

**Bills, Overtures, and Session Records Committee  
Report to Presbytery of San Francisco  
January 31, 2012**

**FOR ACTION**

This is the time of year that Presbytery considers overture proposals, which if approved by Presbytery, would be considered at the 220<sup>th</sup> General Assembly in Pittsburgh this coming summer. The BOSR Committee has met to consider seven overture proposals. For today's Presbytery meeting, we will need to discuss and vote on six of these overture proposals, so that if passed by the Presbytery of San Francisco, they can be submitted to the Office of General Assembly in Louisville by the deadline established for overtures affecting the Book of Order or having financial impact. Note that in two instances the items we consider will already be before the assembly. Our vote to concur would mean that we would be able to name an overture advocate to give input to the assembly committee's discussion.

**RECOMMENDATIONS ON OVERTURES**

These overtures are recommendations for action to the 220<sup>th</sup> General Assembly (2012) of the Presbyterian Church (U.S.A.) and will be considered there by the GA commissioners and advisory delegates. To forward the overture to GA requires a simple majority of those voting at the Presbytery meeting.

For each overture that is approved by the Presbytery, a second motion names an overture advocate who will attend GA to speak on our behalf. (Note that the Presbytery does not provide financial support for the Overture Advocates.)

1. **MOTION: To forward to GA the overture “To Enable Flexible Boundaries ... of a Presbytery”** (See **BOSR 2-1** and following)

This overture was submitted to BOSR from the Session at Centerville Presbyterian Church in Newark.

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). The committee felt that this would allow a church to associate with a presbytery based on reasons other than geographic location. BOSR vote was 7 “yes”, 0 “no”, 0 “abstentions”.

If the motion to forward the overture is approved,

**MOTION: To appoint Rev. Greg Roth as Overture Advocate.**

*(If Greg Roth is elected as a commissioner to GA then we will need to recruit and appoint a different person as overture advocate.)*

2. **MOTION:** To concur with the Overture on issuing an Authoritative Interpretation of W-4.9000 from the Presbytery of Boston and to include amended rationale. (See [BOSR 3-1](#) and following)

This request for concurrence with amended rationale was submitted to BOSR from the Session at Community Presbyterian Church of Pittsburg.

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). In states where same-gender marriage is recognized under the law, this authoritative interpretation means ministers would be able to exercise their pastoral responsibilities without running the risk of prosecution by the church. Such prosecutions have placed a financial and spiritual burden on councils of the church. This overture (and rationale) is shown in PC-Biz as OVT-016. BOSR vote was 6 “yes”, 1 “no”, 1 “abstention”.

If the motion to concur and include amended rationale is approved,

**MOTION:** To appoint Rev. Will McGarvey as Overture Advocate.

3. **MOTION:** To concur with the Overture on Amending W-4.9000 from Hudson River Presbytery and to include amended rationale. (See [BOSR 4-1](#) and following)

This request for concurrence with amended rationale was submitted to BOSR from the Session at Community Presbyterian Church of Pittsburg.

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). This proposed change to the Directory of Worship would allow the church and its officers the option of recognizing the lifelong, same-gender commitments that many of our members are now choosing to make. This overture (and rationale) is shown in PC-Biz as OVT-020. BOSR vote was 7 “yes”, 1 “no”, 0 “abstention”.

If the motion to concur and include amended rationale is approved,

**MOTION:** To appoint Rev. Will McGarvey as Overture Advocate.

*Note: The following three overtures were presented to Presbytery at our previous meeting so that you would have time to study them. There is also an educational event scheduled at 1:30 pm on January 31 at Grace Presbyterian Church to provide background and answers to your questions.*

4. **MOTION:** To forward to GA the overture “to boycott the sale of AHAVA Dead Sea Laboratories beauty products and Hadiklaim, the Israel Date Growers Cooperative, Ltd. products” (See [BOSR 5-1](#) and following)

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). This overture (and rationale) was included with the November 2011 BOSR report, for a first reading. BOSR vote was 6 “yes”, 0 “no”, 2 “abstentions”.

If the motion to forward the overture is approved,

**MOTION:** To appoint Rev. John Anderson as Overture Advocate.

5. **MOTION:** To forward to GA the overture “divestment of Caterpillar, Inc. stock” (See [BOSR 6-1](#) and following)

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). This overture (and rationale) was included with the November 2011 BOSR report, for a first reading. BOSR vote was 6 “yes”, 0 “no”, 2 “abstentions”

If the motion to forward the overture is approved,

**MOTION:** To appoint Rev. Jack Shriver as Overture Advocate.

6. **MOTION:** To forward to GA the overture “Apartheid Against Palestinian People” (See [BOSR 7-1](#) and following)

BOSR does recommend the adoption (YES, voting in the AFFIRMATIVE). This overture (and rationale) was included with the November 2011 BOSR report, for a first reading. BOSR vote was 5 “yes”, 0 “no”, 3 “abstentions”

If the motion to forward the overture is approved,

**MOTION:** To appoint Rev. Walt Davis as Overture Advocate.

**FOR INFORMATION****ADDITIONAL GA OVERTURE**

The seventh overture proposal, on the Housing and Mortgage Crisis, is presented in this report only for a first reading without discussion at this meeting, as it has a different deadline for submission to OGA in Louisville. As a result, this one overture proposal will be discussed and voted on during our March Presbytery meeting. If passed at that meeting, it would still be submitted to OGA in Louisville in time for General Assembly, because of the later deadline applicable to this particular overture proposal. (See **BOSR 8-1** and following.)

**SESSION MINUTES REVIEW**

The BOSR Committee continues to offer regular opportunities to review Session minutes. Currently, we perform these reviews during the hour preceding each Presbytery meeting during the year. For example, the BOSR Committee is available at 1:30 PM for this purpose, during today's meeting. Please refer to your meeting docket for the room assignment.

However, the committee also recognizes that this does not accommodate Clerks of Session who have full time weekday jobs. Therefore, the committee is again planning to schedule additional times (including nights and weekends) and venues for this purpose. As previously reported, four churches have offered their space as venues. They are Lakeside (San Francisco), Sojourner Truth (Richmond), Fruitvale (Oakland), and John Knox (Dublin).

In order to include as many Clerks of Session as possible, BOSR is currently reaching out to the Clerks of Session (and their pastors) by sending a letter or email inviting them to contact BOSR with information on what times and locations would fit their schedules (assuming 2 PM at a Presbytery meeting was not feasible). BOSR would then tally the requests and schedule these review meetings accordingly.

We extend our thanks to the Clerks of Session who have recently contacted the Presbytery office with the name and contact information for their church's Clerk of Session. For churches that have not already done so, please notify Joan Toole at the Presbytery office <jtoole@sfpby.org> of the name and contact information for your current Clerk of Session.

## OVERTURE TO ENABLE FLEXIBLE BOUNDARIES WITHIN OR BEYOND THE BOUNDS OF AN EXISTING PRESBYTERY

The Presbytery of San Francisco overtures the 220<sup>th</sup> General Assembly (2012) that the Form of Government be amended as indicated:

- Amend G-3.0301 by striking “within a certain district and is composed of all the congregations and teaching elders within that district” and replacing it with “within the communities engaged by the congregations and teaching elders that compose that presbytery” so that G-3.0301 reads:

*“The presbytery is the council serving as a corporate expression of the church within the communities engaged by the congregations and teaching elders which compose that presbytery.”*

- Strike from G-3.0403 (c ) the phrase “*subject to the approval of the General Assembly,*” and amend the following phrase by deleting the words “or taking,” “such” and “as” so that G-3.0403c reads:

c. organizing new presbyteries, dividing, uniting, or otherwise combining presbyteries or portions of presbyteries previously existing, and, with the concurrence of existing presbyteries, creating non-geographic presbyteries. ~~subject to the approval of the General Assembly, or taking~~ Other such actions as may be deemed necessary in order to meet the mission needs of racial ethnic or immigrant congregations. Such presbyteries shall be formed in compliance with the requirements of G-3.0301 and be accountable to the synod within which they were created.

- Strike from G-3.0502(e.) “*approving the acts of synods to organize, divide, unite, or combine presbyteries or portions of presbyteries.*”

### Rationale:

- The purpose of striking this language is to provide flexibility to meet the changing needs of diverse presbyteries by expanding the use of alternate presbytery structures beyond the exclusive use of racial ethnic or immigrant congregations to foster innovation across the church.
- It allows synods flexibility to assist presbyteries to respond to rapidly changing regional dynamics that might allow for mission outreach and church planting restricted by the current method of defining boundaries of a presbytery.
- It supports the context and spirit of the New Form of Government which attempts to provide a more flexible framework for the future work of the Presbyterian Church.

- It allows for more innovative structures in mission, staff procurement, and relationship building, opening possibilities for presbyteries to work in creative, innovative ways.
- It provides an opportunity to promote discussion about the unity and diversity of the work of presbyteries.
- The purpose of striking General Assembly approval in G-30502 (e) is to streamline the launching of new initiatives, as current biennial assemblies may delay any initiatives for over two years.

**That the Presbytery of San Francisco concur with the overture sent to the 220<sup>th</sup> General Assembly of the Presbyterian Church (USA) by the Presbytery of Boston and include amended rationale (as shown in bold italicized red type) so that it reads:**

The Presbytery of Boston respectfully overtures the 220<sup>th</sup> General Assembly (2012) of the Presbyterian Church (USA) to issue the following Authoritative Interpretation of Section W-4.9000 in the PC(USA) Constitution:

The 220<sup>th</sup> General Assembly declares that in the states and other jurisdictions that authorize same-gender marriage, Teaching Elders (Ministers of the Word and Sacrament) and Ruling Elders commissioned to pastoral service (where jurisdictions allow) may officiate at such marriages in the context of Christian worship, and sessions may permit the use of church property for such services. This authorization does not oblige anyone to act contrary to their judgment or conscience.

***Rationale***

The 218th General Assembly voted overwhelmingly (516 to 151) to “request the Stated Clerk, the General Assembly Council, and other representatives of the PC(USA) to urge state legislatures and the federal government to apply the principle of equal protection to same gender couples and their children.”<sup>1</sup> In the same vote they determined to “support congregations, sessions, and ministers of the Word and Sacrament who are seeking to extend pastoral care as well as outreach and evangelism to same-gender couples and their nontraditional families who are more and more our neighbors on our streets and our fellow members in our pews.” In states where the equal protection principle includes marriage for same-gender **loving** couples, it would run counter to the direction mandated by the 218th General Assembly if the state were to provide more protection than the church is willing to extend to its own members and neighbors.

