



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/NGO/149
2 March 2005

ENGLISH ONLY

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 6 of the provisional agenda

**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF
DISCRIMINATION**

**Written statement* submitted by Al-Haq, a non-governmental organization in special
consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Al-Haq wishes to draw the attention of the Commission on Human Rights and United Nations Member States to the flagrant discrimination to which Palestinian East Jerusalemites are subjected by Israel Authorities. Since the *de facto* annexation of East Jerusalem and other areas of the West Bank in 1967, Israel has implemented a policy aimed at changing the demographic composition of the city, seeking to extend and consolidate its illegally claimed sovereignty over the land and people. Israel purposefully seeks to isolate and reduce the Palestinian population and property tenure, while at the same time increasing the illegal presence of the Israeli Jewish population and their ownership of the land. The international community has, through the UN Security Council and other bodies, repeatedly emphasised the inadmissibility of the acquisition of territory by war and held that:

"all legislative and administrative measures and actions taken by Israel, the occupying Power, which have altered or purport to alter the character and status of the Holy City of Jerusalem, and in particular the recent "basic law" on Jerusalem, are null and void and must be rescinded forthwith;"

Israeli discriminatory policies in East Jerusalem include the expropriation and destruction of Palestinian property, stringent restrictions on the ability of Palestinians to build therein, the denial of family rights to Palestinians, a failure to provide services and infrastructure to Palestinians and severe restrictions on their movement.

Settlement Construction & Expropriation and Destruction of Property

In pursuance of its demographic ambitions, Israel has expropriated over one-third of the Palestinian-owned land illegally annexed to construct Israeli settlements. In 2004, PASSIA reported that 78% of East Jerusalem land has been expropriated for 'public use' or designated as 'green zones' under Israeli urban planning schemes, 9% is for settlement expansion with the remaining 13% left for Palestinian use. In effect these 'green zones' have been used for the additional expansion of Israeli settlements in occupied East Jerusalem. Israeli land policies have resulted in a housing density in Palestinian neighbourhoods being nearly twice that of Jewish neighbourhoods.

Any construction within occupied East Jerusalem requires a building permit issued by the Israeli Authorities. Such permits are prohibitively expensive and difficult for Palestinians to obtain, forcing many to build without the necessary permit. The 'illegal' construction of these houses is subsequently used as a pretext to demolish them. In contrast, Israeli Authorities have on many occasions retroactively approved permits for housing units in settlements.

Such Israeli actions constitute a violation of the right to adequate housing and to protection from arbitrary interference with one's home, as upheld in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) respectively. While the Israeli government implements measures to limit Palestinian construction in East Jerusalem, it has actively pursued a policy of settlement construction and expansion and the transferral of its population into occupied East Jerusalem in contravention of international law.

The clearest expression of this policy is the construction of the Annexation Wall to incorporate settlements into East Jerusalem while expropriating and destroying vast tracts of Palestinian land and property, dividing Palestinian communities and severing them from the rest of the West Bank. Further, the Wall will severely restrict the movement of Palestinian East Jerusalemites, requiring them to obtain special permits to visit other neighbouring West Bank towns. However, the settler population has free access to the West Bank settlements on special constructed roads, the use of which is denied to Palestinians.

Family Unification and Child Registration

Under Israeli law illegally extended to East Jerusalem, Palestinians therein are considered 'permanent residents' of Israel, a status that grants them, *inter alia*, legal residence in East Jerusalem. Their ability to reside there with their families was severely restricted in July 2003 with the passage of the *Nationality and Entry into Israel Law*. The Law froze consideration of all family unification applications if the non-resident spouse was from elsewhere in the Occupied Palestinian Territories (OPT). As a result, numerous Palestinian families are forced to live apart, reside illegally in East Jerusalem or move outside its municipal boundaries. A Palestinian found in Jerusalem without permanent resident status or a special permit can be the subject of a fine, arrest or deportation to another area of the OPT. Further, it is nearly impossible for Palestinians to register their children as permanent residents unless the child is born inside the municipal boundaries of East Jerusalem and both parents are also permanent residents thereof.

The Law is a clear breach of the Israeli obligation under international human rights law to protect the family as the natural and fundamental group unit in society, as upheld under Article 10 of the ICESCR and Article 23 of the ICCPR. As emphasised by the UN Human Rights Committee, States must adopt appropriate measures "to ensure the unity or reunification of families, particularly when their members are separated for political, economic or similar reasons." The Law also violates Israeli obligations under the Convention on the Rights of the Child, which requires that States deal with family unification in a positive, humane and expeditious manner.

Discrimination in Services

As permanent residents Palestinian East Jerusalemites pay the same municipal taxes as Israeli citizens, despite earning dramatically less. Equal taxation however, has not lead to equal provision of social services or infrastructure. In 2000, only 10% of the Jerusalem municipal budget was allocated to East Jerusalem. This figure is all the more daunting when it is estimated that approximately a third of the population of Municipal Jerusalem lives in East Jerusalem.

Although current statistics are difficult to obtain, in 1999 East Jerusalem had 76 kilometres of sewage pipes and 87 kilometres of roads. The same infrastructure in West Jerusalem was 650 kilometres of sewage pipes and 680 kilometres of roads. However, the sewage system and roads in East Jerusalem serve between three to four times as many people. Similar investment disparities are seen in the provision of social services: East Jerusalem benefited from three social welfare centres and five mother and child health care centres in 2000, while West Jerusalem benefited from 20 and 32 centres, respectively.

Palestinian East Jerusalemites, by virtue of their permanent resident status, are entitled to national health insurance and social benefits. However, the Israeli entity responsible for the

administration of social benefits and health insurance investigates Palestinian applications thereof to check their residency status. The essential characteristic of the investigations is not an effort to protect the health insurance system from fraud but rather to reduce the number of Palestinian residents in East Jerusalem.

Article 11 of the ICESCR protects the right to an "adequate standard of living" and to the "continuous improvement of living conditions." It could be convincingly argued that if anything, Israeli policies in East Jerusalem are contributing to a continuous decrease in living conditions of the Palestinian population.

State Obligations

The principle of non-discrimination is a fundamental tenet of international law, upheld in the UN Charter, the Universal Declaration of Human Rights, and a number of the key conventions. It has been codified in the International Convention on the Elimination of All Forms of Racial Discrimination, which defines racial discrimination as:

"any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

The principle of non-discrimination has also been upheld as an *erga omnes* obligation by the International Court of Justice. Both the ICCPR and the ICESCR state that the exercise of the rights contained therein must not be limited on the basis of discrimination on the ground of race.

Official Israeli policies in occupied East Jerusalem openly discriminate against Palestinians. The denial of fundamental human rights on the ground of race constitutes a clear breach of international human rights law. The State of Israel, while denying Palestinian East Jerusalemites their rights, has simultaneously and purposefully taken measures to allow Jewish Israelis full enjoyment of these rights.

International human rights law establishes clear responsibilities on the State of Israel to ensure the free exercise and enjoyment of the rights of those within its jurisdiction without discrimination. Al-Haq therefore requests that the Commission:

- Ensures that Israel is upholding all of its obligations towards Palestinian East Jerusalemites under the international human rights treaties to which it is a State Party;
- Endorses the recommendations made by the International Court of Justice in its Advisory Opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*;
- Calls on Israel to end its illegal annexation of East Jerusalem.
