



# General Assembly

Distr.: General  
31 August 2017

English only

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## Human Rights Council

Thirty-sixth session

11-29 September 2017

Agenda item 7

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

### **Joint written statement\* submitted by the ADALAH - Legal Center for Arab Minority Rights in Israel, the Al-Haq, Law in the Service of Man, 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.

[18 August 2017]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.17-15185(E)



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## Israel's Punitive Revocation of Residency Status from Palestinians from East Jerusalem and Revocation of Citizenship from Palestinian Citizens of Israel\*

### I. Residency revocation

Since 1967, Israel has revoked the “permanent residency” status of more than 14,500 Palestinians from occupied East Jerusalem for purportedly administrative reasons (such as the so-called ‘center of life’ policy), and has consistently expanded the criteria for such revocations. These policies seek to rid Palestinians from the city and attain an Israeli-Jewish majority, in violation of international law.

Israel has claimed that it may revoke the residency of a Palestinian for “breach of allegiance to the state of Israel.” In 2006, the Israeli Minister of Interior punitively revoked the permanent residency of three members of the Palestinian Legislative Council (PLC) and a former Palestinian Authority (PA) Minister of Jerusalem. The Interior Minister argued that due to their election and membership in a “foreign parliament” and political affiliation with the Hamas party, these four political representatives had “severely violated their minimal obligation of loyalty to the State of Israel.”<sup>1</sup> The Interior Minister then argued that he was within his discretionary powers to revoke their residency under the Entry into Israel Law, de facto expanding the criteria that were used until then to revoke Palestinians’ residencies in Jerusalem.<sup>2</sup> The four representatives filed a petition before the Israeli Supreme Court in 2006 (*H.C. 7803/06, Khalid Abu Arafah et al. v. Minister of Interior*), and their case is still pending.<sup>3</sup> It is important to note that according to the Oslo Accords, Palestinians from Jerusalem have the right to vote and be elected to the PLC.<sup>4</sup>

During a wave of violence that began in September 2015, the Israeli Security Cabinet issued measures allowing for the residency revocation of alleged “terrorists”<sup>5</sup>; no definition for the term “terrorist” was provided, nor was there a guarantee of due process. Following these measures, the Interior Minister revoked the residency of four Palestinians from Jerusalem for “breach of allegiance” in January 2016, three of whom were accused of throwing stones which allegedly led to the killing of a driver. Abed Dwayat, the main suspect, was convicted of manslaughter and received a prison sentence of 18 years in November 2016. Israeli prosecutor Lizu Wolfus described Dwayat’s sentence as unprecedented and as “the gravest [sentence] given to someone convicted of manslaughter using a rock.”<sup>6</sup>

In January 2017, in a worrying precedent, Israel revoked the residency of Manwa Qunbar, the mother of alleged attacker Fadi Qunbar. Although her residency was revoked for “administrative” reasons and not for “breach of allegiance,”<sup>7</sup> the Interior Minister informed her that he intended to revoke her residency “following the severe attack which was carried out two days ago in the Armon Hanatziv neighborhood.” Further, the Minister publicly declared that: “From now on anyone who plots, plans or considers carrying out an attack will know that his family will pay a heavy price for his deed. The consequences will be harsh and far-reaching, like the decision I made regarding the mother and relatives of the terrorist who perpetrated the attack in Armon Hanatziv in Jerusalem.”<sup>8</sup>

Ms. Qunbar’s case represents a significant escalation in that it targets the residencies of family members of alleged Palestinian attackers. In January 2016, a Likud Member of Knesset proposed a bill which would grant the Interior Minister authority to revoke the residency of persons who committed or are suspected of having committed an attack against Israel, or of their family members (spouses, parents or children). The bill was reintroduced in January 2017.

<sup>1</sup> See: [http://mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/Removal\\_Jerusalem\\_residency\\_Hamas\\_representatives\\_28-Jun-2010.aspx](http://mfa.gov.il/MFA/AboutIsrael/State/Law/Pages/Removal_Jerusalem_residency_Hamas_representatives_28-Jun-2010.aspx).

<sup>2</sup> Article 11(a)(2), Entry into Israel Law, 5712-1952.

<sup>3</sup> See: <https://www.adalah.org/en/content/view/6802>.

<sup>4</sup> See: [http://almashriq.hiof.no/israel/300/320/327/interim\\_self\\_gov.html](http://almashriq.hiof.no/israel/300/320/327/interim_self_gov.html).

<sup>5</sup> See: <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokeJerusalem240915.aspx>.

<sup>6</sup> See: <http://www.ynetnews.com/articles/0.7340.L-4882060.00.html>.

<sup>7</sup> The Interior Minister claimed he was cancelling Qunbar’s residency because she provided false information in her application for family unification in 1988, and that she was in a bigamous marriage.

<sup>8</sup> See: <http://www.haaretz.com/israel-news/.premium-1.764202>.

