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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB
TERRITORIES, INCLUDING PALESTINE**

**Written statement* submitted by Habitat International Coalition (HIC),
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.

[2 March 2005]

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

Both post-WWII Military Tribunals and the Rome Statute of the International Criminal Court treat unnecessary destruction and appropriation of property, population transfer and implantation of settlers as crimes of war and crimes against humanity. Israel's decades-long colonization of Palestinian territory has flouted these prohibitions of simultaneously applicable humanitarian and human rights law.

In July 2004, the International Court of Justice found both the West Bank barrier and the Israeli settlements in breach of international law. The Court advised States, "not to render aid or assistance in maintaining the situation created by such construction." However, no State or body has yet acted effectively to uphold Palestinians' human rights to housing and land with impunity.

The Fourth Geneva Convention Article 53 circumscribes property destruction to necessary military operations, prohibiting it under general security measures. It adapts Article 23(g) of the Hague Regulations, which the Israeli Supreme Court has recognized as customary law. However, the Israeli army applies a shockingly permissive interpretation of military necessity, without distinguishing between civilian and military targets or using proportional force.

In breach of The Hague regulation Article 43, prohibiting an occupying power from altering the legal system in an occupied territory, Israel facilitates the violation of Palestinian individual and collective land rights by imposing its discriminatory domestic laws in the 1967-occupied territories, confiscating the occupied people's property, including land, water and other natural resources. Israel's parastatal "national" institutions: the World Zionist Organization/Jewish Agency, Jewish National Fund (WZO/JA and JNF) manage this process directly and through subsidiaries. Predating the State of Israel, these institutions transfer the assets of the dispossessed Palestinians those whom Israeli law considers as eligible for "Jewish nationality". Military operations have complemented this process since the 61st Commission session.

Punitive house demolitions

The Israeli army commonly demolishes the homes of Palestinians suspected of committing—or attempting to commit—political violence. This punishment, officially cast as "deterrence," also destroys adjacent homes when the occupants belong to a suspect's extended family. Neighbors and even those renting a residence to the suspect also become dispossessed. Such demolitions allow no appeals process, typically happen at night, and allow the occupants only a few minutes notice. Since October 2001, Israel thus has demolished at least 628 homes to 3,983 persons.

"Administrative" demolitions of homes without the elusive permit in Area C and Jerusalem have eliminated 115 Palestinian residential buildings (over 170 units), home to some 850 Palestinians. These actions are violent in nature and contradict the international principles of necessity and proportionality applicable to the use of force in law enforcement.

Military destruction of homes

Since 2001, Israel's army has destroyed some 4,170 Palestinian homes, mostly in so-called "clearing operations" along the Gaza-Egypt border, around Israeli settler colonies and army posts, alongside settler roads, and throughout the northern Gaza Strip. Israel's demolitions also have devastated more-isolated Gaza Strip communities. As of October 2004, "clearing operations" destroyed 2,540 housing units, in which 23,900 Palestinians lived. The Israeli army demolished an average of 120 Palestinian residential buildings monthly, or four daily, in 2004.

As with other Israeli army operations, the 18–24 May “Operation Rainbow” destroyed 166 Palestinian houses with infamous Caterpillar D9 bulldozers, clearing “tank paths” inside neighbourhoods and refugee camps by plowing through blocks of houses. Most victims were inhabitants not suspected of any offense, although Israel still justifies the destruction as a “legitimate military object.”

Israeli plans revealed in 2004 seek further destruction of some 3,000 Palestinian homes, property and land by expanding a buffer zone in the Gaza Strip to 400m and digging a trench along the Egyptian border. This would destroy a central 30% of Rafah Refugee Camp, displacing tens of thousands of Palestinians already living in one of the world’s most densely populated zones, where Israeli forces made 17,400 Palestinians homeless since September 2000.

Destruction of agricultural land

Although a “human right to land” needs further elaboration in international law, the human rights content of land is evident in the breach; whereas, grand-scale violations deprive entire communities and peoples. Israel’s destruction of Palestinian orchards has increased food insecurity in Gaza, destroying over 50% of Bayt Hanun’s orchards since 2001.

