

האגודה לזכויות האזרח בישראל
جمعية حقوق المواطن في اسرائيل
The Association for Civil Rights in Israel



SHADOW REPORT

by The Association for Civil Rights in Israel

ICCPR IMPLEMENTATION IN EAST JERUSALEM

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in reference to the fourth periodic report of Israel submitted October 2013

EXECUTIVE SUMMARY

The Association for Civil Rights in Israel (ACRI) is honored to present a report to the Human Rights Committee concerning the implementation of the ICCPR in East Jerusalem. The report focuses on two issues carrying grave violations of human rights.

The first issue concerns the situation of the Jerusalem neighborhoods cut off by the Separation Barrier. These neighborhoods had been part of Jerusalem since 1967, when its eastern boundaries were redefined by Israel. Its residents are permanent residents of Israel. A decade ago, the route of the barrier began separating these Jerusalemites from their city. Since then, entry from each neighborhood into the rest of Jerusalem is done through a single road and single checkpoint. The larger checkpoints are characterized by never-ending traffic jams. Misconduct of soldiers and of police personal and changing policies that further limit residents' movement are common in all checkpoints where Jerusalemites enter their own city. In addition to the difficulties created by the checkpoint systems, the government and municipality have nearly stopped providing services to these areas, be it regarding education, road repairs, water connections, garbage collection, and so forth. The disappearance of police presence for almost a decade has turned these areas into "no-man's land", where crime is high and where fugitives take refuge. A 2005 government decision and several commitments made to the High Court which promised that life in these neighborhoods will go on as usual after the formation of the barrier have nearly all been disregarded by national and local authorities. Tens of thousands of residents have thus been abandoned beyond the barrier, their basic rights severely violated. The weakest segments of society – physically, financially, politically – suffer the most. No promises have been made by the government of Israel that point to a planned change in policies.

The second issue presented in the report concerns police in East Jerusalem. In light of Israel's ongoing occupation and annexation of East Jerusalem, intense hostilities are inherent to the relations between Palestinian residents of Jerusalem and the police. In this context, police are used most often - and are viewed regularly by Palestinians - as tool to exercise Israeli control over East Jerusalem, and not as a law-enforcement body dedicated to the safety and well-being of the residents and their property. Police regularly raid Palestinian neighborhoods and arrest adults and minors, at times using physical violence and violating relevant police regulations. When Palestinians file

complaints in such cases they are often eventually rejected by the relevant police investigation unit, even when strong evidence supports the claim such as video tapping and hospital reports. When police use face masks and wear no name tags, their identification is made impossible and accountability is lost. At times of clashes and disturbances, police use riot-control measures in a disproportionate way and not in according to regulations. For example, police shoot sponge-coated bullets at people's faces instead of lower parts of the body as stated in police regulations. Police use teargas and "skunk liquid" excessively causing harm to people and property. This is at times done in densely populated areas of East Jerusalem where the harm to innocent people, including the elderly, the disabled and young children and babies is great. ACRI regularly collects concrete examples of such cases and brings them to the attention of the Internal Security Minister, the National Police Commander and the Jerusalem Police Chief. Yet no significant improvements on any of these issues had been documented in recent years, and in some areas, such as the use of the "skunk liquid" and the use of face masks, there has been deterioration.

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INTRODUCTION

The following is a shadow report by the Association for Civil Rights in Israel (ACRI),¹ referring to the fourth periodic report issued by the State of Israel on 14 October 2013 (4/Q/ISR/C/CCPR) concerning the implementation of the International Covenant on Civil and Political Rights.

Established in 1972, ACRI is Israel's oldest and largest human rights organization and the only one dealing with the entire spectrum of rights and civil liberties issues in Israel and the Occupied Territories. An independent and non-partisan organization, ACRI's mandate is to ensure Israel's accountability and respect for human rights, by addressing violations committed by the Israeli authorities in Israel, the Occupied Territories, or elsewhere.

We have chosen to focus this report on two issues concerning the implementation of the ICCPR in East Jerusalem, which ACRI has been following closely, and which we recognize as constituting grave and ongoing violations of human rights. The first issue concerns the situation of the Jerusalem neighborhoods cut off by the Separation Barrier, and the second concerns police conduct toward Palestinians in East Jerusalem. Thus, the purpose of this shadow report is to offer information on these two topics concerning the State bodies' actions and policies which stand in violation of the ICCPR.

The organization's East Jerusalem Project works to challenge and change policies by local and national Israeli authorities which violate human rights of Palestinians in Jerusalem. Our ongoing efforts include fieldwork, legal analysis and litigation, advocacy and public outreach. The project works closely with representatives of the Palestinian community in Jerusalem and advocates Israeli officials from the Jerusalem Municipality, Parliament, and relevant ministries and government officials. ACRI submits principled petitions to the High Court of Justice on issues relating to human rights violations in East Jerusalem, and when relevant also petitions the Jerusalem District Court.

The legal framework within which we work is a complex one. In June 1967, an area that was known thereafter as "East Jerusalem" was annexed by the Government of

¹ For the purpose of contacting ACRI please email Steven Beck, Director of the International Department, at steven@acri.org.il. Further details about the organization can be found on ACRI's website in English www.acri.org.il/en.