## **II. Citizenship revocation**

In addition, the Interior Minister has recently used a 2008 amendment to the Citizenship Law (1952) to request the citizenship revocation of a Palestinian citizen of Israel for “breach of loyalty.”

In August 2017, in a precedent-setting case, the Haifa District Court ruled in favor of the Interior Minister’s request to revoke the citizenship of Mr. Alaa Zayoud, a Palestinian citizen of Israel from the town of Umm al-Fahem.<sup>9</sup> Mr. Zayoud was sentenced to 25 years in prison after being convicted of an attempted murder. This is the first time an Israeli court has ruled to revoke an individual’s citizenship. If implemented, Zayoud would become stateless.

Citing the arguments of the Israel Security Agency (ISA), the judge claimed that persons (like Zayoud) who were born to a Palestinian citizen of Israel and a Palestinian resident of the OPT, and who were joined by family unification in Israel, “*still retain a Palestinian identity and they see the State of Israel as an enemy state that is in conflict with their people.*”<sup>10</sup> The judge continued: “*Under such circumstances, ‘second generation children of family unification’ live with an ‘identity tension’ between different societies. That leads to Palestinian loyalty and nationalist triggers which increase their willingness to carry out acts of terror.*” The judge therefore held – remarkably – that citizenship revocation was a reasonable method to deter Palestinians from carrying out attacks.

The application of the “breach of loyalty” criteria is used and threatened against Palestinian citizens of Israel in a selective and discriminatory manner. A number of serious incidents in which Jewish citizens attacked or killed Palestinian citizens of Israel or other Jewish Israelis have not resulted in any requests for citizenship revocation.<sup>11</sup> In 1996, the Israeli Supreme Court rejected a request to revoke the citizenship of Yigal Amir, who assassinated then-Prime Minister Yitzhak Rabin in 1995. In that case, the court ruled that the criminal justice system is the accepted method by which to address criminal violations, stating that “*society has expressed its reservation about this brutal murder, but that is no reason to revoke Amir’s citizenship, not because of the killer’s dignity, but because of the dignity of that right [to citizenship].*” Moreover, the Interior Minister did not request the citizenship revocation of the three Jewish Israelis convicted in the murder of Muhammad Abu Khdeir (a 16-year-old Palestinian boy from East Jerusalem who was beaten and burned to death), or the Israeli arsonists that killed three members of the Dawabsheh family in the West Bank village of Duma.

## **III. Illegality under international law**

Both the punitive revocation of residency and citizenship constitute severe violations of international law. International humanitarian law (IHL) prohibits the treatment of an occupied population as if it has a duty of loyalty to the occupying power. Article 45 of the Hague Regulations states that “*it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power*”, and Article 68(3) of the Fourth Geneva Convention affirms: “*(...) the fact that since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.*” Further, as the occupying power, Israel may not act as a sovereign legislator or extend its own legislation over occupied territory.<sup>12</sup>

Israel uses residency revocations to forcibly transfer Palestinians from Jerusalem, which is a grave breach of Article 49 of the Fourth Geneva Convention and a war crime under the Rome Statute of the International Criminal Court. Further, revoking the residency of Palestinians based on the alleged offenses of a family member amounts to collective punishment, in violation of Article 33 of the Fourth Geneva Convention, which affirms: “*No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited ... Reprisals against protected persons and their property are prohibited.*”

The punitive and discriminatory revocation of citizenship from Palestinian citizens of Israel is prohibited by the UN Declaration of Human Rights, the Convention Relating to the Status of Stateless People, and the Convention on the

<sup>9</sup> Administrative Petition 57857-05-16, Interior Minister v. Alaa Zayoud (Haifa District Court).

<sup>10</sup> See Adalah: <https://www.adalah.org/en/content/view/9182>; +972 Magazine: [972mag.com/the-israeli-judge-who-decided-certain-arabs-are-predisposed-to-violence/129132/](http://972mag.com/the-israeli-judge-who-decided-certain-arabs-are-predisposed-to-violence/129132/).

<sup>11</sup> See: <https://www.adalah.org/en/content/view/9123>.

<sup>12</sup> Art. 43 Hague Regulations; Art. 64(2) Fourth Geneva Convention.

Reduction of Statelessness. Article 8(1) of the latter treaty, which Israel signed in 1961, states that “*a Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless.*” Citizenship revocation has further grave consequences as the right to citizenship is the basis for other constitutional and human rights, including political participation and socio-economic rights.

We therefore urge the UN Human Rights Council to act in accordance with international law and to:

- Urge the Israeli government to reverse its decision on the punitive revocation of residency of the three Palestinian parliamentarians and the Minister of Jerusalem;
- Demand the reinstatement of all permanent residencies and citizenships of Palestinians revoked by Israel for punitive reasons;
- Pressure Israel to cancel the 2008 amendment to the Citizenship Law and/or not to apply it; and
- Immediately stop all measures of collective punishment against the Palestinian population both in the OPT and inside Israel.

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\* Community Action Center (Al Quds University), NGO without consultative status, also shares the views expressed in this statement.