

# **Jerusalem Centre for Human Rights**

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## **The Separation Wall in the West Bank: legal analysis**

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## LEGAL SITUATION IN THE OCCUPIED TERRITORIES

Since the Occupied Territories have never been formally annexed by the state of Israel (except East Jerusalem), the laws applicable in those areas at the time of occupation remain in effect. Since IOF maintains control of these areas, laws in effect can be changed pursuant to military orders. From the beginning of the occupation in 1967, the IOF amended many of the Jordanian and Ottoman laws pertaining to property rights through military orders. These changes have allowed for the transfer of large amounts of land to state ownership, with limited protections and remedies available to land owners. Although the requisition of property was normally done on a temporary basis, much of the confiscated property has been transferred to Jewish settlements or used for the construction of by-pass roads, which has led to a *de facto* expropriation of the property in violation of international law.

### **Applicability of international humanitarian law in the OPTs**

International humanitarian law is composed of the Hague Convention of 1907 and the Geneva Conventions of 1949 and its Protocols. Together these conventions govern conduct during armed conflict. Particularly important are the provisions concerning administration of occupied territories and treatment of civilians.

Specifically, the Hague Regulations forbid expropriation of property belonging to residents of occupied territory, oblige the occupying state to ensure public order and safety, and prohibit collective punishment<sup>1</sup>.

#### **Article 43 Hague Convention**

*The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.*

The Fourth Geneva Convention provides protection for civilians during conflict. In particular, it prohibits violent acts against residents of occupied territories, injuring the dignity of civilians, and acts of retribution and collective punishment, as well as protection of private property.<sup>2</sup>

<sup>1</sup> Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land. The Hague, 18 October 1907. See also articles 46, 50 and 55.

<sup>2</sup> Convention (IV) relating to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949 (hereinafter IV Geneva Convention), see also articles 33 and 53.

## Article 27 Para 1, IV Geneva Convention

*Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.*

Derogations from these conventions due to emergency situations are not acceptable since, by nature, the conventions were drafted specifically to apply in emergency situations, unlike other human rights conventions.

The Israeli Supreme Court has accepted the 1907 Hague Regulations as being part of customary international law enforceable in Israeli courts.<sup>3</sup> Under Israeli law, international treaties are not binding until the Knesset enacts legislation incorporating the treaty into domestic legislation. However, customary international law, unlike treaty-based law, is binding on all states regardless as to whether they ratified treaties, because the principles of such law reflect the accepted status of certain practices maintained by the majority of States.

The Supreme Court has agreed the Hague Regulations apply in the Occupied Territories under their status as customary international law and has reviewed state action in the Occupied Territories pursuant to its provisions. In particular, Israeli authorities have based requisitions of property on a provision of the Hague Regulations which allow an occupying power to seize private property for military needs in time of war.<sup>4</sup>

As to regard to the IV Geneva Convention, the Israeli Government's official position is that it is not fully applicable in the Occupied Territories, despite the fact it was signed and ratified by Israel. This opinion is based on the fact that the annexation of the West Bank and Gaza Strip by Jordan and Egypt was never recognized internationally; so there was no "legitimate ousted sovereign".<sup>5</sup>

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<sup>3</sup> HCJ 606/78 *Suleiman Tawfiq Ayyub et al. v. Minister of Defence et al.*, at 6: (1978) 33 (2) P.D. 113; 9 Isr YHR (1979) 337

<sup>4</sup> Hague Regulations, Article 23(g).

<sup>5</sup> See i.e. Geoffrey R. Watson, "The Oslo Accords. International Law and the Israeli-Palestinian Peace Agreements", Oxford University Press, Oxford, 2000, 34. See also article 2 (1) and (2) of the IV Geneva Convention. The reason for such an interpretation lies in the concept of "legitimate ousted sovereign". Israel's logic is that a party to the Geneva Convention can invade and occupy a state that is not party to the Convention, or a populated area that is *terra nullius*, and conduct the occupation without regard to the IV Geneva Convention. This interpretation is inconsistent with the humanitarian purpose of the Convention, and it is inconsistent with Pictet's authoritative commentary on article 2: "In case of war being declared or of armed conflict, the Convention enters into force; the fact that the territory of one or other of the belligerents is later occupied in the course of the hostilities does not in any way affect this; the inhabitants of the occupied territory simply become protected persons as they fall into the hands of the Occupying Power". See G. Watson, 138-9

The claim of non-applicability of the Convention to the Occupied Palestinian Territories has been rejected by the International Committee of the Red Cross (ICRC), as well as by Israeli and other experts in International law. The ICRC has argued that “the Geneva Convention is not concerned with the sovereignty of parties to a conflict. The Geneva Convention applies to all cases in which territory is occupied in the course of an armed conflict, irrespective of the status of that territory.”<sup>6</sup>

In 1990, the UN Security Council passed Resolution 681 that called on the Israeli government to ‘accept the *de jure* application of the Fourth Geneva Convention’ to the occupied territories. In 2001, the UN General Assembly in Resolution 56/60 reaffirmed that the IV Geneva Convention is applicable to the Occupied Palestinian Territories, including Jerusalem and other Arab territories occupied by Israel since 1967.

