban District Plan TMM1 under 'Plan Number 30'.
85. Comments by the Israeli Knesset member, Uri Ariel, illustrate the aims and motivations behind Plan 30: 'This is the first step towards returning Jerusalem to the map of Israel' and 'hopefully this will signal a turnaround and new construction in the capital'.
86. Plan 30 explicitly promotes Jerusalem as the 'united Jewish capital' and as the 'heart of the Jewish people' as well as the cultural and spiritual centre for Jews in Israel and the world-over. Accordingly, the Plan grants financial and national priority status to Jerusalem as a Jewish city and allocates funding and resources to the development of Jewish settlements and supporting infrastructure, employment, education, welfare, culture, industry, tourism, public infrastructure and immigration absorption in order to encourage young Jews to settle in Jerusalem by offering affordable housing and tax benefits.
87. The Plan allocates a greater budget for the construction of an advanced transportation network (railways, roads, bridges) linking Jewish settlements to the city and authorises the development of infrastructure that is likely to necessitate of Palestinian land. Together with the Separation Wall, it is envisaged that the Plan will intensify Palestinian experiences of displacement.

88. As a way of countering Palestinian population growth, the Plan reduces the amount of land available for construction in the Palestinian neighbourhoods through partisan zoning ‘in accordance with government decisions’, which seek to maintain the 70:30 ratio of Jews to Palestinians. The Plan restricts the construction of new residential development in the Palestinian neighbourhoods by designating large areas of land ‘green zones’ and confiscating land for the creation of new ‘security zones’.

a. Previous practices of the State party show that where it has claimed ‘green zones’ for ‘public purposes’ or as ‘state land’, it has subsequently transferred the land to Jewish settler groups for settlement construction.

89. These measures effectively prevent the development and expansion of the Palestinian neighbourhoods and compound the difficulties for Palestinians to obtain a building permit for construction in the Palestinian neighbourhoods, which generally lack a town planning scheme, a prerequisite to obtaining a building permit, meaning no construction can legally occur.

90. Due to the huge discrepancy in the allocation of funds for development and the approval of schemes for building between the Jewish settler communities and the Palestinians, the Plan results in violation of the principle of non-discrimination and equality as regards the housing rights of Palestinians.

91. In the context of this Plan, the Authors take this opportunity to draw attention to the new Israeli high-speed train under Plan A1 and Railway 29 being constructed to connect Tel Aviv to Jerusalem, the State party’s two main metropolitan centers, and Jewish settlements to Jerusalem, which has been under construction since 2001. The planned route crosses into the 1949 cease-fire line (‘green line’) border and continues running at least 6 kilometres into the West Bank, where it expropriates part of the privately-owned Palestinian land of two villages, Beit Surik and Beit Iksa, for the construction of the route, and roads and tunnels forming part of the rail project for the exclusive benefit and use of Israeli citizens.

92. The train has been described by the CEO of Israel Railways, Yitzhak Harel, as ‘the largest and most complex project in Israel’. The A1 high-speed train implements the national priority plan, discussed above, for the development and expansion of the Israeli railroad network under the Jerusalem Municipality’s sub-district Plan Number 30 designating Jerusalem, including Palestinian neighbourhoods in the occupied area, of Jewish national and financial priority.

*Discrimination in allocation of land resources and public services*

93. While Jewish housing units in settlements in East Jerusalem are already overwhelmingly supported by public infrastructure, social and health services, the same is neglected for Palestinians in East Jerusalem by the State party, as demonstrated by Plan 30. Official building plans allow little provision for such infrastructure and public services in the Palestinian quarters of occupied East Jerusalem.

94. The Jerusalem Municipality classifies certain areas of East Jerusalem as ‘green areas’ and others as ‘areas without planning schemes’ on which no construction is allowed, some 22% and 30% respectively. Consequently, Palestinians are unable to access or occupy land in those areas. Of the 13% designated for Palestinians in East Jerusalem (7% of Jerusalem as a whole), most of it is built-up or already densely populated. This is in stark contrast to the 35% of land allocated for Jewish settlements by the Jerusalem Municipality.

95. Further, permit applications to build on the 13% allocated to Palestinians are generally denied. For example, in 2008, Palestinian residents of East Jerusalem submitted 109 building permit applications to the Jerusalem Municipality and of these only 18 were issued.

96. In order to respond to the increasing need for housing and to avoid heavy fees associated with a permit, Palestinian families are being forced to migrate outside the boundaries of the Jerusalem Municipality, which can and often leads to loss of their residency permits. Alternatively, they can construct additional homes on their property or build extensions onto their existing homes. Since building permits are generally denied to them, Palestinians have engaged in building without a compulsory Israeli building permit.

97. Under the Israeli Building and Planning Law of 1965, any building constructed without a permit is illegal and is therefore generally subject to a demolition order. Increasingly, the Jerusalem Municipality utilises self-demolition as a method of demolish Palestinian homes, in which families are forced to demolish their own homes.