Israel, in violation of international law, and its residents given a permanent residency status in Israel. Since then, Israeli law had been applied in this area, yet through policies that have repeatedly discriminated against Palestinians in favor of Jewish-Israelis. ACRI's position is that the annexation is not legal, yet given that the authorities operate in the area by way of the Israeli law, and given the residency status of Palestinian Jerusalemites, ACRI too uses both Israeli law and international law as the legal frameworks through which to advance human rights of Palestinians in Jerusalem. While international law applies to protect all Palestinians living in the Jerusalem area at large, Israeli law is applied only in regards to those living within the municipal borders of the city as defined by Israel and holding a permanent residency status. Therefore ACRI's East Jerusalem project focuses on life and human rights within those borders.

For the purpose of this report, we had not carried out a new examination of these issues, but rather used existing materials and research conducted by ACRI in 2014 and in recent years. Our field researcher collects eyewitness accounts and relevant evidence from Palestinians across East Jerusalem, and especially from Palestinian representatives through their local neighborhood committees. At times, media publications are the lead to a specific event, yet ACRI does not rely on media publications but rather sends its staff to conduct relevant research.

PALESTINIAN NEIGHBORHOODS CUT OFF BY THE BARRIER

Question 6d, Question 9, and Question 21 in list of issues

Topic not mentioned in State report

Article 2, Article 6, and Article 12 of the ICCPR

Background:

1. Question 21, which relates to the Separation Barrier, enquires how Israel intends to “guarantee the right to freedom of movement and to prevent and eradicate all practices of segregation which effect the Palestinian population.”. This question has great ramifications for human rights of multiple communities in the West Bank. In the context of our report here, we shall be referring to the impacts of the barrier in East Jerusalem. As mentioned earlier, the government of Israel chose to apply Israeli law in East Jerusalem in June 1967, and therefore, according to Israel itself the ICCPR should be fully implemented in this area. Yet Israel chose, unfortunately, not to answer Question 21 as far as East Jerusalem is concerned, in the framework of its fourth periodic report submitted on October 2013.
2. In Jerusalem, the route of the barrier diverges greatly from the two borderlines that had previously existed in the Jerusalem area. Once it diverges from the 1949-1967 border that separated Israeli Jerusalem from Jordanian Jerusalem. Known as the “Green Line”, this border marks the internationally recognized borders of Israel as set by the 1949 armistice agreements. Second, the barrier diverges from the municipal boundaries of Jerusalem set by Israel when it annexed East Jerusalem shortly after the Six-Day War. The result is that in Jerusalem, some neighborhoods that have been part of annexed East Jerusalem since 1967 lay today outside of the Separation Barrier, and are separated from the rest of the city; while other areas that have been part of the militarily occupied West Bank since 1967 lay within the barrier, separated from the rest of the West Bank. As a consequence, Palestinian West Bankers who are not allowed to reside within Israel live on the “Israeli” side of the barrier, and Palestinian Jerusalemites live now on the “West Bank” side of the barrier but are still considered Jerusalemites. Thus a new de-facto border was set

unilaterally by Israel, disturbing the lives of hundreds of thousands of Palestinians. High Court petitions against the route of the barrier in Jerusalem have been rejected. In these hearings the state of Israel promised multiple times that Jerusalemites will still be able to access their city easily, and their lives would not be greatly altered. Yet this is exactly what has been taking place since.

3. There are several East Jerusalem neighborhoods or sub-neighborhoods - within the boundaries of annexed East Jerusalem that is - which had been cut off by the barrier from the rest of the city. Residents living in these parts suffer from two main problems: Restrictions on freedom of movement, and a severe lack of services and development. Both constitute violations of the ICCPR, as will be detailed below.
4. Two heavily-populated areas in northern East Jerusalem where tens of thousands of Jerusalemites live were cut off by the barrier. Kufr 'Aqab is a neighborhood in the most northern part of the Jerusalem, at the point closest to the Palestinian capital of Ramallah. Cut off from Jerusalem by the barrier, its residents must pass through the traffic-heavy Qalandiya Checkpoint to enter their city. (This checkpoint is at times referred to by Israel as Atarot Crossing.) The Shuafat Camp area consists of four neighborhoods of Jerusalem, and similar to Kufr 'Aqab, is home to tens of thousands of Jerusalemites. Its residents must pass daily through the Shuafat Camp Checkpoint. (This checkpoint is at times referred to by Israel as Anata Crossing.)
5. In addition, there are smaller areas, less populated, that had been part of East Jerusalem since the 1967 annexation yet had been cut off from the city following the construction of the barrier. One such area is the area of Sawahre-Jabal Mukabar that lies within municipal line but beyond the Separation Barrier. Here too Palestinian Jerusalemites must pass through a checkpoint known as Sawahre Checkpoint to enter the rest of their neighborhood and city. Nearby, some 100 people from the Surhi family are isolated in an enclave created by the barrier in Sawahre.
6. The total number of Palestinian Jerusalemites living within East Jerusalem's boundaries yet on the "West Bank side" of the Separation Barrier is unknown to Israeli authorities. The only official figure released in recent years, as far as we've investigated, is a figure given by Hagihon, the Jerusalem water company, according to which some 60,000 to 80,000 people live in the Shuafat Refugee

Camp area alone (including the neighborhoods of Ras Khamis, Ras Shehade and Dahyat a-Salam). Local residents have told ACRI that these numbers seem suitable. Residents of Kufr ‘Aqab also speak of between 50,000-80,000 residents living there, though official estimates are lacking. These numbers would also include Palestinian with West Bank ID cards who reside in these areas. Their percentages are unknown, yet it seems that they constitute the minority, whereas the majority of Palestinians living in these areas have Israeli ID cards and are considered permanent residents of Israel.

