

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Ms. Raquel Rolnik

Preliminary remarks on the mission to Israel and the Occupied Palestinian Territory – 30 January to 12 February 2012

At the invitation of the Government of Israel and the Palestinian National Authority, I undertook an official visit to Israel and the Occupied Palestinian Territory from 30 January to 12 February 2012. I would like to thank the Government of Israel and the Palestinian National Authority for the invitation, for the support provided before the mission and for the open and warm reception I had in every office and field visit. I also wish to thank the Office of the High Commissioner for Human Rights in the Occupied Palestinian Territory for its logistical support and the whole team – assistants, drivers, interpreters and OHCHR-OPT team – for their great assistance in ensuring the success of a long and complex mission.

During my visit, I met with officials and representatives of the Government of Israel and the Palestinian National Authority, international agencies as well as non-governmental organizations both in Israel and in the Occupied Palestinian Territory. In Israel, I visited Jerusalem, Tel Aviv/ Jaffa, Haifa, Acco, Sderot, Beer Sheva and different villages in the Negev and Galilee. In the Occupied Palestinian Territory, I visited neighbourhoods in East Jerusalem, Ramallah, Bethlehem, Hebron, the Jordan Valley and the Gaza strip as well as several villages in those regions. I met with the residents of most of these locations, saw their housing conditions and heard their testimonies. I would like to thank in particular all of those who received me in their homes and shared with me their life experiences and concerns.

I take this opportunity to share some very preliminary findings, focusing on the main challenges regarding the implementation of the right to adequate housing to all, such as affordability, discrimination, forced evictions and availability of infrastructure and services.

- Preliminary findings on the situation within the State of Israel:

Since the establishment of the State of Israel, housing has been at the centre of government strategy to absorb immigrants and to consolidate the existence of a home for the Jewish community. Earlier, this approach consisted in the massive production of public housing under the framework of a planned development strategy leading to the expansion of internal frontiers towards the country's periphery. At their peak, Amidar and Amigur, the State housing agencies responsible for housing construction, had a stock of almost 500,000 housing units initially rented and from the 70's on also sold to their occupants. Different packages of subsidies, including infrastructure and equipment were connected to these housing schemes, mainly associated with the creation and expansion of development towns and immigrant neighbourhoods. I received information from the Government that by the end of the 90's, a vast majority of Jewish Israeli citizens had access to affordable housing. Until the 90's, these were mostly destined to the new waves of Jewish immigrants. In the last decade construction

of new public housing units has stopped, except for elderly, and the stock shrunk to the existing 66000 units, mostly concentrated in the periphery and deprived areas. Governmental budgets for housing and planning, including for rental assistance have also been reduced and rent assistance values has not been updated vis-à-vis drastic rise in rent values. A change in State land allocation policy was also made, with the adoption of the approach that State land should be tendered for the highest price in order to maximize profitability. A new approach – housing as a commodity and a financial asset to be provided by the private sector has predominated since the 90's and a market of high income housing for investment, including foreign, has boomed.

In the summer of 2011, the streets of Tel Aviv and other Israeli cities were occupied by unprecedented numbers of protesters over housing affordability. During the mission, I met with various representatives of civil society active in the housing demonstrations that took place last summer who made clear that housing has now become out of reach and a heavy burden to many Israelis, especially for young and peripheral citizens, and one of the main problems in Israel. I was told that in certain peripheral areas, houses are still available and affordable but are in isolated locations with inadequate transportation and very few work opportunities. There are few possibilities of finding affordable housing in the big cities and many persons are in a situation of great insecurity. Privatization of State land for the highest price has also had, according to the protesters, a detrimental effect on the cost of housing units and only high income households are able to buy.

The Government provided me with extensive information on measures adopted and being considered to address the concerns of the population regarding housing and to improve the situation. Such efforts include changes to the eligibility criteria for housing assistance and to public housing, subsidizing the price of land in tenders if affordable housing is included in the plan and projects aimed at improving living and social conditions and the rehabilitation of deprived neighbourhoods such as Project Renewal. I was also provided with information on and visited housing projects adopted to address the needs of the elderly as well as measures taken to ensure safety and comfort for the inhabitants Sderot, a locality affected by rocket attacks.