98. According to Building Control Officer, Zvi Schneider of the Israeli Interior Ministry, 20,000 Palestinian structures lack a compulsory permit. According to UN OCHA, this amounts to 32% of Palestinian structures and affects approximately 88,000 Palestinians who are at risk of a home demolition order.

99. As a result, many Palestinians are being displaced through demolition or forced eviction from their homes within, or from, occupied East Jerusalem. As mentioned above, the disconcerting development in requiring Palestinians to self-demolish their own homes and bear the full costs of doing so has had a devastating financial, but more importantly psychological impact on families who are forced to destroy sometimes the only home they have lived in over multiple generations. According to UN OCHA, 82 houses were demolished by the State party in 2010.

100. Consequently, it is currently estimated that Palestinians in East Jerusalem currently need more than 20,000 housing units with an average of over 2,000 additional units per year to meet their housing needs.

#### *The expansion of Jewish settlements and growth of the settler population in East Jerusalem*

101. While Palestinians face a housing shortage and systematic denial of their right to build, Jewish settlements are flourishing in East Jerusalem.

102. Since the demographic policy was implemented, the number of Jews in East Jerusalem has increased to over 280,000, representing 65% of the total population, while the current Palestinian population represents 35% of the total population. Despite this, the natural growth rate of Palestinians continues to steadily increase while little account is made of this in present and future planning policies of the Jerusalem Municipality.

103. Between 1967 and 2008, the Palestinian population increased from 68,600 to 266,600, a growth of 289%. In comparison, the Jewish population increased by 145%.

- a. Between 1967 and 2008, average urban density among Palestinians increased by about 51% compared with 8% among Jews.
- b. Palestinian population density has increased drastically from 7,400 to 11,000 persons per square kilometre.

104. The settlement of Jewish people in occupied East Jerusalem is an important factor in the impetus behind the demographic policy. The expansion of existing settlements and the construction of new ones have been used by the State party to increase the number of Jews in East Jerusalem. The increase in settlements, particularly since the freeze on settlement construction was not renewed by the State party in 2010 has severely fragmented the continuity of Palestinian neighborhoods in East Jerusalem.

105. Of the 71 square kilometres annexed by the State party in 1967, 35% was confiscated for the construction of settlements in comparison to the 13% allocation of land for Palestinians. Today 15 official settlements house Jewish settlers in East Jerusalem representing approximately 40% of the total settler population within the occupied Palestinian territory.

106. Many of these settlements are extensively developed, and resemble large towns or small cities complete with hospitals, schools and industries. Indicative of the intended permanence of these settlements is the infrastructure that supports them. Settler-only roads and overpasses, and the new 'Jerusalem Light Rail', a rapid transit project currently under construction that will connect the settlements located deep in occupied East Jerusalem with West Jerusalem, all serving to accommodate the settler presence in occupied East Jerusalem.

107. Despite the fact one of the State party's core obligations under the 'Roadmap for Peace', was to 'freeze all settlement activity (including natural growth)', the expansion of existing settlements and the construction of new settlements within occupied East Jerusalem continues unabated.

108. The development, presence and continued expansion of Jewish settlements in East Jerusalem, but also the West Bank raise several issues under international law. The United Nation's Security Council, General Assembly and the International Court of Justice have consistently cited settlements as illegal.

109. International law permits the imposition of domestic law on territory under occupation under very limited and defined circumstances where it is for the exclusive benefit of the occupied population or military necessity and public order. The demographic policy of creating a Jewish majority in East

Jerusalem falls outside this criterion, and, thus, constitutes a violation of the prohibition of imposing domestic law on territory under occupation.

110. The demolition and eviction cases of Sheikh Jarrah, Silwan (Bustan) and the Bedouins as representative of the housing problems in East Jerusalem are detailed in **Section 4** of this Request for Urgent Action.

111. In addition, as reported by the Special Rapporteur in its 2009 Report on the situation of human rights in the Occupied Palestinian Territory (oPt), more Palestinians (approximately 4,577) were stripped of their residency rights in 2009 than in any year between 1967 and 2007.<sup>6</sup> This and other policies, such as rejection of family unification applications and withdrawal of ID cards of Palestinian-holders, serve the aim of minimising Palestinians in East Jerusalem.

112. Thus, the current housing shortage in East Jerusalem stems from decades of demolition and eviction by the State party since 1967 directly targeted at the Palestinian community in East Jerusalem.

### **3.4 Revocation of residency permits in East Jerusalem**

113. Restrictive measures continue to apply in relation to the ID and residency status of Palestinians from East Jerusalem. Following the Israeli occupation of East Jerusalem in 1967, Palestinian residents of the city have been given the civil status of ‘permanent residents’ of Israel. This status gives them the right to live in Jerusalem and work in Israel without the need for a special permit. To retain this status, residents are forced to regularly prove that they adhere to the strict criteria that demonstrates Jerusalem is the centre of their life. If they fail to convince the Israeli authorities their status is revoked and they lose their right to reside in the city.

