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

Written statement* submitted by the BADIL Resource Center for Palestinian Residency and Refugee Rights, 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.

[15 May 2017]

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

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50 years of occupation – 50 years of annexation: International Community needs to put an end to the illegal Israeli policy of annexation of 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 on Palestinian rights through its policies of annexation of East-Jerusalem. Following the Six-Day war in June 1967, Israel has occupied and gradually strengthened its illegal annexation of the city, implementing discriminatory policies to colonize Jerusalem. These policies have had a devastating impact on the daily living conditions of all Palestinian residents of Jerusalem.

Context

The annexation of East Jerusalem has been implemented since 1967 with the expansion of the border of the city of Jerusalem from 5.5 km² to 70 km²,¹ the surrounding of Jerusalem with the separation wall and checkpoints, and the enforcement of Israeli administrative and juridical system which denies Palestinian residents of Jerusalem the protection of the Geneva Convention 1949 (GC) and the Hague Regulations 1907 (HR), in violation of the law of occupation (IHL) which shall apply in any situation of control over a foreign territory without consideration of the status claimed by the parties.³

The acquisition of a territory by use of force doesn't confer a valid title to that territory², as embodied by Resolution 242 (1967) of the UN Security Council (UNSC). Israel unilateral annexation of East Jerusalem through the Basic law (1980) defining Jerusalem as "complete and united", doesn't confer any sovereignty over East Jerusalem.

The international community doesn't recognize the annexation. Resolution 242 unanimously called from 1967 for the "withdrawal of Israel armed forces from territories occupied in the recent conflict" i.e. East Jerusalem included. Repeatedly, the UNSC reminded that East Jerusalem was occupied, lately, Resolution 2334 of December 2016 pointed the "Palestinian Territory occupied since 1967, including East Jerusalem". UNESCO Resolution of April 2017 also condemns measures and actions in Jerusalem "taken by Israel, the occupying Power".

Israel's deliberate, widespread and systematic policies aiming to change the demographic composition of Jerusalem in order to colonize East Jerusalem constitutes a war crime accordingly to article 7 of the Rome Statute (ICC).

Land confiscation and colonies

Since 1967, 28 illegal colonies were built in the district of Jerusalem with 15 solely in East Jerusalem, i.e. around 230,000 settlers⁴. Israel is continuously expanding the colonies in West Bank with the risk of being separated between North and South, notably with the construction of the E1 colony, connecting colonies to the Old City.

Israel's practice of "divide and rule" and colonization is unlawful as highlighted recently by R2334 (UNSC), and constitutes "a flagrant violation under international law". Israel is acting in violation of the ICC Rome statute which provides that "the Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies", committing therefore a war crime.

Urban planning and housing issues

Israeli urban planning confiscates land, leaving only 13% of East Jerusalem for Palestinian purposes (22% Green Area, 35% "Green Area", 30% Unplanned Area)⁵, and works to achieve the desired "demographic balance" by 2020 (Master Plan 2000) to maintain the ratio of 73.5% Jews and 26.5% Arabs in the city (Gafni committee recommendations).⁶

Building permits are discriminatory granted and excessively costly, forcing Palestinians to build without permits. Currently 20,000 homes are built without permits, i.e. 85,000 people at risk of forcible transfer⁷. From 2004 to 2016, 641 structures were destroyed in East Jerusalem, impacting 2,358 Palestinian civilians⁸, thus violating the right to

adequate housing enshrined in article 25(1) of the Universal Declaration of Human Rights of 1948 (UDHR), and article 53 of IVGC which prohibits the destruction of property in occupied territories.

Residency rights

Palestinians who were in Jerusalem during the Six-Day war have been given the status of “permanent resident” in their own home, with no citizenship; while 30,000 Palestinians were deprived of their right to live in Jerusalem⁹.

Permanent residency status is not permanent: from 1967, 14,595¹⁰ residency permits were revoked, because they spent more than 6 years abroad, acquired foreign citizenship or fail to prove their ‘center of life’ in Jerusalem through regularly long and difficult formalities¹¹. A new ground of revocation was recently implemented in violation of the mere principals of law of occupation, i.e. revocation for “breach of allegiance”.

Israel is violating the right of persons to leave and return to their country secured in the UDHR (article 13.2), and article 45 of the HR on the prohibition “to compel the inhabitants of occupied territory to swear allegiance to the hostile Power”.