The changes to housing policies currently being proposed by the Government were considered insufficient by civil society representatives I met. I was told that currently there is no definition in the law of what is affordable housing and that, on-going discussions indicate that this would be related only to the size of the housing unit – “small” houses – and to the condition of rental market.

In addition to the housing crisis, I received numerous complaints that the laws, practices and policies regarding land, housing and planning in Israel are discriminatory and that these often either directly or indirectly violate the rights of Palestinian citizens of Israel to choose where to live and deny equal access to land and housing. The current institutional legal system which regulates access to land and promotes development has three main pillars – a centralized planning system which defines what, when, where and how new construction can

take place; a land administration institution (Israel Lands Administration) which manages 93% of area within the Green line; and an extremely complex legal system, which is often at the basis of decisions adopted in this field and which engenders intense litigation from those seeking to question it.

The Israeli housing and planning regime has historically provided adequate housing for a large numbers of Israeli citizens, in particular Jewish immigrants and refugees who had been forced to flee anti-Semitic Europe before and after the holocaust and later, countries in the Middle East and the crumbling Soviet Union. However, while it created new homes and provided assistance to the weaker segments of the population, Israel's land and planning regime has discriminated against certain groups on the basis of their ethnic origin.

The discriminatory nature of the planning system is anchored on, among others, the fact that among existing inhabited areas in Israel, some are "recognized" and "planned" and others not. Being an unrecognized and non-planned community means remaining invisible in administrative terms. Consequences include the denial of basic services and, more important, the prohibition of building or expanding the village or neighbourhood. Those living in these communities are therefore under the constant threat of eviction and demolition orders, without any compensation or resettlement, as the human right to adequate housing requires. They are also subject to steep fines (including the cost of demolition) and, sometimes criminal penalties. The criteria used to attain recognition and to be included in a plan is a policy decision and has no relation with the number of years of the community's existence or the number of people who live there. The exclusion of several Palestinian communities from Israel's planning regimes has led to cities and villages with predominantly Palestinian population with a longstanding presence in the territory being disregarded, resulting in inadequate housing conditions. The Government informed me that it has included 92 localities with a population that is constituted predominately of minorities in the National Priority Map for planning, incentives, and public investment.

I visited several communities in this situation. In the Galilee, I visited the village of Majd el-Krum where residents informed me that despite the fact the population had almost tripled over the last 30 years, no expansion of the city municipal boundary was authorized. In this context, most families had built and expanded housing units without official authorization. Some had their newly built units demolished, others received demolition orders. Residents were particularly frustrated as many were owners of land in areas outside the existing municipal boundary but due to zoning restrictions were unable to utilize their areas for residency. At the same time, the newer neighbouring villages with Jewish majorities enjoyed better infra-structure and had expanded over the same period of time.

In the old city of Acco, Palestinian citizens of Israel who live in the area as protected renters in areas under public custody informed me about the impact of the on-going process of gentrification. Most property in the area is under the control of the Israeli Lands Administration that is now privatizing some areas and developing its touristic potential. Residents claimed they were not consulted in this planning process and informed me that they

cannot afford to buy the property they now live in or cover the required costs for the maintenance of the historic site and are now under permanent threat of eviction.

The second element of the exclusionary nature of the planning system is the disregard towards specific social and cultural patterns of different groups by planners under the general notion that every way of life which is not European should be transformed by planning. The adoption of uniform strategies promoting urban concentration under western models of urban planning, frequently results in inadequate plans and projects. This practice is widely acknowledged in Israel in relation to the discrimination against Mizrahi – Jews who immigrated from Arab countries and today can be observed towards localities of Palestinian citizens villages and particularly Bedouin communities.

In the Negev, for example, I met with members of the unrecognized villages of AtirUmm al Hiran which, I was informed, were among 46 unrecognized villages in the region. I was also informed that many of the villages pre-date the establishment of the State of Israel, and that their inhabitants are residing on their own ancestor land. These villages are considered illegal by the State and therefore their inhabitants are faced with forced evictions and house demolitions. Additionally, they have no access to basic services including water, electricity, health care and often live in very precarious and difficult conditions. The housing units in the village had been demolished several times. I was given information by Government officials, civil society groups and members of the Negev Bedouin community about an official plan and law, which are currently under consideration, to promote the relocation of the communities living in the area. The Government provided extensive information regarding the consultations which had taken place and that are on-going as well as on the compensation package to be offered to those displaced. According to the Government, the plan will permit the Bedouins to attain the housing rights which they are deprived of today.

