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## Human Rights Council

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Agenda item 7

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

### **Written statement\* submitted by Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH), 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.

[31 May 2021]

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



## **Forcible Displacement of Palestinians in Sheikh Jarrah and Silwan**

Palestinians commemorated the 73rd anniversary of the Nakba amid similar circumstances of forced displacement and dispossession in Jerusalem. In 1948, 75 percent of the Palestinian indigenous population was expelled from their towns and villages. Today, Israel is still trying to displace a number of Palestinian families in Sheikh Jarrah neighborhood of occupied East Jerusalem and Palestinians continue to stand up against Israel's policies and the ever present threat of forced transfer despite the continuous attacks by the Israeli Occupying Forces (IOF).

### **Forcible Displacement**

The latest crackdown on Palestinians in '48, the West Bank including East Jerusalem, and Gaza clearly demonstrates the institutionalized policy aimed at maintaining settler colonial and apartheid system over the Palestinian people as a whole.

Palestinians have been resisting forced displacement, dispossession, and ethnic cleansing in various cities and neighborhoods since 1948. Today, families in the Jerusalem neighborhood of Sheikh Jarrah and in Silwan are fighting to save their homes in Sheikh Jarrah and Silwan, more than 1,000<sup>1</sup> Palestinians remain under threat of forced displacement from their homes and land. Forcible transfer of the occupied population is prohibited under international humanitarian law and constitutes a war crime according to the Rome Statute of the International Criminal Court and the Fourth Geneva Convention.

Nahalat Shimon International, a settler organization based in the United States, filed lawsuits to seize the homes Palestinian families in Sheikh Jarrah using inherently discriminatory laws, such as the Legal and Administrative Matter Laws of 1970 and the Absentee Property Law of 1950, to forcibly displace Palestinians and confiscate their land or property and transfer their land it to Israeli settlers with the support of the Israeli authorities and the judicial system.

### **Sheikh Jarrah and Batn Al-Hawa Neighborhood**

The Israeli dispossession of Palestinians takes various forms and is implemented through a number of discriminatory laws, policies and practices all at the expense of Palestinians. Palestinian families from the Sheikh Jarrah and Batn Al-Hawa neighborhoods in East Jerusalem, for example, are still under the imminent threat of being forcibly transferred, after settler organizations filed cases against them in the Israeli courts.

After occupying and illegally annexing East Jerusalem in 1967, Israel unlawfully extended the application of its own domestic legislation to the territory in order to further displace Palestinians and appropriate 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.

In Sheikh Jarrah, eight families, a total of 87 Palestinians, are at imminent risk of forcible transfer, due to the case filed against them before Israeli courts by the settler organization Nahalat Shimon International. Alarmingly, Nahalat Shimon International has previously evicted three Palestinian families with around 67 members from the aforementioned neighborhood in 2008 and 2009.

The Israeli Supreme Court was supposed to hold a hearing on 10 May 2021 on the forced eviction of eight Palestinian families living in Sheikh Jarrah, but it was postponed. Waiting for the Court's decision, residents of Sheikh Jarrah have been leading a campaign, raising awareness about the situation, and calling for solidarity activities in support of their struggle and in resistance to Israel's oppression. These efforts have been met with further oppression, as IOF and Israeli settlers, some of the latter being armed, have been suppressing and

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<sup>1</sup> Action-Alert-EJ-displacements-PN-IA-ES-1.pdf (peacenow.org.il).

attacking Palestinians in Sheikh Jarrah, including by raiding and damaging houses, firing tear gas canisters, sound bombs and skunk water, and arbitrarily arresting them.

Since 7 May 2021, the IOF has fully closed the entrances to the neighborhood with metal barriers and is only allowing Palestinian residents of Sheikh Jarrah to enter. On 16 May 2021, the IOF closed the neighborhood with cement blocks. Notably, these restrictions, do not affect Israeli settlers as they can access the neighborhood freely, even if they do not reside in it. Palestinians continued to show up in support at the entrances of the neighborhood, and they continue to be suppressed and targeted by the IOF.

