



15 February 2012

Mr. Richard Falk

United Nations Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

Dear Mr. Special Rapporteur,

1. As a Palestinian network of human rights organizations dedicated to the promotion and protection of human rights in East Jerusalem, the Civic Coalition for Palestinian Rights in Jerusalem welcomes you on your visit to witness the dire situation facing Palestinians living in the occupied Palestinian territory, including in East Jerusalem.
2. In 1967, the State of Israel illegally occupied and annexed East Jerusalem. Since then, Israel has attempted to alter the geographic and demographic makeup of the city towards the creation of a Jewish majority, and has implemented discriminatory policies in favor of the city's Jewish population. Such actions are in violation of a number of UN Security Council Resolutions, the UN Charter and international humanitarian law.
3. According to the UN and the European Union (EU), East Jerusalem is part of the occupied Palestinian territory (oPt) along with the rest of the West Bank and the Gaza Strip. Therefore, the laws of war under the Fourth Geneva Convention of 1949 and the Hague Regulations of 1907 apply. These qualify Palestinians in the oPt as Protected Persons and governs Israel's conduct as a belligerent Occupying Power.
4. Israel consistently acts in flagrant violation of its obligations under international humanitarian law. Violations of Palestinians' human rights have become increasingly severe, including discriminatory laws and actions regarding residency rights, settlements and land confiscation, housing rights, freedom of movement, and access to education. Israel's ultimate goal appears to be a complete change of the reality on the ground in Jerusalem and to ensure that it is no longer a viable capital for a future Palestinian state.

Settlements and Land Confiscation

5. Since 1967, the number of Jews in East Jerusalem has risen to over 207,000, now representing 65% of the total population, while Palestinians now only represent 37%. However, while the natural growth rate of Palestinians is steadily increasing, the Municipality's urban planning policies do not take this into consideration.
6. The expansion of existing settlements and the construction of new settlements are a means through which the State party increases the number of Jews in East Jerusalem. Of the 71 square kilometers annexed by the State party in 1967, 35% was confiscated for

- settlement construction. Another 30% is zoned as Unplanned Area, and 22% as Green Area and Public Infrastructure. Today, only 13% of the land is allocated for Palestinian use. East Jerusalem is dotted with 15 official settlements, housing approximately 200,000 Jewish settlers - 40% of the total settler population within the oPt.
7. 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 that connects settlements deep in occupied East Jerusalem with West Jerusalem – serve to accommodate the settler presence.
 8. The Absentee Property Law of 1950 is a means by which the Israeli government expropriates Palestinian land. Following its illegal annexation to the State of Israel in 1967, East Jerusalem came under the subject of Israeli laws, including the Absentee Property Law. In 1970, the Israeli government declared that the property ownership of any Palestinians who were not physically present in East Jerusalem during the time of its annexation would revert to the Custodian of Absentee Property (the State of Israel).¹ One can see clear examples of the use of the Absentee Property Law in the confiscation of two sites in the East Jerusalem neighborhood of Sheikh Jarrah: the Shepherd Hotel and the Karm el Mufti olive tree grove. Both sites were expropriated, and eventually taken over by private settler organizations. In January of 2011, when the Shepherd Hotel was razed so that settlement construction could begin, the office of the Secretary General of the UN stated that the action only served to heighten tensions and that: “It is deeply regrettable that growing international concern at unilateral expansion of illegal Israeli settlements is not being heeded. Such actions seriously prejudice the possibility of a negotiated solution to the Israeli-Palestinian conflict.”²
 9. Another means for property confiscation in East Jerusalem is claims of religious and historic significance for the Jewish people. Such claims are generally made by private settler organizations. The government of Israel often works in close coordination with these private settler organizations to make claims to land and to create a bias version of Jerusalem’s history through archaeological projects. The recent EU report on Jerusalem declared that such activity is part of a “concerted effort to utilize archaeology to enhance a claimed historic Jewish continuity in Jerusalem, thereby creating the sense of a historic justification for the establishment of Jerusalem as the eternal and undivided capital of Israel.”³
 10. The expansion of existing settlements and the construction of new settlements within occupied East Jerusalem continue unabated, despite the fact that one of the State party’s core obligations under the Roadmap for Peace was to “freeze all settlement activity (including natural growth).”
 11. The continued presence and expansion of Jewish settlements throughout the oPt raise several issues under international law. The UN Security Council and General Assembly have repeatedly declared settlements to be illegal, and in its 2004 advisory opinion on the