7. On 10 July 2005, the government of Israel passed decision no. 3873² concerning the “Jerusalem envelope” area created by the route of the barrier, and the impact on lives of residents there. The decision promised to invest millions of shekels and much effort on the national and municipal level to promise ordinary life continues in these communities, for example by setting up offices of service provision at the checkpoints themselves and by building more schools. The majority of sections included in the decision had not been implemented to this day, more than 9 years after the decision was passed. Thus these communities suffer ongoing discrimination and violations of their basic rights.

Checkpoints and freedom of movement

8. As a result of the Separation Barrier in the abovementioned areas of Jerusalem, Palestinians freedom of movement has been significantly limited. Again it should be stressed here that these Palestinians are holders of Israeli ID cards entering their own city – not foreigners attempting to pass a border. Unwarranted limitations on freedom of movement exist in all checkpoints to varying degrees.

8a) Time wasted at checkpoints:

Waiting for hours on the way to a checkpoint and inside a checkpoint is one of the most striking results of the barrier and its checkpoints. ACRI’s researcher was at Qalandiya Checkpoint on 24 August 2014 and reported that it took car drivers more than an hour to pass through the checkpoint, including the traffic jams to and from.

² Government of Israel decision no. 3873 concerning the “Jerusalem Envelope” and the impact of the barrier on residents in Jerusalem, passed on 10 July 2005:
<http://www.pmo.gov.il/Secretary/GovDecisions/2005/Pages/des3873.aspx>

This figure is consistent with about a dozen visits by our field researcher to Qalandiya throughout 2014, and consistent with accounts of the residents of Kufr ‘Aqab who pass through the checkpoint daily on their way to work, studies, family visits, etc. During a High Court hearing, the State had assured the judges that passing with a vehicle through Qalandiya would take no longer than 15 minutes at most.³

In the Shuafat Camp Checkpoint the situation is slightly better than at Qalandiya, in part because West Bankers are not allowed to pass through Shuafat but are allowed to pass through Qalandiya. Heavy traffic is reported in Shuafat in the morning and afternoon hours, particularly along the single long road leading from the neighborhoods to the checkpoint. Residents report that in the morning the short drive could take roughly 30 minutes.

Palestinian Jerusalemites entering the city through other smaller checkpoints face a variety of obstacles. In Sawahre Checkpoints, for example, cars cannot simply drive through but rather face a complicated system of intercoms and several gates that need to be opened and closed by the soldiers.

It must be remembered that before the barrier was set up, any person living in these areas would have the choice to leave his or her neighborhood through multiple roads and entry ways, which have since been blocked off.

8b) Security forces’ misconduct:

These checkpoints, used daily by Jerusalemites of all ages, are manned by various forces including regular blue police, border police, army police, and security guards who are civilians contracted by the Defense Ministry. Misconduct by these various forces and examples of ill-treatment are common place. These include yelling at Palestinians and insulting them, as well as “punishing” those who talk back or who make allegations against the soldiers by having them wait longer and subjecting them to lengthier examinations. Children report that soldiers in Shuafat and Sawahre sometimes ask to look through their schoolbags and require that the children empty their bags when being examined. In Shuafat, parents complained that Arab-speaking soldiers made sexual comments to their daughters as they passed through.

³ H CJ 5488/04 Alram Regional Council et al v. State of Israel et al, paragraph 36 of Chief Justice Aharon Barak’s decision.

With multiple forces manning checkpoints, it is unclear to Palestinians who is the relevant officer in charge of a misbehaving policeman or soldier. When trying to make a complaint to a higher-up figure they report that they are sent from one person to another, each claiming that it is not him but someone else they should turn to. Another result of the multiple forces on sight is that when policies are changed Palestinians do not know who they can turn to demand that they be reversed.

8b) Harmful policies:

While having to pass through a checkpoint located inside a city is difficult in and of itself, new policies that come and go prove even more harmful. Twice in March 2014, for example, all Palestinian Jerusalemite men under the age of 40 were not allowed to pass through Jerusalem's checkpoints on Friday because clashes between young Palestinians and Israeli police were taking place in Al-Aqsa mosque, which is located many kilometers away from the checkpoints. The police were apparently concerned that some would be heading to take part in the riots. Men reported that they were taken off from public buses at the checkpoints and told to go back home as they would not be allowed into the city. They tried telling the soldiers that they were on their way to work but were nonetheless not allowed to pass until the situation in Al-Aqsa quieted down. Hundreds of Palestinians who did nothing wrong were deprived for several hours of their freedom of movement.

Another example of a policy change relates to children. In general, all Palestinians over the age of 16 are required to present their ID cards when passing through a checkpoint. As sometimes it is unclear whether a teenager is older or younger than 16, soldiers at times ask minors to present a birth certificate. While the police have clearly stated that a copy a birth certificate is sufficient and should be demanded only of teenagers, ACRI had received reports from various checkpoints where soldiers forbid children as young as 7 years old from passing through a checkpoint until they come and present their original birth certificate. Children in these cases miss school days.

