



**Badil's Response to Information Received from Israel on Follow-Up to the Concluding Observations of
the Fourth Period Review (CCPR/C/ISR/CO/4/Add.1)**

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I. Introduction

1. Badil Resource Center for Palestinian Residency and Refugee Rights appreciates the opportunity to respond to the information received by the Committee from Israel in follow-up to the Committee's concluding remarks to the Fourth Periodic Review. This response draws the attention of the Human Rights Committee to Israel's non-compliance with its recommendations regarding punitive demolitions 9(a), planning and zoning regime in the West Bank 9(b), and the displacement of Bedouins 9(d) and emphasizes Israel's illegal policies of forcible transfer of protected persons outlined in recommendations 9(c).

II. Applicability of the ICCPR

2. Badil stands with the international community against Israel's assertion that the ICCPR does not apply in the occupied Palestinian territory. For further information on the applicability of the ICCPR to occupied territory see [Badil's Written Report](#) in Response to Israel's Fourth Periodic Report to the Human Rights Committee (CCPR/C/ISR/4).

III. Punitive Demolitions

3. The Committee has recommended in 9(a) that Israel cease conducting punitive demolitions and provides effective remedies to victims of property destruction, forced eviction, and forcible transfer.

4. Israel responded that it carries out punitive demolitions under the 1945 British Defense (Emergency) Regulation 119, despite the regulation's obsolescence under Article 64 of the Fourth Geneva Convention, which prohibits the use of previously implemented jurisprudence in occupied territory which violates the Convention. Additionally, Israel only enforces the regulation against Palestinians, not Jewish-Israelis, in clear violation of Article 26 of the ICCPR which states that everyone is entitled to the equal protection of the law.

4. Israel also claimed that punitive demolitions are carried out in exceptional cases in order to deter "terrorist" attacks and are often reviewed by the High Court of Justice (HCJ). While Israel has mostly refrained in 2017¹, it has carried out mass campaigns of punitive home demolitions in recent history, demonstrating how the policy is used more commonly than it claims. From October 2001 until the end of 2004, Israel punitively demolished 664 homes, leaving over 4,182 people homeless. In November 2015 alone, six homes were punitively demolished, eight were rendered uninhabitable, and one additional room was sealed in East Jerusalem. Israel's actions collectively punished and rendered homeless 39 innocent people. 23 punitive home demolitions in 2016 left 118 people homeless.²

5. In its practices of punitive home demolitions, Israel violates Article 12(1) of the ICCPR which states that everyone has the freedom to choose their residence; Article 17 of the ICCPR, which guarantees that no one should be subjected to arbitrary or unlawful interference with his [...] home; Article 14(1) of the ICCPR, the right to be presumed innocent until proven guilty, which is universally binding as customary international law; Rule 103 of the International Committee of the Red Cross (ICRC) Customary Rules of International Humanitarian Law absolutely prohibits collective punishment; and Article 33 of the Fourth Geneva Convention, which states that protected persons may not be punished for an offence he or she has not personally committed. Additionally, the HCJ has continually upheld Israeli laws and military

¹ Israel finished the punitive sealing of Fadi Qunbar's home in Jabal al Mukaber, East Jerusalem on 23 March 2017, displacing five individuals. (See: <http://www.maannews.com/Content.aspx?ID=776054>)

² "Statistics on punitive house demolitions", B'Tselem, 15 June 2017.

orders that are in violation of international law and is not a competent, independent and impartial institution to review cases of punitive home demolitions. Considering home demolitions an act of deterrence, the HCJ extends the impact of the punishment to innocent people. Such jurisprudence is unreasonable and violates the internationally recognized principle of individual responsibility.

Israeli punitive home demolitions result in the forcible transfer of protected persons and violate of Article 4(1) of the ICCPR which states that state parties may only derogate their obligations to the ICCPR when it does not interfere with other obligations under international law. Forcible transfer is prohibited under Article 49 of the Fourth Geneva Convention, constitutes a grave breach under Article 146, and is a war crime and potentially a crime against humanity under Article 7 of the Rome Statute of the International Criminal Court.

IV. Planning and Zoning Regime in the oPt

7. The Committee has recommended that Israel cease discriminatory evictions and demolitions; remove discriminatory provisions from planning legislation; provide for due process guarantees against forced evictions and demolitions; ensure the participation of Palestinians in the planning and zoning process; and desist from the forcible transfer of Bedouins in the central West Bank.

8. Israel claims to abide by the *Hague Regulations Respecting the Laws and Customs of War on Land of 1907* by respecting prior jurisprudence in the oPt, yet it has continually manipulated these laws in order to colonize occupied territory in violation of Article 43 of the Regulations and discriminate against Palestinians (See III.6). For example, Israel changed the Jordanian Planning Law and adopted Military Order No. 418, in the process eliminating the Palestinian presence in planning committees that existed under the Jordanian law and transferring their powers to the Israeli Military Commander, thereby also removing Palestinians' ability to petition Israeli planning decisions.³ Thus, Israel's argument that it incorporates Palestinian participation into planning processes is false.

9. Israel claims that its Civil Administration operating in the West Bank is both developing plans for and promoting the participation of the Palestinian population. However, Badil urges the Committee to recognize that the Civil Administration is a part of the Occupying Power which has been transferred into the oPt and acts in order to permanently alter sovereign rights in contravention of the Fourth Geneva Convention, and as such it should cease all development, planning, and zoning operations in the oPt. Further, the implementation of the Civil Administration's plans causes forcible displacement and/or forcible transfer of the Palestinian population.