¹ Ir Amim, Absentees Against Their Will: Property Expropriation in East Jerusalem under the Absentee Property Law (July 2010).

² OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011), page 54.

³ EU Heads of Mission Report on East Jerusalem (2011), paragraph 25.

Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, the International Court of Justice (ICJ) stated that Israel's transfer of its own population into occupied territory was in flagrant violation of the Fourth Geneva Convention.⁴ The Rome Statute of the International Criminal Court (ICC) defines such population transfer as a war crime.

12. Additionally, international law only permits the imposition of domestic law on an occupied territory under very limited and defined circumstances in which it is for the exclusive benefit of the occupied population or military necessity and public order. The policy of controlling the city's demographics and of artificially creating a Jewish majority in East Jerusalem falls outside this criterion, thus constituting a violation of international law.

Residency Rights

13. Following the Israeli occupation of East Jerusalem in 1967, Palestinian residents of the city were given the legal status of "permanent residents" of Israel, rather than full citizens. In order to retain this already limited status, they must regularly prove their adherence to strict criteria intended to demonstrate that their "center of life" is in Jerusalem. If they fail to convince the Israeli authorities their status is revoked and they lose their residency.
14. The Israeli Nationality Law of 1952 considers Palestinian Jerusalemites "residents in Israel and not Citizens". While they hold an Israeli ID and may vote in local elections, they are not given the right to vote in national elections. In order to maintain their residency status, Palestinians must be able to prove that their "center of life" is in Jerusalem. If a Palestinian lives outside of the city for seven years – even if they return to Jerusalem on an annual basis – or if they gain citizenship or residency in another country, they risk losing their residency status. Since 1967, approximately 14,500 Palestinian residents of Jerusalem have had their residency status revoked.⁵
15. Additionally, Palestinian residency is threatened by the Separation Wall. Over 100,000 Jerusalemites live on the other side of the Wall in order to reside with their spouses who hold West Bank identification cards, or to live in more affordable housing. These people live in real fear that the State party will redraw the municipal borders and revoke their residency accordingly.
16. Palestinians in East Jerusalem are also subject to harsh family unification laws. A Palestinian Jerusalemite who marries a non-permanent resident or citizen of Israel must apply for family unification. The application process is governed by the Interior Ministry. Family unifications involving oPt residents were frozen by Executive Order 1813, in 2002. In 2003, the Nationality and Entry into Israel Law (Temporary Order) replaced Order 1813. This law continued to severely limit family reunification for Palestinian Jerusalemites and their Palestinian spouses from the rest of the West Bank and the Gaza Strip. The law was amended in 2005, opening the door for family reunification applications for non-Jerusalemite husbands over 35 years and non-Jerusalemite wives over 25 years and allowing the Minister of Interior the ability to grant permanent and

⁴ "The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies." Fourth Geneva Convention of 1949, Article 49.

⁵ EU Heads of Mission Report on East Jerusalem (2011), paragraph 32.

temporary residency visas for children under the age of 14. However, it still prohibits upgrading one's temporary or permanent residency status. The law was amended once again in 2007, extending the reunification restrictions to spouses from "enemy states", defined as: Iran, Syria, Lebanon and Iraq. On 11 January 2012, the Israeli Supreme Court ruled on a series of petitions submitted by Adalah, the Association for Civil Rights in Israel, and other human rights organizations, on behalf of two Arab families calling for a cancellation of the 2007 amended version of the law. The Court passed a judgment upholding its constitutionality. Such policies are blatant violations of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the rights of the family.⁶