In December 2001, the High Contracting Parties to the Geneva Conventions reaffirmed that the Convention is applicable to the Occupied Territories, and called on Israel to refrain from undertaking grave breaches of the convention, such as extensive destruction and appropriation of property not justified by military necessity.

In conclusion, Israeli courts apply the Hague Convention *de jure* to the West Bank and the Gaza Strip, but Israel do not consider the IV Geneva Convention applicable there.

Despite the continued refusal to acknowledge the applicability of the IV Geneva Convention, Israeli authorities have repeatedly stated their intention to respect the unspecified “humanitarian provisions” of the Convention. However, it is unclear what this commitment amounts to in practice.

### **Israel’s rights and duties towards property in the OPTs**

The construction of the wall has entailed the destruction of vast amounts of property, notably private agricultural land and olive trees, wells, citrus groves and hothouses; agricultural land upon which many thousands of Palestinians rely upon for their survival. The IOF have confiscated at least 100.000 dunums of land in order to construct the ‘Security Wall’. The first phase alone will result in the confiscation of some 160,000 – 180,000 dunums, which represent about 2% of the West Bank.<sup>7</sup> Further agricultural land adjacent to the Wall has been declared off-limits to Palestinians, rendering it useless.

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<sup>6</sup> See David Kretzmer, ‘The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories’ (SUNY, Albany, 2002), 33-4

<sup>7</sup> See i.e. ‘Know the Facts About the Wall’, Produced by the Palestinian Environmental NGOs Network(PENGO)/ Apartheid Wall Campaign available at <http://www.pengon.org/wall/fact-march-2003.pdf>

The property that is being destroyed is located in an occupied territory, and therefore accorded protection under Article 53 of the IV Geneva Convention.

#### **Article 53 IV Geneva Convention**

*Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organisations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.*

The official commentary to the Convention interprets the stated exception in article 53 to mean that ‘The occupying forces may therefore undertake the total or partial destruction of certain private or public property in the occupied territory when imperative military requirements so demand.’ The core of article 53 of the Convention, originating in article 23(g) and article 46, as well as the prohibition of collective penalties in article 50 of the Hague Regulations, are rules of customary international law.<sup>8</sup>

The Convention furthermore defines what is considered to be a grave breach to the convention:

#### **Article 147 IV Geneva Convention**

*Grave breaches (...) shall be those involving any of the following acts, if committed against persons and property protected by the present Convention: (...) extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.*

To constitute a grave breach, ‘such destruction and appropriation must be extensive.’<sup>9</sup>

<sup>8</sup> Theodor Meron, ‘Human Rights and Humanitarian Norms as Customary Law, Clarendon Press, Oxford, 1989, 46-7

<sup>9</sup> Jean S. Pictet ‘Commentary: IV Geneva Convention’, International Committee of the Red Cross, Geneva, 1958, 601

Property in occupied territory is also accorded protection under the Hague Regulations.

### **Article 23 (g) Hague Convention**

*[...] It is especially prohibited:*

*(g) To destroy or seize the enemy's property, unless such destruction or seizure be imperatively demanded by the necessities of war.*

In the section addressing military occupation, article 46 of the Regulations explicitly affirms that, 'Private property cannot be confiscated.' And article 52 states that an occupying power may not confiscate property unless it is for 'the needs of the army of occupation.'

### **Article 46 Hague Convention**

*Family honour and rights, the lives of the persons, and private property, as well as religious convictions and practice, must be respected.*

*Private property cannot be confiscated.*

Furthermore, article 53 affirms that an army of occupation may only take possession of 'all movable property belonging to the state that may be used for military purposes', while article 55 of the Regulations requires that public property located in occupied territory must be administered 'in accordance with the rules of usufruct'.

