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## Human Rights Council

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Agenda items 2 and 3

### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Joint written statement\* submitted by Al-Haq, Law in the Service of Man, Al Mezan Centre for Human Rights, 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.

[1 February 2021]

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



## The Ongoing Nakba: Israel's Forcible Transfer Policies Continue Amidst COVID-19

Since the start of the Nakba in 1948, when 85 per cent of the Palestinian people were forcibly displaced and dispossessed from their homes,<sup>1</sup> Palestinians continue to experience an ongoing-Nakba and Israeli violations of their rights, chiefly Israel's persistent denial of the Palestinian inalienable right to self-determination, including the right to return and other violations and policies tailored to forcibly transfer Palestinians, replacing them with Israeli settlers, to maintain Israel's colonial enterprise.

Despite the fact that adequate housing is "the front line in the fight against the coronavirus disease (COVID-19) pandemic, as demonstrated by stay-at-home and lockdown orders,"<sup>2</sup> and recalling that "[t]he global pandemic has increased the needs and vulnerabilities of Palestinians, who are already trapped in the abnormality of prolonged military occupation,"<sup>3</sup> Israel continues to implement its discriminatory and unlawful policies and practices, which are intended to foster a coercive environment to force their transfer, and to maintain Israel's settler-colonial system.<sup>4</sup>

### Forcible Displacement in occupied East Jerusalem through the 1970 Legal and Administrative Matters Law

Occupying and illegally annexing East Jerusalem in 1967, Israel unlawfully extended the application of its own domestic legislation to the territory it occupies, further displacing the Palestinian people and appropriating their property. To cement Palestinian dispossession and displacement in East Jerusalem, Israel enacted the Legal and Administrative Matters Law in 1970, which exclusively allows Jews to pursue claims to land and property allegedly owned by Jews in East Jerusalem before the establishment of the State of Israel in 1948.<sup>5</sup>

Accordingly, Jewish entities with unclear legal status secured land ownership in Batn Al-Hawa neighbourhood in Silwan and Karm Al-Ja'ouni neighbourhood in Sheikh Jarrah under the 1970 Legal and Administrative Matters Law and later sold their ownership rights or transferred their management to settler organisations, which do not have ties to the original alleged Jewish owners. In turn, the settler organisations, which envision further settlement expansion in these areas, have been filing eviction lawsuits against Palestinians before Israeli courts.<sup>6</sup>

In Karm Al-Ja'ouni neighbourhood in Sheikh Jarrah, eight families, which consists of 19 household of 87 Palestinians, including 28 children, are at imminent risk of forced eviction,

<sup>1</sup> Salman Abu-Sitta, "The Right of Return: Sacred, Legal and Possible" in Naseer Aruri (ed) *Palestinian Refugees: The Right of Return*, Pluto Press, 2001, p. 195.

<sup>2</sup> Office of the United Nations (UN) High Commissioner for Human Rights, "Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context," 27 July 2020, UN Document A/75/148.

<sup>3</sup> UN Office for the Coordination of Humanitarian Affairs (OCHA), "Unlawful Demolitions in the West Bank Spike During COVID-19 – Statement by Humanitarian Coordinator Jamie McGoldrick", 10 September 2020, at: <https://www.ochaopt.org/content/unlawfuldemolitions-west-bank-spike-during-covid-19>.

<sup>4</sup> Al-Haq, *Law in the Service of Man (Al-Haq)*, "On World Habitat Day, COVID-19 Accentuates Threats to the Palestinian Environment," 5 October 2020, at: <https://www.alhaq.org/advocacy/17393.html>.

<sup>5</sup> Legal and Administrative Matters Law, 5730-1970, at: [https://www.nevo.co.il/law\\_html/law01/319\\_009.htm](https://www.nevo.co.il/law_html/law01/319_009.htm).

