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Written statement submitted by Badil Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization with special consultative status.

Concentration and Containment

1. In 2011, approximately 1,100 Palestinians were displaced in the OPT solely due to home demolitions conducted by Israeli forces. 70% of Area C of the West Bank is reserved for the exclusive use of the Israeli military and the construction of colonies. Of the remaining land, 29% is severely restricted for Palestinians.¹

2. Additionally, only 13% of East Jerusalem is zoned for Palestinian construction – much of which is already built up – compared with 35%, which has been expropriated and zoned for the use of Israeli settlements. Based on Israeli policy which effectively bans Palestinian residents of Jerusalem from obtaining construction permits – even on the allocated 13% – 93,100 Palestinians were forced to build their homes without proper building permits and are at risk of displacement due to Israel's discriminatory policy of demolishing houses.²

3. Moreover, on 11 September 2011, the Israeli Government approved the Praver Plan, which recommends the destruction of fourteen villages in the Beer Sheba district located in the Negev, effectively displacing 30,000 Palestinian citizens of Israel from their homes.³

4. The state of Israel is treating the territory of Israel and the Occupied Palestinian Territory (OPT) as one legal entity, which has two effects: (1) it places Israeli Jewish nationals, wherever they may reside, in a privileged position regarding land, housing and planning laws and (2) this is at the expense of Palestinians, wherever they may reside, who are collectively discriminated against by land, housing and planning laws. Thus, Palestinians living in the OPT as well as Palestinian citizens of Israel are discriminated against by Israel's land, planning and zoning regime. This institutionalized discrimination is evident in land ownership; planning policies; freedom of movement between areas; and access to infrastructure.

5. Israel's discriminatory land laws constitute a pillar of its colonial apartheid system. All Israeli land laws legislated since the Absentees' Property Law of 1950 have served to expropriate individually and communally owned Palestinian land, transfer title to Israel or agencies affiliated with the World Zionist Organization/Jewish Agency, and to establish a land regime which reserves the right to the land for Jewish nationals as defined by the Law of Return.⁴

¹ OCHA-OPT, Demolitions and Forced Displacement in the Occupied West Bank January 2012 at: http://www.ochaopt.org/documents/ocha_opt_demolitions_factSheet_january_2012_english.pdf.

² See Ibid.

³ Government Decision, *Confirming the Recommendations for Regulation of the Bedouin Settlement in the Negev*, 11 September 2011 (Government Decision no. 3707, 11 September 2011).

⁴ The Absentees' Property Law, 5710-1950.

6. In order to achieve this aim, Israel has implemented various land and planning laws. These laws were formulated with two general policies in mind: (a) the 'confiscation and colonization' of the vast majority of Palestinian owned land; and (b) the 'concentration and containment' of the Palestinian population within small pockets of land, which are dispersed and fragmented across the OPT and within Israel.

7. This has resulted in many Palestinians being expelled from their homes and having their houses demolished without any offer of resettlement or proper compensation. Israel has intentionally caused this situation to arise and is therefore in breach of its international obligations to provide, among others, adequate housing to the occupied population or its own Palestinian Arab minority, for which it is responsible.

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8. The Oslo Process 1995 resulted in the West Bank being divided into Areas A, B and C. This "administrative division" has served to reinforce Israel's aim of concentrating and containing the Palestinian population.

9. The division of the West Bank into three 'areas' has left Palestinians with disproportionately less land to live on (Area A and B) and has prevented them from expanding naturally according to their needs, which has resulted in poor housing, overcrowding and restricted access to essential infrastructure. Area C which covers 60% of the West Bank remains under full Israeli civil and military control.⁵

10. Since the occupation began in 1967 "Israel has not permitted the establishment of any new Palestinian municipalities. Instead, Israel has used its authority under military law to confine the boundaries of existing municipalities."⁶ This is "[d]espite the enormous growth of the Palestinian population since 1967."⁷ Military Order 418 created a planning regime that affords "maximum control [to] the Israeli government...over all aspects of planning and development in the Palestinian communities."⁸ Thus "[i]n the 1990s, Israel drew up detailed perimeter plans for some 400 Palestinian villages in the West Bank, essentially limiting [them] to their existing boundaries and prohibiting any development beyond them."⁹ As a result of these combined policies, Areas A and B are "drastically fragmented and interspersed with, and encircled on all sides by, vast areas of Israeli control[led]" Area C.¹⁰ Furthermore, the house demolitions and expulsion of Palestinians (particularly from Area C and East Jerusalem) has forced them to find housing in Areas A or B, thus exacerbating and increasing the already poor and deprived situation. This is particularly evident in the refugee camps throughout the OPT.