***In states such as California, where such protections were made for those who married during the “window of opportunity” before the passage of Proposition 8, there remain couples in our Presbyterian churches who seek to have their covenantal marriage commitments blessed in the same ways as other couples. Since a Federal court decision to overturn Proposition 8 is under appeal in the 9<sup>th</sup> District Court, the standing of all couples to receive marriage licenses could one day soon put Presbyterian ministers in the inevitable position of choosing to follow current Authoritative Interpretations of Section W-4.9000 in the PC(USA) Constitution or to follow those other portions of our Form of Government which compels them to offer the same pastoral care to all of their parishioners.***

Where ~~same-gender~~ marriage **for same-gender loving couples** is recognized under the law **of some states**, it is neither fair nor pastoral to exclude members of a congregation by declining to perform their marriage on the grounds of gender alone. In practical terms, what this authoritative interpretation means is that ~~clergy ministers~~ and commissioned ~~lay pastors~~ **ruling**

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<sup>1</sup> Minutes 218<sup>th</sup> General Assembly, p.258: Item 04-13, Friday, June 27, 2008  
<http://www.pc-biz.org/Explorer.aspx?id=1601>

*elders* will be able to exercise their pastoral responsibilities without running the risk of prosecution by the church. Such prosecutions have placed a formidable financial and spiritual burden on councils of the church.

**That the Presbytery of San Francisco concur with the overture sent to the 220<sup>th</sup> General Assembly of the Presbyterian Church (USA) by the Presbytery of Hudson River and include amended rationale (as shown in bold italicized red type) so that it reads:**

That the Directory For Worship of The Book of Order be amended in the following manner:  
(strike through indicates portions to be deleted; italics indicate additions)

**W-4.9001** Marriage is a gift God has given to all humankind for the well-being of the entire human family. Marriage is a ~~civil contract~~ *covenant* between a ~~woman and a man~~ *two people*, and according to the laws of the state also constitutes a civil contract. For Christians marriage is a covenant through which a ~~man and a woman~~ *two people* are called to live out together before God their lives of discipleship. In a service of Christian marriage, *two people make* a lifelong commitment ~~is made by a woman and a man to each other~~ publicly witnessed and acknowledged by the community of faith.

**W-4.9002** a. In preparation for the marriage service, the teaching elder shall provide for a discussion with *the two people* ~~man and the woman~~ *to be married* concerning

(The remainder of this section remains the same)

**W-4.9004** The service begins with the scriptural sentences and a brief statement of purpose. ~~The man and the woman~~ *The two people to be married* shall declare their intention to enter into Christian marriage and shall exchange vows of love and faithfulness. The service includes appropriate passages of Scripture, which may be interpreted in various forms of proclamation. Prayers shall be offered for the couple, for the communities which support them in this new dimension of discipleship, and for all who seek to live in faithfulness. In the name of the triune God the minister shall declare publicly that they ~~the woman and the man~~ are now joined in marriage.

(The remainder of this paragraph remains the same)

**W-4.9006** A service of worship recognizing a civil marriage and confirming it in the community of faith may be appropriate when requested by the couple. The service will be similar to the marriage service except that the opening statement, the declaration of intention, the exchange of vows by the ~~husband and wife~~ *two people* and the public declaration by the teaching elder reflect the fact that ~~they the woman and the man~~ are already married to one another according to the laws of the state.

### ***RATIONALE***

Marriage is beyond gender. It refers to the commitment of two people to live beside each other with a love expressed as tenderness and justice. It refers to the deep promise to live together through the thick and thin of their journey together through the years. It refers to the

mystery in which the love of God meets, is joined to and made manifest in the love of two people whose hearts are a home place to each other. The notion of marriage is demeaned by any lesser definition. Recognizing this, some states are already ahead of the Church in moving the legal definition of marriage beyond gender.

Changing the definition of marriage in the Directory of Worship would allow the Church and its officers the option of also recognizing the life-long ~~same-gender~~ commitments *of same gender loving couples* that many of our members are now choosing to make. It would make it possible for the Church to celebrate the love of God as it is embodied in their love for each other. In states like the six, along with the District of Columbia, which already permit gay marriage, teaching and ruling elders would be relieved of the fear of ecclesiastical charges and would be able to respond equitably and pastorally to marriage requests by all, not just some, members of their congregations. *Other states, such as California and Maine have had marriage equality at one time, only to see such liberties overturned at the ballot box. In California, where such protections were made for those who married during the “window of opportunity” before the passage of Proposition 8, there remain couples in our Presbyterian churches who seek to have their covenantal marriage commitments blessed in the same ways as other couples. Since a Federal court decision to overturn Proposition 8 is under appeal in the 9<sup>th</sup> District Court, the standing of all couples to receive marriage licenses could one day soon put Presbyterian ministers in the inevitable position of choosing to follow current Authoritative Interpretations of Section W-4.9000 in the PC(USA) Constitution or to follow those other portions of our Form of Government which compels them to offer the same pastoral care to all of their parishioners.*

No teaching elder or session would be required to perform services of marriage which would violate conscience. Changing the Directory for Worship in this way would move the Church away from fear and reprisal, and closer to its own teaching on the hospitality of God and the welcome which that implies. *This change also confirms that the decision making for hosting and performing such ceremonies is done at the local level with the pastor and session who know the couple best.*

The proposed change allows us to step more fully in line with the Bible and the Book of Confessions and to be the Church that both our scripture and our constitution have continually imagined, a church open to changes that support love of God and one another. (Mark 12:28-34; Luke 10:25-37) We join those in the early church by stepping into line behind people like Philip, who, in his encounter with the Ethiopian eunuch, was moved to overturn his previously narrow perceptions and prejudices and make the circle of God's family much wider than his previous religious upbringing had allowed him to imagine (Acts 8:26-38) and Peter, who was given a vision that the lines he had previously drawn between clean and unclean were too narrow and had to be abandoned to embody God's loving way. (Acts 10:9-22). And we join those who, throughout the history of our denomination, have recognized the need to move away from previous barriers in the direction of love and care.

“In God’s reconciling love God overcomes the barriers between brothers [and sisters] and breaks down every form of discrimination... The church is called to bring all men [and women] to receive and uphold one another as persons in all relationships of life: in employment, housing, education, leisure, **marriage, family**, church, and the exercise of political rights.... Congregations, individuals, or groups of Christians who exclude, dominate, or patronize their fellowmen, however subtly, resist the Spirit of God and bring contempt on the faith which they profess.” (BOC 9:44 emphasis added)

The proposed changes would grant all loving couples the right to have their marriages performed in our congregations, strengthening all our communities and families, gay and straight, since they allow us to recognize the love of two hearts declaring themselves to be a home to each other, before God, with gratitude.

**Overture on boycott of Ahava and Hadiklaim:**

The Presbytery of San Francisco overtures the 220<sup>th</sup> General Assembly (2012) of the Presbyterian Church (U.S.A.) to:

1. Condemn the production and sale of Israeli products that come from the Occupied Palestinian Territories.
2. Call for the boycott of AHAVA Dead Sea Laboratories Beauty Products.
3. Call for the boycott of all date products of Hadiklaim, the Israel Date Growers Cooperative, Ltd., often marketed by the brand names: King Solomon Dates and Jordan River.
4. Direct the Stated Clerk to communicate this action to all other PC(USA) councils and entities and invite and strongly encourage those groups and organizations to endorse this boycott.
5. Direct the Stated Clerk to inform our ecumenical partners of this action, both nationally and globally, and call upon them to join in the boycott of these companies.

***Rationale:***

Since the occupation of the Palestinian territories in 1967, Israel has used its military rule to the advantage of Israeli corporations and economic interests, many times to the detriment of the Palestinian economy under its control.

All Palestinian imports and exports have been controlled, restricting the competition with Israeli producers, and making the Palestinian consumer market into a captive market for Israeli goods. Severe restrictions on movement of Palestinian labor and products inside the occupied territories and to neighboring areas have further increased the dependency of the Palestinian economy on Israeli companies as employers and retailers. The growing network of checkpoints and walls has all but destroyed Palestinian local production and the Palestinian labor bargaining power.

Israeli companies have a relatively high concentration of capital, freedom of movement and favorable legal conditions. When operating in the occupied territories they also enjoy special governmental support, access to cheap resources, tax incentives, and a very lax enforcement of labor laws and environmental protection laws. These advantages often result in the exploitation of Palestinian labor, Palestinian natural resources and the Palestinian consumer market.

([www.whoprofits.org/Involvements.php?id=grp\\_inv\\_exploit](http://www.whoprofits.org/Involvements.php?id=grp_inv_exploit))

1. *What is AHAVA, what international laws does AHAVA violate and why are we calling for a boycott?*

Ahava Dead Sea Laboratories ([www.ahava.co.il](http://www.ahava.co.il)) is a privately held Israeli cosmetics company that manufactures products using minerals and mud from the Dead Sea. Ahava's products—such as Grape & Avocado Body Wash, Dead Sea Mineral Mud, and Mineral Foot Cream—are widely available in high-end department

stores and pharmacies throughout the United States and in Europe. The Hebrew word "Ahava" means love, but there is nothing loving about what the company is doing in the Occupied Palestinian territory of the West Bank. The company's practices are against international law.

The company's main factory and its visitors' center are located in the Israeli settlement of Mitzpe Shalem in the Occupied West Bank. Ahava products are labeled as of 'Israeli origin,' but according to international public law, the West Bank cannot be considered to be part of the State of Israel. Ahava uses in its products mud from the Dead Sea, excavated in an occupied area, and thus it exploits occupied natural resources for profit, which is a violation of the Fourth Geneva Convention. (<http://www.stolenbeauty.org/article.php?id=5015>)

2. *What is Hadiklaim and why are we calling for a boycott?*

Hadiklaim is an Israel date growers cooperative which deals with several major supermarkets internationally. Hadiklaim exports under the 'King Solomon Dates' and 'Jordan River' brand names. Their products are exported by the Israeli company, Almog Tradex Ltd, which claims to export 10,000 tons of Israeli fruits annually. Hadiklaim boasts that Hadiklaim growers and packing houses have approvals from international standard setting bodies (including Bio USDA), as well as the Israeli Ministry of Agriculture and the Bio-Organic Agriculture Association. Hadiklaim packages dates under U.S. Supermarket labels, the Hadiklaim name may not show up on the label, yet the fact that the USDA is involved makes it clear that their dates are getting here under some form of packaging.