17. Permanent residency status is only passed from parent to child under very specific circumstances governed by section 12 of the Entry into Israel Regulations of 1974.⁷ This leads to difficulties in the registration of children. The Jerusalem Centre for Socio-Economic Rights estimates that there are as many as 10,000 unregistered children in East Jerusalem. These children have trouble accessing basic education, health, and other social services. Around 5,500 school age children are not registered and cannot attend school.
18. Residency rights for Palestinians have only becoming increasingly vulnerable with time. This was most recently demonstrated in June of 2010, when the State party invoked "breach of loyalty to the state of Israel" as a reason to revoke the residency of three members of the Palestinian Legislative Council (PLC) and the former Palestinian Minister of Jerusalem. Three of the men took refuge in the East Jerusalem headquarters of the International Committee of the Red Cross (ICRC) while the fourth was deported to Ramallah. The three who stayed in Jerusalem have all since been arrested from ICRC headquarters by Israeli authorities, in blatant disregard for the organization's immunity and sanctuary. Arrest, deportation and revocation of residency rights on the basis of breach of trust are extreme and sweeping actions and are in violation of international humanitarian law and Israel's commitments under the Oslo agreements.⁸

Home Demolitions and Housing Rights

19. The broad legal and policy measures involved in Occupation practices in East Jerusalem are targeted directly at people of Palestinian heritage and descent, particularly in the context of their right to adequate housing.
20. Israeli authorities have destroyed approximately 2,000 Palestinian homes in East Jerusalem since its occupation in 1967.⁹ According to Amir Chesin, the former adviser on Arab Affairs to the Mayor of Jerusalem "Israel's leaders adopted two basic principles in their rule of East Jerusalem. The first was to rapidly increase the Jewish population in

⁶ International Covenant on Civil and Political Rights (ICCPR) Articles 17, 23, and 26.

⁷ OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011) page 22.

⁸ "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive." Fourth Geneva Convention of 1949, Article 49(1); the Interim Agreement on the West Bank and the Gaza Strip (Oslo II) provides for the establishment of democratic elections to the Palestinian Legislative Council, in which Palestinian Jerusalemites can participate.

⁹ OCHA, East Jerusalem: Key Humanitarian Concerns (March 2011), page 38.

East Jerusalem. The second was to hinder growth of the Arab population and to force Arab residents to make their home elsewhere.”¹⁰

21. Accordingly, in its recent report on Jerusalem, the EU found that Israeli urban planning policies in the city were politically motivated and lead to a ‘de facto discrimination on the ground’¹¹ against the Palestinian population and that “[Palestinian families] have the choice between immigrating outside the municipal area of Jerusalem (and losing their residency status) or building without the necessary building permit.”¹²
22. Israeli housing procedures utterly fail to meet the needs of the Palestinian residents of East Jerusalem. Palestinians are only permitted to build on 13% of their own land, and obtaining a building permit is close to impossible. They face unreasonably high fees, undue delays and onerous requirements.
23. Registering land and proving ownership is particularly difficult for Palestinian Jerusalemites. Israel considers many Palestinians to be ‘absentees’ in accordance to the above mentioned Absentee Property Law, making the registration process difficult, if not entirely impossible. For many Palestinians, attempting to register their land results in its confiscation by the Custodian of Absentee Property. Therefore, many have no choice but to build without permits.
24. Without a permit, the home will be classified as an “illegal” structure and slated for demolition. As a result of the severe housing shortage in East Jerusalem and the discriminatory and harmful planning policies by the Municipality, over 20,000 Palestinian homes are “illegal,” putting 85,000 Palestinians at risk of home demolition and displacement.¹³
25. The Building and Planning Law is a key threat to Palestinian housing. It regulates all building and land use in Israel and controls development. It provides legal justification for house demolitions for any non-conforming buildings. The Jerusalem Municipality responds to this by issuing administrative demolition orders in accordance with the Building and Planning Law.