Another set of policies that harm freedom of movement and violate Palestinians' human dignity is carried out by the Israeli army DCO – District Coordination Office. In Sawahre Checkpoint (and different from Qalandiya and Shuafat), residents must be “registered” with the army in order to be allowed to pass through the checkpoint. Anyone not registered, including visiting family members, cannot pass through. Palestinian Jerusalemites living in that area report that gaining new permits to pass

through a checkpoint can take months if not longer. A new wife who moves into this area may have to wait for long months until given permission to pass through the checkpoint near her new house. A boy who turns 16 will similarly wait that his new ID card be registered. A family that purchases a new car may not be able to use the car for months until it is added to the army's list. The result is that in these instances and others, long detours and winding roads that can take an hour or longer are used instead of the checkpoint situated only minutes away from one's home. Another problem unique to Sawahre Checkpoint is that cars cannot pass through the checkpoint at night.

In Qalandiya, a special lane was set up to allow smoother and faster passage of Jerusalemites using public buses. Despite promises that this lane would be opened from early morning hours till late at night, it is often closed off entirely. In July and August the lane was closed off for weeks.

8d) Emergency services and other medical needs:

Another result of the barrier, one of great significance, is the harm to Palestinians' access to emergency services. Before the barrier, an ambulance and fire-truck could easily access these areas through multiple roads. With the construction of the barrier, many of these roads were cut off. An emergency vehicle allowed to pass through a checkpoint will be likely caught up in heavy traffic, with no alternative route to take. At times, such vehicles are not allowed into these neighborhoods without police escort, which according to the residents may never show up. On 24 August 2014, a boy fell from a rooftop in Ras Shehada, in the Shuafat Camp area, and was seriously injured. Residents told ACRI that they called for an ambulance yet an ambulance never showed up. Eventually they picked up the boy in their hands and took him to the checkpoint where an ambulance was waiting on the other side. By this they took the risk that unprofessional treatment of the boy and delay in reaching a hospital would cause him further harm. In April 2014, ACRI was told of a similar incident that took place in Sawahre Checkpoint.

If at some point in the future a great number of casualties would need to be evacuated out of these areas, as a result for example of a great fire or earthquake, having only one escape route out would prove detrimental and may cost lives. While the army had been asked by the residents to open more entry and exit points around Shaufat Camp Checkpoint and Qalandiya Checkpoint, this had never been implemented. The

abovementioned 2005 government decision offered concrete solutions to this scenario, which were never implemented.

Another aspect of freedom of movement is the difficulty of passage of ill people and disabled people. At Qalandiya Checkpoint, through which the largest number of people passes daily, the “humanitarian lane” is often closed even during times when it is officially meant to be opened for the benefit of people in wheelchairs and those suffering a humanitarian or medical condition. In a meeting that ACRI held in Kufra ‘Aqab in 2013 with mothers of children suffering from a combination of physical and mental disabilities, the women reported of great difficulties waiting for long periods of time with the children to pass through the crowded Qalandiya checkpoint by vehicle or foot. The women reported that before the barrier they would drive several times a week with the children to the nearby medical centers in Sheikh Jarrah neighborhood where they would receive treatment such as physiotherapy, which is crucial for the children’s development. Since the barrier was constructed, the way to Sheikh Jarrah through the checkpoint takes much longer and is more difficult, and as a result, the mothers were compelled to reduce the number of treatments per week. Such is the case also as far as many other needed medical treatments not offered beyond the barrier, or offered in a limited way, such as dialysis, fertility treatments, and more. Again, the 2005 government decision offered solutions to these foreseeable problems which had not been implemented.

No-man’s land, no enforcement

9. Following the construction of the barrier, Jerusalem neighborhoods beyond the barrier began suffering even greater neglect than ordinary Palestinian neighborhoods. One key aspect was that law-enforcement in these areas dropped to near zero. Police seldom enter these neighborhoods. The result, not surprisingly, is growing crime that goes unattended.
10. The area of the Shuafat Refugee Camp suffers particularly from high crime rates. Drug dealing and arms selling are common place. Fugitives escaping trial in Israel or the West Bank find refuge there. During the first half of 2014, at least two murders and three armed robberies took place in the area. One murder was carried out in broad daylight on a main street. Police are completely missing from the streets, and residents themselves need to guard their properties and lives.

Planning failure and threats of demolition

11. With the construction of the barrier, police and municipal workers no longer entered the neighborhoods to enforce building regulations. With a dire shortage of houses felt across East Jerusalem, high-rise buildings of 8-12 floors were quickly built beyond the barrier. Seeing that these areas lacked sufficient service provision and adequate infrastructure to begin with, the new buildings caused further strains on daily lives.
12. In November 2013, the Jerusalem Municipality plastered court-issued notices on 12 tall buildings in the Shuafat Camp area, according to which the municipality plans to demolish them as they lack building permits. It should be noted that the municipality had never planned that area, so permits could rarely be attained. Tearing down the buildings would leave hundreds of families with no roofs over their heads. As of August 2014, these notices were not implemented. Yet living in fear of home demolition is a punishment in and of itself. Neither throughout the 9 months that have passed since the notices were put up nor beforehand have Israeli local or national authorities made any comment claiming that they intend to plan this area, where tens of thousands of people today live in chaos. This, despite the fact that the neighborhoods are located within the municipal boundaries of Jerusalem as defined by Israel. The building chaos and the crime rates are two chief manifestations of how the barrier turned these areas into no-man's-land.