Nevertheless, members of the Negev Bedouin community and civil society groups indicated that the Bedouins do have extensive land rights, based on their traditional system which was in some cases recognized by the previous Ottoman and British regimes, but is now denied by the Government. Moreover, I was informed some will receive meagre compensation and some will receive nothing. Finally, according to these groups, the proposed law strips the Bedouins of their democratic right to participate meaningfully in the planning of their own regions on their own historical sites.

The on-going debate over the plan and the bill on Bedouin villages in the Negev serves to illustrate what was referred to previously as the third pillar of the current regime, which is the adoption of a very sophisticated legal system regarding land acquisition for planned development that, in many cases, facilitates the expropriation and reallocation of formerly Palestinian land to State and then primarily Jewish hands as a central component of the legal reordering of space. It is important to note, however that the Israeli judiciary and particularly, the High Court has been an arena for civil society and individuals to challenge planning decisions and policies, on occasion with success.

- **Preliminary findings on the situation in the occupied Palestinian territory:**

In **East Jerusalem** I witnessed the inadequate housing conditions and deficiencies in basic infrastructure faced by Palestinian neighbourhoods and villages. The policies adopted by Israeli authorities severely restrict Palestinians from building legally through various means. Among others, Israel has not provided Palestinians with the necessary planning framework to ensure that their basic housing and infrastructure needs are met.

According to OCHA currently only 13 % of the annexed municipal area is zoned for Palestinian construction so that it is only within this area that the Palestinian population can apply for building permits either for new houses or extensions. I also received information that this percentage remains static since 1967, while the Palestinian population of East Jerusalem has more than quadrupled in those 44 years. The number of permits issued is grossly inadequate to housing needs leading many Palestinians to build without obtaining a permit. As a result, numerous Palestinians homes or extensions to these are considered illegal so that the inhabitants are subjected to eviction orders and the demolition of their houses. Currently tens of thousands of Palestinians are estimated to be at risk of their homes being demolished due to unregulated building. The mere threat of demolition has a profound impact on families and particularly on children, psychological and otherwise.

I was informed that enforcement of building and planning laws, including demolition and the levying of fines, is executed in a discriminatory manner. According to the information received, even though numerically Palestinians are accountable for only approximately 20 percent of the building infractions in the city more than 70 percent of demolitions in Jerusalem are carried out against Palestinian buildings. Though persons faced with eviction can apply to the courts there was general consensus that such measures were generally futile and served mainly to delay the process.

I was also able to observe the lack of sufficient infrastructure in some parts of East Jerusalem which disproportionally affects the Palestinian community. In this regard, I received information that 160.000 Palestinian residents had no suitable and legal connection to water networks. I raised this issue with the authorities who informed me that the budget allocation and services were equally provided both to East and West Jerusalem. Authorities also suggested that the limited participation of Palestinians in infra-structure development and planning is the result of their refusal to participate in local elections, as they consider that participation would amount to the recognition of the illegal annexation of East Jerusalem by Israel.

Moreover, I received information on how settlements, which have been built both within the municipality and in the surrounding areas of East Jerusalem in violation of international law, have led to a decrease in the amount of land and resources available to Palestinians. According to OCHA over one third of the area within the extended boundary of East Jerusalem has been expropriated for construction by Israeli settlers. For example, I have

spoken with residents who were evicted from a house in the Sheikh Jarrah neighbourhood, now occupied by settlers.

Another issue which raises grave concern is that of the situation of Palestinian communities of East Jerusalem who, due to the construction of the Barrier, found themselves on the “West Bank” side of the Barrier. These communities, like Kfar Aqab which I have visited, were in fact cut off from the municipality. They no longer have access to basic services and are now living in dire conditions.