10. Israel has claimed that it more frequently demolishes Jewish-Israeli properties in the West Bank than Palestinian ones, thereby circumventing the Committee's recommendation altogether. Both the Jewish-Israeli structures and the presence of the civilian population of the occupier are illegal under the Fourth Geneva Convention. It is irrational to compare the demolition of illegal colonizer homes to the forcible transfer of Palestinians (in natural and legal presence on their own land) following the demolition of their homes.

Moreover, the Israeli Knesset recently passed the Regularization Bill which not only legitimizes the unlawful confiscation of Palestinians privately owned land through the legalization of outposts, but also further institutionalizes the discriminatory zoning and planning policy. This enactment is a clear and

³ "A Guide to Housing, Land and Property Law in Area C of the West Bank", Norwegian Refugee Council, February 2012, 55.

direct imposition of Israeli civil laws upon the occupied population and territory without any legitimate ground under Article 43 of Hague Regulation. (See the [joint statement of PHROC](#).)

11. Badil stands by the Committee's conclusion that the relocation of 7,000 Bedouins in Area C of the occupied West Bank constitutes forcible transfer. One of Israel's primary mechanisms to forcibly transfer this population is its zoning and planning policy, primarily its Bedouin relocation policy which creates a coercive environment. For example, in Area C, over 300,000 Palestinians are unable to obtain building permits, access basic services, infrastructure and grazing lands, and are prohibited from construction on 70 percent of the land. Of the remaining 30 percent, only 1 percent has been zoned to allow for Palestinian development, illustrating Israel's clear intention to relocate the Bedouins regardless of any contestation to the plans. Between 1988 and 2014, Israel issued over 14,000 demolition orders in the occupied West Bank, primarily in Area C. In 2016, Israel demolished over 1,089 Palestinian homes resulting in the forcible transfer of 1,593 people. The coercive environment is recognized by the International Criminal Tribunal for the former Yugoslavia as having the effect of prohibiting free will and genuine choice, rendering valueless any consent given by the protected persons in question.⁴ Therefore, Israel's claim that it incorporates the participation of Bedouin communities in Area C is untrue and its policy can only be recognized as forcible transfer.

12. Israel claims that structures built without permits harm the local population, yet in neighborhoods such as Al-Bustan in Silwan, East Jerusalem, which have been deemed illegal and given demolition orders, it is clear that the local population is Palestinian and the structures in question are their own homes, which are necessary for the assurance of basic human rights. The ongoing destruction of these homes constitutes forcible transfer and the violation of Article 4(1) of the ICCPR (see III(3), above). Despite Israel's claim that it initiated a new procedure in 2014 to expedite the process of obtaining building permits, it continues to demolish Palestinian homes based on discriminatory zoning and planning policies. The Jerusalem Municipality has provided around 4,000 building permits to Palestinians in East Jerusalem in contrast to 53,000 for Jewish-Israelis living in West Jerusalem and in colonies in East Jerusalem.⁵ While limiting Palestinian development, Israel continues to expand colonies in the oPt. About 250 colonies and outposts have been established across the West Bank and East Jerusalem since 1967.

V. Forcible Transfer and Displacement of Bedouins

13. Among other recommendations, the Committee stated that Israel must carry out its relocation of Bedouins in the Naqab in accordance with relevant human rights standards, such as the principle of non-discrimination. It recommends that Israel withdraw the Bill for the Regulation of the Bedouin Localities in the Negev (Naqab).

14. Although Israel states that the Bill is not being promoted, intentions were documented at the end of 2016 by Israeli officials to promote a new version of the bill.⁶ Badil notes that even the classification (without the implementation of any plans) of Bedouin villages in the Naqab as "unrecognized" is a

⁴ *Coercive Environments: Israel's Forcible Transfer of Palestinians in the Occupied Territory*, Badil, February 2017, 8.

⁵ Ahmad Sub Laban, field researcher and expert regarding planning and zoning in Jerusalem, interview by Badil, 3 November 2014.

⁶ "Adalah's Position Paper on 'Praver II': The Israeli Government's New Plan to Forcibly Displace and Dispossess Palestinian Bedouin Citizens of Israel from their Land in the Naqab (Negev), Adalah, January 2017

discriminatory system rendering the Bedouin communities in question at risk of forcible displacement. As such, Israel violates Article 12 (1) of the ICCPR, which states that everyone has the freedom to choose their residence and Article 26, which prohibits discrimination.

15. Israel has responded by saying that it “encourages movement to regulated localities”, yet makes no mention of its policy of home demolitions and denial of access to natural resource and public services as a means to forcibly displace Bedouins to relocation centers. In the case of Al Araqib village, in which landowners still possess their Ottoman land ownership documents, Israel has razed the village to the ground 113 times and exerted excessive force against the residents so much that a resident says⁷ that it is impossible to find a woman in the village who does not bare the scar of rubber bullets or police stick. Additionally, in the exact vicinity of the Bedouin village of Umm al Hiran, which was razed to the ground and a prominent teacher, Yacoub Abu al-Qiyan, murdered by Israeli forces, Israel is building a Jewish-Israeli town called Hiran, demonstrating its discriminatory relocation plans amounting to the forcible displacement of the Bedouin population. Additionally, Israel deprives residents of unrecognized villages of basic services such as water, electricity, health services, transportation, education, and others.

VI. Conclusion and Recommendation

16. As can be seen in the points analyzed above, Israel’s response circumvents the recommendations made by the Committee thereby demonstrating its non-compliance with the ICCPR, its disregard for the review process and its obligations under international law. Badil strongly urges the Human Rights Committee to take all necessary measures to fulfill its obligations to protect the Palestinian population and to bring Israel into compliance.

⁷ Interview by Badil field researchers, Al Araqib village on 23 February 2017.