Neglect and lack of basic services

13. As mentioned, the areas beyond the barrier have been severely neglected since the construction of the barrier. Here we'll bring but three brief examples.
14. Schools: In the entire area of the Shuafat Refugee Camp, which includes four neighborhoods where several tens of thousands of people live, the Israeli authorities have constructed only one school, an elementary school for boys. In the area of Kufr 'Aqab there are only two municipal schools, and in the other, smaller areas beyond the barrier there are none. While a 2005 government decision promised that more schools will be build,⁴ nothing had been done since then. Thousands of children, including those as young as six-year-old,

⁴ Government of Israel decision no. 3873 concerning the "Jerusalem Envelope" and the impact of the barrier on residents in Jerusalem, passed on 10 July 2005:

<http://www.pmo.gov.il/Secretary/GovDecisions/2005/Pages/des3873.aspx>

travel through checkpoints to schools outside of their neighborhoods. This has had a grave effect on dropout rates

15. Garbage: Following the construction of the barrier, garbage collection services in Kufr 'Aqab and the Shuafat Camp area were privatized, and so cleaning services are provided not by Jerusalem Municipality workers but by private contractors. Since then, massive garbage piles can be found all over, resulting in an environmental disaster. As in other matters, residents find themselves cleaning their streets themselves, doing the work of the authorities.
16. Roads: Nearly no budget has been given to road repairs and road developments in neighborhoods beyond the barrier. The results are dangerous potholes and roads that are never fixed. In 2012, the Defense Ministry carried out works on the barrier of Ras Khamis, a neighborhood next to Shuafat Refugee Camp. The result was real damage to the main road running along the barrier. The Defense Ministry refused to pay for fixing the damaged road, claiming that the Jerusalem Municipality is charged with road repairs in Jerusalem. Neither authority has fixed the damage to this day. Similar requests for road repair are habitually overlooked, as are request for creating new roads and routes in these areas. Development of roads is sometimes carried out by private residents, and at times this is done in a dangerous manner.

Water crisis in Shuafat Camp area

17. One last striking example the deterioration in the areas beyond the barrier and the ongoing discrimination residents suffer from is the provision of water to residents of the Shuafat Camp area, including the neighborhoods of Ras Khamis, Ras Shehade and Dahyat a-Salam. As explained above, basic infrastructure in the area was weak to begin with, and with the construction of the barrier, it cannot sustain in any way the growing population. According to the Jerusalem water company Hagihon, existing water pipes can sustain 15,000 residents, yet in reality some 60,000 to 80,000 residents rely on it.
18. In March 2014, water stopped running in most homes beyond the Shuafat Camp Checkpoint. The reason remains unclear to this day. A petition submitted by ACRI to the High Court⁵ resulted in water resumption in April 2014 to many of the homes, though some homes still have no water, and other

⁵ ACRI and residents of East Jerusalem petition Israeli High Court to restore water to neighborhoods beyond the barrier, 25 March 2014, ACRI website:

<http://www.acri.org.il/en/2014/03/25/ej-water-petition/>

receive water supply only several hours a day. This state of affairs was particularly difficult to handle during the hot summer months. At present we are waiting for the National Water Authority to present the High Court with a plan to stop the 6-month-long water crisis in the Shuafat Camp area. Without going into further details it should be briefly noted that connection to water and sewage is problematic in all Jerusalem areas beyond the barrier.

ILL-TREATMENT & DISPROPORTIONATE USE OF FORCE BY LAW-ENFORCEMENT OFFICIALS

Question 16 on list of issues

Sections no. 384-388 of state report

Article 2, Article 6, Article 9, Article 14 and Article 26 of the ICCPR

Background

19. In its recent report, the state proclaimed in sections 384-385, that police officers' ill-treatment and disproportionate use of force is viewed with the "utmost severity", adding that "Cases of alleged violence are investigated thoroughly and meticulously, using all means to exhaust the interrogation and bring to justice those found to be unnecessarily violent or acting in an unreasonable manner." Without referring to the situation in other areas, this description is far from the reality of Palestinians in Jerusalem, who constitute 37% of the city's population.
20. In light of Israel's ongoing occupation and annexation of East Jerusalem, intense hostilities are inherent to the relations between Palestinian residents of Jerusalem and the police, including Border Police. The Israeli police typically enter Palestinian neighborhoods of Jerusalem as a paramilitary force to exercise its control, rather than to carry-out traditional law enforcement, i.e. to guarantee the safety and well-being of the residents. In other words, police are used in order to achieve the interests of the government or municipality, and are not used, for the most part, for the benefit of individual Palestinians' rights. One visible and emotional example of police exercising control and protecting the interests of the authorities is police escort for the purpose of home

demolitions, a wide-spread phenomenon unique to East Jerusalem.⁶ Yet when there is an inner-Palestinian dispute over land, and the police and municipality are asked to assist, Palestinians report that neither the police nor the municipality come to their assistance.

21. Police enter Palestinian neighborhoods regularly to arrest Palestinians, often in the dead of night. Israeli authorities explain the police's reoccurring raids into various neighborhoods of Jerusalem as intended to curtail or preempt disruptions of public order, or alternatively, to arrest those suspected of harming, or planning to harm, Israeli Jews or Israeli security forces. Police patrol Palestinian areas where attacks against Israelis, especially attacks against settlers, have taken place them. By contrast they do not patrol Palestinian areas where inner-Palestinian violence and strife are commonplace.
22. Because Israeli police forces are used as a tool for controlling Palestinian society in order to enforce the occupation and annexation of East Jerusalem, there is great mistrust of the police. Inner-Palestinian conflicts and violence are often dealt with by the community itself. This state of affairs leaves Palestinian society in Jerusalem very vulnerable, with the weakest segments of society suffering most.