Other examples of the legal protection of property, can be found in the Statute of the International Criminal Tribunal for the Former Yugoslavia (ICTY). The Tribunal may exercise criminal jurisdiction over individuals' accused of committing the Grave Breach of extensive destruction of property.<sup>10</sup>

Also, the Rome Statute of the International Criminal Court (ICC) has consolidated the protection of property under international law. Article 8 of the Rome Statute affirms that Grave Breaches of the 1949 Conventions, are to be considered as War Crimes. More specifically, article 8(2)(a)(iv) states that the Grave Breach of extensive destruction and appropriation of property is a War Crime. And article 8(2)(b)(xiii), declares that 'Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war,' to be a

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<sup>10</sup> In the *Kordic* case the ICTY considered the crime of extensive destruction of property not justified by military necessity, under Article 2(d) of the Statute, which declares Grave Breaches of the Geneva Conventions to be war crimes. The ICTY held that while Article 23(g) of the Hague Regulations covers all property in the territory involved in a war, the protective requirement set forth in Article 53 of Geneva Convention IV represents an additional duty that attaches only to an Occupying Power. *Kordic and Cerkez* IT-95-14/2 "Lasva Valley" Trial Chamber III, 26 Feb. 2001, para. 337

serious violation ‘of the laws and customs applicable in international armed conflict,’ and thus a war crime.

## **THE ISRAELI MILITARY NECESSITY**

In order to obtain the land necessary for construction of the security barrier, private property is being requisitioned pursuant to military orders signed by the Military Commander of the West Bank and based on military and security needs. In particular, the security barrier is said to be aimed at preventing suicide bombers from entering Israel.

The military orders, on their face, are said to apply until either 2003 or 2005, but they may be extended without limitation. Although Israel has not officially claimed indefinite ownership of the land upon which the wall is being built, the confiscation orders do claim that ‘the sole proprietorship of them will be given to the Land Officer in the Central Command via the Office of the Headquarters for Ministry of Defence Matters at the Civil Administration’ for as long as the Orders are valid. The massive physical nature of the Wall, which exceeds in height and massiveness the Berlin Wall, argues against it being a temporary security measure.

Most of the land confiscated has been from areas designated Area C under the Oslo accords. While the Interim Agreement signed in 1995, forbids either side from changing the status of land until a final settlement, or from any action that would prejudice the outcome of the negotiations, the Israeli government has not, in the past, considered the construction of settlements or roads as changing the status of the land under the Agreement.

According to the IDF, land bordering the security barrier should remain fully accessible to property owners, but the military reserves the right to restrict access for military or security reasons. Past experience tells us that this is an exception that swallows the rule, and that while special, time-bound permits may be given to individuals to gain access to their lands in some instances, this access will be temporary, could be withheld summarily, and will become a tool of control over the population, rather than reflecting their right to access.

Article 52 of the Hague Regulations allows for the requisitioning of property in occupied territories if it is ‘for the needs of the occupying army.’ The requisition orders pertaining to land upon which the Security Wall is being built, fail to satisfy this test: the Wall is not being built for the ‘needs of the occupying army’ but rather to serve the broader ‘security’ policy of the Israeli State.



It has already been established that while the private land upon which the wall is being built may have been officially ‘requisitioned’, the intent and effect is that of permanent confiscation, and therefore must be treated as such.

Article 53 addresses the unlawful destruction of property but not its unlawful appropriation. Neither the confiscation nor requisitioning of land in and of itself can be regarded as destruction. However, land that has been requisitioned or confiscated is not exempt from the prohibition on the destruction of property enumerated in article 53.

### **Is the destruction of property justified by military necessity?**

Article 53 of the IV Geneva Convention prohibits the destruction of real or personal property by an occupying power ‘except where such destruction is rendered absolutely necessary by military operations’. Likewise, Article 23(g) of the Hague Regulations provides that the destruction or seizure of an enemy’s property is ‘especially forbidden’, unless ‘imperatively demanded by the necessities of war.’

Military necessity means the absolute requirement for measures essential to attain the goals of war, whose measures have to be lawful in accordance with the laws and customs of war.<sup>11</sup> A rule of the law of armed conflict cannot be derogated from by invoking military necessity ‘unless this possibility is explicitly provided for by the rule in question.’<sup>12</sup>

The Official Commentary to the Fourth Geneva Convention warns that ‘unscrupulous recourse to the clause concerning military necessity would allow the occupying power to circumvent the prohibition set forth in the convention.’ Brownlie has stated that as the state making a claim of military necessity was regarded as the judge of the situation, ‘necessity merely appeared as the window dressing of *raison d’etat*.’<sup>13</sup>

Israeli actions have confirmed the warnings of the ICRC Commentary and of various academics, as it has repeatedly justified illegal acts of its military in the OPTs, by claiming that such actions were demanded by ‘military necessity’. Brownlie stated<sup>14</sup>, already in 1963, that the weight attached to a claim of necessity has been reduced with the growing authority of international law. This is certainly true, considering the growing jurisprudence of the international criminal tribunals for the Former Yugoslavia and Rwanda, or the recent coming into force of the Rome Statute of the International Criminal Court.

