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**Human rights situation in Palestine and other
occupied Arab territories**

Written statement* submitted by International Bar Association, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2021]

* Issued as received, in the language(s) of submission only.



International Bar Association Human Rights Institute (IBAHRI) 47th Session of the Human Rights Council on the Human rights situation in Palestine and other occupied Arab territories- Written Statement

In light of the HRC's review of the human rights situation in Palestine and other occupied Arab territories, the IBAHRI would like to comment on the outcome document and strongly condemn the disregard to civilian safety, and the flagrant violation of international humanitarian law by the Israeli Defence Force and Hamas; and numerous human rights violations by the Israeli government following the eviction threats against Palestinians in Sheik Jarrah. And address the root causes of the Israel-Palestine crisis.

Unlawful evictions and discrimination in property rights (right to non-discrimination, adequate housing and self-determination)

The IBAHRI is deeply concerned over the unlawful and forced evictions of Palestinians in Sheik Jarrah and Silwan, Occupied East Jerusalem, which would render Israel in violation of human rights and humanitarian law, under claims of ownership pre-dating the 1948 Israeli-Arab war. These evictions, which triggered recent unrest in the region, serve as a litmus test of the widespread pattern of systematic expulsion of Palestinian from East Jerusalem and also highlights settler expansion in other areas in the occupied Palestinian territories, violating principles of the rule of law, and the right to non-discrimination and adequate housing.

The IBAHRI recognises that the rulings permitting the evictions stem from an unlawful extension of the Israeli civil legal system into East Jerusalem, thus lacking legal authority over Palestinian residents. Moreover, this unlawful extension has facilitated the application of inherently discriminatory laws and policies, namely the Absentee Property Law and the Legal and Administrative Matters Law, which enables the confiscation of Palestinian private property in East Jerusalem, even if they are citizens of Israel, further enabling the unlawful expansion of Israeli settlements, which is illegal under international law.

The IBAHRI is concerned over the violations to the right to adequate housing and non-discrimination, and the severe deterioration of the rule of law, resulting in these policies decreeing that certain Israeli citizens have fewer rights, leading to severe and unfair legal repercussions, based on their race and religion, rendering these laws racially discriminatory under international law and reminiscent of Apartheid policies. It has led to emboldened far-right groups attacking Israeli-Palestinian citizens, particularly in the context of 'home invasions' and forced extrajudicial evictions.

According to the UN's fact sheet on the right to adequate housing,¹ discrimination can take the form of discriminatory laws, policies or measures; zoning regulations; exclusionary policy development; exclusion from housing benefits; denial of security of tenure; lack of access to credit; limited participation in decision-making; or lack of protection against discriminatory practices carried out by private actors. In general comments No. 4 (1992) on the right to adequate housing,² the Committee on Economic, Social and Cultural Rights stressed the importance of addressing this type of discrimination stating that States have an obligation to prohibit and eliminate discrimination on all grounds and ensure de jure and de facto equality in access to adequate housing and protection against forced eviction.

The IBAHRI further indicates that these evictions coincide with an unprecedented level of settler expansions in the West Bank, where in 2020, 12,159 housing units were constructed

¹ https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf.

² UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), 13 December 1991, E/1992/23.

in illegal settlements, raising the total to 23,696 since 2009.³ This further undermines the right to self-determination enshrined in the United Nations Charter and Article 1 of the International Covenant on Civil and Political Rights (ICCPR), undermining the viability of a functional Palestinian State.

In East Jerusalem and the West Bank, the legal system is routinely used by the state to exclude and/or displace Palestinian families from their land and homes, including through the demolition of houses for lacking Israeli building permits, which are virtually impossible to obtain, the designation of Palestinian land as ‘firing zones’, or through claims brought forward by Israeli settlers, that lack legal jurisdiction and merit.⁴

The IBAHRI asks that Israeli authorities comply with their international human rights obligations by:

1. Removing the threat of eviction from Palestinians residing in Occupied East Jerusalem,
2. Annulling all discriminatory legislation from its laws, particularly the Absentee Property Law and the Legal and Administrative Matters Law,
3. Respecting the property rights and the right to adequate housing of Palestinian families through legislative amendments.