<sup>6</sup> Civic Coalition for Palestinian Rights in Jerusalem (CCPRJ), "Dispossession & Eviction in Jerusalem: The cases and stories of Sheikh Jarrah," December 2009; Zena Tahhan, "In Jerusalem's Silwan, Palestinians fear looming ethnic cleansing," *Middle East Eye*, 28 November 2018, at: <https://www.middleeasteye.net/news/jerusalem-silwan-palestinians-fear-looming-ethnic-cleansing>.

due to separate case filed against them before Israeli courts by the settler organisation Nahalat Shimon International.<sup>7</sup> Alarming, Nahalat Shimon International has previously evicted three Palestinian families of around 67 Palestinians from the aforementioned neighbourhood in 2008 and 2009.<sup>8</sup> Subsequently, Nahalat Shimon International submitted a Town Plan Scheme to the Jerusalem Local Planning Commission, which plans to establish a new settlement in this part of the neighbourhood, evicting the Palestinian residents, demolishing their houses, and constructing 200 settlement units for Jewish settlers.<sup>9</sup>

Similarly, seven families, which consists of 18 households of around 105 Palestinians in Batn Al-Hawa neighbourhood in Silwan are at imminent risk of being forcibly displaced after Israeli courts ruled in favour of the settler organisation Ateret Cohanim in the eviction lawsuits brought against them.<sup>10</sup> Since 2015, 14 Palestinian families have been evicted in Batn Al-Hawa,<sup>11</sup> where Ateret Cohanim already controls six buildings in Batn Al-Hawa, comprised of 27 housing units, the majority of which had previously been homes of Palestinian families.<sup>12</sup>

Accordingly, amidst the COVID-19 pandemic, 192 Palestinians in East Jerusalem, most of whom have been previously displaced and denied their right to return and to reclaim their properties based on the 1950 Absentees' Property Law, are facing, yet again, the imminent threat of forced eviction through the discriminatory 1970 Legal and Administrative Matters Law. Given the complicity of the Israeli judicial system in the implementation of unlawful and discriminatory policies, Palestinian Jerusalemites have gone through a lengthy, exhausting, and unaffordable legal struggle after settler organisations filed eviction lawsuits against them, while being denied access to justice.

### **Israel's Utilisation of Military Order 1797 During COVID-19**

Following the announcement of the state of emergency to help combat the spread of COVID-19 in Israel on 19 March 2020, Israel issued a two-month demolition moratorium, though excluding new-constructed structures, for the occupied West Bank, including East Jerusalem.<sup>13</sup> In October 2020, Israel issued a second moratorium, which provides that demolition orders for residential buildings will not be enforced, the issuance of administrative demolition orders will be reduced and orders will be issued only in relation to new 'illegal construction,' which has particularly taken advantage of the state of emergency.<sup>14</sup>

Despite these moratoriums on demolitions, Palestinian structures have seen large-scale demolitions. According to Al-Haq, Law in the Service of Man, between 5 March 2020, when the first cases of COVID-19 were announced in the Occupied Palestinian Territory, and 1 January 2021, the Israeli occupying authorities demolished 470 structures, including

<sup>7</sup> Numbers obtained by CCPRJ.

<sup>8</sup> CCPRJ, "Dispossession & Eviction in Jerusalem," December 2009, p. 21; OCHA, "The Case of Sheikh Jarrah," October 2010, at: [https://www.ochaopt.org/sites/default/files/ocha\\_opt\\_sheikh\\_jarrah\\_factsheet\\_2010\\_10\\_11\\_english.pdf](https://www.ochaopt.org/sites/default/files/ocha_opt_sheikh_jarrah_factsheet_2010_10_11_english.pdf).

<sup>9</sup> Ir Amim, "Evictions and Settlement Plans in Sheikh Jarrah: the Case of Shimon HaTzadik," June 2009, at: <https://www.ir-amim.org.il/sites/default/files/SheikhJarrahEngnew.pdf>.

<sup>10</sup> The number is obtained from adding data from Al-Haq's documentation, and Peace Now.