In the **West Bank**, the construction of the Barrier worsened the fragmentation of the area after the partial implementation of the Oslo agreement, which left 60% of the West Bank, known as Area C, under the continued control of Israel. In this area, security and administrative measures adopted by the Israeli Civil Administration of the Territory not only result in the demolition or eviction of considerable numbers of homes, but severely limit opportunities for Palestinians to expand cities and to access basic means of livelihood and services – essential elements of the right to adequate housing. The territorial fragmentation and the severe deterioration of Palestinian standards of living are furthered by decades of accelerated expansion of Israeli settlement units that expropriate land and natural resources. To a certain extent, these territorial and demographic changes promoted in the West Bank, mirror changes occurred within the Israeli territory after 1948, where Palestinian presence was progressively limited in parallel to a disproportional support to the expansion of Jewish communities.

I received information that in 2011, a total of 622 Palestinian structures were demolished by Israeli authorities, of which 36% (or 222) were family homes; the remainder were livelihood-related (including water storage and agricultural structures), resulting in 1,094 people displaced, almost double the number for 2010. The Jordan Valley, where I visited, sustained the largest number of demolitions (32% of total structures demolished, 40% of residential structures demolished, 37% of people displaced), with 199 structures demolished and 401 people displaced.

Another contributing factor to the displacement of Palestinians in Area C is the restriction on movement and access to water, land and basic services. This is particularly severe in the herding communities such as the Bedouin and the sedentary villages which are often located in remote areas. Due to the barrier, settler expansion and violence, and the isolation of land as closed military zones, access to land to graze livestock, collect hay and water, and cultivate agriculture is severely restricted. Communities are now forced to purchase such necessities at a premium. This has resulted in a dramatic decrease in herd sizes and increase in debt. Inequality in the amounts of water made available to the Israeli settlements and those made available to the Palestinian population was visible: neighbouring settlements and villages had totally different patterns of water supply.

In this sense, I visited the Arab al-Jahalin Bedouin community of Khan al-Ahmar in the area under the direct control of Israeli authorities. This community, among others in the area of

"Greater Jerusalem", has been informed by the Civil Administration that a master plan has been approved which would lead to their expulsion from the area where they currently live for the expansion of the Ma'ale Adumin settlement. This plan was prepared without consulting the affected community. Furthermore, the authorities have recently built a road next to the community restricting access to the outside and isolating the inhabitants. The only school in the area, which was built by the community, is under a demolition order. Though the leaders of the community had been told in a recent meeting with the military authorities that the school would not be demolished in the near future, there were still many doubts. The community is in great uncertainty regarding its future.

In the Jordan valley, also under direct Israeli control, I visited the Al- Hadidiya and Al-Aqaba communities. There, the use of the community's grazing and agricultural lands and their access to water has been greatly limited by the declaration of the surrounding areas as military and settlement activity in the nearby agricultural land. The settlers have closed off the land leaving access only through a gate and allowing the community to enter only at certain hours and for short periods of time. The members of this community are also living under extremely harsh conditions, with no access to the most basic services.

In the areas controlled by the Palestinian Authority, like Ramallah, the main concerns expressed related to the limited expansion possibilities of cities and its impact on the availability of housing and infrastructure for the inhabitants. I also received information regarding recent plans to support housing and infrastructure for Palestinians, in particular the fact that the Housing Sector Strategic Plan under the National Development Plan 2011-2013 set goals to achieve better housing conditions. Nevertheless, the document acknowledges the lack of control of Palestinian National Authorities over construction projects, in order to ensure expedient security and safety conditions, and on speculative prices of land and houses. Moreover, I was not presented with information on initiatives to provide assisted housing schemes to vulnerable populations in the West Bank.

Still in the area under control of the Palestinian Authority, I visited the Rawabi project, a public and private partnership which is to build 5 000 housing units for middle income persons. I was particularly concerned that significant public investments in infrastructure by the Palestinian National Authority are required in a project which will not provide any affordable housing to the numerous communities living inadequate conditions.

In the West Bank, I also visited Hebron and was impressed by the improvements brought about by the action of the Hebron Rehabilitation Committee to restore the old city centre. The city, which has been divided in two due to the presence of Israeli settlers in certain sectors, continues to be in an extremely tense situation. I heard accounts by several persons of attacks by settlers on infrastructure such as water tanks, and other violence against the Palestinian population. The ostensive presence of soldiers in the heart of the city to protect the settlers contributes to an environment of fear and mistrust.