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<sup>11</sup> ICRC, Commentary on the Additional Protocols of 1977 to the Geneva Conventions of 1949, Martinus Nijhoff Publishers, Geneva, 1987, 393

<sup>12</sup> Ibid.

<sup>13</sup> Ian Brownlie, ‘International Law and the Use of Force by States’, Clarendon Press, Oxford, 1963, 48

<sup>14</sup> Ibid.

As stated above, the properties destroyed to facilitate the construction of the wall, are protected under both The Hague Regulations and the IV Geneva Convention. The confiscation and the destruction of private Palestinian property has been justified by the Israeli Authorities as an absolute necessity for military operations.

But the wall is not intended to act toward the military defeat of the enemy; the wall is being constructed on occupied territory, in order to protect Israeli civilians within Israel, rather than being a military measure taken to advance the position of the IOF. Its main aim appears to be the consolidation of Israel's grip on the West Bank. In addition, it is unconceivable that the wall can be considered as a military necessity, when Israeli forces already detain military control over every large Palestinian town, through checkpoints, curfews and closures.

Furthermore, the Israeli authorities cannot justify their actions with military necessity, because the construction of the wall violates several rules of international humanitarian laws we have already seen. The destruction of property violates the rights of the local Palestinian population as promulgated in international humanitarian law.

The harm given to the civilian Palestinian population, with the destruction of agricultural land, and the imposition of closures in areas next to the wall, as well as the *de facto* annexation of the occupied territory west of the wall, demonstrate that the harm to protected persons and their property is concrete, and clearly disproportionate to the alleged military necessity of the Security Wall.

Like other aspects of Israeli policy in the OPTs (restriction on movement, destruction of houses, seizure of agricultural land, deportation and transfer of persons), the construction of the wall is a punishment inflicted on the Palestinian population for attacks against Israeli civilians or soldiers.

Both the Hague Convention and the IV Geneva Convention prohibit collective punishment.

#### **Article 33 IV Geneva Convention**

*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.*

(...)

*Reprisals against protected persons and their property are prohibited.*

## **Article 50 Hague Convention**

*No general penalty, pecuniary or otherwise, shall be inflicted upon the population on account of the acts of individuals for which they cannot be regarded as jointly and severally responsible.*

Indeed, the actual effect of the Wall is to ensure that further tracts of Palestinian territories are *de facto* annexed to Israel, and to diminish the possibility of the creation of an independent and sovereign Palestinian state in the West Bank and Gaza preventing the possibility of territorial contiguity. The huge scale and the permanent nature of the wall constitute a grievous assault on the right of the Palestinian people to self-determination.

## Applicability of international human rights law in the OPTs

The main body of human rights law is to be found in the 1948 United Nations Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR) and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, these bodies of law address the most fundamental human rights.

As the UDHR is a declaration of principles and not an actual treaty, there is no requirement of ratification by states. Israel ratified both the ICCPR and ICESCR in 1991, but it contended that neither the ICCPR nor the ICESCR apply in the OPTs, despite the fact it has ratified both treaties.<sup>15</sup>

One argument against the applicability of human rights law to Israeli conduct in the territories is that human rights law is concerned only with a state's treatment of its own nationals inside its borders, not its treatment of aliens. This doctrine has been rejected by modern human rights treaties. The ICCPR applies to "all individuals" within a state's "territory and subject to its jurisdiction".<sup>16</sup> This provision makes clear that both nationals and aliens are covered by the Covenant and that a state's obligation to protect human rights is not necessarily limited to its territory, but also extends to people within its jurisdiction.<sup>17</sup> In this sense, the term jurisdiction includes presumably Israel's extraterritorial jurisdiction, which, the Interim Agreement makes clear, can extend to people in the West Bank and Gaza Strip.<sup>18</sup> This language is typical of most major human rights treaties,<sup>19</sup> and these instruments establish a baseline of human rights to which all people, citizens and aliens, are entitled.

The UN bodies responsible for monitoring implementation of the treaties, the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights, have both affirmed that each signatory of the treaties is obligated to apply them to all persons under their control, regardless of sovereignty issues.<sup>20</sup> This clearly applies to the current situation in the Occupied Territories.

