

**Alternative Report for Consideration Regarding Israel's
Third Periodic Report to the United Nations Human Rights
Committee**

**International Covenant on Civil and Political Rights
(1966) (ICCPR)**

**Prepared by the Women's Centre for Legal Aid and Counselling
(WCLAC)**

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About WCLAC

The Women's Centre for Legal Aid and Counselling (WCLAC) was established by a small group of women in Jerusalem in 1991 as a Palestinian, independent, non-governmental, non-profit organisation. The Women's Centre for Legal Aid and Counselling aims to address the causes and consequences of gender-based violence within the community as well as the gender-specific effects of the occupation.

WCLAC provides social and legal counselling, awareness raising programs, offers legal and social support and training, proposes bills and law amendments, and participates in the organization of advocacy and pressure campaigns nationally and internationally on behalf of Palestinian women and the community.

WCLAC's International Humanitarian and Human Rights Law program was recently established to monitor and document Israel's violations of human rights and the impact of these violations on women. WCLAC documents women's testimonies using the frame-work of international law and human rights, combined with a feminist vision of equality and social justice.

The program seeks to ensure that Palestinian women's rights violations are effectively monitored, then collected through a process of documentation. The documentation is used to advocate on behalf of women in Palestine, to promote awareness of human rights violations and to work towards accountability for those responsible. The documentation also provides testimony to women's experiences of war and occupation.

WCLAC has special consultative status with the United Nations Economic and Social Council.

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1. Introduction

1.1 As a leading women's rights organisation based in the Occupied Palestinian Territory, WCLAC wishes to bring certain specific issues relating to violations of the International Covenant on Civil and Political Rights (ICCPR) by the State Party affecting Palestinian women in the Occupied Palestinian Territory to the attention of the Human Rights Committee (the Committee).

1.2 This submission is limited to issues affecting Palestinian women in the West Bank, including East Jerusalem and does not cover the many issues affecting women in Gaza as WCLAC staff do not currently have access to Gaza. The report focuses on the following issues :

- The applicability of the Covenant to the occupied Palestinian territory - Article 2
- Violence Against Women – Articles 2, 7 and 26.
- Freedom of movement – Article 12
- Separated Families – Articles 12 and 17
- Home Demolitions – Article 7, 12 and 17

1.3 The report is not intended to comprehensively cover all violations but rather focuses on the certain issues that have been identified as particularly affecting Palestinian women at the point of reporting. Most are however relevant for the Committee's entire reporting period.

2. Applicability of the Convention: Article 2

- 2.1 The Human Rights Committee together with other United Nations treaty bodies and the International Court of Justice have expressed the view that the ICCPR applies to the West Bank, including East Jerusalem and the Gaza Strip.¹
- 2.2 In 2003, the Committee stated:
“The State party should reconsider its position and to include in its third periodic report all relevant information regarding the application of the Covenant in the Occupied Territories resulting from its activities therein.”²
- 2.3 The State Party has however failed to address many of the issues faced by Palestinian women living in the oPt and this report therefore provides information to the Committee on the issues rather than responding to the State Party’s report.

3. Violence against Women: Article 2, 7 and 26

- 3.1 The prohibition against torture or to cruel, inhuman or degrading treatment or punishment is universal and absolute. In General Comment Number Ten, the Committee commented that there is a positive obligation on a State party to not only take legislative steps, but also administrative, judicial and other measures to prevent and punish acts of torture and ill-treatment in territory under its jurisdiction. It is not sufficient for the implementation of Article 7 to prohibit such treatment or punishment or to make it a crime.³ Article 2(3) is also clear in providing that any persons whose rights are violated under the Covenant shall have an effective remedy and that the State Party must ensure that the person’s rights are determined by a competent authority and that any such remedies shall be enforced.
- 3.2 The legal framework of international humanitarian law (IHL) provides that the civilian population must be protected against dangers arising from the conduct of hostilities. IHL provides that the State Party, as Occupying Power, is responsible for maintaining law and order in the Occupied Palestinian Territory and ensuring the protection of civilians under its control.⁴ The obligations imposed on the Israeli Government are not limited to the duty to avoid harming the protected population, but includes

¹ See the Concluding Observations of the Human Rights Committee in 1998 (CCPR/C/79/Add/93 of 18 August 1998, paragraph 10) and 2003 (CCPR/CO/78/ISR of 21 August 2003, paragraph 11); the Committee on the Elimination of Discrimination against Women, Concluding Observations, 2005 (CEDAW/C/ISR/CO/3 of 22 July 2005 paragraph 23) and the International Court of Justice, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 9 July 2004, paragraphs 109, 112 and 113.

