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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 the Cairo Institute for Human Rights Studies, 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 2016]

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

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## **Destroying homes to forcibly displace people: International Community needs to put an end to the illegal Israeli policy of house demolitions in occupied East Jerusalem.**

As organizations concerned with the human rights situation in Jerusalem, we would like to express our deep concern over Israel's violations of Palestinian human rights through its policies of forcible displacement. In this past year, Israel has escalated its practice of home demolitions against the Palestinian people in Jerusalem as part of their 49-year-long strategy to unlawfully displace Palestinians from Jerusalem and strengthen their illegal annexation of the city.

### **Context**

Israel has occupied East Jerusalem since 1967 and claims to have annexed the city. This claim is illegal, and the UN has condemned it numerous times.<sup>1</sup>

To strengthen its illegal annexation, Israel has, throughout the years, sought to achieve certain demographic ratios in Jerusalem that will create a Jewish-Israeli majority. In 1973 the Inter-ministerial Committee to the Rate of Development for Jerusalem (known as the Gafni Committee) advised that Jerusalem's population should be 26% Palestinian and 74% Jewish-Israeli.<sup>2</sup> Due to the greater natural growth rate of Palestinians, Jerusalem's Master Plan of 2000 revised this desired ratio to 30% Palestinian and 70% Israeli.<sup>3</sup>

The city's current Palestinian population is around 39% and is continuing to increase at a significantly higher rate than the Jewish-Israeli population.<sup>4</sup>

In response to this growth, Israel is using both direct and indirect force to systematically remove Palestinians from Jerusalem. Some of these tactics directly force residents to leave their homes in the city, such as residency revocations, denial of family reunification, and home demolitions. Others involve indirect force by bringing about such poor conditions of life which leave residents with no genuine choice to stay, such as excessive use of force by security officers, movement restrictions, discriminatory provision of municipal services, interference with educational curriculum, and interference with holy sites.

Home demolitions are one of the most fundamental tactics in this displacement policy, leading to serious breaches of international law and making Palestinian Jerusalemites' everyday life unbearable.

### **Home Demolitions**

Israel demolishes homes in occupied East Jerusalem under two pretexts: the first is for punitive purposes, while the second is under a "regulatory" scheme. In both cases the demolitions are unlawful under international humanitarian and human rights law. .

### **Punitive Demolitions**

A punitive demolition occurs when Israeli forces destroy the home of a Palestinian in response to an alleged act of violence by that person or, commonly, by a relative of that person.

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<sup>1</sup> See for example United Nations Security Council Resolution 476, S/REA/476 (30 June 1980); United Nations Security Council resolution 478, S/REA/478 (20 August 1980).

<sup>2</sup> Report of the Gafni Committee, August 1973 at p 3.

<sup>3</sup> Jerusalem Municipality, "Local Outline Plan: Jerusalem 2000", at Chapter 7.1, para 10, English translation available at [http://www.coalitionforjerusalem.org/wp-content/uploads/2013/11/populationandsociety\\_7.pdf](http://www.coalitionforjerusalem.org/wp-content/uploads/2013/11/populationandsociety_7.pdf).

<sup>4</sup> UN Habitat, "Right to Develop: Planning Palestinian Communities in East Jerusalem" (2015) at p 8, available at [http://unhabitat.org/books/right-to-develop-planning-palestinian-communities-in-east-jerusalem/.Efrat Cohen-Bar, \*Trapped By Planning: Israeli Policy, Planning, and Development in the Palestinian Neighborhoods of East Jerusalem\*, \(Bikom, 2014\) at 15, available at <http://bimkom.org/eng/wp-content/uploads/TrappedbyPlanning.pdf>.](http://unhabitat.org/books/right-to-develop-planning-palestinian-communities-in-east-jerusalem/.Efrat%20Cohen-Bar,%20Trapped%20By%20Planning:%20Israeli%20Policy,%20Planning,%20and%20Development%20in%20the%20Palestinian%20Neighborhoods%20of%20East%20Jerusalem)