In order to create “security” areas during 2004 military operations in the Gaza Strip, the Israeli army levelled at least 17% (203.8 hectares) of Bayt Hanun’s arable land, and caused a cumulative loss of over 50% of all Bayt Hanun lands cultivated with fruit-bearing trees. In Jabaliya, occupation forces levelled 70.6 hectares of agricultural land and, in Bayt Lahia, razed 14.7 hectares and damaged or destroyed six livestock facilities. The army gratuitously razed two large tracts of agricultural land two fields of greenhouses outside the Tel al-Sultan housing project, far from any border.

From January to May 2004, Israel’s army destroyed some 38,000 dunums of cultivated land in Gaza, and uprooted over a million fruit-bearing trees. In Zaitun, 2km from the Rafah border, the army destroyed 33 greenhouses, in addition to poultry farms, during a five-day curfew. These resulting economic losses would take years to recover. (A single fruit tree requires 5–7 years of steady cultivation before yielding fruit and any income.)

Settler colonies

While the world focuses on the violations caused by Israel’s West Bank barrier, land confiscation for settler colonies effectively completed the West Bank’s dissection in 2004. Israel’s Interior Ministry now projects the settler population at 310,000 by 2020. In March 2004, Israel’s Housing Ministry announced plans to issue 2,114 new settler housing tenders in occupied Jerusalem and West Bank, including 700 units in Har Homa (Jabal Abu Ghunaym), 600 in Betar Illit, 200 in Ma’ale Adumim, 180 in Givat Ze’ev, 130 in Adam, 100 in Efrat, 48 in Pisgat Ze’ev, and 156 in Qiryat Arba.

Ariel settler colony has expanded westward with 2,000 new housing units. In August, Israel’s Housing Ministry published tenders for building 1,001 units in the occupied West Bank: 42 in Qarnei Shomron (“Giva Mirkazit”), 214 in eastern Ariel, 141 in Ma’ale Adumim, 604 in Betar Illit, and another 600 units that PM Ariel Sharon and Defense Minister Shaul Mofaz secretly approved. In late August, the Israel Lands Authority approved another 767 units for Jerusalem-area settler colonies, including 200 in Har Gilo, 101 in Har Adar, 134 in Adam, 98 in Emanuel, 150 in Har Homa, 48 in Pisgat Ze’ev, and 36 in Gilo. In addition, Israel’s Housing Ministry

quietly revived the ambitious 4,000-unit “E-1” expansion plan in 2004, which projects linking Ma`ale Adumim (pop. 28,000) with those colonies, completely severing the West Bank in two.

Planners in the Israeli Civil Administration recently declared 1,500 hectares of private Palestinian properties as “state land”, annexing them to Ma`ale Adumim. Israel’s Finance Ministry already has allocated \$4.4 million for the project and intensive road construction already is underway there. In early May 2004, Israel’s Attorney General authorized the Housing and Construction Ministry to resume funding for settler colony construction. In February 2005, the Israeli government revealed its plan to increase construction in 2005 with another 6,000 settler housing units in the West Bank.

Early in 2004, Israel announced two new settler colonies in occupied Jerusalem: Kidmat Zion (400 units) and Nof Zahav (550 units). In June, plans were announced to establish “Givat Yael,” near the Palestinian village of al-Walaja. It will occupy 411 hectares of Palestinian land currently slated for confiscation to the favour of 55,000 new settlers in 13,500 housing units.

Two settler colonies currently are expanding around Alfei Manashe: “Nof Sharon,” implanting 50 settler houses on Palestinian lands near Habla village, “Givat Tal,” which will contain 400 units. Extensive construction began in mid-2004 to nearly double the size of Alfei Manashe itself.

With WZO support, Russian settlers are reportedly planning to settle in the Jordan Valley. In August 2004, the Israeli government announced exceptional financial incentives to Jewish settlers in the West Bank. Consistent with Ariel’s Sharon’s Gaza “disengagement plan,” the Israeli government announced in November 2004 that settlers redeploying to the West Bank would receive as much subsidy as those choosing resettlement in Jerusalem or Tel Aviv. Those who moved to the Negev, or to the Galilee, with their large, indigenous Arab citizens in Israel, would receive a \$30,000 bonus. Gaza “disengagement” foresees 9,000 settlers moving directly from Gaza to the West Bank.

Conclusion

The ongoing violation of the Palestinian people’s housing rights demonstrates the organic connection between the two complementary international law regimes, the organic human right to land, and the appropriateness of an effective international response to uphold them. It is our hope that the Commission will be able to demonstrate its relevance by addressing these grave breaches as such and issuing a call for effective measures bringing international law to bear, including through military and economic sanctions as appropriate.