Hadiklaim signage is displayed on packing houses in the settlements of Beit Ha' Arava, close to the Dead Sea Coast, and Tomer, close to the Palestinian village of Fasayil. In October 2007, a group of campaigners from the Brighton Tubas Friendship and Solidarity Group ([www.brightonpalestine.org](http://www.brightonpalestine.org)) entered Tomer settlement in the occupied Jordan Valley and photographed Hadiklaim medjoul dates, packaged by Carmel Agrexco, labeled 'Made in Israel' and marked as bound for Tesco stores (UK). Products exported as 'Made in Israel' benefit from the preferential trade terms of the EU-Israel Association Agreement, which came into effect in 2000, when ITN (a British broadcaster) screened an expose in 2007 accusing supermarkets of misleading British consumers. Tesco admitted it had acted 'in error' and stated that Israeli dates 'originating solely in the West Bank will (in the future) be labeled as such.

Date picking in the Jordan Valley is a hazardous business. Workers are hoisted into the trees with a cherry picker and are often left to work on a platform high above the ground for the duration of the working day without meal or toilet breaks. The majority of workers are Palestinian or Thai migrants—who are uniformly paid below the minimum wage. For more info on labor conditions for date pickers in the Jordan Valley see Kav'La Oved and UNISON'S 2009 film, *Bitter Dates* at <http://www.leedspsc.org.uk/?p=1671>.  
<http://corporateoccupation.wordpress.com/2010/08/12/hadiklaim-in-the-jordan-valley/>

3. *Why are AHAVA and Hadiklaim being singled out by the PC(USA)?*

There is a lengthy list of Israeli, U.S. and international companies involved in making a profit as the result of illegal occupation in the Palestinian territories. AHAVA and Hadiklaim have been named because they are two of the most blatant violators of international law that prohibits exploitation of occupied natural resources for profit.

The Presbyterian Church (U.S.A.) is no stranger to calling for boycotts, both nationally and internationally, because corporate practices violated the human rights, and even threatened the lives of peoples being exploited. In the early 1980's it called for a boycott of the Swiss corporation, Nestle, because of its promotion of breast milk substitutes in less economically developed countries contributing to the unnecessary suffering and deaths of babies. In 2002 it called for the boycott of Taco Bell as a result of its parent company's (Yum Brands Food) exploitation of farm workers from Immokalee, Florida. Both boycotts were successful and achieved their desired ends.

The boycott of AHAVA and Hadiklaim is especially relevant because these companies engage not only in the exploitation of Palestinian workers (along with others), but are also inextricably tied to Israel's illegal occupation of the West Bank. This makes these company's activities both illegal, according to international law, and immoral, in accordance with the witness of the Presbyterian Church (U.S.A.) in very recent history.

4. *Does boycotting the Israeli occupation harm Palestinians?*

Yes, it can have an economic impact. Any kind of economic pressure is bound to harm first and foremost the Palestinians, who are already economically vulnerable because of the restrictions that the Israeli occupation imposes on their ability to study, work and move people or goods. Despite Israel's exploitation of Palestinian labor, Palestinian natural resources and the captive Palestinian consumer market, Palestinians themselves have asked for boycotts, divestments and sanctions because they see them as effective tools to express international solidarity to oppose the Israeli occupation.

We call upon the Presbyterian Church (U.S.A.) to remain consistent in its historical witness against human exploitation for the sake of power and profit anywhere that may occur in the global community.

### Overture on divestment from Caterpillar:

The Presbytery of San Francisco overtures the 220<sup>th</sup> General Assembly (2012) of the Presbyterian Church (U.S.A.) to:

1. Affirm that the worsening occupation of Palestine is destroying lives and entire cultures and that it needs to end for the sake of justice between Jews, Christians and Muslims.
2. Affirm that equipment being used to support this occupation is for Israeli military purposes and violates the investment policy of the PC(USA).
3. Affirm that the Presbyterian Church (U.S.A.), along with its responsibility to all peoples affected by this conflict, has a special obligation and witness to Christian communions in Jerusalem and the West Bank and as a result must stand up with its Christian brothers and sisters as their communities of faith face extinction as a result of military oppression.
4. Instruct the Presbyterian Foundation and the Board of Pensions of the Presbyterian Church (U.S.A.) to begin the process of divestment from Caterpillar, Inc., and not to reinvest in this corporation unless the Mission Responsibility Through Investment Committee of the Presbyterian Church (U.S.A.) is fully satisfied that Caterpillar, Inc. no longer engages in the selling of equipment to Israel that is used to build illegal Israeli settlements, construct walls that illegally encroach upon Palestinian lands that cut Palestinians off from their own property and natural resources, destroy Palestinian life and property, and otherwise continue to support the occupation of Palestinian territories.
5. Direct the Stated Clerk to communicate this action to all other PC(USA) councils and entities, and invite and strongly encourage those groups and organizations that hold assets in Caterpillar, Inc. to divest as well.
6. Direct the Stated Clerk to inform our ecumenical partners of this action, both nationally and globally—particularly within Israel and Palestine—encouraging them to hear this witness and consider following suit in applying social responsibility and human rights criteria to other companies in their portfolios that support the occupation of Palestine.

### **Rationale:**

The following is a brief history of the PC(USA)'s corporate engagement with Caterpillar, Inc.:

- 2004: The 216<sup>th</sup> General Assembly in Richmond, Virginia voted to begin the process of engaging in selective divestment from U.S. corporations that provide support, technology, and military equipment to the Government of Israel to sustain the occupation of the Palestinian territories. Caterpillar Inc. was on the list of five corporations named. In accordance with PC(USA) investment policy the process of selective divestment begins with corporate engagement.
- 2006: At the 217<sup>th</sup> General Assembly in Birmingham, Alabama, with new overtures for divestment coming before the Assembly, the Mission Responsibility Through Investment Committee (MRTI) of the PC(USA) reported that corporate engagement with Caterpillar and four other corporations was ongoing and yielding positive results. This General Assembly chose against divestment in order to allow corporate engagement to continue as reported.

2008: Once again, divestment overtures came before the 218<sup>th</sup> General Assembly in San Jose. By this time, one corporation had been dropped from the potential divestment list and MRTI reported to G.A. Committee 11 that corporate engagement was continuing with the four other corporations. With three of those corporations there was good progress. It was reported that progress with Caterpillar, Inc. (CAT) was not quite as good as with the other three but that talks were continuing and meetings were taking place. As a result of that report, even though many substantive overtures were passed in support of Palestinians in their struggle, the General Assembly once again opted for corporate engagement rather than divestment.

At the time of this report to the 218<sup>th</sup> General Assembly, Caterpillar corporate behavior had shown no signs of change. CAT bulldozers were still being used to destroy Palestinian homes and ripping up Palestinian agricultural lands. They also continued to be a primary tool in the nonstop construction of illegal Israeli settlements in the West Bank. Following this meeting of G.A., no change in CAT corporate behavior was forthcoming.

2009: At Caterpillar's annual meeting, investors rejected an effort by human rights activists, dissident shareholders, and the interfaith coalition of Christian and Jewish investors with whom the PC(USA) partnered to stop the firm from selling bulldozers to Israel. Corporation CEO, Jim Owens, told the body that: "If you don't like how CAT does business, you don't have to hold your shares."

At its meeting on November 5-7 of that year in Cincinnati, Ohio, it was reported to MRTI that corporate engagement, in the manner in which it had been employed since 2004, was no longer working in regard to CAT. MRTI voted to recommend to the General Assembly Mission Council (GAMC)—at its February 2010 meeting—adoption of a statement of denouncement in regard to the behavior of Caterpillar, and send it to the 219<sup>th</sup> General Assembly (2010) in Minneapolis for action.

2010: The Middle East Study Committee (MESC), which was appointed by the 218<sup>th</sup> General Assembly, to investigate and examine issues related to the Israel/Palestine conflict and then report to the 219<sup>th</sup> General Assembly, made its report public in the early part of the year. One of MESC's recommendations was to denounce Caterpillar, Inc. for its business practices in Israel/Palestine.

Under pressure from interest groups, Caterpillar, Inc. prohibited all its worldwide dealerships from selling equipment to Iran, hence proving to the world that CAT does indeed have control over what their dealerships do with their equipment.

During the Rachel Corrie civil trial, CAT suspended sales of bulldozers to the Israeli military, again proving that the corporation has more control over sales of its products than it has previously said it does.

At the 219<sup>th</sup> General Assembly meeting in Minneapolis, Minnesota the Assembly approved an amended version of the MESC report, which included a denouncement of Caterpillar, Inc. for its business practices in Israel Palestine. Although there were two overtures submitted from two PC(USA) presbyteries to divest from CAT, the Assembly did not pass either one.

2011: On September 8-10, the Mission Responsibility Through Investment Committee of the PC(USA) met in Chicago, Illinois and approved its report to the 220<sup>th</sup> General Assembly recommending that three companies be added to the General Assembly divestment list: Caterpillar, Inc., Hewlett-Packard, and Motorola Solutions. MRTI chairperson, Rev. Brian Ellison made the following statement to the Presbyterian News Service: “The General Assembly asked us to do everything we could to bring about change through dialogue, and we have done this, even asking the Assembly for more time over the years. Today we are sadly reporting that these efforts have not produced any substantive change in company policies or practices, and that there is little reason for hope they will do so in the future. According to the Assembly’s prior directives and the church’s ordinary engagement process, we have little choice but to recommend divestment.”

The writers and endorsers of this overture believe that the Mission Responsibility Through Investment Committee has done its due diligence, and commends MRTI for its faithful work at corporate engagement with CAT and other corporations for over six years. We also believe that the 216<sup>th</sup>, 217<sup>th</sup>, 218<sup>th</sup> and 219<sup>th</sup> General Assemblies of the PC(USA) have been careful to listen to all sides of the debate and have been faithful to MRTI recommendations, trusting that the committees we appoint to do the important work of our denomination do so with responsibility and integrity. We also believe, that as in the past, it is time for the General Assembly to hear and approve the recommendation of a committee that has been both fair and faithful in its assigned task for over six years. We regret that Caterpillar, Inc. has not been willing to engage in PC(USA) corporate engagement in a meaningful and productive way, but believe that now is the time to disassociate ourselves financially from this company until such time that it shows it is willing to be a good corporate citizen in regard to its business practices throughout the world. This recommendation to divest is not about changing CAT’s behavior. Rather, it is about choosing not to invest in a business in which its practices contribute to the loss of Palestinian life, the destruction of Palestinian property, and the ongoing support of illegal and immoral occupation by the Israeli government in the Occupied Palestinian Territories.