As a whole, it is clear that Israel policies and practices for the Palestinian population in East Jerusalem and the West Bank violate international human rights and humanitarian law. Israel is obligated under international law to find an appropriate housing solution for the protected persons, the Palestinian residents, living under its occupation.

In **Gaza**, I witnessed the dire conditions faced by the population and the detrimental effects of the Blockade on the housing situation and on infrastructure, which added additional burden to the already existing overcrowding and limitations due to the exiguity of Gaza strip and the added territorial limitations.

In my visit to the strip, I met with refugees, persons who had had their homes demolished by Israeli military operations, and persons who were living in substandard conditions and awaiting new housing. I am gravely concerned at information received that only a minority of the projects aimed at improving housing and vital services in Gaza, which have been submitted for approval by the international community, have been approved by the authorities. I have raised these concerns with the Israeli authorities who have informed me of their efforts to address this situation and of upcoming measures. I would like to urge the Israel to end the blockade in order to ensure that the minimum needs of the population living in Gaza are met.

At the same time, I was impressed by the degree of active engagement of Gaza inhabitants undertaking the reconstructions and amelioration of their living conditions, mobilizing all the means and resources available to them. In this context, strategies adopted by UN Habitat, IDB and UNDP of self-help reconstruction, making available direct funds to the households to rebuild demolished houses, have a very positive impact. I was, however, concerned that these self-help schemes are available only to those with registered legal titles over the land, so that the most needy, those who are squatting public land, are left with no other alternative other than waiting for many years for the international donor projects to be completed.

- Preliminary conclusions:

Israel has been ruling the lands between the Jordan river and the Mediterranean for more than 40 years. After the Oslo agreements, Israel retained official temporary control over the vast majority of the occupied West Bank (Area C). At present, more than half a million Israeli-Jews, have settled in the occupied territories, including East Jerusalem. Throughout my visit, I was able to witness a land development model that excludes, discriminates against and displaces minorities in Israel which is being replicated in the occupied territory, affecting Palestinian communities. The Bedouins in the Negev – inside Israel – as well as the new Jewish settlements in area C of the West Bank and inside Palestinian Neighbourhoods in East Jerusalem - are the new frontiers of dispossession of the traditional inhabitants, and the implementation of a strategy of Judaisation and control of the territory.

In different legal and geographical contexts, from the Galilee and the Negev to the West Bank, I received repeated complaints regarding lack of housing, threats of demolition and

eviction, overcrowding, lack of community development, the disproportional number of demolitions affecting Palestinian communities and the accelerated development of predominantly Jewish settlements. The Barrier makes visible what the territorial planning regime has silently implemented for decades, and the blockade is the most extreme expression of separation as a restriction to survive and expand.

In all my interviews with Palestinian citizens of Israel as well as my visits to Palestinian communities, I was impressed by the collective sense of frustration and extreme insecurity with regard to their housing and property rights. I also observed a complete lack of faith that the Israeli military, political or judicial authorities would take effective action to protect their rights, which are enshrined in international instruments to which Israel is party.

It is important to note that Israel's spatial strategy has been heavily shaped by security concerns, given the belligerent, conflictive nature of Israel-Palestine relations, with waves of violence and terror. But certainly the non-democratic elements in Israeli spatial planning and urban development strategies appear to contribute to the deepening of the conflict, instead of promoting peace.

Additionally, within Israel, privatization, deregulation and commercialization of public assets has undermined the declared goal of the Jewish foundation of the State of Israel - to provide a safe and adequate home for all *Ishuv* regardless of nationality or income level.

It would appear therefore, that the Israeli planning, development and land system now violates the right to adequate housing not only of Palestinians under Israeli control, but also of low income persons of all identities, who find it increasingly difficult to obtain housing under existing policies. Both aspects of this discriminatory system should be changed to allow all people under the Israeli regime to attain the most basic human right for adequate housing, within the framework of dignity and equality.

I must highlight that these are only my preliminary remarks and I will continue to collect information on the various situations observed during my visit. Once again, I thank all those who met with me and provided valuable information and underline my sincere intention to continue this dialogue that will be vital for the preparation of my report to be presented next year to the Human Rights Council.