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<sup>15</sup> Israel not only ratified ICCPR and ICESCR, but also the other major human rights treaties, such as the 1966 International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the 1989 United Nations Convention on the Rights of the Child (CRC), and the 1984 Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

<sup>16</sup> Article 2 (1) ICCPR

<sup>17</sup> G. Watson, *supra* n. 7, 174

<sup>18</sup> *Interim Agreement on the West Bank and Gaza Strip*, 28 Sep. 1995, Annexe IV, Art. 1(7) (a). "Israel has... criminal jurisdiction in accordance with its domestic laws over offences committed in the (PA-controlled) Territory against Israel or an Israeli". See G. Watson, *supra* n. 7, 174 and Appendix E

<sup>19</sup> See CAT, art. 1(1), European Convention on Human Rights, 4 Nov. 1950, art. 1.

<sup>20</sup> "Concluding Observations of the Human Rights Committee: Israel 18/08/98", Committee on Human Rights, CCPR/C/79/Add. 93 (18 August 1998); and "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel. 04/12/98", UN doc. E/C.12/1/Add.27 (4 December 1998), Para 11; and more recently, "Concluding Observations of the Committee on Economic, Social and Cultural Rights: Israel", UN doc. E/C.12/1/Add.90 (23 May 2003), Paras 15 and 31.

## Violations of human rights treaties

The construction of the Separation Wall in the West Bank is liable to infringe the human rights of thousands of Palestinians. The first violation that has already taken place is the infringement of the right to property.

### Right to property

Article 17 (2) UDHR

*No one shall be arbitrarily deprived of his property.*

The right to free movement for Palestinians across the West Bank and inside Israel will be infringed upon, depending on the crossing arrangements that Israel will employ.

### Freedom of movement

Article 13 (1) UDHR

*Everyone has the right to freedom of movement and residence within the borders of his country.*

Article 12 (1) ICCPR

*Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.*

Economic and social consequences of the destruction of private property, will affect the lives of Palestinians, already damaged by almost three years of *strict* Israeli policy inside the territories, which consisted of restrictions on the freedom of movement (through checkpoints and block-roads, and curfews in most of the West Bank and Gaza cities and villages), demolition of houses and destruction of agricultural land and crops, as well as detention of thousands of Palestinians.<sup>21</sup>

Of note is the fact that the Committee Against Torture (CAT) stated that Israeli policies on closures and house demolitions might amount to cruel, inhuman or degrading treatment, as of art. 16 of the Convention Against Torture.<sup>22</sup>

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<sup>21</sup> The number of Palestinians currently held in custody accounts to more than 4.000, plus 932 in administrative detention. See B'Tselem statistics, available at <http://www.btselem.org>

<sup>22</sup> UN doc. Conclusions and Recommendations of the Committee Against Torture: Israel, 23/11/2001. CAT/C/XXVII/Concl.5

Restriction on movement influences the capacity to travel inside Israel to work, and together with the destruction of property and land, is a violation of everyone's right to work, to earn a living, and to attain an adequate standard of living.

### **Right to work**

#### **Article 23(1) UDHR**

*Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*

#### **Article 6 (1) ICESCR**

*The State Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.*

### **Right to attain an adequate standard of living**

#### **Article 25(1) UDHR**

*Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services (...).*

#### **Article 11(1) ICESCR**

*The State Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.*

The separation barrier is liable to harm the living conditions of residents in the communities nearby the wall, caused to the isolation from the major cities.

For instance, problematic will be the decline of health services provided to the residents. Also, the Wall will have detrimental effects on education, as teachers and children would face difficulties in reaching their schools.

## **Right to health**

### **Article 13(1) ICESCR**

*The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.*

## **Right to education**

### **Article 26(1) UDHR**

*Everyone has the right to education.*

### **Article 12 (1) ICESCR**

*The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.*

Lastly, the Separation Wall is a clear violation of the 1966 International Convention on the Elimination of All Forms of Racial Discrimination, which Israel has ratified in 1979.

## **The International Convention on the Elimination of Racial Discrimination (CERD)**

### **Article 2**

*1. State Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:*

*(a) each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;*

*(c) each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;*

*(e) each State Party undertakes to encourage, where appropriate, integrationist multi-racial organisations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division between races, and to discourage anything which tends to strengthen racial division.*

### **Article 3**

*States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.*



## Article 5

*In compliance with the fundamental obligations laid down in Article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: (...)*

*(d) other civil rights, in particular:*

*(i) the right to freedom of movement and residence within the border of the State;(...)*

*(e) economic, social and cultural rights, in particular:*

*(i) the rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, (...);*

*(iii) the right to housing;*

*(iv) the right to public health, medical care, social security and social services;*

*(v) the right to education and training; (...)*