114. Between 1967 and 2010, some 14,000 Palestinian residents of Jerusalem have had their status revoked. Unlike Israeli citizenship, permanent residency is not automatically passed on to non-Jewish children, who only receive permanent residence under certain conditions. This leads to difficulties in the registration of children with the Jerusalem Centre for Socio-Economic Rights estimating that there are as many as 10,000 unregistered children in East Jerusalem. This makes it difficult for them to access basic education, health and other social services. Around 5,500 children in school age are not registered and therefore do not attend school.

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<sup>6</sup> UN Special Rapporteur, Professor John Dugard, Human Rights Situation in Palestine and other Occupied Arab Territories (A/HRC/7/17 January 2008).

115. Palestinians residents of East Jerusalem who marries a Palestinian from West Bank or Gaza strip, must apply for family unification. Applications for family reunification and ID cards and identification for children and spouses involve a long, expensive bureaucratic process. In 2003, Israel introduced the Nationality and Entry into Israel Law which disproportionately impacts residents of East Jerusalem, under which they are forbidden from family unification not only with their spouses, but also with their children.

116. In 2010 the Israeli authorities invoked “breach of loyalty to the state of Israel” in order to withdraw the residency rights for three members of the Palestinian Legislative Council as well as for a former Palestinian Minister of Jerusalem Affairs.

### **3.5 Effect of the Separation Wall**

117. The Separation Wall that extends over more than 200 km to the east and west around Jerusalem and occupies more than 40,000 square km’s of the City’s lands. The Wall prevents Jerusalemites from using 170 square meters of land by keeping them outside the Wall, while annexing 12 settlements with a population of more than 176,000 Jewish settlers to Jerusalem, rendering the Palestinians a minority accounting for only 20% and making Jewish settlers a majority in East Jerusalem. More than a hundred of houses and other establishments have been or will be demolished for the sake of building the Wall. In this regard, Meir Margalit stated that ‘many houses were demolished due to the Wall, and in many instances licenses were cancelled due to the Wall. However, the municipality does not state this reason and claims that the demolition decisions are because the owners did not obtain a building license’.

118. The construction of the wall on occupied Palestinian territory has been continuing since 2001 in one of the clearest examples of the unlawful character of the Israeli occupation and in direct violation of several fundamental Palestinian human rights, recently reported the Special Rapporteur on the human rights situation in the oPt.<sup>7</sup> As noted by the Special Rapporteur in an earlier report, 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>8</sup>

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<sup>7</sup> U N 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>8</sup> Situation of human rights in the Palestinian territories occupied since 1967 A/62/275 (17 August 2007).

#### **4. The cases of Sheikh Jarrah, Silwan (Bustan) and the Bedouins in East Jerusalem**

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##### **4.1 Sheikh Jarrah**

119. On 9 November 2008, the Al-Kurd family became the first of four families to be evicted from their home in Sheikh Jarrah. After a protracted legal struggle an Israeli court accepted the Al-Kurds had renovated the home illegally and failed to pay rent. Subsequent legal appeals by the family failed and after years of uncertainty police entered the home of Fawzyeh and Mohammed Al-Kurd. In the

middle of the night the front door of the house was broken in. Police, masked and heavily armed, surrounded the residence and locked down the neighbourhood. Mohammed Al-Kurd, who had fallen ill several years prior, was confined to a wheelchair. Ailing and handicapped he was thrown to the sidewalk in front of a neighbour's home. Fawzyeh was driven into a wall before reuniting with her husband on the street in front of their home. By this time however the trauma of the eviction had caused her husband to suffer a heart attack. When an ambulance arrived police blocked its entrance to the home but neighbours and onlookers assisted in carrying Mohammed to the waiting vehicle. He passed away just over a week later after suffering a second heart attack. 'My husband was too sick to understand what had happened to our family'.

120. The Hanoun and Al-Ghawi proceedings followed a similar pattern. In two separate legal proceedings filed against each of the families respectively, the Jewish settler Committee plaintiff's requested a verdict for dispossession and eviction. Their claims were based on violations of an agreement including both rent delinquency and illegal renovations. In August 2009 both families were forced from their homes as a wave of Israeli forces again descended upon Sheikh Jarrah. Mr. Hanoun has said: 'We refused to accept a tent from the UN or Red Cross; we will not become refugees for a second time'. Like Hanoun, Fuad Al-Ghawi's steadfast principles remain unmoved. He has tried to find alternative accommodation. His comments depict the problem faced by many Palestinians: 'We are waiting for someone to help us. I am struggling to stay in Jerusalem. Our options are limited; the cost of a new house here is very high. I don't know what we are going to do, but we won't leave, or else we will never be allowed back'.

121. The most recent eviction relates to two 1999 legal proceedings filed against the Rfqha Al-Kurd family. Both actions claimed that an extension to the existing property was built without the requisite permit and constituted a violation of the terms contained within the 1982 (Toussia-Cohen) agreement. Following the initial decisions, the Court imposed a substantial fine, sealed the renovated section of the home, and took possession of the keys to the house. Over the following years the family was party to several legal challenges until, in 2007, the Magistrate Court ruled that the Rfqha Al-Kurd family could not use the renovated rooms as, in accordance with the Toussia-Cohen agreement, they were not the legal owners of the land. Legal confirmation that Rfqha Al-Kurd acted in violation of the 1982 agreement solidifies the initial 1999 eviction of the family from the renovated segment of the home. Although the section in question had long been vacated and sealed, the recent events, adding to the Al-Ghawi, Hanoun, and Al-Kurd cases, now constitutes the fourth eviction from Sheikh Jarrah.