11. This containment of an ever-growing Palestinian population has resulted in many families living in overcrowded and damaging conditions because they are prevented from building on nearby land. The natural increase in population and the lack of

5 OCHA oPt, "Area C Humanitarian Response Plan Fact Sheet" (2010) at <http://unispal.un.org/UNISPAL.NSF/0/59AE27FDECB034BD85257793004D5541>, page 1-2.

6 Dajani, S., *Ruling Palestine – A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine* (2005), p. 33.

7 Ibid

8 Cohen-Liftshitz, A. and Shalev, N., *The Prohibited Zone: Israeli Planning Policy in the Palestinian Villages in Area C* (Bimkom, Jerusalem: 2008) p39.

9 Dajani, note 6 supra, p. 99.

10 Ibid p121.

modern facilities and infrastructure has left many families in substandard, underdeveloped houses.

12. Moreover, all Israeli/Jewish only colonies in the OPT – “the vast majority of [which] are established on land seized by Israel”¹¹ – must initially be authorized by the Joint Settlement Committee. This committee is composed in equal proportion of representatives of both the government and of the World Zionist Organization, preventing Palestinian inhabitants of the OPT from participating in any decision making that directly affects their housing situation. Houses in these settlements “are ostensibly sold on the free market to any buyer, though in fact they are sold exclusively to Jews.”¹² This demonstrates the discriminatory nature of Israel's initial policies in confiscating land almost exclusively from Palestinians, while resettling only Jewish/Israeli settlers in those colonies throughout the OPT.

Israel

13. Within Israel itself population density levels in Arab villages are nearly four times higher than those in Jewish villages.¹³ As a result, Palestinians in Israel have been forced to build without the required planning permission, out of necessity.¹⁴ While authorities fight this “with the full force of their legal power,” similar practices among the Jewish community are treated “very tolerantly.”¹⁵

14. Furthermore, the average area of jurisdiction of Palestinian cities and local councils has, furthermore, decreased by 45 percent since the British Mandate. This is despite a sixteen-fold increase in the built-up areas of Palestinian communities.¹⁶ Therefore, most Arab localities “are dependent on decisions made by planning commissions on which, in the main [Palestinians] have no representation.”¹⁷

15. Much like in the West Bank, Palestinian communities often find themselves 'cut-off' from the surrounding lands.¹⁸ By contrast, even “the smallest Jewish localities...have detailed building plans and regulations regarding land use.”¹⁹ As summarized: “Israeli space has been highly dynamic, but the changes have been mainly in one direction: Jews expand their territorial control by a variety of means including on-going settlement, while Arabs have been contained within an unchanged geography.”²⁰ It is hardly surprising, therefore, that while today the Palestinian population makes up 18 percent of the total Israeli population, it owns only 3.5% of the land.²¹

Conclusion

16. Badil urges the member States of the Human Rights Council to:

11 B'Tselem (Yael Stein, ed.), *Land Grab Israel's Settlement Policy in the West Bank* (Jerusalem: B'Tselem, May 2002), p. 21.
12 *Ibid.* p23.
13 Groag, S. and Hartman, S., “Planning Rights in Arab Communities in Israel: An Overview” (available at www.bimkom.org), p3.
14 Hussein and McKay, note 43 supra, p. 233.
15 Groag and Hartman, note 7 supra, p4.
16 Hussein and McKay, note 43 supra, p. 217.
17 Groag, S. and Hartman, S., note 7 supra p. 5.
18 *Ibid.*, p. 214.
19 *Ibid.*, p. 228.
20 See Kedar, Khamaisi and Yiftachel, note 79 supra, p.17.
21 *Ibid.*

- Register Israel's system of institutionalized discrimination that distinguishes between Jewish nationals and citizens and Palestinian Arabs and extends from Israel Proper to the OPT.
- Register Israel's continuing practices of house demolitions, land confiscations, and its adoption of policies resulting in inadequate housing and living conditions.
- Condemn Israel's policy of land and resources grab in area c and in east Jerusalem in order to build and/or expand colonies while the Palestinian communities in these areas are prohibited from acquiring permits to build houses on their own land. To call upon Israel to immediately revoke all orders concerning the demolition of houses and eviction of Palestinians in the OPT.
- Condemn Israel's practice of prohibiting Palestinians living in Area C and in East Jerusalem of receiving building permits and therewith hindering the natural growth of those communities.