Education

East Jerusalem is suffering of a shortage of 2,247 classrooms¹² due to restrictions on building schools, a financial shortage due to discriminatory budget allocation, and a shortage of teachers due to the closure of Jerusalem. Israel is trying to control the education system through the Israelization of Palestinian schools, denying the right to learn about one’s culture and history, targeting the national identity of Palestinians.

The budget allocated to schools using the Palestinian curriculum is 60% of that allocated to those using the Israeli one. Colony schools receive a budget of 170% compared to the Palestinian schools.¹³

Israel is violating the right to education protected by article 26 UDHR, the right to cultural identity, and the right to receive information.

Access and movements

Access to Jerusalem has been progressively made more difficult with the construction of the separation wall, the setting up of military checkpoints, and the necessity to get permits. These restrictions have divided families, undermined the economy of Jerusalem neighborhoods, and denied access to the principal health services for Palestinians (best hospitals,...).

Access to holy places is restricted for Palestinians from West Bank and Gaza but also for Palestinian residents of Jerusalem to enter Al-Aqsa Mosque. Furthermore, attacks of the holy places are regularly undertaken by colonizers in total impunity. Israel is violating the right to freedom of movement protected by article 12 ICCPR, and the right to freedom of religion or belief protected by article 18 UDHR.

Prisoners

480 Palestinians from East Jerusalem are held in Israeli prisons, isolated and left out of nearly all negotiated prisoner releases since the beginning of the “Oslo Peace Process” with a disappointing lack of opposition from Palestinian negotiators.

With the permanent resident status, legal and political rights of Palestinian residents of Jerusalem fell under the full discretion of the Israeli authorities, creating a unique disadvantage for political prisoners who are already the targets of Israeli efforts to revoke residency rights, particularly among members of the Palestinian Legislative Council.

Collective punishment

In addition to punitive home demolitions policy, flying checkpoints, raids at night, arbitrary detentions, refusal to return deceased bodies, and others; the recent collective residency revocation is raising concerns. In the past years, attackers

and their family got their residency revoked as a punishment for attacks against Israel. Official statements affirm the will to increase this punitive policy.¹⁴

The enforcement of collective punishments is constitutive of a war crime under article 33 IVGC, and creates a coercive environment perpetrating a 'quiet deportation'¹⁵, in violation of IHL and IHRL.

Recommendations

Palestinian human rights organizations call upon the Human Rights Council, its members, and its observer states to:

- 1) Ensure access of human rights experts to Occupied East Jerusalem to effectively monitor and report on these breaches;
- 2) States to refrain from directly or indirectly recognizing, aiding, or assisting Israel's acts of annexation of East Jerusalem that may result from bilateral state cooperation, as well as economic activities undertaken by persons under their jurisdiction;
- 3) Ensure the end of the annexation of East-Jerusalem, calling to the international community to take actions against internationally wrongful acts accordingly to the Third State Responsibility.
- 4) Ensure the accountability of the state of Israel, businesses and individuals;
- 5) Take actions to stop Israeli colonization and annexation of occupied Palestinian territories, such as diplomatic and economic sanctions.

¹ 'Greater Jerusalem', *Population transfer including settler implantation in Jerusalem*, CCPRJ 2016

² Benvenisti, *Law of occupation*, supra note 34

³ ICRC, *Occupation and international humanitarian law, Contemporary challenges to IHL*, ICRC 2012

⁴ <http://www.btsalem.org/settlements/statistics>

⁵ *The Planning Crisis in East Jerusalem*, OCHA OPT, 2009

⁶ http://www.civiccoalition-jerusalem.org/uploads/9/3/6/8/93682182/palestinians_residence_in_their_home.pdf

⁷ *East Jerusalem 2015: Facts and Figures*, ACRI, May 2015

⁸ *Population transfer including settler implantation in Jerusalem*, CCPRJ, 2016

⁹ *eviction, restitution and protection of palestinian rights in Jerusalem*, Badil 1999

¹⁰ "Israel continues its "quiet deportation"", *Hamoked*, 2017

¹¹ *Shiqaqi v. Minister of Interior case*, 1995

¹² *Israel's Education Ministry to Pay East Jerusalem Schools to 'Israelize' Curriculum*, 2016

¹³ *Arab Students in Jerusalem Get Less Than Half the Funding of Jewish Counterparts*, *Haaretz*, 2016

¹⁴ "Let this be known to all who are plotting, planning or considering carrying out an attack, that their families will pay a heavy price for their actions and the consequences will be severe and far-reaching.", *Israeli Interior Minister Deri* 2017

¹⁵ Article 147 IVGC, "unlawful deportation or transfer ... of a protected person", grave breach of the Convention