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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 Palestinian Return Centre Ltd, 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.

[20 August 2018]

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



## Israel's annexation of Jerusalem

The Palestinian Return Centre is extremely concerned with Israel's colonial domination over Jerusalem, and the international community's complicity in Israel's ongoing military occupation and settler colonialism.

The United Nations General Assembly Resolution 181 endorsed the internationalisation of the city of Jerusalem,<sup>1</sup> which was previously the capital of occupied Palestinian territory during the Mandate period from 1922 until 1948. Nevertheless, in the wake of the ethnic cleansing which took place in 1948, Zionist forces forcibly displaced 80,000 Palestinians from West Jerusalem.<sup>2</sup> In 1967 during the Six Day war, Israel annexed East Jerusalem and gained de facto control over the entirety of Jerusalem. Israel's annexation and subsequent control over Jerusalem does not establish a legal claim to sovereignty, for 'legal rights cannot derive from an illegal act (*ex injuria jus non oritur*).'<sup>3</sup> Therefore, the international community is obliged not to recognise the establishment of states or unlawful situations, which arise out of the use of force. While the international community responded to the annexation of Jerusalem with many Security Council Resolutions, including 242 in which it obliged Israel 'to withdraw from all territory that it occupied in 1967 including Jerusalem,'<sup>4</sup> it is evident that stronger action should be taken as the situation continues to worsen.

### Settlement Expansion at the Expense of Forced Displacement in East Jerusalem

The Amendment 30 to the Entry into Israel Law bill, which passed in March 2018, permits the Minister of Interior to revoke the residency of Jerusalemites for a number of reasons. The first reason is based on a Jerusalemite's presumable 'breach of loyalty' to Israel, the second reason covers Jerusalemites whom supposedly obtained their residency permit through 'false information,' and the final reason applies to Jerusalemites whom have committed a criminal act according to the Ministry of Interior.<sup>5</sup> As an internationally recognised occupied territory where humanitarian law applies, revoking residency based on a breach of loyalty to Israel is in direct contravention of Israel's obligations under humanitarian law and human rights law. Article 45 of the Hague Regulations indicates that 'it is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile power,'<sup>6</sup> consequently a residency revocation law based on allegiance is unfounded and limits Palestinians right to resist the occupation. The law is also in breach of Article 12 of the ICCPR, which reads 'everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.'<sup>7</sup> Furthermore, the selective applicability of the law to Palestinian residents only, is a testament of its discriminatory nature, which means Israel is in violation of the customary international law on non-discrimination. Finally, the forcible transfer that would inevitably occur to a Jerusalemite following his residency revocation constitutes a violation of the Fourth Geneva Convention Article 49: 'individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying power or to that of any other country, occupied or not, are prohibited, regardless of their motive.'<sup>8</sup> Also, forcible transfer is classified as a war crime under the Rome Statute of the International Criminal

1 Unispal.un.org. (2018). A/RES/181(11) (1947) of 29 November 1947. [online] Available at: <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7F0AF2BD897689B785256C330061D253> [Accessed 30 July 2018]

2 Erekat, Noura.(2017)" Making Sense of Jerusalem, Gaza, and Anti-BDS Legislation in the United States", Jadaliyya [Online] <http://quickthoughts.jadaliyya.com/pages/index/26952/making-sense-of-jerusalem-gaza-and-anti-bds-legisl>

3 Dawidowicz, Martin. "The Obligation of Non-recognition of an Unlawful Situation' in *The Law of International Responsibility*. Ed James Crawford, Alain Pellet, & Simon Olleson. Oxford University Press: 2010. P. 677.

4 Unispal.un.org. (2018). S/RES/242 (1967) of 22 November 1967. [online] Available at: <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7D35E1F729DF491C85256EE700686136> [Accessed 30 July 2018]

5 "Israel passes law to strip residency of Jerusalemites ...," Al Jazeera, March 7, 2018, , accessed March 9, 2018, <https://www.aljazeera.com/news/2018/03/israel-passes-law-strip-residency-jerusalem-palestinians-180307153033538.html>

6 International Conferences (The Hague), *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land*, 18 October 1907, available at: <http://www.refworld.org/docid/4374cae64.html> [accessed 9 March 2018]

7 UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html> [accessed 9 March 2018]

8 International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, available at: <http://www.refworld.org/docid/3ae6b36d2.html> [accessed 9 March 2018]

Court.<sup>9</sup> Most importantly, such powers to revoke residency so easily reaffirm the Israeli apartheid regime and its quest to ‘depalestinise’ and ‘Judaize’ Jerusalem entirely. As of date, 14,500 Jerusalemites have had their residency permits revoked.<sup>10</sup>