122. Upon first inspection the Al-Kurd, Hanoun, Al-Ghawi, and Rfqha Al-Kurd evictions are presented as isolated actions stemming from the individual family's failure to comply with the terms of their tenancy agreement. Closer examination reveals that their attempted removals go beyond the purported apolitical terms of the 1982 Toussia-Cohen agreement and have been the focus of a long-term legal strategy developed and implemented by the Committees and Nahalat Shimon International.
123. In viewing the developments in Sheikh Jarrah from a broader perspective it appears that the apolitical means employed to facilitate the removal of the Palestinian families from Sheikh Jarrah is only one of several initiatives undertaken by both public and private actors intent on creating a Jewish demographic majority throughout occupied East Jerusalem. At present four town planning schemes in Sheikh Jarrah are undergoing different stages of the approval process at Jerusalem's Local Planning Commission.
124. The largest of these is Town Planning Scheme 12705 which was submitted by Nahalat Shimon International in August 2008 and applies directly to the land where the Palestinian families now live. If approved the scheme would provide for the construction of 200 new residential units for Jewish families and lead directly to the eviction of nearly 500 Palestinian residents and the destruction of their homes. If implemented this would allow Nahalat Shimon International to begin development of a new settlement, Shimon HaTzadik, however recent accounts indicate that this scheme has been closed pending further action. Additional development initiatives in Sheikh Jarrah concern the building that at one time operated as the Shepherd Hotel. The Hotel was demolishrf in 2010 under town planning scheme 2591.
125. The destruction of the Hotel is required to facilitate the construction of 20 residential units. Town planning scheme 11536 was introduced in 2005 to further expand this development project by building an additional 90 residential units, along with a kindergarten and synagogue. At present the plan is in the preliminary stages of the approval process. A forty dunam olive grove known as Karm Al-Mufti, near the site of the Shepherd Hotel, was discovered to have been the subject of a covert and controversial lease agreement between the Israel Land Administration (ILA) and the Ateret Cohamin organization despite the acknowledgment by Israeli authorities that the land belongs to the Arab Hotel Company who had previously requested permission to commence commercial development.
126. Finally, adjacent to the Shepherd hotel lays the future site of the Glassman campus, a conference center whose development is being funded by Canadian philanthropists Max and Gianna Glassman. Plan 2639 was introduced in the 1980s and has designated the land for public building. Collectively

the various development initiatives in Sheikh Jarrah are intended to advance the creation of Israeli strongholds in the historic basin surrounding the Old City with Sheikh Jarrah to the north, Silwan to the south, and the Mount of Olives to the east. Sheikh Jarrah is situated between the Old City and Mount Scopus, which is home to the Hebrew University and Hadassah Hospital. In order to establish continuity through this valued corridor linking West Jerusalem with locations of strategic, historical, and religious significance to the Jewish population, a succession of Israeli neighbourhoods were built to link West Jerusalem and Mount Scopus.

## **4.2 Silwan**

127. Residents in the Al-Bustan neighbourhood of Silwan have lived in a long-standing state of uncertainty regarding their security of tenure. In 1977 the Jerusalem Municipality approved a plan which labeled much of the neighbourhood as ‘green space’ called Plan Number A/M/9 on which all construction is prohibited. Since the classification was approved, the Jerusalem Municipality has consistently refused planning permission or construction within the neighbourhood.

128. The neighbourhood of Silwan is located just to the southeast of Jerusalem’s Old City. Silwan has gradually become the focus of increased efforts by the State party to permeate the area that is home to approximately 31,000 mainly Palestinian residents.

129. Silwan ranks at the bottom of the socio-economic index for Jerusalem according to the Israeli Central Bureau of Statistics. It suffers from neglect by the State party and lack of adequate social services and installation of infrastructure. Despite paying high taxes, only a small portion is invested back into community for education, economy, development, infrastructure, housing or recreational centres.

130. In recent years, it has become a strategic location within the Israeli-defined ‘Holy Basin’ containing the Old City and its environs, including thousands of Palestinian residents and their neighbourhoods. The Holy Basin is considered an important priority for the State party based on historical and religious claims. Since the start of the occupation, the State party has carried out archaeological excavations under and around the Silwan neighbourhood to strengthen historical claims to the area by Jewish settlers, which has jeopardised Palestinian homes as a result of cracking to walls and ceilings.

131. Through population growth and because of the reality of land scarcity caused by the State party’s policy of land confiscation, many Palestinians have had little choice other than to build new houses in small, confined areas or add extensions onto existing homes.