Disproportionate use of force

23. In recent years, ACRI has collected eyewitness accounts from well over one hundred Palestinians who reported of violent and at times even brutal conduct by the police in Jerusalem, in particular by the border police. Violence in East Jerusalem has included physical beatings of Palestinians by police. At other times the police excessively use riot-control measures such as teargas and sponge-bullets as will be described below:

24a) Unlawful physical violence:

Examples of unlawful physical violence by police personnel including unlawful beating, kicking and slapping are ample in East Jerusalem. In many cases this takes place during police raids into Palestinian areas and during arrests. In some cases police violence has led to injuries that required hospitalization, including of children and

⁶ The fact that many homes in Palestinian areas lack building permits and are therefore subject to the threat of demolitions is the result of the current Israeli policy that severely limits building and development in Palestinian parts of Jerusalem. Demolitions in West Jerusalem are often of illegal extensions to homes such as unauthorized balconies, whereas in Palestinian areas complete houses are regularly destroyed.

teenagers. In a recent letter sent by ACRI to the National Police Commissioner on 16 July 2014,⁷ several cases of violence were presented as examples of widespread violent behavior of police personal in East Jerusalem throughout the first two weeks of July 2014, a period of mayhem following the brutal murder by Jewish extremists of 16-year-old Mohammed Abu Khdeir from Shuafat, East Jerusalem. An example from the letter: “The three men testified that a number of police officers wearing face masks attacked them and beat them with ‘crushing blows,’ as they defined it, both on their faces and all over their bodies, to the point where one of the three Palestinians lost consciousness. They further testified that the officers continued to kick them even after they had been arrested and while they were being taken, handcuffed, in a police car to the station in Neve Yaakov. They were taken to the Hadassah Ein Kerem hospital, and 12 hours later their detention was extended and they were transferred to incarceration.”⁸

24b) Misuse of riot-control measures:

When clashes between Palestinians and the police take place in Jerusalem, as happens on an almost weekly basis, riot-control measures are used by the police. Too often, they are used in a disproportionate manner or in violation of regulations. This leads not only to physical harm of Palestinians participating in protests and clashes, but also to Palestinian bystanders and to families living in close vicinity to flashpoints.

In the abovementioned letter sent to the police chief on 16 July 2014, ACRI brought forth accounts of excessive use of riot-control measures, such as the firing of sponge-coated bullets aimed at people’s heads in violation of police firing regulations, which state that these should be aimed only at the lower body. From the letter: “ACRI received the testimony of T.S, a resident of Shuafat who was born with impaired eyesight and can only see with one eye. On the day of the funeral of the boy Mohammed Abu Khdeir, a bullet was fired toward T.S. and hit his healthy eye. The attempts to bring back his eyesight in the hospital failed, and he will be forced to continue living without a sense of sight.”⁹

ACRI has also been following for years cases of massive tear gas usage in densely populated neighborhoods. In 2010 a baby from Issawiya, Mohammed Abu Sara, who

⁷ Police Violence Against East Jerusalem Residents, July 16, 2014, ACRI website: <http://www.acri.org.il/en/2014/07/16/ej-police-violence/>

⁸ Ibid

⁹ Ibid

had suffered from asthma since his birth, passed away. According to family accounts, this was the result of heavy teargas fired around the house, which is located at what had become a focal point of clashes with the police. At the time, ACRI demanded that the police stop using teargas excessively in densely populated areas. In July and August 2014 the police fired many teargas canisters in dense neighborhoods of East Jerusalem like Shuafat and A-Tur. Their conduct demonstrates that this request is at present not fulfilled, endangering life of innocent people, including new-born babies.

Lastly, in July and August 2014, police “skunk” cars sprayed foul smelling liquid toward dozens of residential homes and restaurants in many neighborhoods of East Jerusalem. To the best of our knowledge, the Israel police have never applied the “skunk” in such an intense manner in a populated urban area. In ACRI’s letter on this issue¹⁰ eyewitness accounts gave examples of “skunk” being at locations where riots had taken place earlier but at times when no riots were actually taking place. This riot-control measure seems to be used in Palestinian areas as a way to punish an entire society, and not to control riots as they are taking place. The smell stays on for days. Restaurant owners reported that they threw away kilos of contaminated food, and families have had to leave their homes for several days because of the stench.

24c) Masked policemen:

Israel Police regulations clearly instruct that except under specific and unusual circumstances, police personal must be identifiable at all times. When identifiable, a policeman will likely think twice before acting not in accordance to law, knowing that charges can be brought against him. Without faces and names, policemen are simply a group of unidentified, unknown gunmen who cannot be made accountable. In East Jerusalem, arrests are too often carried out by masked police. In a letter sent to the national Police Chief on 25 August 2014,¹¹ ACRI gave examples of masked police forces carrying out arrests in various neighborhoods of East Jerusalem, carrying no name tags and acting violently.