Sheikh Jarrah Case

26. 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 decided that the Al-Kurds had renovated the home illegally and failed to pay rent. Subsequent legal appeals by the family failed. After years of uncertainty, police entered the home of Fawzyeh and Mohammed Al-Kurd. Israeli police, masked and heavily armed, broke down the door in the middle of the night, surrounded the residence, and locked down the neighborhood. Mohammed Al-Kurd was very ill and confined to a wheelchair. Ailing and handicapped, he was thrown to the sidewalk in front of a neighbor’s home and suffered a heart attack. When an ambulance arrived, police blocked

¹⁰ Amir Chesin, *Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem* (1999), pages 31-32.

¹¹ EU Heads of Mission Report on East Jerusalem (2011), paragraph 26.

¹² EU Head of Mission Report on East Jerusalem (2011), paragraph 28.

¹³ EU Heads of Mission Report on East Jerusalem (2011), paragraph 28.

its entrance. Neighbors and onlookers assisted in carrying Mohammed to the waiting vehicle. He passed away just over a week later, after suffering a second heart attack.

27. The Hanoun and Al-Ghawi cases followed a similar pattern. In two separate legal proceedings, filed against each of the families respectively, the Jewish settler Committee requested 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 descended upon Sheikh Jarrah. Since being evicted, Mr. Hanoun has stated: “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 remains steadfast as he seeks for alternative housing in Jerusalem. “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.”
28. 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 terms contained within the 1982 tenancy (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, according to the Toussia–Cohen agreement, they were not the legal owners of the land. Despite the fact that the renovated section in question had long been vacated and sealed off, the Rfqha Al-Kurd family became the fourth Sheikh Jarrah family to be evicted.
29. 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 agreements. Closer examination reveals that their attempted removals go beyond the purported apolitical terms of these agreements and are part of a long-term legal strategy developed and implemented by private settler organizations intent on creating a Jewish demographic majority throughout occupied East Jerusalem. There are presently four town planning schemes in Sheikh Jarrah, each in a different stage of the approval process at the Jerusalem Local Planning Commission.
30. The largest of these is Town Planning Scheme (TPS) 12705, which was submitted by Nahalat Shimon International – a private settler organization – in August 2008 and applies directly to land on which Palestinian families currently live. The plan calls for the construction of 200 new residential units for Jewish families, leading 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 TPS 12705 has been temporarily halted. Additional development initiatives in Sheikh Jarrah concern the building that, before it was demolished in 2010, operated as the Shepherd Hotel.
31. The Shepherd Hotel was destroyed as part of TPS 11536. TPS 11536 calls for the construction of 90 settler units, a kindergarten and a synagogue. Presently, the plan is in the preliminary stages of the approval process. A forty dunum olive grove, Karm Al-Mufti, near the site of what was the Shepherd Hotel, was discovered to have been the subject of a covert and controversial lease between the Israel Land Administration (ILA)

and the Ateret Cohanim organization. The agreement occurred despite the acknowledgement by Israeli authorities that the land is legally owned by the Arab Hotel Company, who had previously requested permission to commence commercial development.

32. Adjacent to the old Shepherd Hotel lies the future site of Glassman Campus. This will be a conference center, the development of which is being funded by Canadian philanthropists Max and Gianna Glassman. The campus is part of TPS 2639, which was introduced in the 1980s and designated certain lands for public building.
33. Collectively, the various development initiatives in Sheikh Jarrah are clearly 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 Hebrew University and Hadassah Hospital. A succession of Israeli neighborhoods have been, and continue to be, constructed in order to establish continuity through this valued corridor linking West Jerusalem with locations of strategic, historical, and religious significance to the Jewish population.