The writers and endorsers of this overture are convinced that as circumstances presently stand, we can do no less than divest from corporations whose business practices violate our Church’s financial investment policies. If the actions of Caterpillar, Inc. in regard to its business practices with the Israeli government do not violate PC(USA) policy in regard to sustaining a military occupation, what actions ever would? It is our plea that through faithfulness towards the justice taught by our Lord Jesus Christ, the investment policies and decisions of our denomination will be consistent with the following statement: *We are the Church of Jesus Christ. When the powers of the world decide that they will conduct business as usual, and that business is contrary to the teachings of Christ and the will of God for humanity, then it is time for the church to end its complicity in this sinful behavior. If we do not, then we remain unrepentant.*

## Bibliographical Information:

Presbyterian Church (U.S.A.) information about Israel/Palestine Mission:

<http://gamc.pcusa.org/ministries/global/israel-palestine/>

“Breaking Down the Walls,” the report of the Middle East Study Committee approved by the 219<sup>th</sup> General Assembly:

[http://www.pcusa.org/media/uploads/middle\\_east\\_peace/pdfs/middleeastpeace-fullreport.pdf](http://www.pcusa.org/media/uploads/middle_east_peace/pdfs/middleeastpeace-fullreport.pdf)

Presbyterian News Service release regarding the recommendation of MRTI to divest from CAT, Hewlett-Packard, and Motorola Solutions: <http://www.pcusa.org/news/2011/9/12/mrti-recommends-pcusa-divestment-caterpillar/>

Israel Committee Against House Demolitions (ICAHD), Demolitions Overview:

[http://www.icahd.org/?page\\_id=7762](http://www.icahd.org/?page_id=7762)

*Steadfast Hope*, Israel-Palestine Mission Network of the PC(USA),

<http://www.israelpalestinemissionnetwork.org>, pp. 28-29 in particular. The accompanying DVD speaks specifically on the use of CAT bulldozers for destruction of Palestinian property, showing footage of such bulldozers at work.

Report of the United Nations Fact-Finding Mission on the Gazan Conflict (Goldstone Report):

<http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>

The most pertinent information is found on pages 210-214 of the report. There are many references to the use of bulldozers in these pages of the report, but in regard to the D-9 CAT bulldozer involvement, note the following footnote #509 on page 212: *One soldier recalls: “There was a point where D-9s were razing areas. It was amazing. At first you go in and see lots of houses. A week later, after the razing, you see the horizon further away, almost to the sea. They simply took down all the houses around so terrorists would have nowhere else to hide.”*

Two particular sources for Jim Owens’ statement, [www.ramallahonline.com](http://www.ramallahonline.com), search: Jim Owens says (exact phrase), and Sydney Levy of Jewish Voice for Peace, citing witnesses to CEO Jim Owens statement, [www.jewishvoiceforpeace.org](http://www.jewishvoiceforpeace.org).

Regarding CAT’s decision not to do business in Iran:

<http://www.nytimes.com/interactive/2010/03/06/world/iran-sanctions.html#methodology>

Regarding CAT’s suspension of bulldozer sales to Israel during the Rachel Corrie civil trial:

<http://wagingnonviolence.org/2010/11/campaign-to-end-caterpillars-bulldozer-sales-to-israel-not-over/>

and, <http://corporateoccupation.wordpress.com/2010/11/09/caterpillar-suspends-d9-sales-in-response-to-corrie-trial/>

That Presbytery of San Francisco transmit this overture to the 220<sup>th</sup> General Assembly (2012) of the Presbyterian Church (U.S.A.):

### **Israel's Laws, Policies, and Practices Constitute Apartheid Against the Palestinian People**

#### **RECOMMENDATION**

**The 220th General Assembly (2012) of the PC(USA) recognizes that Israel's laws, policies, and practices constitute apartheid against the Palestinian people. The General Assembly urges its members, congregations, presbyteries, and national staff units, including the Office of Theology and Worship, to study this matter and to seek appropriate ways to bring an end to Israeli apartheid.**

#### **RATIONALE**

**"...Israel's occupation of the West Bank and Gaza is a sin against God and...fellow human beings."**

Middle East Study Report (p. 36), received by the 219<sup>th</sup> General Assembly (2010) of the PC(USA)

Just twenty years ago there was serious injustice, widespread suffering, and major human rights abuses in South Africa because of apartheid laws, practices and policies that established a preferential legal status and material privileges for one group of people based on their identity while discriminating against another group based on their inferior status. The favored group received preferential access to land, water, other resources, and to government benefits and services while the disfavored group was confined to ever shrinking non-contiguous territorial enclaves. The peaceful reconciliation of the peoples in South Africa and the creation of a stable political state were accomplished only after the churches and the nations of the world joined together to oppose South African apartheid. In the 1990's South African soccer teams were banned from international soccer competition because of the government's apartheid policies. Twenty years later South Africa hosted soccer's World Cup, a remarkable demonstration of the political transformation that can take place when the world condemns apartheid and a government responds by granting human rights for all people. We hope that the Israeli government policies toward the Palestinian people will undergo a similar transformation if Israeli apartheid is internationally acknowledged, and opposed.

From the earliest days of statehood in 1948, Israel began instituting a system of discrimination against its Palestinian Arab citizens that fits the definition of apartheid as defined by the United Nations and the World Court. The illustrations provided below apply primarily to Israel's system of apartheid in the Palestinian territories occupied by Israel in 1967, including East Jerusalem, but also in some cases to apartheid within Israel itself.

#### **Why we ask the PC(USA) to Act**

To solve a problem, one has to honestly acknowledge that the problem exists. As Presbyterians we believe the prophetic mission of the church is to speak the Word of God courageously, honestly and lovingly in the local context and in the midst of daily life. We believe that, following the example of Jesus, the church is called to stand alongside the oppressed to help bring about justice, peace and reconciliation. Presbyterians spoke out in the 1950's against segregation in the United States and later on against apartheid in South Africa. By naming the apartheid situation in the holy land, the Presbyterian Church (USA) can add its voice to an international dialog that Israeli leaders cannot ignore.

Let it be clear at the outset. This overture is not anti-Israel. The PC(USA) has repeatedly declared Israel's right to exist as a sovereign nation within secure and internationally recognized borders in accordance with United Nations resolutions. Israel's system of apartheid causes untold suffering for Palestinians and puts the future of Israel itself in peril. Therefore, we ask the church to join the witness of others, such as those quoted below, who have recognized that Israel's laws, policies, and practices constitute apartheid against the Palestinian people.

- **Nelson Mandela**, past President of South Africa and Nobel Peace Prize winner: *“Apartheid is a crime against humanity. Israel has deprived millions of Palestinians of their liberty and property. It has perpetuated a system of gross racial discrimination and inequality. It has systematically incarcerated and tortured thousands of Palestinians, contrary to the rules of international law. It has, in particular, waged a war against a civilian population, in particular children.”* (2001)
- **Archbishop Desmond Tutu**, the South African Nobel Peace Prize winner: *“I have been to the Occupied Palestinian Territory, and I have witnessed the racially segregated roads and housing that reminded me so much of the conditions we experienced in South Africa under the racist system of Apartheid. I have witnessed the humiliation of Palestinian men, women, and children made to wait hours at Israeli military checkpoints routinely when trying to make the most basic of trips to visit relatives or attend school or college, and this humiliation is familiar to me and the many black South Africans who were corralled and regularly insulted by the security forces of the Apartheid government. It is not with rancor that we criticize the Israeli government, but with hope, a hope that a better future can be made for both Israelis and Palestinians.”* (2010)
- **Jimmy Carter**, Former President of U.S. and Nobel Peace Prize Winner: *“Israel does occupy this territory deep within the West Bank, and connects 200-or-so settlements with each other, with a road, and then prohibits the Palestinians from using that road, or in many cases even crossing the road. This perpetrates even worse instances of apartness, or apartheid, than we witnessed even in South Africa.”* (2006)
- **Israeli human rights group B’Tselem**: *“Israel has created in the Occupied Territories a regime of separation based on discrimination, applying two separate systems of law in the same area and basing the rights of individuals on their nationality. This regime . . . is reminiscent of distasteful regimes from the past such as the Apartheid regime in South Africa.”* (2002)
- **Henry Siegman**, former director of the American Jewish Congress & Synagogue Council of America: *“Successive Israeli governments have long sought to preclude the two-state solution. Israel has crossed the threshold from ‘the only democracy in the Middle East’ to ‘the only apartheid regime in the Western world.’”* (2007)
- **Michael Ratner**, President of the Center for Constitutional Rights, after a visit to Yad Vashem in Jerusalem: *“The powerful narrative of the Holocaust that the museum was trying to make me (as a Jew) accept, or at least justify, what was unacceptable: Israel’s apartheid state.... To truly honor the lessons of the Holocaust would be to end the apartheid system that is the Israel of today.”* (2010)
- **Yitzhak Laor**, Israeli playwright and novelist: *“the bi-national state is already here. It has a rigid apartheid legal system as the high Court of Justice fades away. The system preserving this apartheid is more ruthless than that seen in South Africa.”* (2009)
- **Ilan Pappé**, Israeli history professor: *“Israel is now one of worst apartheid regimes in the world. It controls almost all of Palestine (apart from Gaza which it imprisoned hermetically since 2005). It has the largest number of apartheid laws and regulations of any country in the world and the longest imposition of emergency laws and regulations that rob citizens of their most basic human and civil rights.”* (2011)
- **The Human Sciences Research Council of South Africa**, after two years of studying Israeli practices towards the Palestinians, concluded that Israel practices the "three pillars" of apartheid in the occupied territories in a manner calculated to prevent Palestinians from participation in the political, social, and cultural life of their country. (2009)
  - Israeli laws and policies establish Jewish identity for purposes of law and afford a preferential legal status and material benefits to Jews over non-Jews.
  - Israel’s policies and practices fragment the Occupied Palestinian Territories and ensure that Palestinians remain confined to the reserves designated for them while Israeli Jews are prohibited from entering those reserves but enjoy freedom of movement throughout much of the Palestinian territory.
  - Israel invokes the need for “security” to impose sweeping restrictions on Palestinian rights to freedom of opinion, expression, assembly, association and movement. The true underlying intent is to suppress dissent to its system of domination and maintain control over Palestinians as a group.