² Concluding Observations, 2003 (CCPR/CO/78/ISR of 21 August 2003), paragraph 11

³ UN Human Rights Committee, CCPR General Comment No. 20 – 10 March 1992, paragraph 8.

⁴ See Articles 43 and 46 of the Hague Regulations (1907) and Article 27 of the Fourth Geneva Convention (1949).

the duty to ensure its well-being, including protection from violence at the hands of nationals of the Occupying Power.

- 3.3 However, despite the legal prohibitions, state actors, notably the Israeli army have committed acts of violence against Palestinian civilians including women, and failed to effectively investigate such incidents and take appropriate measures against those responsible. The State Party has also consistently failed to prevent settler attacks against Palestinians and to take adequate law enforcement measures against Israeli nationals who commit these crimes.
- 3.4 As the Beijing Platform for Action notes: “Civilian victims, mostly women and children, often outnumber casualties among combatants.”⁵ Unfortunately, this applies to the situation in the oPt, where obligations are not complied with and women and children are often casualties of the violence.
- 3.5 This section of WCLAC's submission will address in the first part violence against women from Israeli settlers living in the oPt and in the second part address the issue of violence from Israeli soldiers against Palestinian women.

Settler Violence

- 3.6 Violence committed against Palestinian civilians and their property has continued during the Committee's reporting period, with no indication that there has been any improvement in efforts to investigate and bring to justice those responsible. In the first 10 months of 2008, the Office for the Coordination of Humanitarian Affairs (OCHA) recorded 290 settler-related incidents targeting Palestinians and their property. This figure surpasses the total recorded by OCHA in each of the previous two years (182 and 243 in 2006 and 2007, respectively). Similarly, Palestinian deaths and injuries resulting from settler-related incidents in 2008 exceed the number of Palestinian casualties in each of the previous two years (131 in 2008, compared to 74 in 2006 and 92 in 2007).
- 3.7 Since 1967, successive Israeli governments have supported a policy of settlement building in the oPt in violation of international law. In September 2005, following the unilateral redeployment from Gaza and the evacuation of Israeli settlements, the number of settlers in the West Bank increased by 5.3%, including 4700 settlers resulting from the transfer of settlers from Gaza or Israel to West Bank settlements.⁶ By September 2007, more than 462,000 settlers were living in the West Bank and East Jerusalem.⁷ In 2008, the population of Israel increased at a rate of 1.8

⁵ Beijing Declaration and Platform for Action, para 133.

⁶ See <http://www.palestinemonitor.org/spip/spip.php?article7>

⁷ B' Tselem, *Land Expropriation and Settlements – Statistics 2007*. Figures based on Israel's Central Bureau of Statistics as of September 2007. See

percent. However, in the same year, the population of the settlements increased by 5.6 percent, of which 40 percent was attributable to immigration, from Israel and abroad.⁸ The expansion of settlements and growth of the settler population has brought a concurrent increase in settler violence against surrounding Palestinian communities. Many of the cases documented by WCLAC are concentrated in the Hebron area and in the villages around Nablus where settlers subscribe to fundamentalist and extremist ideologies and are more likely to use violence against the local Palestinian population and to damage Palestinian property.

3.8 Women are particularly vulnerable to attacks from settlers, usually remaining in the home during the day when the men leave for work, caring for children. WCLAC provides the following cases as illustrative of attacks by settlers against women in the West Bank during the reporting period:

| | Name | Date | Nature of Incident | Submitted Evidence |
|---|-----------|-----------------------|--|--------------------|
| 1 | Ayat J. | 15/03/09 | Stone thrown by settlers | Annex A - Case 1 |
| 2 | Athar M. | 25/02/09 | Assault by settler at road junction. | Annex A - Case 2 |
| 3 | Ahlam R | 04/12/09 | Settlers set fire to wood outside home with her and children inside. | Annex A - Case 3 |
| 4 | Fatima S | Oct 09 | Stones and sound grenades thrown at house. | Annex A - Case 4 |
| 5 | Ruquaia H | 10/04/09 | Assault by settler on pregnant woman | Annex A - Case 5 |
| 6 | Lubna Q | 13/09/08 and 29/06/09 | Attacks by settlers on home and property | Annex A – Case 6 |
| 7 | Fida E | 28/01/09 | Attacks by settlers on home and family and soldier violence | Annex A – Case 7 |