Al-Bustan/Silwan Case

34. Residents in Al-Bustan neighborhood of Silwan have long lived in a constant state of uncertainty regarding the security of their homes and property. In 1977, the Jerusalem Municipality approved Plan Number A/M/9, classifying a large amount of the neighborhood as “green space.” This plan prohibits any building on green space, and since its approval, the Jerusalem Municipality has consistently refused to give construction permission within the neighborhood.
35. Silwan is located just southeast of Jerusalem’s Old City. Over time, the neighborhood has become increasingly targeted by Israel’s efforts to increase the Jewish population of the area.
36. According to the Israeli Central Bureau of Statistics, Silwan ranks at the bottom of the socioeconomic index for Jerusalem. It is neglected by the State party and lacks adequate social services and infrastructure. Residents pay high taxes, but only a small portion is invested back into the community for educational, economic, infrastructural, or housing development.
37. In recent years, Al-Bustan has become a strategic location within the Israeli-defined “Holy Basin.” This area includes the Old City and its environs, including the homes and neighborhoods of thousands of Palestinian residents. Israel claims that the Holy Basin is important because of its “historical and religious significance”. Since the start of the occupation, the State party has carried out archaeological excavations under and around the Silwan neighborhood that jeopardize and harm the foundations of Palestinian homes, in order to strengthen historical claims to the area by Jewish settlers. The EU Heads of Mission Report on Jerusalem, released in January of 2012 found that the State party is engaged in “concerted effort to utilize archaeology to enhance a claimed historic Jewish continuity in Jerusalem, thereby creating the sense of a historic justification for the establishment of Jerusalem as the eternal and undivided capital of Israel.”

38. Through population growth and because of the reality of land scarcity caused by the State party's policies of land confiscation, many Palestinian homes have had little choice other than to build in small, confined areas or to add extensions onto existing homes. As this "illegal construction" intensified throughout the 1990s, Israeli authorities initiated legal action against several homes. A directive issued by the Jerusalem Municipality in 2004 under TPS 11555 called for the destruction of all 88 homes in Al-Bustan, to allow for the further development and expansion of an archaeological park.
39. The neighborhood of Wadi Hilweh has also been targeted under TPS 11555. Wadi Hilweh is made up of 548.5 dunums of land, 18.7 dunums of which are residential. This includes the area between the houses and settlement property. TPS 11555 reclassifies 8.14% of the land (or 50% of the currently residential space) for grave sites. The plan 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 private settler organization, El Ad, established in 1986. In Silwan, El Ad often acts as a de facto Israeli government agency, supported by the Municipality and the Police.
40. One year after its introduction, the Municipality began to implement the plan, serving residents with demolition orders and accusing them of illegal construction. Later that year, two homes were demolished. However, then Mayor of Jerusalem, Uri Lupoliansky bowed to local and international pressure and withdrew the initiative. Rather, he allowed both the residents of Al-Bustan and the Municipality to submit alternative town planning schemes.
41. The alternative plan presented by the residents of Al-Bustan called for the development of the neighborhood without home demolitions and ensured that residents would receive necessary services and development of infrastructure. It was prepared with the help of urban planner, Yousef Jabareen. In 2008 the Municipality rejected the plan, indicating their intention to continue with the development of the national park.
42. In addition to Silwan's Palestinian residents remaining in a constant state of vulnerability and uncertainty in regards to their housing rights, they experience intense settler violence. This is often led by El Ad, with the unofficial support of the police and security forces. This has a particularly negative and severe impact on children. Between November 2009 and October 2010, as many as 81 Palestinian children were arrested or detained for questioning in Silwan. There have also been an increasing number of incidences of children being temporarily deported and banned from the area.

East Jerusalem Bedouins

43. There are approximately 2,300 Palestinian Bedouins of East Jerusalem, comprising 20 communities in the hills to the east of the city. Bedouins face a growing risk of forced displacement from their encampments by demolition as a result of settlement expansion. More than two-thirds of the community is children and over 80% are refugees.
44. The local authority of the State party has informed the Bedouin communities that they must leave the area. This is part of a plan to relocate the Bedouin living in Area C (periphery of Jerusalem, the Jordan Valley and the South Hebron Hills). Their presence in the area is viewed as a hindrance to the planned expansion of West Bank settlements such as Ma'ale Adumim and Kfar Adumim, as well as the construction of the Separation

Wall. This would effectively annex the strategically significant area of Area C to the State party, making a Palestinian state nearly impossible.