24. The response of the national Police Commissioner to the various examples given in ACRI’s letter of 16 July 2014 was that all measures used by the police during these turbulent times were carried out “in a proportional manner and

¹⁰ Concerns of Excessive Use of Skunk Spray in East Jerusalem, 5 August 2014, ACRI website: <http://www.acri.org.il/en/2014/08/10/skunk-ej/>

¹¹ Officers in Ski-Masks Carrying out Arrests in East Jerusalem, 25 August 2014, ACRI website: <http://www.acri.org.il/en/2014/08/24/ej-ski-masks/>

included the necessary authorizations.”¹² This response is characteristic of the manner in which the heads of the Israel Police and the Jerusalem District Police reply to ACRI’s detailed interventions. It should also be mentioned that in the case of ACRI’s letter of 16 July 2014, the Justice Ministry responded to our letter by requesting that the National Police legal advisors examine the allegations made, and reply in detail to each example given in ACRI’s letter.¹³

25. It is important to note that there was a sharp increase in Palestinian violence and clashes in East Jerusalem throughout July and August 2014 in the backdrop of the murder of Jerusalem teenager Mohammed Abu Khdeir and the war in Gaza. Yet excluding the usage of the “skunk”, all other examples given above are in principle not unique to this period of time but rather characteristic of police conduct, or rather misconduct, in East Jerusalem. Similar examples of beatings and unwarranted force can be given during quieter periods of time, though naturally during upheavals they are more widespread and therefore impact greater numbers of people.

Lack of accountability

26. In addition to the problem of excessive force used by the police, accountability is not appropriately upheld in East Jerusalem. Over the past seven years, ACRI has appealed on behalf of over a dozen Palestinians, who had filed complaints against violent police in Jerusalem yet whose cases were closed due to “lack of evidence” or “lack of public interest”. In our appeals against the closure of the cases, ACRI showed why sufficient evidence existed in each individual case to file indictments against police officers. Most of ACRI’s appeals were rejected. Only in one case were two policemen not only put to trial but also convicted and sent to prison.
27. To give an example of an appeal by ACRI that was rejected: In May 2013 ACRI was notified that its appeal on behalf of an Issawiya resident was rejected. His attack was documented, by chance, by a nearby home security camera. In the video, a copy of which was handed to the police, a car can be seen driving and then stopped by armed police near the entrance to the neighborhood. The driver is then dragged out of the car, pushed on the ground, and beaten multiple times by several police officers, while others stand

¹² See footnote 7.

¹³ Ibid.

around and watch. His complaint was rejected by the Department for Investigation of Police Officers under the pretext that “there is insufficient evidence to support the claim that an offense was carried out by police officers.” The Justice Ministry stated as one reason for its rejection of ACRI’s appeal “the difficulty to identify the relevant officers”. This, despite the fact that the place and date of the attack were not in question, and video evidence clearly showed an unarmed man being dragged out of his car so that police officers can severely beat him up.

28. The ongoing police violence toward Palestinians in Jerusalem, coupled with the lack of accountability, has resulted not only in enduring animosity between police and Palestinians but may be said to have harmed due process itself. ACRI’s experience is that Palestinians often refuse to file complaints against police officers as they do not believe that this will result in bringing them to justice. Even worse, Palestinians are concerned that filing charges against police personal would compel the police to file charges against the Palestinians themselves on grounds that they had taken part in riots or had tried to harm policemen. Thus, many instances of police misconduct and violence are not examined by relevant authorities. This is a structural challenge to due process and police accountability in East Jerusalem. Nevertheless, from testimonies collected by ACRI and from repeated media accounts, a clear picture is painted of ongoing police violence.

Impact on minors

29. Particularly worrying are the effects of police misconduct and violence against minors. Police disregard some of the special protection provided by the law to children under the age of 18 during arrests and interrogations, and worse violence and intimidation are suffered by Palestinian minors in Jerusalem. A report issued by ACRI on this matter in June 2011 titled “Violations of the Youth Law by the Israeli Police in East Jerusalem”¹⁴ brings to light the effects on young boys in Jerusalem: “M. from Silwan, a neighborhood in East Jerusalem, was taken from his home at night, one day after his 12th birthday. He says that policemen employed harsh violence against him. A marked change

¹⁴ March 2011 report: "Violations of the Youth Law (Adjudication, Punishment and Methods of Treatment) – 1971 by the Israeli Police in East Jerusalem". Researched and written by Atty. Nisreen Alyan. With assistance from Anne Sucio, Atty. Keren Tzafir, Mahmoud Qarae'en of The Association for Civil Rights in Israel. <http://www.acri.org.il/en/2011/06/01/police-violations-of-rights-of-minors-in-east-jerusalem/>

in his behavior became immediately apparent following his arrest. Together with his parents, M. visited his family doctor, where he was diagnosed as suffering from insomnia, nightmares, nocturnal bed-wetting, excessive dependence on his parents, deterioration in school performance, violent behavior at home and outside, and stress-related signs including hair pulling, poor appetite, and disturbing thoughts. He was referred for neurological examination. M. met with a psychiatrist, who determined that he required urgent psychological care to deal with the trauma he suffered.”

