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**Racism, racial discrimination, xenophobia and related
forms of intolerance: follow-up to and implementation
of the Durban Declaration and Programme of Action**

Joint written statement* submitted by Al-Haq, Law in the Service of Man, Palestinian Centre for Human Rights, non- governmental organizations 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.

[23 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Israel's Land Title Settlement in Eastern Jerusalem: A Plan to Cement Israel's Illegal Annexation of Jerusalem

In May 2018, the Israeli government passed resolution no. 3790, entitled “reducing economic and social disparities and promoting social development in East Jerusalem.”¹ Thereupon, the Israeli government approved the allocation of \$650 million to strengthen its sovereignty in occupied Jerusalem. Under the clause “Planning and Registration of Land”, \$16 million will be dispensed for a land title settlement, according to which, all land in annexed eastern Jerusalem will be registered in the Israeli land registrar by the end of 2025.

The resolution was adopted, “[i]n light of the need to integrate the Arab residents of East Jerusalem into the Israeli society and economy.” This ‘need’ is not what Palestinians wish for themselves, but rather the illegal acts of Israelis to seize control over and appropriate more Palestinian property. This effectively fragments the Palestinian people through the application of a settler-colonial and apartheid system, preventing the realization of the Palestinian people’s right to self-determination and permanent sovereignty, return and property restitution. Through the Jerusalem land title settlement, Israel is applying its domestic law to occupied Jerusalem,² further entrenching illegal annexation.

Since 1967, Israel has interrupted the land title settlement carried out by Jordan, which was leasing land to Palestinians,³ leaving 90% of the land without land title. Meanwhile, Israel confiscated approximately 35% of Palestinian land, to build illegal Jewish settlements that house today 220,000 illegally transferred in colonial Jewish settlers incentivized by the Israeli government, in violation of international law.⁴ The process has already started in Palestinian neighbourhoods, including Beit Hanina, Sur Baher, Sheikh Jarrah, Issawiya, Hizma and At-Tur, among others.⁵ Many of the lands that are going through the Israeli land title settlement are located in strategic areas, where Israel is advancing plans to build illegal settlements in Jerusalem, or where illegal settler activity is already taking place by private settler associations.

Implications of applying the Israeli laws on the land title settlement process

Israeli land title settlement and registration is based on a set of discriminatory Israeli property laws, including the Israeli Land Settlement ordinance (1969), the Absentee Property law (1950), the Legal and Administrative Matters ordinance (1970) and other tax law provisions to be levied retroactively since 1967, which are designed to dispossess Palestinians and transfer their properties to the permanent possession of Israel. Thus, further judaizing the city, through expanding Jewish settlements and forcibly transferring the indigenous occupied Palestinian population.⁶

The first challenge is the 1950 Absentee Property Law. Accordingly, any person who is the legal owner of properties inside the Green Line, at any time between 29 November 1947 and the day on which the end of the state of emergency shall be declared (which is still in effect until this day), but who fled or was expelled or abandoned their normal place of residence, regardless of whether they returned, in the course of the 1948 Nakba, is determined an Absentee who forfeited their claims to their lands.⁷ Property is then classified as absentee property and transferred to the Custodian of Absentee Property, an Israeli officer, who automatically retains rights of possession.⁸ This effectively means that when examining the chain of title, it is enough for one transaction to be held with an individual who fits the definition of an ‘Absentee’, for the property to pass to the possession of the Custodian of Absentee Property. This law also affects Palestinians who never left their homes, but due to Jerusalem’s annexation and the redrawing of its municipal boundaries, ended up officially outside the Green Line, with their properties subject to confiscation.

Second, the application of Israel’s 1970 Legal and Administrative Matters Law, which addresses the question of Jewish property prior to 1948, transfers all properties allegedly owned by Jews in annexed eastern Jerusalem that came under the administration of the Jordanian Custodian of Enemy Property to the Israeli General Custodian. The Custodian is then allowed to release the property to the ownership of the alleged original Jewish owner,

or to whoever comes in their place, upon their request.⁹ The law applies only to Jews, while denying Palestinians the same for properties they lost in 1948 Nakba and 1967 Naksa, despite the fact that Jews who allegedly lost property prior to 1948 received compensation from the Israeli government in the form of property in western Jerusalem, thereby effectively making them eligible for compensation twice.