For more quotations and other material on Israeli apartheid, go to:

[http://www.israelpalestinemissionnetwork.org/main/index.php?option=com\\_content&view=article&id=123](http://www.israelpalestinemissionnetwork.org/main/index.php?option=com_content&view=article&id=123)

**Additional Rationale and Illustrations**

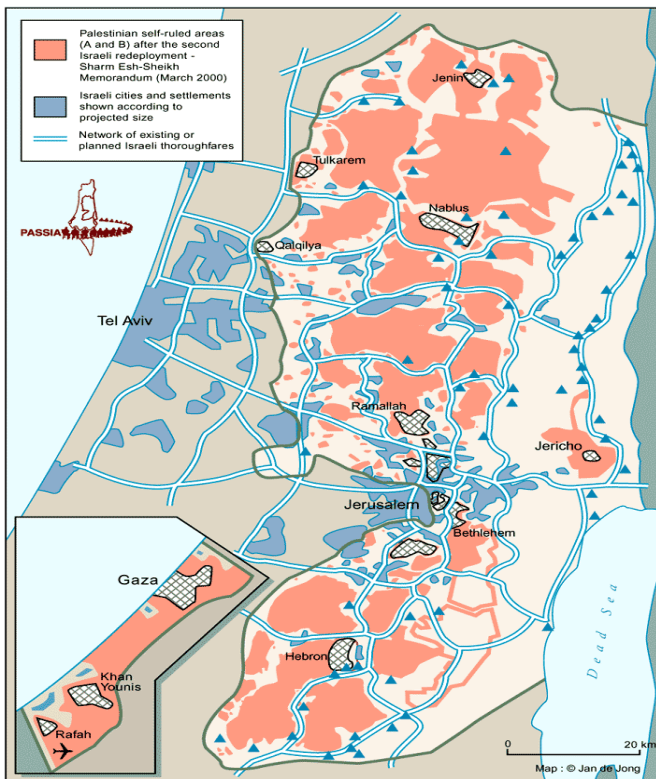
1. Reference Maps (**Appendix A**) (p 3)
2. United Nations and World Court definition of apartheid (**Appendix B**) (p 5)
3. How Israel’s practices and policies constitute apartheid against the Palestinian people (**Appendix C**) (p 7)
4. Statements of the 219<sup>th</sup> (2010) General Assembly on Israel Palestine (**Appendix D**) (p 11)
5. Responses to those who defend the Israeli government’s actions, right or wrong. (**Appendix E**) (p 12)



**Appendix A: Reference Maps**

In order to visualize how certain elements of Israeli apartheid (expropriation of Palestinian land, construction of Israeli settlements in the West Bank, Israeli only by-pass roads, and the separation wall/barrier) combine to restrict Palestinians into isolated and ever shrinking enclaves, it is necessary to refer to the four reference maps that are included in this overture. It is also helpful to refer to these maps when reading the PC(USA) statements in Appendix D.

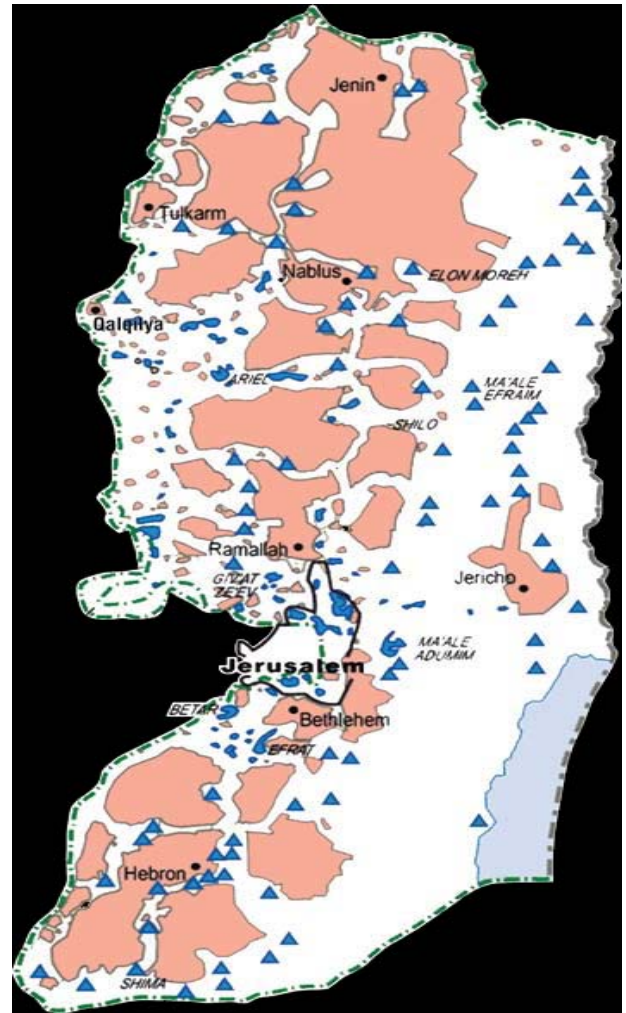
- **Map 1: Bypass roads** linking settlement colonies in the West Bank with Israel allow unrestricted settler movement while confining Palestinians to enclaves that are in essence open-air prisons.
- **Map 2: The separation wall** does not follow the internationally recognized boundaries of Israel and Palestine. Large swaths of Palestinian territory are on the “Israel side” of the wall.
- **Map 3: Encircled enclaves** (reserves or ghettos) confine Palestinians into 64 isolated and totally surrounded canton-like reserves in the West Bank.
- **Map 4: Palestinian Loss of Land 1946-2010**



**Map 1: Bypass roads** linking settlement colonies in the West Bank with Israel allow unrestricted settler movement while confining Palestinians to enclaves that are in essence open-air prisons. Triangles are major Israeli settlement colonies.



**Map 2: The Separation Wall** (blue line). None of the Palestinian West Bank is part of Israel under international law. However, the separation wall is not on the West Bank's border, but meanders deeply into Palestinian territory and puts large swaths (the areas in white) of the West Bank on the Israeli side of the Wall.



**Map 3: Encircled enclaves** (reserves or ghettos) confine Palestinians into 64 isolated and totally surrounded canton-like reserves in the West Bank. The triangles are major Israeli settlement colonies. Areas in white are off-limits to Palestinians.



**Map 4: Palestinian Loss of Land 1946-2010**  
 The green area shows land under Palestinian control

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### Appendix B: United Nations and World Court definition of apartheid

The U.N. Apartheid Convention states that the term “crime of apartheid” applies to acts committed for the purpose of establishing and maintaining domination by one racial group over any other racial group and systematically oppressing them. Practices constituting apartheid include:

- Denying basic human freedoms, including the freedom of movement, residence, opinion, expression, and peaceful assembly and freedom from arbitrary arrest and imprisonment.
- Denying basic human rights, including the right to a nationality, to education, to leave and to return to one’s country, to work, and to form recognized trade unions.
- The expropriation of landed property belonging to a racial group or groups or to members thereof.
- Legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups.

Government leaders can be accused of committing the crime of apartheid if they institute or administer laws, practices, and policies that establish apartheid conditions. It is up to the United Nations or the World Court to prosecute those guilty of apartheid. However, individuals and churches can recognize apartheid and witness to that effect. This procedure is much like our criminal justice system. If a citizen witnesses a crime like a robbery or an assault, they can recognize that a crime has been committed and witness to that effect even though only the court system can legally prosecute the crime. The following sections are a witness to how Israel’s practices and policies constitute apartheid against the Palestinian people.

## **International Convention on the Suppression and Punishment of the Crime of Apartheid**

**Adopted and opened for signature, ratification by UN General Assembly resolution 3068 (XXVIII) of 30 November 1973, entry into force 18 July 1976, in accordance with article XV**

*The States Parties to the present Convention, have agreed as follows:*

### **Article I**

1. The States Parties to the present Convention declare that apartheid is a crime against humanity and that inhuman acts resulting from the policies and practices of apartheid and similar policies and practices of racial segregation and discrimination, as defined in article II of the Convention, are crimes violating the principles of international law, in particular the purposes and principles of the Charter of the United Nations, and constituting a serious threat to international peace and security.
2. The States Parties to the present Convention declare criminal those organizations, institutions and individuals committing the crime of apartheid.

### **Article II**

For the purpose of the present Convention, the term "the crime of apartheid", which shall include similar policies and practices of racial segregation and discrimination as practiced in southern Africa, shall apply to the following inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them:

- a. Denial to a member or members of a racial group or groups of the right to life and liberty of person:
  1. By murder of members of a racial group or groups;
  2. By the infliction upon the members of a racial group or groups of serious bodily or mental harm, by the infringement of their freedom or dignity, or by subjecting them to torture or to cruel, inhuman or degrading treatment or punishment
  3. By arbitrary arrest and illegal imprisonment of the members of a racial group or groups;
- b. Deliberate imposition on a racial group or groups of living conditions calculated to cause its or their physical destruction in whole or in part;
- c. Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups, in particular by denying to members of a racial group or groups basic human rights and freedoms, including the right to work, the right to form recognized trade unions, the right to education, the right to leave and to return to their country, the right to a nationality, the right to freedom of movement and residence, the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association;
- d. Any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of a racial group or groups, the prohibition of mixed marriages among members of various racial groups, the expropriation of landed property belonging to a racial group or groups or to members thereof
- e. Exploitation of the labour of the members of a racial group or groups, in particular by submitting them to forced labour;
- f. Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.

<http://www.icc-cpi.int/NR/rdonlyres/6C2AB560-3E9D-401D-ACD8-A6F7C3AA7F6E/248661/372818.PDF>

## **Rome Statute of the International Criminal Court Effective July 1, 2002**

### **Article 1: The Court**

An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute.

**Article 5: Crimes within the jurisdiction of the Court**

The jurisdiction of the Court shall be limited to the most serious crimes of concern to the international community as a whole. The Court has jurisdiction in accordance with this Statute with respect to the following crimes: (a) The crime of genocide; (b) **Crimes against humanity**; (c) War crimes; and (d) The crime of aggression.

**Article 7: Crimes against humanity**

7.1 For the purpose of this Statute, "**crime against humanity**" means any one of 11 specifically identified acts committed as part of a widespread or systematic attack directed against any civilian population, including murder; extermination; deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, **the crime of apartheid**, and other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

7.2.(h) "**The crime of apartheid**" means inhumane acts of a character similar to those referred to in paragraph 7.1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.

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**Appendix C: How Israel’s Laws, Policies and Practices Constitute Apartheid Against the Palestinian People**

**1. The expropriation of landed property belonging to Palestinians**

- Under the 1947 United Nations Palestine partition Resolution 181, 56% of the land area of Palestine was designated for a Jewish state and 44% for an Arab state. This resolution stipulated that the equal rights of minorities within each state must be protected. However, in the war that followed Israel’s declaration of independence in May 1948, Israel occupied 78% of the land and began expropriating much of the land designated by the United Nations for an independent Arab state.
- In 1947-48, 750,000 non-Jewish residents of land designated by the U.N. for the Jewish state and much of the Arab state were either forcibly removed from their landed property or not allowed to return to their homes, in defiance of international law. The land was expropriated by Israel for Jewish housing, farms, roads, businesses, parks, and cemeteries.
- In June 1967 East Jerusalem was occupied by the Israeli military. Twenty-seven square miles of East Jerusalem were annexed to Israel. More than 30% of the land in East Jerusalem has been expropriated to build new settlements where approximately 200,000 Israelis reside in 47,000 housing units.
- Between 1967 and 2009, vast areas of West Bank land were expropriated for the construction of over 121 settlements and 100 outposts for Jewish residents. Over half a million settlers now live in the occupied West Bank, including 200,000 in East Jerusalem.
- Separation walls/barriers are constructed on land in the West bank and will expropriate an additional 11.9% of Palestinian land in the West Bank when completed.
- The agricultural Jordan Valley area, about 30% of the West Bank, is now off limits to most Palestinians.