3.9 The case of Ahlam R concerned a young woman from the Hebron area. She was at home with her children aged eight, seven, five and four on 4 December 2008 when she noticed that armed settlers had gathered outside her home. She was scared for herself and her children and tried to keep her children safe by taking them to her bedroom and putting them on the

<http://www.btselem.org/english/Settlements/Statistics.asp> - Today, estimates place the settler population in the West Bank and East Jerusalem between 480,000 and 550,000.

⁸ *ibid*

floor. She heard shooting coming from outside and also cursing and abuse in Hebrew and heard stones being thrown against her windows. Later in the day she heard the sound of burning fire and smoke entered the house. She realised the settlers had set fire to the woodpile outside her house. She and her children had to escape and seek refuge in the home of a neighbour. When she returned to the house later that evening she found that the fire had destroyed the water tanks, and the entire area around the house was burnt, with windows broken, the wood collected outside burned and the house smelling of smoke.⁹

3.10 The impact on women of these types of attacks can be profound and troubling. WCLAC has found that aside from physical injuries, many of the women are left scared and psychologically affected, some feeling unable to leave their homes or carry on with their normal lives because of fears of repeat attacks.

3.11 In violation of Article 2, WCLAC's experience is that Palestinians who are the victim of settler attacks are hesitant to file complaints because they lack confidence in the law enforcement system that affords little protection and allows settlers to act with impunity. Victims fear further harassment or reprisal attacks from settlers if they file complaints against them and fear exposing themselves to harassment and threats from the Israeli police when filing complaints.

3.12 A comprehensive monitoring project carried out by Israeli human rights organization Yesh Din into the investigations by the Israeli police in the West Bank (referred to as Samaria and Judea or SJ) into complaints by Palestinians against Israeli citizens found that there was a general absence of law enforcement against Israeli settlers who commit offences against Palestinians in the West Bank. The report "A Semblance of Law: Law enforcement upon Israeli citizens in the West Bank" concluded that: "*[t]he results of Yesh Din's monitoring reveal a total failure of the SJ District Police in investigating Palestinian complaints about Israeli civilians harming them and their property. In 90% of the complaints that were filed the police treatment ended with the investigation file being closed or the complaints lost.*"¹⁰

Violence from State Actors

3.13 The most notable recent and obvious example of Palestinian women becoming the victims of violence from Israeli state actors, from the Israeli Army, were the attacks by Israel on the Gaza Strip that began in December 2008 and lasted 23 days. According to OCHA, the attacks left

⁹ Annex A, p 7-8

¹⁰ Yesh Din, *A Semblance of Law: Law enforcement upon Israeli citizens in the West Bank*, (Yesh Din, June 2006), 124, <http://www.yesh-din.org/report/ASemblanceofLaw-Eng.pdf>

1366 people dead, including 430 children and 111 women, and 5380 injured, of whom 1870 were children and 800 were women.¹¹

3.14 WCLAC documents cases of violence against Palestinian women in the West Bank committed by Israeli soldiers including the recent cases listed below:

| | Name | Date | Nature of Incident | Submitted Evidence |
|---|----------|----------|---|--------------------|
| 1 | Fatima S | Oct 08 | Pushed by Israeli soldiers and daughters threatened with sexual assault | Annex A - Case 4 |
| 2 | Halima S | 11/03/09 | Beaten and kicked by Israeli Soldier. | Annex A - Case 8 |

3.15 The women's experiences documented evidence a similar impact to that of settler violence. Women are frequently left traumatised by the experience, fearful of repeat attacks and afraid to leave the home. The case of Fatima S is particularly concerning. She lives very close to the Israeli settlement of Zahav and reports regular attacks by settlers and soldiers in her village. She reports an incidence of a threat of sexual assault or rape on her daughters' as well as a sexually suggestive gesture towards Fatima herself by an Israeli soldier in her home. She has not reported the incident to the Israeli authorities, having little confidence that anything will be done. Meanwhile Israeli soldiers and settlers continue to enter her village on a regular basis and she continues to live in fear.¹²

3.16 Again, in violation of Article 2, the experience of WCLAC is that, in the case of attacks from soldiers or other Israeli State actors, Palestinian women are reluctant to make a complaint. This is for the same reason women do not make complaints about settler violence: they lack confidence in the law enforcement system that affords little protection and allows soldiers to act with impunity. Women fear further harassment or reprisal attacks from settlers if they file complaints against them and fear exposing themselves to harassment and threats from the Israeli police when filing complaints.