Proving property rights in eastern Jerusalem is very complicated due to, inter alia, having some title deeds and property documents located in Türkiye (during Ottoman era), others are in Amman (during Jordanian rule over the West Bank), and obtaining these documents is complicated and expensive. Inability to prove ownership over a piece of land will automatically convert it into an Israeli state property.¹⁰

Palestinians who manage to prove their ownership over a piece of land are required to pay taxes retroactively, from 1967. Israel levies taxes on the properties prior to registration and, in some cases, the sum of the taxes may even reach the value of the asset itself and, if not paid, the asset may be seized by the tax authorities. This stands in stark violation of articles 48 and 49 to the Hague regulations, which oblige the Occupying Power to collect tax in accordance with the rules of assessment and incidence in force, and allocate the money collected for the administration of the occupied territory.

The Occupying Power is merely a temporary administrator of the occupied territory until occupation ends.¹¹ The Occupying Power is prohibited from confiscating private property.¹² Settlement of land titles and registration of land is not a temporary act of administration- it is a permanent act of an irreversible nature.

The Israeli land title settlement and registration plan is being carried out in violation of Palestinian property rights,¹³ and will result in the mass appropriation of Palestinian property in eastern Jerusalem, amounting to grave breaches of the Geneva Conventions, war crimes and crimes against humanity.¹⁴

Conclusion and recommendations

Israeli land title settlement is a political tool to entrench Israel's annexation of Jerusalem, aimed to dispossess, displace and fragment the Palestinian people in order to establish a Jewish majority. It carries procedural and financial burdens that Palestinians will not be able to bear, ultimately creating coercive environments to force their transfer from Jerusalem, and the denial of their right to return and to self-determination.

Accordingly, we call on the Council and Member States to:

- I. Recognise and declare that Israel through its laws, policies and practices has created and maintains an institutionalised regime of racial domination and oppression over the Palestinian people as a whole, amounting to the crime of apartheid;
- II. Recognise and declare that the land title settlement in annexed Jerusalem violates Israel's obligations under international law, and that if carried out, all its findings are invalid as an internationally wrongful act and all its conclusions are null and void;
- III. Call on Israel to immediately cease the application of the land title settlement in Jerusalem and repeal all laws it has enacted to further its policy of Palestinian population transfer and maintaining a Jewish majority in Jerusalem in violation of Palestinians' fundamental rights, including their right to self-determination and right to return and reclaim their properties, including the 1950 Absentee Property Law, and the 1970 Legal and Administrative Matters Law.

The Civic Coalition for Palestinian Rights in Jerusalem Addameer Prisoner Support and Human Rights Association, NGO(s) without consultative status, also share the views expressed in this statement.

1. Reducing economic and social disparities and economic development in East Jerusalem, Resolution No. 3790, 2018, available at: https://www.gov.il/he/departments/policies/dec3790_2018.
2. Article 43, Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (The Hague, 18 October 1907).
3. United Nations Security Council (UNSC) Res 242 (22 November 1967) UN Doc S/RES/242; United Nations Security Council (UNSC) Res 252 (21 May 1968) UN Doc S/RES/252.
4. Office of the European Union representative, Six-Month Report on Demolitions and Seizures in the West Bank, including East Jerusalem Reporting Period: 1 January – 30 June 2020, 2020, p.2, available at: https://www.un.org/unispal/wp-content/uploads/2020/11/EUDEMPT_181120.pdf.
5. See The Status of Governmental Resolution, 2019, p.34, available (in Hebrew) at: https://www.gov.il/BlobFolder/news/matmedet-3790-2019/he/EatJer_NotebookA4_E_DIGITAL.pdf
6. Al-Haq, 'Annexing a City' (11 May 2020) 31 < <https://www.alhaq.org/publications/16855.html>>.
7. The Absentee Property Law 5710-1950, Laws of the State of Israel No. 37, 20 March 1950, p. 86, section 1(b), ('Absentee Property Law').
8. Absentee Property Law, sections 10, 11.
9. Art. 5, 1970 Legal and Administrative Matters Law.
10. Land Title Settlement Ordinance [New version], Art. 22, 1969, available at: https://www.nevo.co.il/law_html/law01/286_031.htm#Seif22.
11. Art. 55, The Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, (18 October 1907).
12. International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, 2005, Volume I: Rule 51, available at: <https://www.refworld.org/docid/5305e3de4.html>.
13. The United Nations, Universal Declaration of Human Rights, 1948, art. 17.
14. Article 147, Fourth Geneva Convention (1949); Rome Statute of the International Criminal Court, (last amended 2010), 17 July 1998, art. 8(2)(a)(iv); art. 7(1)(d).