45. Approximately half of the Bedouin community is not connected to the water network, and, despite humanitarian assistance, 55% are food insecure. None have access to an electrical grid and over 85% have been forced to abandon their traditional livelihood as herders.
46. The State party imposes increasing restrictions on their access to land, resources, and markets for their products. They are unable to obtain Israeli building permits and therefore live under constant threat of home and structure demolition.
47. The proposed relocation site for the Bedouins, which is located close to Al Ezariya village, is near to where the Bedouins were initially relocated in the late 1990s. According to the UN, the site does not meet minimum standards for 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.
48. The Bedouin 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 Ma'ale Adumim. Those evicted were finally resettled in a village named Al Jabal, outside of Al Ezariya, on expropriated Palestinian lands and only 300 meters from the Jerusalem Municipal garbage dump. In 2011, 300 Bedouin were forcibly displaced due to demolitions.
49. The Bedouin Protection Committee was created in response to their impending evictions, and represents 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 that will determine their fate.

The Separation Wall and Restrictions on Freedom of Movement

50. The Separation Wall extends over 200 km to the east and west around Jerusalem and occupies more than 40,000 square km of the City's land. Only 3% of the Wall in the Jerusalem area follows the 1967 Green Line, and it annexes 12 settlements with a population of more than 176,000 Jewish settlers to Jerusalem.
51. According to this Special Rapporteur's 2010 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."¹⁴
52. In addition to putting residency status of the aforementioned thousands of Palestinians living on the West Bank side of the Wall at risk, it forces them to cross checkpoints to

¹⁴ UN Special Rapporteur Richard Falk, Report on the situation of human rights in the Palestinian Territories occupied since 1967, (A/HRC/13/53/Rev.1 7) (June 2010).

access health and education services. The Separation Wall also disconnects economically and socially dependent urban centers and severs ties between rural communities and Jerusalem.

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

Access to Education

54. The educational sector in East Jerusalem is negatively impacted by a shortage of classrooms, a substandard quality of existing facilities, and severe access restrictions for teachers and students. While Palestinian children in East Jerusalem between the ages of five and 18 are legally entitled to free public education, approximately 5,300 registered children are not able to enroll in school¹⁵, with an additional 4,000 unregistered children in the city also unable to access education.
55. According to the Association for Civil Rights in Israel (ACRI), the shortage of classroom space is one of the most pressing issues in East Jerusalem. In 2009, only 50% of classrooms were deemed suitable for learning. Many Palestinian children in Jerusalem attend school in makeshift classrooms without facilities such as libraries, computer labs, sports facilities and playgrounds. The majority of schools are located in former residential buildings that are unsuitable and extremely overcrowded. Such shortages are due, in no small part, to Israeli zoning and planning restrictions that prevent new construction, building expansion and threaten several pre-existing schools. Due to such constraints, many schools have been forced to add facilities without the necessary permits and have since been served with demolition and closure orders.
56. The Municipality's lack of concern for Palestinian students in East Jerusalem is clearly reflected through its discriminatory budget allocation. While Palestinian students represent 30% of the city's student body, they only receive 11% of its educational budget.
57. Furthermore, in March of 2011 Israeli Authorities imposed government-censored textbooks onto both public and private Palestinian schools in East Jerusalem. These versions remove references to subjects related to Palestinian history, culture and heritage such as the *Nakba*, the history of the occupation, the Palestinian flag, and the national anthem. Such measures are an extreme and drastic attempt to deny Palestinian children the right to learn their identity and politics.
58. The unequal education system in Jerusalem and the imposition of Israeli curriculum upon Palestinian students are in serious violation of Israel's obligations as the Occupying Power under the Fourth Geneva Convention of 1949. Article 50 of the Convention states that the Occupying Power will "facilitate the proper working of all institutions devoted to the care and education of children." Furthermore, Article 13 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR) declared that, "The

¹⁵ EU Heads of Mission Report on East Jerusalem (2011) paragraph 38.