3.17 Statistics from the Israeli army provided to the Israeli human rights organisation Yesh Din, illustrate the low probability of a successful outcome to any complaint made. The Israeli army statistics, on results of Military Police investigations of criminal offences in which Israeli army soldiers harmed Palestinians and their property since the beginning of the

¹¹ *Voicing the needs of Women and Men in Gaza: Beyond the aftermath of the 23 day Israeli military operations*, produced by UNIFEM (2009) p.9

¹² Annex A. p 9

second Intifada in September 2000 until June 2007, show that some 90 percent of these investigation files were closed with no indictment. The data also shows that out of the 239 investigations on killing and injury of Palestinian civilians not involved in the hostilities, only sixteen resulted in convictions: less than seven percent of the investigations.¹³

Recommendations

- **The State Party should ensure that any allegation of ill-treatment by Israeli settlers, like others under the State party's jurisdiction, should be promptly and impartially investigated, that those responsible be prosecuted and, if found guilty, appropriately punished.**
- **The State Party should take pro-active steps to identify and eliminate the use of ill-treatment and torture by members of the army, police force and security agencies and provide adequate training, discipline and supervision over these organs of the State to prevent these activities from occurring.**
- **The State Party should establish a fund and workable mechanism to compensate residents of the Occupied Palestinian Territory who can reasonably establish that they have suffered ill-treatment and torture.**
- **Ultimately the settlements themselves are the root of the problem of violence from settlers and from the soldiers placed to protect them. Removal of the settlements themselves will be the only means to secure protection of women from violence.**

4. Freedom of Movement: Article 12

4.1 In 2003, the Committee commented that:

*“ While again acknowledging the seriousness of the State party's security concerns that have prompted recent restrictions on the right to freedom of movement, for example through imposition of curfews or establishment of an inordinate number of roadblocks, the Committee is concerned that the construction of the "Seam Zone", by means of a fence and, in part, of a wall, beyond the Green Line, imposes additional and unjustifiably severe restrictions on the right to freedom of movement of, in particular, Palestinians within the Occupied Territories. ”*¹⁴

And recommended that:

¹³ Yesh Din, *Accountability Project. Investigation of Criminal Offenses by IDF soldiers against Palestinians and their property: figures*, Yesh Din, <http://www.yesh-din.org/site/index.php?page=criminal3&lang=en>

¹⁴ Concluding Observations, 2003 (CCPR/CO/78/ISR of 21 August 2003), paragraph 11

“The State party should respect the right to freedom of movement guaranteed under article 12. The construction of a “Seam Zone” within the Occupied Territories should be stopped.”¹⁵

4.2 During the current reporting period, while some checkpoints have been removed in some parts of the West Bank, the right to freedom of movement in the occupied Palestinian territory (oPt) has continued to be severely impaired. The West Bank is currently obstructed by 634 physical obstacles, including staffed checkpoints and random, or “flying”, checkpoints, earth mounds, trenches, road blocks, road gates and other kind of obstacles.¹⁶ According to the United Nations Population Fund (UNFPA) and the United Nations Development Fund for Women (UNIFEM), these movement restrictions impact heavily on expectant mothers, with an estimated 2,500 births per year facing difficulties en route to a delivery facility. Many Palestinian women have developed various higher-risk coping mechanisms in response to a fear of being unable to cross the checkpoints to reach health-care services, drastically affecting birth location patterns. The risks presented by checkpoints, road closures and other obstacles are reported to have led to an increase of 8.2 per cent in home deliveries, further compounding the risk to women’s health and to their babies.¹⁷

4.3 In 2005, the CEDAW Committee called upon Israel to ensure that Israeli authorities at checkpoints are instructed to ensure access to health-care services for pregnant women.¹⁸ Despite this clear recommendation, Palestinian women are still forced to give birth at checkpoints. According to a B’Tselem report in 2007, there were five cases of births at checkpoints in that year.¹⁹ There has been a decline in the number of such incidents because women have started to adopt special strategies to protect themselves. For example, women have admitted themselves to health care centres days before the expected delivery date or resorted to home delivery under the supervision of local midwives. UNFPA reports, show an increase in the percentage of home deliveries and in the demand for midwife services, prompting UNFPA to support the Palestinian Ministry of Health in the provision of training to midwives.²⁰ Despite these strategies, incidents continue to occur and B’Tselem in September 2008 documented the case of Naheel Abu Rideh aged 21 who was prevented