132. As ‘illegal construction’ intensified throughout the 1990s, the Israeli authorities began to initiate legal action against several of the homes. A directive issued by the Jerusalem Municipality in 2004 under Town Planning Scheme (TPS) 11555 called for the destruction of all 88 homes in Al-Bustan to allow for the further development and expansion of an archeological park.
133. The neighbourhood of Wadi Hilweh has also been targeted under TPS 11555. Wadi Hilweh is made up of 548.5 dunams of land, 18.7 of which is residential and includes the area between the houses and settlement property. TPS 11555 assigns 8.14% as land for grave sites, meaning 50% of the area that is now for use as living space ((Wadi Hilweh ‘The Town Plan Scheme 11555 December 2009).
134. The following year the Municipality began to implement the directive, serving residents with demolition orders and charging them with illegal construction. Later that year two homes were demolished. However, bowing to local and international pressure, then Mayor of Jerusalem, Uri Lupoliansky, withdrew the directive allowing both the Municipality and the residents of Al-Bustan to submit alternative town planning schemes.
135. TPS 11555 calls for the seizure of 70% of the land in Al-Bustan, the majority of which will be used to facilitate the development of the ‘City of David National Park’ which is being financed and operated by the El Ad private settler organization founded in 1986. Due to its strategic location next to the Old City and Al-Aqsa Mosque, Silwan was made a priority target of the settlements movement, the State party and the Jerusalem Municipality on behalf of the State party. In Silwan, El’ad acts as a *de facto* Israeli government agency, supported by the Municipality and the Police.
136. Palestinians in Silwan have experienced and continue to experience intense settler violence lead by the El Ad group with unofficial support of the police and security forces of the State party which has had a severe impact on children in particular. Between November 2009 and October 2010 as many as 81 Palestinian children were arrested or detained for questioning. In some cases, children have been deported and banned from Silwan over certain periods, a method increasinly being used by the State party.
137. The alternative plan presented by the residents of Al-Bustan to the Municipality and the National Israeli Planning Committee would develop the neighbourhood without demolishing the homes and ensured that they received necessary services. The plan was prepared with the help of urban planner

Yousef Jabareen. In 2008 the resident's plan was rejected by the Municipality which indicated their intention to continue with the development of a national park.

138. Silwan's Palestinian residents remain confined to a constant state of uncertainty and the homes in Al-Bustan remain vulnerable to impending demolition.

#### **4.3 East Jerusalem Bedouins**

139. The Palestinian bedouins of East Jerusalem numbering approximately 2,300,<sup>9</sup> and 20 communities in the hills to the east of Jerusalem face growing risk of forced displacement from their encampments by demolition due to settlement expansion. More than two-thirds are children and more than 80% of the community are refugees.

140. The communities have been informed by the local authority of the State party that they have no choice but to leave the area, as part of a plan to relocate bedouin communities living in Area C (Jerusalem periphery, Jordan Valley and South Hebron Hills) under the State party's control over security as well as planning and zoning.

141. Their presence in the area is viewed as a hindrance to the planned expansion of the Ma'ale Adummim, Kfar Adumim, and other surrounding settlements, and the construction of the West Bank Separation Wall, which would de-facto annex this strategically significant area to the State party, rendering a Palestinian state unviable. Fifty per cent of the bedouin community is not connected to the water network. Despite receiving humanitarian assistance, 55% are food insecure. None have access to the electrical grid. Over 85% of them had to abandon their traditional livelihood as herders.

142. The State party imposes increasing restrictions on their access to land, resources and markets for their products. They live under the regular threat of demolition of homes, schools, animal shelters due to the inability to obtain Israeli building permits. They experience routine settler violence, alongside settlement expansion.

143. The Authors are concerned that the plan to relocate the bedouins will take place in January 2012. There are concerns about the proposed relocation site, which is located close to Al Ezariya town, close to where the bedouin families were relocated in the late 1990s to allow for the expansion of the Ma'ale Adummim settlement. According to the UN, the site does not meet minimum standards for

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<sup>9</sup> According to ICAHD, this figure is at 3,000.

public services and is likely to pose a health hazard and provide limited access to grazing lands. Previously relocated families report negative consequences, including health concerns, loss of livelihood, deteriorated living conditions, loss of tribal cohesion and erosion of traditional lifestyles.

144. The bedouins were dispossessed of their land in the northern Negev in 1949, and after 1967 were confined to an area east of Jerusalem. Most of their land has been expropriated by the State party. Throughout the 1990s there were 120 orders issued for the eviction of the tribe and 200 families were relocated from the area. Mass evictions took place in 1996 when 1,400 members of the tribe were evicted from their encampments, to allow for the expansion of the Ma'ale Adummim settlement. Those evicted were finally resettled in a village named al-Jabal, on expropriated Palestinian land, on a hillside outside of al Ezariya, only 300 metres away from the Jerusalem Municipal garbage dump. In 2011, 300 of them were forcibly displaced due to demolitions. Under current plans, they risk dispossession from their land a second time or more.

145. Meanwhile, more than 500,000 Israeli civilians live in Israeli settlements in the West Bank, built in contravention of international law.