The net result is that the state of Israel systematically and continually expropriates the landed property of Palestinians, in violation of the International conventions on apartheid.

**2. Denying the right to freedom of residence to Palestinians in the West Bank, Gaza, and East Jerusalem**

- Israeli laws, policies, and practices systematically prevent Palestinians from freedom of residence by denial of building permits for the construction of Palestinian housing and by the demolition of existing Palestinian housing. In those areas of the West Bank and East Jerusalem where Palestinian housing is destroyed or denied, homes for Jewish settlers are permitted and constructed; only Jewish people are allowed to live in the settlement colonies.
- Between 1967 and the end of 2001, almost no Palestinian housing units were given construction permits in East Jerusalem. In that same time period, 46,978 housing units were built for Jewish settlers in East Jerusalem.
- In 1967 the population of East Jerusalem was almost entirely Palestinian. Today there are approximately 200,000 Jewish settlers. Palestinians now constitute one-third of East Jerusalem's population.
- From June 1967 to June 2009, over 24,000 Palestinian homes have been demolished in the occupied territories.

The net result is that the state of Israel systematically and continually denies the freedom of residence to Palestinians, in violation of the International conventions on apartheid.

### 3. Denying Palestinians the right to freedom of movement in the West Bank, Gaza, and East Jerusalem.

- Israeli laws, policies, and practices systematically deny Palestinians the right to movement. Israel uses a number of means to restrict Palestinian movement in the West Bank, which include: permanent and temporary checkpoints, physical obstructions, the Separation Wall, roads on which only Israelis can drive, and the movement-permit regime.
  - **Checkpoints:** In 2009, over 600 checkpoints and roadblocks in the occupied West Bank restricted Palestinians' freedom of movement to their homes, businesses, schools, jobs, hospitals, and farms. Palestinians routinely suffer indeterminate waiting, humiliating treatment, uncertainty, and denial of access at checkpoints.
  - **Segregated roads:** Segregated roads, which Israel euphemistically calls "bypass roads", link settlement colonies with one another and with Israel. The 493 miles of bypass roads provide unrestricted access to Israeli vehicles but restrict or prohibit Palestinian travel. These roads cut off Palestinians from their agricultural land, schools, hospitals, markets, and extended families and carve up the West Bank into isolated enclaves.
  - **Separation Wall:** In the West bank much of the Separation Wall extends well beyond the internationally recognized border and separates Palestinians from their farmland, businesses, schools, hospitals, and the homes of family and friends. In East Jerusalem the Separation Wall is constructed through the middle of a once contiguous city, much like the Berlin Wall. The wall's main purpose is not security, but rather to separate Palestinians from Israeli settlement colonies on expropriated Palestinian land. The separation Wall cuts deeply into the West Bank in several locations. There is creeping confiscation of land in the areas between the Green Line and the Wall, where severe movement restrictions continue to result in the inability of Palestinian landowners to farm their land. Along this zone between the Green Line and the Wall thousands of Palestinians on both sides of the barrier are being driven into poverty by restrictions on residency, lack of access to farm lands, inability to market their crops, and confiscation of land.
- By implementing these means, Israel has split the occupied territories into six geographical areas: North, Center, South, the Jordan Valley and northern Dead Sea. Movement between the sections and within each section has become, in recent years, hard, slow, and sometimes impossible. Israel almost completely forbids the movement of Palestinians between the West Bank and the Gaza Strip and impedes Palestinians from entering Israel and going abroad.
- These restrictions significantly affect the daily lives of Palestinians in commerce, in access to medical treatment and educational institutions, and in conducting social activities. Simple actions such as going to work in a nearby town, marketing farm produce, obtaining medical treatment, and visiting relatives entail bureaucratic procedures and great uncertainty.

- Israel's restriction on freedom of movement for non-Jewish Palestinians is discrimination based on ethnic origin since these restrictions apply only to Palestinians. Jewish residents are permitted to enter and leave settlements without restriction.

The net result is that the state of Israel systematically and continually denies the freedom of movement to Palestinians, in violation of the International conventions on apartheid.

#### **4. Dividing the population along racial lines by the creation of separate reserves and ghettos for the Palestinians**

Sections a, b, and c and maps 1, 2, and 3 above show how Israeli laws, policies, and practices in the West Bank systematically create separate, isolated reserves or ghettos for Palestinians. This eviscerates the Palestinian economy and prevents the creation of a viable, contiguous, sovereign, and independent Palestinian state.

The net result is that the state of Israel systematically and continually divides the population along racial lines by the creation of separate reserves and ghettos for the Palestinians, in violation of the International conventions on apartheid.

#### **5. Denying Palestinians the right to a nationality.**

- On November 29, 1947 the United Nations adopted a Partition Plan for Palestine that divided the League of Nation's British Mandate of Palestine. It stated that "Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in Part III of this Plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948." In this partition plan 44% of the land was allocated for an Arab state and 56% was allocated for the Jewish state. While Israel did become an independent state in 1948, the independent Arab state did not come into existence because the land designated as an independent Arab state was militarily occupied.
- Between 1948 and the present the state of Israel has systematically occupied and/or annexed all of the land that had been designated by the United Nations for an independent Palestinian state. In doing so, Israel has denied the Palestinians a right to a nationality.
- The 1952 Citizenship and Entry into Israel Law limits eligibility for Israeli citizenship to only those Palestinian non-Jews who were present in the territory of Israel between 1948 and 1952 and their descendents. This law excludes and de facto de-nationalizes Palestinian refugees who were displaced in 1947-1948 by the Israeli military.
- In 1967 Israel annexed East Jerusalem in violation of international law.
- Between 1967 and the present Israel has controlled the rural undeveloped part of the West Bank, called Area C in the Oslo Peace agreement. Through the construction of settlement colonies, bypass roads, the separation wall, buffer zones, and the creation of land reserves, Israel has left Palestinians in control of only 13% of the land area of the British mandate of Palestine.
- Israel has failed to implement the November 22, 1967 United Nations resolution 242 requiring Israel to withdraw its forces from the West Bank and Gaza.
- In 1978 Israeli Menachem Begin signed the Camp David Accords, which stated, "the Israeli military government and its civilian administration will be withdrawn as soon as a self-governing authority has been freely elected by its inhabitants." By not implementing this agreement to end its occupation of the West Bank and Gaza, Israel has denied the Palestinians right to a nationality.
- In Israeli-Palestinian negotiations in Madrid (1991), Oslo (1993), Wye River (1998), Camp David (2000) and Annapolis (2007), Israel's has insisted it will not implement U.N. Security Council Resolution 242 and that Palestinians must recognize certain Israeli "facts on the ground." By not implementing U.N resolutions or peace accords regarding the Palestinians, Israel has denied Palestinians a right to a nationality since 1948.

The net result is that the state of Israel systematically and continually denies Palestinians the right to a nationality, in violation of the International conventions on apartheid.

## **6. The deliberate imposition of living conditions calculated to cause flight or the physical destruction of Palestinians in whole or in part**

The physical wellbeing of any people is determined in large part by their access to adequate housing, drinking water, agricultural irrigation water, food, agricultural areas, utilities, employment, education, and wastewater treatment. The laws, policies and practices of Israel systematically deprive many Palestinians adequate living conditions in some or all of the above areas. Israeli practices deliberately impose on Palestinians living conditions calculated to make life intolerable. Israel exploits Palestinian natural water and land resources through restricting water supply to Palestinians, not investing in infrastructure for economic development, uprooting olive and fruit trees of Palestinian farmers, and preventing the freedom of commerce for Palestinian farmers and workers.

- Over one and a quarter million olive and fruit trees and thousands of acres of farmland have been destroyed in Palestinian territories since 1967. Nearly 465,000 olive trees were uprooted between 2000 and 2005.
- Since the beginning of the occupation in 1967, Israel's strict control of the water sector in the occupied territories has prevented development to meet Palestinian water needs, and caused shortages and a water-quality crisis.
- Israel has neglected construction of infrastructure to connect the Palestinian rural population to a running water network as well as proper maintenance of existing networks. In 2008, 227,500 Palestinians in 220 towns and villages were not connected to a water network. Another 190,000 Palestinians are only partially served.
- Of the water available from West Bank aquifers, Israel uses 83%, (10 % for illegal Israeli settlers in the West Bank and 73 % residents in Israel). West Bank Palestinians use the remaining 17%.
- Israel generally restricts Palestinian water use to the municipal and limited commercial and industrial sectors by limiting the extraction of groundwater for agricultural irrigation purposes.
- In the West Bank, about 50 groundwater wells and more than 200 cisterns have been destroyed or isolated from their owners by construction of the separation barrier, affecting the domestic and agricultural needs of more than 122,000 people.
- Only 7% of the water in the Gaza Strip meets World Health Organization standards.
- West Bank Palestinian water consumption is 40 liters per day less than the minimum global standards set by the World Health Organization.
- Palestinian residents of East Jerusalem pay taxes, but receive few benefits. The municipality has failed to invest significantly in infrastructure and services, such as roads, sidewalks and water and sewage systems, in East Jerusalem's Palestinian neighborhoods.

The net result is that the state of Israel systematically and deliberately imposes living conditions calculated to cause the physical destruction of Palestinians in whole or in part, in violation of the International conventions on apartheid.

## **7. Enacting legislative and other measures calculated to prevent Palestinians from participation in the political, social, economic and cultural life of their country**

Israeli laws, policies, and practices systematically prevent Palestinians from participating in the political, social, economic, and cultural life of their occupied country. The expropriation of Palestinian land, restrictions on the freedom of movement and residence, confining Palestinians to ghettos, arbitrary arrest and imprisonment of Palestinians, the restriction or denial of Palestinian rights to work, education, peaceful assembly, and religious practices are all part of Israeli measures calculated to prevent Palestinians from full participation in the economic, environmental, and social life of their country.