¹⁵ Ibid

¹⁶ UNOCHA, *West Bank Movement and Access Update*, May 2009 available at http://www.ochaopt.org/documents/ocha_opt_movement_and_access_2009_05_25_english.pdf

¹⁷ *Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General, The issue of Palestinian pregnant women giving birth at Israeli checkpoints: report of the High Commissioner for Human Rights*, A/HRC/10/35, 26 February 2009, <http://daccessdds.un.org/doc/UNDOC/GEN/G08/104/12/PDF/G0810412.pdf?OpenElement>

¹⁸ CEDAW/C/ISR/CO/3 para. 37-38

¹⁹ http://www.btselem.org/arabic/Medical_Treatment/Index.asp

²⁰ UNFPA Newsletter. 2007, p. 4.

from crossing the Huwarra checkpoint near Nablus and gave birth in her car at the checkpoint to a still born baby.²¹

4.4 The case of Khitam G was documented by WCLAC. Khitam was subjected to the humiliating experience of having to give birth at a checkpoint in the Shufat area of Jerusalem after the car she was travelling in with her husband was held up by Israeli soldiers.²² This incident took place at a checkpoint in Jerusalem on 19 April 2009 and illustrates that while movement restrictions may be being eased in some areas of the West Bank, they are not within the Jerusalem area.

4.5 A number of cases have come to the attention of WCLAC that involve families that have been almost completely cut off from their local communities. One such case documented by WCLAC is that of 64 year old Kifaya K who is from the village of Hizma in East Jerusalem.²³ Her home of around 40 years has been since 1993, located beyond the Israeli checkpoint called Hizma on the Jerusalem side (illegally annexed by Israel), and yet she and her family have Palestinian, or West Bank identification. This means that she has to have a special permit to travel through the checkpoint, but can only go as far as her home, she and her family are not allowed into Jerusalem itself to access the shops, hospitals, schools or universities. Many of her family and friends do not have permits to visit her on the Jerusalem side of the checkpoint resulting in increasing isolation and severe restrictions on her access to her community and social and cultural life.

4.6 It is not only checkpoints and the wall but also a complex permit system that separates families from each other, limiting and preventing access to Jerusalem for Palestinians from the West Bank and Gaza and between the West Bank and Gaza, meaning families can go for years without seeing each other, unable to get permits to travel.

Recommendations

- **The State Party should remove checkpoints from between Palestinian areas including those between East Jerusalem and the rest of the oPt.**
- **The State Party should bring to an end the existence of the ‘seam zone’ and address the status of those who live within such areas.**
- **The occupation and illegal annexation of East Jerusalem prevents Palestinians enjoying their rights under Article 12. The State Party must ensure an end to this situation in order to guarantee that Palestinians' rights under Article 12 are not violated.**

²¹ [http://www.btselem.org/English/Testimonies/20080904](http://www.btselem.org/English/Testimonies/20080904_Nahil_Ridah_Ridah_forced_to_give_birth_at_checkpoint.asp)

[_Nahil_Ridah_Ridah_forced_to_give_birth_at_checkpoint.asp](#)

²² See Appendix A, Case Number 9, p17-18

²³ See Appendix A Case No. 10, p19-21

5. Family Unification: Articles 12 and 17

5.1 Articles 12 and 17 are relevant to the question of family unification. Thousands of Palestinians are affected by Israeli policies which prevent families from living together, through a complex system of permits and administrative bureaucracy. These policies affect Palestinians who have a spouse or other family members with a foreign passport, Palestinians from the West Bank wishing to join a spouse or other family members in East Jerusalem and Palestinians from Gaza wishing to join a spouse or family in the West Bank or East Jerusalem. Families have to remain living apart for many years waiting for applications to be processed and approved, many have had to emigrate in order to stay together.