146. In response to their impending eviction, the Bedouin Protection Committee was set up, representing the 20 Bedouin communities in the area. The Committee has called on the State party to include them in the consultation and decision-making process determining their fate.

## **5. The Impact of Housing Crisis on Women and Children**

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147. Displaced families face significant financial difficulties, especially as two-third's of the population in East Jerusalem lives in poverty. In addition to economic losses stemming from fines, legal fees and lost investment in the family home, payment of rent is an additional economic burden faced by many

families post-demolition, which places further stress on already limited financial resources (OCHA, 2009).

*These [demolition] actions have a severe social and economic impact on the lives and welfare of Palestinians and increase their dependency on humanitarian assistance...Israel must take immediate steps to cease demolitions and evictions in the West Bank, including East Jerusalem'. UN Humanitarian Coordinator for the OPT, Maxwell Gaylard, December 2010*

148. Displaced families post-demolition suffer from a reduced standard of living and limited access to basic services such as water and health. Children are particularly vulnerable in the immediate aftermath of a demolition; facing gaps in education and emotional and behavioural problems, including psychological distress. Symptoms of psychological distress documented included increased aggression, depression, difficulty concentrating and bedwetting (Survey by Palestinian Counselling Center, Save the Children UK and the Welfare Association, 2007).

149. Forced evictions and demolitions leave behind a deep sense of loss and trauma, particularly for women and children. Across East Jerusalem, women are made victims of forced evictions or home demolitions, whether due to a pending order or the implementation of one.

150. A Study by WCLAC based on interviews and the personal testimony of women victims of forced eviction across East Jerusalem reveals the psychological and emotional impact due to the severe lack of housing for Palestinians and the near impossibility of obtaining a building permit, which inevitably results in forced eviction or demolition. The Study found that women are forced into poor, overcrowded living conditions and the loss of private space and maintenance of family life as a result of moving in with the parents-in-laws. The report testifies to the trauma experienced by women in the period before a demolition or eviction due to the uncertainty of the outcome of a contested order, which leads to anxiety, depression and distress and can manifest in stomach cramps, chest pains and high blood pressure.

151. The Study also reveals the additional trauma caused by ongoing threats and intimidation from Israeli soldiers, police and settlers. One woman living in Bustan described Israeli soldiers coming for her 12 year old son in the middle of the night, and another described her fear of that happening to her son. The Study found disproportionate force is used in the process of eviction itself: demolitions and forced evictions being carried out by tens sometimes hundreds of armed Israeli soldiers and police. The brutality of the process can result in injury or arrest, adding to the trauma of losing a home.

152. The enormous psychological and emotional impact, the sense of being unsettled due to an uncertain future and means of access to alternative accommodation are also highlighted. The women interviewed from Sheikh Jarrah described anxiety and distress and expressed particular concerns about the impact on their children; the childrens' loss of interest in school and the general unsettling behaviour following the eviction. Her son refuses to go back to school unless they can go back and live in their house.

153. The women interviewed testified to losing much more than a place to live. They have lost their privacy and personal space, their freedom and security. None of the women interviewed spoke of being provided with any alternative accommodation by the Israeli authorities after the forced eviction or of any services being provided to them. Many of the women moved in with their extended family, usually their husband's family, others into rented and often inadequate housing, in overcrowded conditions, which had an adverse effect on their state of mind.

## **6. Concerns under international law**

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### **6.1 Application of domestic law to occupied territory**

154. Under international law, East Jerusalem is considered occupied territory and the international community has never recognized the State party's annexation of the area in question. Under Article 43 of the Hague Regulations of 1907, the State party is obliged to respect the law in force, except when absolutely prevented from doing so, and is prohibited from making permanent changes. As it is vested only with temporary powers of administration, and not sovereignty, the application of the State party's domestic laws to the oPt is a violation of international law.

155. This was confirmed in the 2004 Advisory Opinion of the International Court of Justice (“**ICJ**”) on the legal validity of the Wall, which held that East Jerusalem is and remains occupied territory, which has been illegally annexed by Israel, to which international humanitarian law and international human rights law is applicable.

## **6.2 Destruction of civilian property under the Fourth Geneva Convention**

156. The Palestinian residents of East Jerusalem are ‘protected persons’ as defined under Article 4 of the Fourth Geneva Convention. As the occupying power, the State party is bound by the Fourth Geneva Convention relative to the Protection of Civilian Persons in time of War to which it is a signatory. Article 46 of the Hague Regulations guarantees protection of private property, which it states cannot be ‘confiscated’. The State party accepts the Hague Regulations are part of customary international law, which are binding on all States, including the State party in question.

157. The Fourth Geneva Convention prohibits in clear terms the ‘destruction’ of property unless it is ‘absolutely necessary’ in military operations (Article 53). An occupying power may only carry out total or partial ‘evacuation’ of an area if ‘the security of the population or imperative military reasons so demand’. In any event, any population so evacuated must be transferred back to their homes as soon as the hostilities in the area have ceased, and in the meantime the occupying power must ensure those evacuated have ‘proper accommodation’. The confiscation and proposed destruction of Palestinian homes in Sheikh Jarrah, Silwan and the East Jerusalem Bedouins for the construction of Jewish settlements breaches the limited exceptions under which the seizure and destruction of private Palestinian property is permitted under international humanitarian law.