<sup>11</sup> Peace Now, "District Court Rejects the Appeal of 8 families from Batan Al-Hawa Ordering their Eviction," 24 November 2020, at: <https://peacenow.org.il/en/district-court-rejects-the-appeal-of-8-families-from-batan-al-hawa-ordering-their-eviction>.

<sup>12</sup> B'Tselem, "Batan al-Hawa neighborhood, Silwan," 11 December 2016, at: [https://www.btselem.org/jerusalem/20161208\\_batan\\_al-hawa](https://www.btselem.org/jerusalem/20161208_batan_al-hawa).

<sup>13</sup> Jerusalem Legal Aid and Human Rights Center (JLAC), "JLAC requests to stop demolitions of water facilities and to freeze confiscation orders against equipment," at: <https://www.jlac.ps/details.php?id=o5olbza2022ydfjs4zi6>.

<sup>14</sup> Adalah, "Adalah demands Israel freeze rampant demolitions of Palestinian homes in West Bank; 100s now facing COVID-19 without homes," 5 October 2020, at: <https://www.adalah.org/en/content/view/10143>.

211 residential structures, 166 of which are inhabited, displacing 811 Palestinians, including 382 children.

Since the start of the COVID-19 pandemic, the Israeli occupying authorities have further increased its utilisation of Military Order 1797, which authorises the Israeli Civil Administration to demolish newly-constructed Palestinian structures within 96 hours of issuing the demolition order, if the Palestinian owners of the structures do not appeal the order, with an approved master building plan and building permit. In 2020, the Jerusalem Legal Aid and Human Rights Center reported that 34 out of 36 demolition cases received based on Military Order 1797 were demolished within few days of adopting the case.<sup>15</sup>

Since a valid building permit is almost impossible to obtain, Military Order 1797, in requiring such a quick turnaround time, strips Palestinians of their right to due process, in violation of international law. Notably, even if Palestinians manage to fulfil the appeal requirements, the Israeli occupying authorities maintain the complete authority to proceed with demolition.<sup>16</sup>

## Conclusion and Recommendations

Through its strategic fragmentation of the Palestinian people, and population transfer policies, Israel ensures the maintenance of apartheid over the Palestinian people and entrenches its settler-colonial enterprise. To drive Palestinian forcible transfer, Israel has created a coercive environment through, inter alia, discriminatory planning and zoning regime, and discriminatory laws and military orders, including the 1950 Absentees' Property Law, the 1970 Legal and Administrative Matters Law, and Military Order 1797.

In light of the above, we call on Member States of the Human Rights Council to:

1. Recognise Israeli laws, policies, and practices as enshrining an institutionalised regime of systematic racial domination and oppression over the Palestinian people as a whole, which amounts to the crime of apartheid;
2. Call on Israel to cease the unlawful application of its domestic laws and policies to occupied East Jerusalem, and to immediately repeal its 1950 Absentees' Property Law and 1970 Legal and Administrative Matters Law;
3. Call on Israel to immediately cease its systematic implementation of policies that are aimed and designed to forcibly transfer Palestinians, and to instantly nullify its Military Order 1797; and
4. Pursue international justice and accountability, including by supporting the opening of an investigation by the International Criminal Court into the situation in Palestinian territories for Israel's suspected crimes.

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Addameer Prisoner Support and Human Rights Association, Aldameer Association for Human Rights, Community Action Center, the Civic Coalition for Palestinian Rights in Jerusalem, and the Palestinian NGOs Network (PNGO), NGO(s) without consultative status, also share the views expressed in this statement.

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<sup>15</sup> Al-Haq, "PHROC Sends Joint Urgent Appeal to the United Nations Special Procedures on Israel's Continued Demolitions Amidst a Global Pandemic," 25 January 2021, at: <https://www.alhaq.org/palestinian-human-rights-organizations-council/17841.html>.

<sup>16</sup> Corey Sherman, "Israeli (Military) Destruction Order 1797," Habitat International Coalition, 16 June 2018, at: <https://www.hic-mena.org/news.php?id=p2xrbA==>.