30. ACRI has met repeatedly with representatives of both the Jerusalem Police and the Justice Ministry to try and ensure the full implementation of the Youth Law in East Jerusalem. This has resulted in small-step improvements. Palestinian minors in East Jerusalem are still treated violently too often. Our efforts have succeeded in stopping the interrogation of minors during night time, yet have failed to stop the common practice of arresting minors at home at night rather than summoning them for interrogation during the day. So minors in East Jerusalem are still arrested in night raids but their official interrogation begins only once it is daytime, as required by law. The State Comptroller, in his 2014 report, noted that while the Youth Law does allow the police to deviate from the norm of arrest and interrogation of minors under unusual circumstances, it is requested that the police ensure that these exceptions mentioned in the law are employed in a “careful and proportionate manner and are not turned into a norm.”¹⁵

¹⁵ Israel State Comptroller Annual Report 2014, p.422.

SUMMARY AND RECOMMENDATIONS

In this report we attempt to show the multiple ways in which the ICCPR is not implemented in relations to two issues: The situation of Palestinian Jerusalemites living beyond the Separation Barrier (yet within municipal boundaries), and the conduct of the police across East Jerusalem. These two issues are topics that ACRI has been closely following for years. The daily actions of Israeli executive bodies – be it the police, the army, the Jerusalem Municipality, and the various government ministries and departments – demonstrate time and again a clear lack of commitment to the full implementation of the ICCPR as far as Palestinians living in East Jerusalem are concerned. Examples supporting this claim are ample. No high-ranking Israeli official has made clear statements showing that the authorities plan to bring a significant change in policy relating to the two abovementioned topics.

Below is a list of several concrete policy changes that ACRI had demanded of Israeli authorities, which would enable the implementation of the ICCPR and provide protection for the rights of East Jerusalem’s residents. The list is not all-encompassing but rather includes some possible steps that can be taken by the relevant authorities, and which ACRI had put forth to Israel throughout the years.

A) Impact of the barrier in East Jerusalem:

The Israeli government, the police, the army and the Jerusalem Municipality must all start taking serious steps in order to dramatically alter the situation in the neighborhoods beyond the barrier. More specifically, ACRI, after consulting with Palestinian residents of these neighborhoods, has suggested to the authorities that the following steps be taken:

- All checkpoints used by Palestinian Jerusalemites should operate in full capacity 7 days a week, i.e., whereby all lanes used by vehicles and pedestrians are opened and manned to allow freedom of movement and reduce existing waiting periods. Specifically, the lane in Qalandiya dedicated to Jerusalemites using public transportation should be opened from early in the morning till late in the evening, and the pedestrian “humanitarian lane” must operate regularly.

- The army must find solutions to the problem of serious overcrowding at checkpoints. These include, in addition to operations at full capacity, the pavement of new roads in the area and the opening of additional checkpoints and gates for the usage of Palestinian Jerusalemites. This will assist daily life and also enable the entry of ambulances and fire trucks.
- Regulations prohibiting any form of harassment of passersby must be repeatedly presented to all personal at checkpoints as part of their ongoing training. Allegations alluding to the violation of these regulations must be thoroughly investigated. Any form of harassment and humiliation must be stopped and personal accused of misconduct must be punished and where necessary must leave the units manning checkpoints.
- The passage of children and teenagers should always be made easy. Soldiers should not ask for original birth certificates as a condition for passing through.
- The government must work to implement its elaborate 2005 government decision no. 3783 concerning the “Jerusalem envelope”. This decision involves significant budget investment and cooperation with several government ministries, including education, welfare, health, transportation, infrastructure, and internal security. The implementation is necessary to overcome the huge gaps in basic service provision created following the construction of the barrier.
- The Jerusalem Municipality must stop discriminating against the residents living beyond the barrier and invest proportionately in these areas. The threats of home demolitions should be halted, as residents cannot attain building permits anyway.
- Hagihon water company should connect these areas to water and sewage pipes, particularly the area of the Shuafat Refugee Camp.

B) Police in East Jerusalem:

In order for the ICCPR to be implemented in East Jerusalem as far as police conduct is concerned, Israeli government and police commanders must be devoted to uprooting police misconduct. While the Israel Police code of conduct does by and large offer protection of rights, its implementation is partial when Palestinian Jerusalemites are involved. The Internal Security Minister and the National Police Commander who oversee the operations of the police must step up their involvement

in the operations of the Jerusalem Police District, as we do not believe problems can be solved on the district level alone. More specifically, ACRI has suggested to the authorities that the following steps be taken:

- Provide training for all ranks and personal operating in Jerusalem to reinforce the regulations and limitations which police personnel must operate under.
- Ensure that cases of police misconduct and violence in East Jerusalem are fully and promptly investigated.
- Ensure that police personal are identifiable and carry name tags and are not masked, except in unusual cases as stipulated by the relevant Israel Police regulation.
- Fully apply the Youth Law in East Jerusalem so that Palestinian minors are provided with protection when arrested, detained and interrogated, and use the exceptions to the rule stated in the Youth Law in an appropriate manner. Minors must not be arrested if the purpose of their arrest can be achieved through a less-harmful measure.
- Create new regulations that limit the use of teargas in urban areas so as to not collectively punish uninvolved civilians and endanger life.
- Create new regulations that limit the use of “skunk” liquid in urban areas, both residential and commercial, so as to not collectively punish uninvolved civilians and cause damage to property.
- Enforce regulations concerning the usage of sponge-coated bullets as a riot-control measure, so as to ensure that these are used proportionately, are not targeted toward the upper parts of the body and in particular not toward people’s faces; Journalists, photographers, field researchers and medical personal who arrive at scenes of riots must never be targeted.