Israel justifies its practice of punitive demolition on Regulation 119 enacted during the British Mandate. The High Court of Justice has subsequently ruled that military forces may destroy an entire house or building, and they are not limited to just the room or floor where the alleged offender lived.<sup>5</sup>

Because many innocent individuals are seriously affected by the demolitions, this practice is in clear violation of the prohibition against collective punishment under both the Geneva Conventions and customary international law.<sup>6</sup> Despite the obvious illegality of these demolitions under international law, in the beginning of October 2015 Israeli Prime Minister Benjamin Netanyahu announced that these demolitions were to be expedited.<sup>7</sup>

Between 1 October 2015 and 21 April 2016, Israel demolished or sealed 37 apartments, displacing 149 people, 65 of whom are children. Fourteen of the homes were not subject to demolition orders but were damaged because of their proximity to others demolished.<sup>8</sup>

One typical case of punitive demolition is that which happened to Safaa, the aunt of Alaa Abu Jamal. Abu Jamal was killed after he attacked an Israeli in October 2015. A few months later, Israeli forces stormed Safaa's apartment, where she lived with her husband and two young daughters. Although she had no involvement in her nephew's actions, the soldiers evacuated the family at gunpoint, shut the windows, and filled the home with concrete.<sup>9</sup>

Punitive demolitions are clearly acts of collective punishment and forcible displacement, not means of deterring attacks. Even an Israeli military committee has acknowledged that the practice is not only ineffective at preventing attacks, but also increases hostility towards Israel.<sup>10</sup>

### Regulatory Demolitions

Israeli forces have destroyed many more Palestinian homes under a program of regulatory demolitions because the homes were built without permits, which are arbitrarily and discriminatorily denied to Palestinians.

Eighty-seven percent of the land in occupied East Jerusalem is unavailable for Palestinian construction. Even where construction may be allowed, obtaining a permit can cost upwards of \$30,000 USD, which is beyond the financial means of the majority of Palestinian Jerusalemites. Additionally, building permits are routinely denied to Palestinian applicants while Jews in West Jerusalem do not face the same difficulties.<sup>11</sup>

The extreme difficulty in obtaining permits forces Palestinians to build without permits to accommodate the natural growth of their families or repair existing homes. Because of this, nearly one-third of all Palestinian homes in East Jerusalem are at risk of Israeli demolition.<sup>12</sup>

In the first three months of 2016, Israeli authorities demolished over 600 Palestinian structures in East Jerusalem and the West Bank, displacing over 800 people.<sup>13</sup> In 2015, they demolished 500 buildings, displacing more than 600 Palestinians.<sup>14</sup>

<sup>5</sup>HaMoked, "Punitive House Demolitions" available at [http://www.hamoked.org/files/2014/114633\\_eng.pdf](http://www.hamoked.org/files/2014/114633_eng.pdf).

<sup>6</sup> See Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, Article 33 [GC IV].

<sup>7</sup>"Israel announces series of punitive measures against Palestinian terrorism" JERUSALEM POST, 4 October 2015, available at <http://www.jpost.com/Arab-Israeli-Conflict/Israel-announces-series-of-punitive-measures-against-Palestinian-terrorism-419945>.

<sup>8</sup>B'tselem, "Home Demolitions as Punishment" (21 April 2016) available at [http://www.btselem.org/punitive\\_demolitions/20160421\\_149\\_left\\_homless\\_hundreds\\_threatened](http://www.btselem.org/punitive_demolitions/20160421_149_left_homless_hundreds_threatened).

<sup>9</sup>"Palestinian families decry punitive demolitions in Jerusalem" MA'AN NEWS, 6 January 2016, <http://maannews.com/Content.aspx?id=769661>.

<sup>10</sup>Ibid.