In a similar context, in 26 May 2021, the Jerusalem District Court held a hearing on the forced eviction of some 108 Palestinians of 18 households from their homes in Batn Al-Hawa neighborhood in Silwan, occupied East Jerusalem. The Court postponed its ruling.

Premising their claim on a property deed from the Ottoman rule period, the Benvenisti Trust, a Jewish Trust, claims ownership of 5.2 dunums of Batn Al-Hawa land. In 2002, the Custodian General transferred the land to the Benvenisti Trust, whose management is in the hands of the settler organization Ateret Cohanim. The decision was sanctioned by the Jerusalem District Court, and the transfer was done without informing the Palestinian residents who have lived on the land since the 1950s, and who have contracts proving so.

Since then, Ateret Cohanim has filed ‘eviction orders’ against the Palestinian families. In 2017, the Palestinian residents filed a petition with the Israeli High Court to contest the evictions, arguing that, and according to the Ottoman law applied at the time, the ownership applies only to the buildings, which do not exist anymore, but not the land itself. In June 2018 the Israeli government acknowledged that the Israeli Custodian General’s transfer of the land to the Benvenisti Trust was done without investigating the nature of the Trust, the Ottoman laws, or the existing buildings. Yet, the Israeli High Court rejected the appeals of the families, paving the way for the settler group Ateret Cohanim to continue legal proceedings to evict 81 Palestinian families, numbering approximately 436 Palestinians.

Most of the families living in Sheikh Jarrah and Batn Al-Hawa neighborhoods, who are facing the threat of forced eviction, are refugees, who have been denied their right of return and to reclaim their original land and properties. What is happening in Sheikh Jarrah and Batn Al-Hawa exemplifies the overarching and the overall context of the maintenance and expansion of the settler-colonial and apartheid system.<sup>2</sup>

## **Illegality under International Law**

MIFTAH reiterates that the legal framework applicable in occupied East Jerusalem is international humanitarian and international human rights law. Israel is specifically prohibited from annexing occupied territory under Article 47 of the Fourth Geneva Convention. As such, Israel’s application of its domestic law, including the Legal and Administrative Matters Law in 1970 and provisions of Israel Tenancy law are wrongful acts in violation of international law, of which there can be no recognition, which third States must collectively work to bring to an end. There are clear obligations under Article 43 of The Hague Regulations, to continue the status quo ante bellum including the preservation of private tenancy rights, which are further protected as private property of the civilian population under Article 46 of The Hague Regulations. In particular, such acts amount to forcible transfer, grave breaches of the Geneva Conventions, and war crimes and crimes against humanity within the jurisdiction of the International Criminal Court (ICC).

MIFTAH reaffirms the urgent need for the international community to address the root causes of the prolonged denial of Palestinian rights and welcomes the establishment of the Commission of Inquiry<sup>3</sup> by the Human Rights Council during its 30th Special Session.

MIFTAH further calls on the Office of the Prosecutor of the ICC to publicly condemn the imminent forced evictions of Palestinians in Sheikh Jarrah and Batn Al-Hawa neighborhoods

<sup>2</sup> Sheikh Jarrah and Silwan: Ongoing Nakba and Israeli Dispossession of Palestinians (alhaq.org).

<sup>3</sup> A/HRC/S-30/L.1.

and urgently investigate the case within the situation of Palestine and intervene to forestall the displacement of these Palestinian families from their homes.

**Recommendations:**

We urge UN member states to:

- Take all available measures to put an end to ongoing Israeli policies of transfer and expropriation of Palestinian property and lands and to support the work of the mandated Commission of Inquiry that aims to address the root causes of Israel’s discriminatory policies as a first step towards accountability and justice.
- Hold Israeli accountable for its forcible displacement of Palestinians, including in Jerusalem neighborhoods such as Sheikh Jarrah and Batn Al-Hawa, by supporting a comprehensive investigation of the Palestinians situation by the ICC.

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