5.2 WCLAC is aware of hundreds of women affected by these policies and practices of the State Party and has documented a number of cases including the following:

| | Name | Description | Location | Evidence Submitted |
|----|---------|--|------------------------------------|--------------------|
| 1. | TA | Separated from her husband for 9 years. | Ramallah area. Husband in Ireland. | Annex A - Case 11 |
| 2. | Rimaz K | Family unification application not approved for last 13 years. | Jerusalem. | Annex A - Case 12 |

5.3 The State Party's arbitrary denials of entry to foreign passport holders at the Israeli-controlled borders violates Articles 12 and 17 and impacts heavily on the lives of Palestinians. As a result of the policies and practices of the State Party, economic investment has been handicapped and obstructed in numerous ways. Educational institutions, health care and other essential welfare services are also burdened and degraded by scarcities of skilled personnel. Recent measures also include the issuance of a 'PA Areas only' visa stamp to some foreign passport holders. These stamps prevent access to Jerusalem as well as hindering travel between Areas A, B and C.

5.4 While these policies have had a devastating effect on the entire population, the disproportionate impact on Palestinian women and on their ability to enjoy the fundamental human rights guaranteed to them by international covenants and conventions cannot be emphasized enough. Women are often left with the burden of raising children without a father present; they find it difficult to find employment for both cultural reasons and for practical reasons when having to care for children, with the consequent negative economic and financial impact that this brings.

5.5 WCLAC has documented the case of T.A. from the village of Deir Dibwan in the West Bank town of Ramallah which highlights the problems faced by many Palestinian women. T.A. married her cousin who was born in

Brazil and had spent most of his life abroad. T.A's husband does not carry a Palestinian identity card. The couple have been separated from each other for 9 out of the 17 years of marriage; the family unification application which they submitted to the Israeli authorities just after they got married is still being processed. Their younger child who is now 5 years old has seen her father for only three weeks since she was born. T.A.'s life as a single mother raising her six children in a conservative society has not been easy. To make things worse, T.A.'s husband was denied entry at Ben Gurion Airport in 2006 when he attempted to visit his family on a tourist visa and the couple have not seen each other since that time. T.A. is worried about her future relationship with her husband; she doesn't feel she knows him anymore. She is also distressed about the fact that her children are growing up not knowing what it means to have a father.²⁴

5.6 Although nearly 35,000 family unification applications were approved by Israeli authorities for West Bank families during the past two years, these did not include applications made by families residing in Jerusalem²⁵ and were mostly awarded to individuals who had no choice but to overstay their visitor's visas and who are married to holders of Palestinian identity cards. Hundreds of thousands more applications are still awaiting Israel's approval to begin to process them.

Special Case of Residency Rights in East Jerusalem:

5.7 When Israel occupied the West Bank and the Gaza Strip in 1967 it gave the Palestinians living in East Jerusalem the status of permanent residents. This status lays the practical and legal grounds to allow the Israeli Ministry of Interior to cancel residency rights of thousands of Palestinians if certain conditions could be proved. For example,

5.7.1 Any Palestinian resident of East Jerusalem who leaves the country for seven years or more will lose his or her residency right in Jerusalem. For this purpose, a person living in the rest of the West Bank or in the Gaza strip (in Ramallah or Nablus for example) is considered to be living abroad.

5.7.2 Any Palestinian resident of Jerusalem who obtains citizenship or permanent residency in any other country will lose their residency right in Jerusalem.

5.8 Over the years Israel has cancelled the residency of thousands of Palestinians who were studying, working or living abroad, meaning they cannot return to live in Jerusalem. This policy comes hand in hand with Israel's aim to limit the number of Palestinians living in Jerusalem.

²⁴ See Annex A p. 22-24

²⁵ Family unification applications for residents of the Gaza Strip have not been processed since the recent military attack on Gaza in December of last year

5.9 The State Party's policy in relation to East Jerusalem makes it almost impossible for Palestinians with West Bank identification to gain the status of permanent residents in East Jerusalem. Palestinians are able to live with spouses in East Jerusalem, but only with a permit that grants them limited rights and after going through complicated bureaucratic procedures. Over the years it has become increasingly difficult for residents of Jerusalem to successfully complete the process of a family unification application for a family member. Even when successful, the process is lengthy, tedious and involves exposing the person to consequences of limiting their ability to practice basic rights. It is particularly difficult for a resident of Jerusalem to successfully obtain an approval for a family unification application for a spouse with a West Bank or Gaza identity card.