<sup>11</sup> Civic Coalition for Palestinian Rights in Jerusalem, "Denial of Housing Rights in East Jerusalem" at 1-2.

<sup>12</sup> OCHA, Jerusalem Factsheet, [http://www.ochaopt.org/documents/ocha\\_opt\\_jerusalem\\_factsheet\\_august014\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_jerusalem_factsheet_august014_english.pdf)

<sup>13</sup> OCHA, "Monthly Overview: March-April 2016" (26 April 2016) available at <http://www.ochaopt.org/content/monthly-overview-march-april-2016>.

<sup>14</sup> "Jerusalem municipality carries out demolition of 2 Palestinian homes" MA'AN NEWS, 2 February 2016, <http://maannews.com/Content.aspx?id=770083>.

In some cases, the Israeli authorities force the victim to demolish his or her own home or face a fine and possible imprisonment.

### Legal Implications

Israel's explicit policies aimed at maintaining demographic superiority over a faster-growing Palestinian population make it clear that these home demolitions are part of a systematic campaign to forcibly displace Palestinians from Jerusalem.

Forcible transfer of individuals in occupied territory is a grave breach of the Fourth Geneva Convention.<sup>15</sup> It is also a war crime under customary international law and the Rome Statute.<sup>16</sup>

Such serious violations impose obligations upon third states.

All state parties to the Geneva Conventions have the obligation under Common Article 1 to intervene with Israel and ensure it respects the Conventions. They are also obligated to seek out and bring to justice those who have committed, or ordered the commission of forcible transfer.<sup>17</sup>

Moreover, the nature of Israel's action in occupied East Jerusalem constitute, serious and systemic breaches of erga omnes obligations under international law.<sup>18</sup> Therefore, all states are *obligated* to do the following:

1. States must cooperate to bring an end to the breach through lawful means.
2. No state shall recognize as lawful a situation created by a serious breach.
3. No state shall render aid or assistance in maintaining the situation created by a serious breach.<sup>19</sup>

During Israel's 2013 Universal Periodic Review, multiple countries urged Israel to cease its practice of demolishing homes,<sup>20</sup> and numerous Human Rights Council resolutions have called for the same,<sup>21</sup> but Israel has consistently failed to comply.

### Recommendations

In light of states' legal obligations, and Israel's non-compliance with past attempts to encourage compliance, the Civic Coalition calls upon the Human Rights Council, its members, and its observer states to:

- 1) Ensure access of human rights experts to Occupied East Jerusalem, including the Special Rapporteur on the situation of the Occupied Palestinian Territory to continue to effectively monitor and report on these breaches.
- 2) Refrain from directly or indirectly recognizing, aiding or assisting Israel's acts of population transfer in East Jerusalem that may result from bilateral state cooperation, as well as economic activities undertaken by persons under their jurisdiction.
- 3) Prosecute individuals responsible of implementing forcible displacement policies in national domestic jurisdictions.

Civic Coalition for Palestinian Rights in Jerusalem NGO(s) without consultative status, also share the views expressed in this statement.

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<sup>15</sup> GC IV, *supra* note 6, Articles 49 & 147.

<sup>16</sup> Rome Statute of the international Criminal Court, Articles 7(1)(d), 8(2)(a)(vii), 8(2)(b)(viii).

<sup>17</sup> GC IV, *supra* note 6, Article 146.

<sup>18</sup> See International Law Commission, *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, Art 40.

<sup>19</sup> *Ibid*, Art 41.

<sup>20</sup> United Nations Human Rights Council *Report of the Working Group on the Universal Periodic Review*, 19 December 2013, A/HRC/25/15, at paras 136.153, 136.207 & 136.229.

<sup>21</sup> See for example United Nations Human Rights Council; *The Grave Human Rights Violations by Israel in the Occupied Palestinian Territory, Including East Jerusalem*, 19 March 2010, A/HRC/13/L.29 at para 10.