158. The displacement of Palestinians results in clear violation of the prohibition on the transfer or deportation of an occupied civilian population under the Fourth Geneva Convention (Article 49(1)), unless temporarily required for their own security or military necessity. This provides limited, clearly

defined and exceptional circumstances of the prohibition. Therefore, the intentional destruction or confiscation of private civilian property, including homes, as well as the transfer of settlers into the occupied territory, is similarly prohibited.

159. Article 49(1) provides, ‘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’. In the context of Sheikh Jarrah alone, the forcible eviction of Palestinian residents from their homes resulted in the displacement of over one hundred protected persons. These actions equate to violations of international humanitarian law as they were involuntary and go far beyond the legislative competence of an occupying power.

160. The State party’s claim that the Fourth Geneva Convention does not apply to the OPT has been rejected by the international community, including the UN Security Council and the International Court of Justice that, in a 2004 advisory opinion on the Legal Consequences of the Construction of the Wall in the OPT, ruled that these were therefore occupied territories in which Israel had the status of occupying power. Subsequent events in these territories have done nothing to alter this situation, recognised the Court. The Court concluded that all these territories (including East Jerusalem) remain occupied territories and that the State party continues to hold the status of occupying power.

161. As an occupying power, the State party has an obligation to protect the Palestinian civilian population and to administer the territory for the benefit of that population. Any voluntary move or transfer of civilians must meet international standards, including relating to a free and informed choice.

162. Article 27 of the Fourth Geneva Convention places extensive obligations upon the State party *vis-à-vis* Protected Persons stating, ‘[p]rotected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity’.

### **6.3 Jewish settlements in the oPt and transfer of the Israeli civilian population to the oPt**

163. The transfer of the occupying power’s civilian population into the territory it is occupying is a clear violation of Article 49 of the Fourth Geneva Convention. Article 49(6) of the Fourth Geneva

Convention in unambiguous terms provides that: ‘The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies’. That provision prohibits not only actual deportations or forcible transfers of population, but also any measures taken by an occupying power in order to organize, facilitate or encourage transfers of parts of its own population into the occupied territory. This renders government plans to stimulate the growth of the Israeli population in East Jerusalem under Plan Number 30 and measures to judaise the city not justified by military necessity and not for the benefit of the Palestinian civilian population thus amount to a grave breach of the Fourth Geneva Convention.

164. In 1979 the UN Security Council<sup>10</sup> took the view that such policy and practices ‘have no legal validity’. It has also called upon ‘Israel, as the occupying Power, to abide scrupulously’ by the Fourth Geneva Convention and ‘to rescind its previous measures and to desist from taking any action which would result in changing the legal status and geographical nature and materially affecting the demographic composition of the Arab territories occupied since 1967, including Jerusalem and, in particular, not to transfer parts of its own civilian population into the occupied Arab territories’, in accordance with its obligations under Article 49(6) and Article 47 of the Fourth Geneva Convention, which prohibits any changes to be made in the status of occupied territory.

165. The International Court of Justice concluded that the Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, have been established in breach of international law.

#### **6.4 The right to adequate housing**

166. The case studies of Sheikh Jarrah, Silwan and the East Jerusalem Bedouins provide examples of how Israeli authorities have employed the tool of urban planning to systematically evict and displace Palestinian residents from East Jerusalem. Conventional and customary international humanitarian law prohibits the deportation or forcible transfer of Protected Persons from or within occupied territory. As discussed above, Article 49(1) of the Fourth Geneva Convention provides this prohibition regardless of the motive supporting the transfer.

167. The right to adequate housing is an essential component of the right to a decent standard of living. When guaranteed, it provides a foundation for the realisation of other rights, including rights to family, work, education, and ultimately, national self-determination. Israel is party to, and bound by, the International Covenant on Economic, Social and Cultural rights (ICESCR), which explicitly

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<sup>10</sup> By 12 votes to none, with 3 abstentions (Norway, United Kingdom and United States).

guarantees the right to adequate housing (Article 11.1): ‘The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions’. The State party’s claim that the Covenant does not apply to the oPt has been dismissed by all UN human rights treaty bodies, which oversee compliance with treaties.

168. Under General Comment 4, the UN Committee on Economic, Social and Cultural Rights interpreted the content of human rights provisions in the Covenant so that the ‘right to housing should not be interpreted in a narrow or restrictive sense, which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity’. That includes security of tenure, availability of services, and cultural adequacy. The Committee has also determined in its General Comment 7 that forced evictions are prima facie incompatible with the requirements of the Covenant, and that appropriate procedural protection and due process, and adequate alternative housing, resettlement, or access to productive land must be guaranteed by a state party to the Covenant, such as Israel.