Right to peaceful assembly

The IBAHRI is also concerned about reports of Israeli security forces’ disproportionate use of force against peaceful protestors, and the arbitrary arrest and detention of thousands of people, following widespread protests in East Jerusalem and the West Bank, triggered by the eviction threats. Security forces used tear gas cannisters, rubber coated bullets, and live ammunition to disperse demonstrators. This also includes police crackdowns at the Al-Aqsa mosque which targeted both protestors and worshippers alike, violating religious freedom and the principle of non-distinction.

The IBAHRI welcomes the adoption of General Comments No. 37 (2020) on the right to peaceful assembly, which holds that ‘Any use of force must comply with the fundamental principles of legality, necessity, proportionality, precaution and non-discrimination applicable to articles 6 and 7 of the Covenant, and those using force must be accountable for each use of force.’⁵ Domestic legal regimes on the use of force by law enforcement officials must be brought into line with the requirements enshrined in international law, guided by standards such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement.⁶

Right to Freedom of information, expression and media freedom

The IBAHRI is gravely concerned over the targeting of journalists, media outlets and social media users publishing information regarding human rights violations in the OPT and the Gaza Strip. During the recent unrest in Gaza, the Israeli Defence Force targeted and destroyed the Al-Jalaa Tower, housing the offices of Al-Jazeera, Associated Press and other media outlets,⁷ violating the right to freedom of expression, and access to information, enshrined in Article 19 of the International Convention of Civil and Political Rights

³ <https://peacenow.org.il/en/4948-settlement-units-advanced-at-october-2020-higher-planning-council-sessions>.

⁴ https://www.hrw.org/sites/default/files/media_2021/01/2021_hrw_world_report.pdf.

⁵ General comment No. 36(2018) on the right to life, paras. 13–14.

⁶ United Nations publication, Sales No. E.20.XIV.2. See also the Code of Conduct for Law Enforcement Officials.

⁷ <https://www.aljazeera.com/news/2021/5/17/ap-amnesty-and-rsf-call-for-icc-probe-over-israeli-strikes>.

(ICCPR), sending a chilling message to media reporting on the violence. Media outlets and human rights organisations have accused Israel of attacking press freedom and attempting to silence journalists in the region, such as in 2014, reports indicated that “indiscriminate attacks on media buildings have been a significant feature” of Israel’s military offensive in the Palestinian territory that year, revealing a pattern of targeting media freedom.⁸

Furthermore, the IBAHRI recognises the trend of social media platforms targeting and censoring users in Palestine, and globally, who have uploaded and shared video content and images regarding human rights abuses in the OPT, especially during the eviction threats in Sheik Jarrah by Facebook.⁹ The latest content takedowns is recognised as part of a wider pattern of consistent censorship of Palestinian and allied voices through systematic efforts to silence such information, which civil society organizations have documented for years. Similar past cases related to takedown of Palestinian speech on these platforms have been attributed to requests by Israel’s Cyber Unit, an internet referral unit tasked with submitting ‘voluntary’ requests to social media companies for content removal. Reports revealed that Facebook complies with 95 per cent of Israel’s request that the Israeli government has deemed capable of inciting violence,¹⁰ however, Jewish Voice for Peace has reported that this reason is used as a pretext to disproportionately and discriminatorily target and muzzle legitimate Palestinian expression and support.¹¹

The IBAHRI calls on authorities to comply with their international human rights obligations by:

- 1) Respecting and fulfilling its obligations under the international human rights treaties regarding the right to self-determination, adequate housing, right to information, freedom of expression, press freedom and peaceful assemblies;
- 2) Allow independent journalists and the media to conduct their work without fear of targeting, intimidation, harassment, arbitrary attacks and arrest;
- 3) Undertaking full, impartial, independent and effective investigations into allegations of human rights violations against all, including journalists, media workers and social media users attacked or censored in the course of executing their professional duties;

⁸ <https://www.alhaq.org/advocacy/6616.html>.

⁹ https://balfourproject.org/instagram-censoring/?utm_source=rss&utm_medium=rss&utm_campaign=instagram-censoring.

¹⁰ <https://www.reuters.com/article/us-israel-socialmedia-idUSKCN11I247>.

¹¹ <https://jewishvoiceforpeace.org/wp-content/uploads/2020/09/FB-censorship-report.pdf>.