5.10 WCLAC has documented the case of Rimaz K., a 33-year-old Palestinian woman from the village of Zababdeh in the northern part of the West Bank. Rimaz married a man from East Jerusalem and moved to live with him in the house his family owned in Jerusalem. Rimaz describes the ordeals of her every-day life during her 13 years of marriage as a West Banker living "illegally" with her husband in Jerusalem without a Jerusalem identity card which the Israeli authorities unlawfully refrain from granting to eligible spouses from the West Bank. Her family unification application is still being processed. Until the Israeli authorities approve her application and grant her an identity card issued for residents of East Jerusalem Rimaz will not be able to have a job, or drive her husband's car or ride a taxi or visit her family in the West Bank. She is also unable to enjoy many other benefits otherwise granted to residents of Jerusalem like affordable health insurance. Rimaz is one of thousands of such Palestinian women in Jerusalem whose rights under Articles 12 and 17 have been violated by the State Party.²⁶

Recommendations

- **The Israeli Government to cease arbitrary denials of entry that harm Palestinian family life.**
- **The Israeli Government to implement the rights to family unity and family reunification and establish reliable, transparent and lawful procedures for entry to and residency in the oPt, in line with its obligations under international law.**
- **The Israeli Government to set up clear mechanisms to ensure that family unification applications of Palestinian family members are accepted and processed within a reasonable time frame, based on legitimate and legally-sound criteria, as a means to ensure compliance with international humanitarian law and international human rights law using appropriate and effective means of persuasion and dissuasion.**

²⁶ See Annex A p 25-27

6. Home Demolitions: Articles 7, 12 and 17

- 6.1 Article 7, 12 and 17 are applicable. Article 17 is considered to encompass and regulate interference with one's home.²⁷
- 6.2 The policy of demolishing the homes of Palestinians especially in East Jerusalem has continued in the Committee's current reporting period despite being contrary to international law. International Humanitarian Law (IHL) expressly forbids the destruction of private property unless it is absolutely necessary for military purposes (Article 53 Geneva Convention IV) while extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly is a war crime (Article 147 Geneva Convention IV). The ICCPR provides that no one shall be subjected to arbitrary or unlawful interference with his privacy or home and has the right to the protection of the law against such interference or attacks (Article 17, ICCPR).
- 6.3 WCLAC believes that the Israeli policy of house demolitions not only violates these principles of international law but furthermore devastates the lives of Palestinians, particularly affecting women and children. During 2008, 1,151 Palestinians including more than 500 children were displaced or affected by house demolitions. In 2009, the Office for the Coordination of Humanitarian Affairs have recorded that 197 structures were demolished between January and June with 905 people affected or displaced, including 504 children in East Jerusalem and Area C.²⁸ The effects of home demolitions on families has been documented recently in a study conducted by Save the Children and the Palestinian Counselling Centre. The report documents the displacement, long term instability and mental health disorders in both parents and children caused by the demolition of a family home.²⁹
- 6.4 The experience of WCLAC's staff and fieldworkers reflects these findings, with our documentation recording the psychological as well as social, economic and cultural impact on women of the policy of home demolitions. Women are often most profoundly affected, with their lives usually revolving around the private sphere of the home where they raise their children and take care of the home. The women that have been interviewed by WCLAC invariably suffer from anxiety and depression during the often long and prolonged process that leads up to a home being demolished and then after displacement find themselves in overcrowded and unsuitable living conditions, further perpetuating the anxiety and other psychological problems.

²⁷ Manfred Nowak, *U.+ Covenant on Civil and Political Rights CCPR Commentary* (Germany: N.P. Engel, Publisher, 2005) pages. 399-400.

²⁸ Information taken from table produced by United Nations Office for the Co-ordination of Humanitarian Affairs, *Demolitions and Displacement in East Jerusalem and Area C – January – June 2009*, updated 7 July 2009.