169. The ICESCR allows a direct approach through the positive obligations contained in Article 11(1) that specifically guarantees the right to housing. The broad application of these rights has come to directly address the issue of forced evictions, which occurs through the direct or indirect involvement of a government in the involuntary removal of persons from their land or home. This extends to house demolitions as an involuntary measure.

170. The practice of forced eviction and house demolitions has been widely condemned by a number of human rights bodies and instruments. The international human rights framework addresses the issue of forced evictions through a number of means.

171. The recent cases to occur in Sheikh Jarrah provide a pertinent example. From inception the 28 Palestinian families lacked any degree of secure tenure as it is understood to form a core element of the right to adequate housing under international human rights law. Even in the absence of an eviction, the lack of legally secure tenure represents a virtually perpetual violation to the right to adequate housing, the ultimate effects of which were experienced by the four families to lose their homes in Sheikh Jarrah.

172. Regardless of the individual decision, the result goes towards addressing the ‘demographic problem’ identified by the Gafni Commission in the early 1970s as the effects of either decision often results in the displacement of Palestinian residents from East Jerusalem.

## **7. Conclusion**

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173. The veracity of the Israeli planning regime and its consequent acute housing deficiency has created exceptionally difficult living conditions for the Palestinian residents of East Jerusalem. In the face of this harsh reality, Palestinian residents are left with few options to meet the housing needs of their growing families. Taking into consideration the diversity of factors that will influence this decision, including associated costs and excessive delays, only two 'viable' options exist for Palestinian residents - to depart the Municipal boundaries of Jerusalem to areas where more land is available for Palestinian construction, or, to construct an additional home on their property or build an extension onto their existing home without the compulsory building permit and risk forcible eviction or demolition.

174. The policy and practice of forced eviction and house demolition in East Jerusalem is in line with the State party's demographic objective which openly seeks to create a Jewish majority, while minimising and curtailing Palestinian presence in East Jerusalem, in clear violation of the principle of non-discrimination.

175. Despite these measures, East Jerusalem remains occupied territory, governed by the laws of armed conflict relating to occupation. Under these laws, Israel, as an occupying power, is prohibited from altering the 'facts on the ground' and imposing demographic and geographic restrictions through land confiscations, settlement construction, the ban on family unification and the refusal to grant building permits to Palestinians.

176. Moreover, the existence and continuous expansion of Jewish settlements throughout the oPt, in particular Occupied East Jerusalem, is fast foreclosing any future possibility of a viable Palestinian State with Occupied East Jerusalem as its capital, and therefore a just and lasting resolution to the conflict.

177. In defiance of the stated will of the international community and the inalienable right of the Palestinian people to self-determination, settlement development continues unabated throughout Occupied East Jerusalem. While such actions may succeed in prejudicing final status negotiations by strengthening Israel's claim to sovereignty over the divided city, the Palestinian people and particularly those families who have been displaced from their homes will bear the full brunt of actions taken by the State party.

178. The Authors emphasise the imperative that the State party must comply with international law, IHL and human rights law, but also the necessity to hold the State party accountable for its

conduct in the oPt and to compel it to conform with its international obligations, on an urgent basis in order to prevent Palestinian families from facing further displacement.

## **8. Request for measures**

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179. Based on the submissions outlined throughout this Request for Urgent Action, the Authors respectfully request that the Special Rapporteurs adopt a decision including the expression of specific concerns and recommending that the State party:

- immediately take all necessary steps to bring to an end to the discrimination and displacement of Palestinians in East Jerusalem through forced evictions and demolitions of Palestinian homes, schools and public infrastructure;
- rescind the implementation of any pending demolition order or forced eviction pertaining to Palestinians of East Jerusalem;
- allow families that have been forcibly displaced to return to their homes in safety and dignity and to be given compensation for any harm they have suffered, including the destruction of land, homes and property;
- immediately cease the deportation or transfer of any Palestinian from the occupied territory, including East Jerusalem as well as the West Bank as provided by Articles 49(1) and 53 of the Fourth Geneva Convention;
- rescind all legislative and administrative measures from application to the oPt;
- undertake that there will be no further implementation of the Occupation Measures as detailed in **Section 3**.

180. To this end, the Special Rapporteurs are respectfully requested to direct the State party to develop solutions that comply with the State party's obligations under international humanitarian and human rights law, as well as the measures set out below.

181. Additionally, the Special Rapporteurs are respectfully requested to direct the international community as to the following:

**182. The United Nations and the International Community:**

- a. As High Contracting Parties to the Geneva Conventions of 1949 to fulfil their obligations under Common Article 1, to respect and ensure respect for the provisions of the Conventions

under all circumstances by taking appropriate measures to compel the State party to abide by its obligations under international humanitarian and human rights law.

### 183. **The European Union**

- a. For Member States to make effective use of the European Union Guidelines (2005/C327/04) on promoting compliance with international humanitarian and human rights law to ensure that the State party complies with the relevant standards of humanitarian and human rights.

**Civic Coalition calls upon the international community to pursue, through all diplomatic means available, an end to the policy of home demolitions and forced eviction in East Jerusalem.**