Revoking Palestinians’ residency is but one of a myriad of measures carried out by Israel to draw closer the dangerous de-Palestinisation and consequent ‘Judaisation’ of Jerusalem. Other measures include house demolitions and house evictions. Israel also seeks to entrench a Jewish majority in Jerusalem by diminishing the Arab population through imposing restrictions on the registration of newborns,<sup>11</sup> and removing the Shaufat refugee camp and the neighbourhood of Kufr Aqab as well as bringing Ma’aleh Adumim and other large West Bank Jewish settlements into the Jerusalem municipality.<sup>12</sup>

Additionally, there are currently 566 new homes being built in East Jerusalem settlements, as a result of a 2017 decision.<sup>13</sup> Of those 566, 176 new housing units will be built in the settlement of Nof Zion, which is surrounded by the Palestinian district of Jabal Mukaber. Nof Zion will almost triple in size, making it the largest settlement inside a Palestinian area of East Jerusalem.<sup>14</sup> These actions taken by Israel go against Security Council Resolution 2334 of 2016 which ‘reaffirms that the establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law.’<sup>15</sup>

### **The Movement of US and Other Embassies to Jerusalem**

In December 2017, the Government of the United States of America announced its unilateral recognition of Jerusalem as the capital of Israel, and in May 2018 the US as well as Guatemala, Panama and Romania all moved or are in the process of moving their embassies to Jerusalem. The US decision is based on the Jerusalem Embassy Act adopted by Congress in 1995, which urged the government to relocate the American embassy to Jerusalem and recognise it as the capital of Israel. This American decision goes against international law as it breaks over 9 Security Council resolutions by normalising Israel’s occupation of East Jerusalem, and severely violates Palestinians’ right to independence and self-determination.<sup>16</sup> In Resolution 478 of 1980, the Security Council did not recognise Israel’s Basic Law, in which it declared Jerusalem as its capital, and specifically called upon member states, which have ‘established diplomatic missions at Jerusalem to withdraw such missions from the Holy City.’ While the US Veto hindered the production of another Security Council Resolution on the issue, a staggering majority vote on General Assembly Resolution ES-10/L.22

indicates that the international community should take a stronger stance against the United States of America and other countries, which have violated the status of Jerusalem under international law, by claiming it to be the Israeli capital.

The Palestinian Return Centre calls on Mr. President and the Distinguished Members of the Council to:

- Take strong measures to ensure Israel complies with international law to bring an end to its illegal occupation of Jerusalem.
- Enforce an accountability mechanism against all states complicit in exasperating Israel’s violation of international law in regards to the status of Jerusalem.

<sup>9</sup> UN General Assembly, *Rome Statute of the International Criminal Court (last amended 2010)*, 17 July 1998, ISBN No. 92-9227-227-6, available at: <http://www.refworld.org/docid/3ae6b3a84.html> [accessed 9 March 2018]

<sup>10</sup> Refer to infographic available at: <http://www.alhaq.org/publications/papers/VP-ResidencyRevocation-FINAL-20170612.pdf>

<sup>11</sup> Tamara Tamimi, "Revocation of Residency of Palestinians in Jerusalem: Prospects for Accountability," *Jerusalem Quarterly*, no. 72 (December 2017): accessed March 9, 2018, <http://www.palestine-studies.org/sites/default/files/jq-articles/Pages%20from%20JQ%2072%20-%20Tamimi.pdf>.

<sup>12</sup> Middle East Eye. (2017). Israeli MPs vote to add Jewish settlements to Jerusalem. [online] Available at: <http://www.middleeasteye.net/news/israeli-lawmakers-vote-set-high-bar-ceding-parts-jerusalem-1424454939> [Accessed 18 Aug. 2017].

<sup>13</sup> (www.dw.com), D. (2017). Israel approves 566 new homes in east Jerusalem settlements | Middle East | DW | 22.01.2017. [online] DW.COM. Available at: <http://www.dw.com/en/israel-approves-566-new-homes-in-east-jerusalem-settlements/a-37229751> [Accessed 18 Aug. 2017].

<sup>14</sup> "New East Jerusalem Settler Homes Approved." *BBC News*. N.p., 2018. Web. <https://www.bbc.com/news/world-middle-east-41750916> [Accessed 29 July 2018].

<sup>15</sup> UN Security Council, Security Council resolution 2334 (2016) [on cessation of Israeli settlement activities in the Occupied Palestinian Territory, including East Jerusalem], 23 December 2016, S/RES/2334 (2016), available at: <http://www.refworld.org/docid/587f347a4.html> [accessed 1 August 2018]

<sup>16</sup> Security Council resolutions 242, 250, 251, 252, 267, 271, 446, 1435, 2334

- Ensure that the human rights of Palestinians in East Jerusalem are respected and that residency revocations, home demolitions, and impositions on new born registrations are halted.
  - Recall that Israel was accepted into the United Nations on condition that it is a 'peace-loving state' abiding by the obligations contained in the United Nations Charter which forces member states to 'agree to accept and carry out the decisions of the Security Council.'<sup>17</sup>
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<sup>17</sup> United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [accessed 1 August 2018]