²⁹ Save the Children UK, *Broken Homes: Addressing the Impact of House Demolitions on Palestinian Children and Families*, (STCUK, April 2009)

6.5 Since 1967, the State Party has failed to build homes and provide services to Palestinian residents of East Jerusalem to meet natural population growth. Palestinians face massive financial, legal and logistical obstacles to legal building on the 13 percent of East Jerusalem designated for Palestinian construction. Yet meanwhile, Israeli settlements flourish on the 35 percent of land expropriated for them, in contravention of international law.³⁰

6.6 UNOCHA reported in April 2009 on the near impossibility for Palestinians of obtaining a building permit in East Jerusalem.³¹ This leaves most Palestinians living there no choice but to build without a licence. This was the situation faced by most of the women whose cases were documented by WCLAC during the Committee's current reporting period. WCLAC has documented 14 cases during this reporting period but is aware of many hundreds more women who live in houses threatened with demolition, have had their homes demolished or have been forcibly evicted from their homes. The following five cases are typical of those documented by WCLAC in East Jerusalem:

| | Name | Location | Description | Submitted Evidence |
|----|---------|--------------------------------|------------------------------|--------------------|
| 1. | Ilham R | Bustan, Silwan | Demolition order on home | Annex A - Case 13 |
| 2. | Itidal | Bustan, Silwan | Demolition order on home | Annex A - Case 14 |
| 3. | Fatmeh | Bustan, Silwan | Threat of demolition | Annex A - Case 15 |
| 4. | Lubna H | Aqabet Al-Khaldiyyeh, Old City | Self demolition of extension | Annex A - Case 16 |

6.7 In the Bustan neighbourhood of Silwan, a historic area located just south of the Old City Walls, more than 1000 Palestinians risk losing their homes if the Jerusalem municipality carries out its plans to clear the buildings from this area.³² WCLAC staff have interviewed three women from Bustan, all of whom have described their own anxiety and their worry for their families, living in constant fear that their homes will be destroyed. One of the women whose case has been documented by WCLAC³³ has had to live with the threat of demolition since her home was built in 1996 in Bustan on land inherited from her parents. Despite having paid thousands of dollars in court fines and lawyers' fees, the threat of

³⁰ UNOCHA, *The Planning Crisis in East Jerusalem: Understanding the phenomenon of "illegal" construction in East Jerusalem*, Special Focus (UNOCHA, April 2009)p17 available at: http://www.ochaopt.org/documents/ocha_opt_planning_crisis_east_jerusalem_april_2009_english.pdf

³¹ Ibid p.7-9

³² UNOCHA, *The Planning Crisis in East Jerusalem: Understanding the phenomenon of "illegal" construction*, Special Focus, (UNOCHA, April 2009), p7

³³ Annex A p28-30

demolition still hangs over her and her family. She describes herself as 'chronically depressed' because of the situation as well as exhibiting physical symptoms that the doctor has told her are related to her psychological state.

Forced Evictions

6.8 WCLAC is also deeply concerned about the forced evictions taking place in areas of East Jerusalem, including the area of Sheikh Jarrah. The eviction on 2 August 2009 of two families from their homes in Sheikh Jarrah, where they had lived since being made refugees in 1948 is illustrative of a policy that is affecting many in this neighbourhood and others in East Jerusalem. This would seem to be part of a larger policy intended to maintain a demographic balance in Jerusalem.

Recommendations

- **The State Party should halt the demolition of Palestinian homes and forced evictions in East Jerusalem and Area C;**
- **The State Party should establish an independent commission to provide restitution and compensation for those who have lost their homes and have been harmed by the policy of home demolitions and reinstate those who have been subject of forced evictions.**
- **The occupation and illegal annexation of East Jerusalem prevents Palestinians enjoying their rights under Article 12 and 17. The State Party must bring an end to this situation in order to guarantee that Palestinians' rights under Articles 7, 12 and 17 are not violated.**

7. Concluding Remarks

- 7.1 The occupation impacts on the lives of Palestinians in many and diverse ways and in clear violation of international human rights and humanitarian law.³⁴ Israeli policies and practices such as the separation wall, the separation of families through a restrictive permit and entry regime, a failure to process family reunification applications, the expansion of the illegal settlements, checkpoints, home demolitions and the impunity for Israeli civilians and soldiers for acts of violence and harassment, have continued through the current reporting period. These practices have fragmented communities, divided families, seriously infringed on the right to freedom of movement and violated the rights to health, education, an adequate standard of living, work and family life as well as obligations under International Humanitarian Law to protect the civilian population.
- 7.2 It is evident after 42 years of the Israeli military occupation that the situation is inconsistent with the basic principles of international human rights law and international humanitarian law.
- 7.3 Accountability and an end to impunity for those responsible for violations of international human rights law and international humanitarian law through international legal mechanisms is a central tenet of bringing an end to the occupation.

³⁴*Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories*, submitted pursuant to General Assembly Resolution 62/106, 13 August 2008, para. 24