The net result is that Israel has created a system where one ethnic group, Israeli Jewish nationals, have a superior status and another ethnic group, non-Jewish Arabs living in Palestine and Israel, have an inferior status. This discriminatory system benefits Israeli Jews and causes irreparable harm to non-Jews both in Israel itself and in the occupied Palestinian territories.

## Appendix D

### Statements of the 219<sup>th</sup> General Assembly (2010) on Israel Palestine

#### 1. The Occupation of Palestinian territories

Through its actions at the 219<sup>th</sup> PC(USA) General Assembly, the church expressed the following statements and concerns about Israel's occupation of the West Bank and Gaza. All information below in italics is a direct quotation from the statements approved by the General Assembly.

- *The Israeli occupation leads to the denial of human rights for Palestinians and violation of international laws.*
- *One of the hopes of the Oslo interim agreement was settlement growth would cease, however the opposite has occurred, resulting in the current population of 285,000 in the West Bank and 198,700 in East Jerusalem. (maps 2, 3, 4)*
- *The growth of the number of settlements and settlers is perceived by many as an attempt by Israel to prevent the establishment of an economically viable Palestinian State. (maps 2, 3, 4)*
- *The number of housing demolitions is alarming and shocks the human conscience. It is estimated that some 24,145 Palestinian homes have been demolished in the occupied territory since 1967.*
- *Another concern of the occupation is the numerous "Israeli-only" bypass roads that carve up the Palestinian homeland and connect one settlement to another. This has a devastating effect on the ability of normal Palestinians to live out a normal life – to visit family, farm family property, to seek medical treatment, to secure employment; and to travel freely in one's own country. (map1)*
- *While few would deny the right of a government to put a barrier on its own property line, three-quarters of this barrier is inside the West Bank on Palestinian land. This is often perceived by Palestinians as an effort to secure an illegal settlement, claim water resources, and annex Palestinian land. The location of the barrier is a violation of international law and is thus perceived as a means to pre-empt a just peace. (map 2)*
- *The overwhelming consensus of all (Middle East Study) committee members was that Israel's occupation of the West Bank and Gaza is a sin against God and other fellow human beings.*

These facts on the ground are irrefutable and acknowledged by Israel. The settlement colonies, the bypass roads that connect them, and the separation wall/barrier imprison Palestinians in isolated enclaves, eviscerate the Palestinian economy, and prevent the creation of a viable, contiguous, sovereign, and independent Palestinian state. In adopting this report, The PC (USA) acknowledges these conditions.

#### 2. Israeli Human Rights Violations

The PC(USA) 219<sup>th</sup> General Assembly (2010) reaffirmed "*Israel's right to exist as a sovereign nation within secure and internationally recognized borders in accordance with United Nations resolutions.*" The General Assembly (GA) also recognized the daunting and mounting obstacles to the viability of a "two-state solution," and affirmed with great urgency the historic Presbyterian stances with specific regard to the Israeli-Palestinian conflict, calling for:

- a. *an immediate cessation of all violence, whether perpetrated by Israelis or Palestinians;*
- b. *the end of the Israeli occupation of Palestinian territories and diversion of water resources;*
- c. *an immediate freeze both on the establishment or expansion of Israeli settlements in the West Bank and on the Israeli acquisition of Palestinian land and buildings in East Jerusalem;*
- d. *the relocation by Israel of the Separation Barrier to the 1967 border;*
- e. *the withholding of U.S. government aid to the state of Israel as long as Israel persists in creating new West Bank settlements;*
- f. *continuing corporate engagement through the Committee on Mission Responsibility Through Investment with companies profiting from the sale and use of their products for non-peaceful purposes and/or the violation of human rights;*
- g. *a shared status for Jerusalem;*
- h. *equal rights for Palestinian citizens of the state of Israel;*
- i. *the cessation of systematic violation of human rights by any party, specifically, practices of administrative detention, collective punishment, the torture of prisoners and suspects, home demolitions and evictions, and the deportation of dissidents*
- j. *the immediate resumption by Israel and Palestine of negotiations toward a two-state solution.*

### 3. Calls for action

In addition, The 219<sup>th</sup> General Assembly (2010) adopted the following:

- *Calls on the U.S. government to exercise strategically its international influence, including compliance with international law and peacemaking efforts.*
- *Calls for the allocation of U.S. military aid funds to be contingent on compliance with: (a) the US Foreign Assistance Act of 1961 which prohibits giving assistance to the government of any country which engages in a consistent pattern of human rights violations; (b) the U.S. Arms Export Control Act of 1976 which prohibits using U.S. weapons against civilians and civilian infrastructure, and (c) the U.S. foreign policy insofar as it pertains to recommendations for steps toward peace, in this instance, between Israelis and Palestinians. Expresses its extreme disappointment with the U.S. government that while the State of Israel has been found not to comply with the above statutes, it continues to be the recipient of U.S. military aid.*
- *Strongly denounces Caterpillar's continued profit-making from non-peaceful uses of its products and presses Caterpillar to review carefully its involvement in obstacles to a just and lasting peace in Israel-Palestine and to take affirmative steps to end its complicity in the violation of human rights.*
- *Calls on the Israeli and Egyptian governments to limit their blockade of Gaza solely to military equipment/devices and to guarantee adequate levels of food, medicine, building supplies, and other humanitarian items, and to allow free commercial exchange in and out of Gaza, and calls on the U.S. government to end any support for the blockade that interferes with the adequacy of such items or such exchange.*
- *Calls on the U.S. government to exercise strategically its international influence and the withholding of financial, economic, and military aid to countries other than Israel, as we might with Israel, until such a time as the civil, religious, and other freedoms of their peoples are fully exercised; and to end U.S. taxpayer support for regimes that perpetuate inequality, and popular frustration.*

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## Appendix E

### Responses to those who defend the Israeli government's actions, right or wrong

Those who criticize Israel's actions in the occupied West Bank are sometimes falsely accused by extreme defenders of Israel, right or wrong, as anti-Israel or anti-Semitic. These defenders deflect, confuse, and conflate issues and deny or dismiss the facts on the ground. Those who support this overture may receive such criticism. Below are responses to such criticism.

#### **This overture is not anti-Israel.**

This overture intentionally focuses on Israel's laws, practices, and policies that promote the occupation of Palestinian territories and systematic discrimination within Israel itself. Most critics of Israel also strongly support the right of Israel to exist within the internationally recognized 1967 borders and emphatically condemn violence against civilians by all parties. Israel, like all nations, has the right to provide security for its citizens by taking appropriate measures that are consistent with international law. Holding Israel accountable to these same global standards is not anti-Israel.

Many Israeli and American Jews oppose settlement colonies on Palestinian land, all of which are illegal under international law. Within the Israeli and U.S. Jewish communities there is a growing, active and passionate debate about whether Israel's occupation of the West Bank and Gaza is in the best interest of Israel. Each side in this debate is pro-Israel, trying to discern how to assure a secure, viable, and sustainable state. Christians must support the pro-Israel positions that advocate for human rights and justice for the Palestinian people and reject the positions that promote the systematic oppression of the Palestinian people. When patriotic Americans spoke out against slavery, racial segregation, or the Vietnam and Iraqi wars some Americans falsely accused them of being anti-American. Critics of Israel's occupation of Palestine may also be falsely accused of being anti-Israel, but they are not. They are pro-human rights.

**This overture is not anti-Semitic.**

Anti-Semitism is discrimination against or prejudice or hostility toward Jews. This overture is not critical of Jews as people or of Jewish religion or culture. It intentionally states it is Israel's laws, polices, and practices towards the Palestinian people that constitute apartheid. Many Jewish individuals and human rights organizations in Israel and the U.S. recognize that Israeli actions in the West Bank and Gaza constitute apartheid. Christians must, with confidence, reject any politically motivated charges of anti-Semitism that are made to silence legitimate criticism of Israel's apartheid practices. This kind of hyperbolic language is untrue, harms civil discourse, and serves to hamper efforts to monitor, and prevent Israeli human rights violations. Not engaging in morally responsible action when faced with the clear findings of human rights organizations and the international community is morally indefensible.

**This overture is part of an honest inter-faith dialog between Jews and Christians.**

Building strong interfaith relationships with our Jewish brothers and sisters is important for many Christians and churches. Interfaith conversations encompass social justice issues such as hunger, homelessness, poverty, discrimination, human rights, war, and peace. Israel's policies in occupied Palestine are but one issue. The Jewish community itself is divided on it. An honest dialog ultimately builds stronger relationships while silence erodes them. Through honest dialog we may find some Jewish people who support the occupation and some who agree it must end. We must have confidence that the interfaith relationships we have built on many social justice issues are strong enough to sustain a disagreement on the wisdom of Israel's continued occupation of the West Bank and Gaza. Some relationships may be strengthened and some may be strained, but they are unlikely to break if they are based on mutual respect, honesty, integrity, and the search for the common good.

**Israel's militarily occupation of Palestine is not needed for security reasons.**

At any time since 1967 Israel could have allowed the United Nations to occupy the West Bank and provide security. U.N. peacekeeping missions have been successful in dozens of countries. However, if the U.N. had occupied Palestine to provide security in 1967 or anytime thereafter, it would have preserved the land for residents of a Palestinian state and not allowed Israel to expropriate Palestinian land to build Jewish settlement colonies. Israel does not need to occupy the West Bank for security reasons. It chooses to occupy the West Bank so it can expand its borders and dominate the Palestinian people.

**Is it appropriate to criticize Israel's human rights violations?**

There are human rights violations and injustices in many countries in the Middle East besides Israel, and all such violations should be equally condemned. However, one reason to focus on Israel is that it receives more than one-third of all U.S. foreign aid. Americans therefore have a special responsibility to make sure that money is used to prevent social injustice, not to perpetuate it. Israel is the sixteenth richest country in the world, has the fourth largest army, is the third largest arms producer, the fourth largest nuclear power, refuses to sign the nuclear non-proliferation treaty, and has defied 70 United Nations Security Council resolutions seeking peaceful reconciliation between Israelis and Palestinians. U.S. complicity with Israel obligates us to speak out.

**Why the PC(USA) Should Recognize That Israel's Laws, Policies, and Practices Constitute Apartheid**

Each year the ordeals and injustices suffered by the Palestinian people in the West Bank, Gaza, and Israel continue. Land is expropriated, homes are demolished, and freedom of movement is restricted. The combination of Israeli settlement colonies on Palestinian land, the bypass roads connecting these settlements, and the Separation Wall creates a network of barriers that confine Palestinians to separate reserves and ghettos. The rights to work, education, freedom from arbitrary arrest, peaceful assembly, and freedom of expression granted under international law are restricted or denied.