States Parties to the present Covenant recognize the right of everyone to education. Primary education shall be compulsory and available free to all.”

International Law

59. The State party claims that much of international law, including the Fourth Geneva Convention of 1949, does not apply to the oPt. This claim has been overwhelmingly rejected by the international community, including the UN Security Council and the ICJ. In its 2004 advisory opinion on the Legal Consequences of the Construction of a Wall in the oPt, the court reaffirmed that East Jerusalem, the rest of the West Bank, and the Gaza Strip are occupied and that Israel holds the status of Occupying Power. The Court ruled that East Jerusalem is occupied territory that has been illegally annexed by Israel, and to which international humanitarian and human rights law are applicable.
60. 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 said population. Article 27 of the Fourth Geneva Convention of 1949 places extensive obligations on 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 manner 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.”
61. Application of domestic law in occupied territory: As the Occupying Power, Israel is vested only with temporary powers of authority and not with sovereignty. The implementation of domestic law in the occupied territory violates Article 43 of the Hague Regulations of 1907. Under this article, the State party is obliged to respect the law in force, except when it is absolutely prevented from so doing, and is also prohibited from making permanent changes.
62. Destruction of civilian property: Article 46 of the Hague Regulations of 1907 guarantees protection of private property, stating that it cannot be “confiscated.” Article 53 of the Fourth Geneva Convention of 1949 prohibits, in clear terms, the “destruction” of property unless it is “absolutely necessary” for military operations.
63. Population transfer: The Fourth Geneva Convention of 1949 also states that the 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.” If this must occur, then any population so evacuated must be returned to their homes as soon as the hostilities in the area have ceased. In the meantime, the occupying power must ensure those evacuated have “proper accommodation.” The eviction from, confiscation and demolition of Palestinian homes in Sheikh Jarrah, Silwan and throughout East Jerusalem for the construction of Jewish settlements is a clear breach of the Convention.
64. Such displacement is also in clear violation of Article 49(1) of the Convention, which states that, “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.”
65. Israel’s practice of constructing and expanding Jewish settlements is in clear violation of the same article of the Fourth Geneva Convention. Paragraph six states, “The Occupying

Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” This means that any government plans to stimulate growth of the Israeli population in East Jerusalem, and measures to Judaize the city amount to a grave breach of the Convention.

66. In 1979, the UN Security Council opined that such policies and practices by Israel “have no legal validity.” It has, in the past, called upon Israel to uphold its responsibilities under the Fourth Geneva Convention of 1949 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 Articles 49(6) and 47.¹⁶
67. Adequate housing: The right to adequate housing is an essential component of the right to a decent standard of living. It is a foundation for the realization of other rights, including the right to family, work, education and ultimately, national self-determination. Israel is signatory to, and is bound by, the ICESCR, which explicitly states in 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.

Conclusion and Recommendations

68. Palestinian residents of Jerusalem exist under exceptionally difficult living conditions. This harsh reality – in which their rights to housing, residency, movement and education are attacked on a daily basis – exists as part of Israel’s demographic objective which openly seeks to create a Jewish majority, while minimizing and curtailing the Palestinian presence in East Jerusalem.
69. Despite what Israel claims, East Jerusalem remains occupied territory and is therefore 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.
70. 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,

¹⁶ “Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, not by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.” Fourth Geneva Convention of 1949, Article 47.

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.

71. The United Nations and international community have yet to take serious action to support a Palestinian presence in East Jerusalem. As the largest and most influential actor in global politics, the UN is obligated to uphold the international humanitarian and human right law it espouses. Its position cannot be limited to statements of objection. Rather, it must include strong political and diplomatic action. All High Contracting Parties to the Geneva Convention of 1949 must fulfill their obligations under Common Article 1 to respect and ensure respect for the provisions of the Convention under all circumstances by taking appropriate measures to compel the State party to abide by its obligations under international humanitarian and human rights law.
72. Member States of the European Union should 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.

Sincerely,

The Civic Coalition for Palestinian Rights in Jerusalem