Many political, social, and religious leaders have looked at Israel's laws, policies, and practices in occupied Palestine and have asserted that they constitute apartheid. The PC(USA) has not been one of those voices. Our silence can be seen as complacency or compliance with the Israeli government actions. It is time to end our silence and give a name to injustices already condemned by many PC(USA) resolutions. In response to the urgent call from our Palestinian Christian sisters and brothers, now is the time for the PC(USA) to recognize that Israel's laws, policies, and practices constitute apartheid against the Palestinian people.

*This proposed overture from the Presbytery of San Francisco to the General Assembly in 2012 is being presented for first reading at the January 31, 2012 presbytery meeting. Additional background on its history is included in the Stated Clerk's report. There will not be floor discussion at this meeting. At the March meeting BOSR will bring this overture to the presbytery for second reading / discussion and vote.*

## **Statement on Housing and the Mortgage Crisis**

**Overture from the Presbytery of San Francisco asking the 220<sup>th</sup> General Assembly of the Presbyterian Church (USA) to:**

- 1) Urge all Councils (Sessions, Synods, and General Assembly) of the PC (USA) to examine their financial ties to large banks that continue to operate against the common good of their communities at the expense of their own parishioners and communities.**
- 2) Urge all PC (USA) entities (including, but not limited to, the Board of Pensions, the Presbyterian Foundation, the Presbyterian Investment and Loan Program, etc.) to examine their financial ties to large banks and Wall Street institutions that continue to operate against the common good and against the Socially Responsible Investment Policies of the General Assembly.**
- 3) Investigate moving monies out of large Wall Street institutions and into local Banks, Saving and Loans and Credit Unions who act in partnership with their depositors instead of financial adversaries.**
- 4) Urge the Congress of the United States to form an independent investigator or commission and fully investigate the links between large banks and the FDIC and the practices put in place that places higher value on foreclosure than modifying existing loans.**
- 5) Ask the General Assembly of the Presbyterian Church, ACSWP and MRTI to find ways for the church at large to respond to this crisis.**

***Background and Rationale:*** As of June 2010, East Contra Costa County, CA was at ground zero of the “housing crisis”. This crisis was triggered by the Government, Wall Street and Banks as the housing market was turned into another vehicle for illusory financial “gain” and “profit” using creative and deceptive loan products which artificially inflated the housing market. When the inevitable bubble burst, the large banks stood back and refused to take any responsibility for the loss in value, instead maintaining that it was the client who should bear the full responsibility of the loss and continue to pay on loans that are now up to 233% of their homes new market value (i.e. current home market value of \$325k on an original loan/market value of \$725K). Banks have refused loan modifications in mass and continue to put corporate profits ahead of community and societal welfare using “legal” tactics at the expense of the greater good in the name of “profit”. The artificially created mortgage market heated up the housing market as Gov. and Wall Street created/pushed ever more “creative” and risky loan products causing home prices to be inflated far past their intrinsic or sustainable value. The borrowers were lent money based on the value of the property WHEN

PURCHASED (therefore on an artificially high price and appreciation rate to start with) and the home was taken as collateral by the lender *as an appreciating asset*. If the lender was not forming a business relationship based on the value of the property, then they would not have insisted on the home as collateral. When the bubble burst and home prices fell precipitously the lenders have refused to take any responsibility for the loss of value in the asset, that they approved and accepted via formal appraisal (again artificially high due to artificial demand created by their own loan products), and are instead leaving the loss of value 100% on the shoulders of the homeowners. How can this possibly be fair to the business partner called the "Homeowner"? If the banks would revalue the asset and split the "loss" 50% with the borrower while locking in a current fixed rate this would share the burden and responsibility of the loss while re-setting the market and leveling the playing field. Instead the lenders are only focusing on their own balance sheets and refusing to share any responsibility for the losses. These "losses" are write-offs for the corporations but the homeowners do not have the same option, except to emulate the banks and walk away from depressed or non performing assets. When banks do this they call it "Strategic Default", when homeowners do it the bank's call it "immoral" and "walking away".

Banks are refusing loan modifications on the same homes that they went into financial partnership on with their borrowers on the basis that the same home no longer has enough "equity" for them to loan money on and they refuse to lower the existing interest rate or reduce the principle even though they already hold the mortgage on the same property at a higher and increasingly punitive interest rate. Analysis of these homes shows it will take approximately 10 to 15 years for many of these homes to approach a "break even" point for these homeowners. These homes hold an unsustainable mortgage rate that is increasing the payment, based on the original loan when the appreciation of the home was in double digits, dramatically above the original rates. The banks refuse to even lock in the current existing rates that new applicants enjoy and even when the existing borrowers would be willing to continue to pay on hundreds of thousands of dollars in "blue sky", or illusory, equity in order to stay in their homes. Current interest rates under 5% are simply unavailable to existing homeowners.

As of June 2010, the large banks have completed approximately 10% of those eligible under Federal Guidelines for loan modifications. Many thousands have been given "Trial Modifications" only to find that at the end of the 90 day period, despite having made all payments on time, that they are told "sorry, you no longer qualify, "we have lost your paperwork", or "we have canceled your loan modification at YOUR request," despite written contracts and instructions from the banks stating otherwise. In one case when the written contract was called to the attention of the bank's loss mitigator, the client was told "yes we did send that contract and yes you did comply with all requirements, however, we were never bound by the contract because we "did not SIGN it". These stall tactics and deceptive practices only exacerbate the problem and, apparently, are done to collect partial payments from the clients while the banks wait for the market to recover and THEN foreclose on the property to maximize their profit.

Many banks sold their toxic assets to investor groups while other larger banks or independent investor groups with the "help" of the Government, acquired them from failed banks by way of the FDIC, at 70% of par value and received a "loss share agreement or LSA" from the FDIC for 80% to 95% of any loss taken on those loans based on their ORIGINAL value. Banks are therefore financially incentivized NOT to make loan modifications to clients and instead foreclose and sell at the current market price or accept a short sale market offer as both events trigger the LSA. In actual cases the banks pocket over \$100K than originally paid for the asset. Finally, as a last insult, under the threat of financial ruin, the banks force the borrowers into personal notes for some or all of the difference between the loan value and the short sale price.

These tactics of placing corporate profits ahead of the general welfare of the country stand against the principle's of honest dealing, fair play and ethical conduct expected by our country's founding documents, as well as biblical scripture and other inspired documents through the ages. Community groups and faith leaders have been turned away when attempting to contact large bank CEO's on behalf of their communities.

Since the summer of 2010, the foreclosure nightmare has continued for millions of Americans. The following from Marian Wang of ProPublica, Dec 27, 2011 as part of [www.ProPublica.org](http://www.ProPublica.org)'s on-going coverage.

*"If last year was the year in which faulty foreclosures and bank errors became a full-blown scandal, this has been the year of waiting for something to be done about it. First, there's the still-to-come multi-state settlement over alleged fraud on the part of the country's five largest mortgage servicers. That's the settlement being brokered by a coalition of state attorneys general and once touted as homeowners' best bet for redressing banks' flaws in foreclosure and mortgage documentation. Over the past year, one story after another declared such a deal was imminent, but the details – the total price tag, the deal's framework, and the expected date -- have continually been changing.*

*Earlier this month, the Des Moines Register reported Iowa Attorney General Tom Miller -- a point man for the attorneys' general probe -- as saying that the final deal should be complete before Christmas and would include a measure to reduce the total debt owed by underwater homeowners. No deal has yet been announced. Miller wouldn't disclose a dollar figure on the size of the settlement -- or whether California, one of the hardest-hit states, would participate.*

*Finally, it bears mentioning that despite the efforts on both the federal and state level to address the systemic failures of banks and mortgage servicers, errors are continuing -- and they're still causing wrongful foreclosures."*

According to the Governments own figures, of 1,639,382 Trial Modifications started the banks have only made permanent 40.1% and have canceled over 46%. This does not take into consideration the millions more loans that were not deemed "qualified" to begin a trial mod at any price because they had "lost" too much of their value. i.e. negative equity typically beyond 20% or where the loan product was not "covered". Additionally, there has been documented mortgage fraud, both with the origination of some loans and the practice calling "robosigning" where notary publics have fraudulently signed loans at a later date when the original paperwork was not to be found.

From 2007 to June 2010 an estimated 2.36 MILLION homes have been repossessed by foreclosure. (RealtyTrac data)

According to CNN for the year 2011 over 50,000 homes per MONTH were being foreclosed upon by banks. (CNNMoney December 15, 2011).

Outgoing Federal Deposit Insurance Corporation Chairwoman Sheila C. Bair's exit interview by the New York Times included this statement. Bair said that the mortgage's industry's reluctance to provide mortgage modifications stems in part from the industry's "disdain for borrowers." ***"I think some of it was that they didn't think borrowers were worth helping,"*** she said. (NYT via [www.ProPublica.org](http://www.ProPublica.org) July 13, 2011)

In 2011 many local communities and Church groups have banded together or acted unilaterally and removed millions of dollars of deposits from the large banks that continue to act only on behalf of their profit motive. Most Holy Trinity Catholic Church has closed accounts with Bank of America totaling over \$3 Million dollars. Other churches are following suit and groups such as PACT – People Acting in Community Together as part of PICO are helping to lead the Bank and Housing Accountability actions across the nation.

With this information the writers re-affirm our commitment to the Statement on Housing and the Mortgage Crisis and ask that it be included in the GA 220 actions in the summer of 2012.

PC (USA) Congregations and their collective influence controls or influences literally billions of dollars of investments and holdings with the large commercial banks across the country and around the world. It is the history of PC (USA) to stand against financial tyranny and against profiting from the suffering of others. The Mortgage Crisis was created and driven by greed, profiteering at the expense of our citizens and communities and constructive fraud which is still to be adjudicated through the court systems. When such organizations as the major banks, Wall Street Investment have lost their moral center it is incumbent upon us to investigate other avenues of investment that support our communities and support those organizations that work for the betterment of our all of our people and all of our communities.

**The American financial system has lost its moral center. It's time to turn over the tables of the moneychangers, and insist that they be good corporate citizens.**

*Resources on Foreclosure Prevention & Neighborhood Stabilization:*

- 1) Fighting Preventable Foreclosures - [www.CrimeShouldntPay.com](http://www.CrimeShouldntPay.com)
- 2) Investing the Public's Money in Responsible Banks - [www.MakeWallStreetPay.org](http://www.MakeWallStreetPay.org)
- 3) Pass a Responsible Banking Ordinance in your City - <http://www.piconetwork.org/action/0011>

Other Links - [www.moveyourmoney.info](http://www.moveyourmoney.info), [www.cissco.org](http://www.cissco.org), [www.ourmoneyourvalues.org](http://www.ourmoneyourvalues.org)