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Agenda item 7

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

**Joint written statement* submitted by International
Organization for the Elimination of All Forms of Racial
Discrimination, Association Ma'onah for Human Rights and
Immigration, International-Lawyers.Org, Union of Arab
Jurists, United Towns Agency for North-South Cooperation,
non-governmental organizations in special consultative
status, International Educational Development, Inc., World
Peace Council, non-governmental organizations on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 January 2021]

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



The Status of Jerusalem

Introduction

Israel must be stopped from further alienating Jerusalem. Unilaterally declaring Jerusalem as its capital does not change the fact that the status of Jerusalem has yet to be determined under international law.

The authors of this statement draw the attention of the Human Rights Council to Israel's ongoing human rights violations in East Jerusalem, which must be recognised as systematic efforts to alter the status, character, demographic and geological structure of Jerusalem.

Background

United Nations General Assembly ('UNGA') resolution 181(II) of 29 November 1947 defines Jerusalem's boundaries and designated Jerusalem as a corpus separatum under a special international status to be administered by the UN. UNGA resolution 2253 (ES-V) of 4 July 1967 and UNGA resolution 2254 (ES-V) of 14 July 1967 called on Israel to rescind all measures taken and to desist from taking further action that would alter the status of Jerusalem, and further considered these measures invalid.

In 1967, Israel occupied the West Bank, including East Jerusalem, following a war with Egypt, Jordan, and the Syrian Arab Republic. Apart from the West Bank, Israel also occupied the Sinai Peninsula, the Syrian Golan Heights, and the Gaza Strip.

United Nations Security Council ('UNSC') resolution 252 of 21 May 1968 and UNSC resolution 298 of 25 September 1971 considered that all legislative and administrative measures and actions taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem, were invalid and cannot change that status. They further called on Israel to rescind all such measures and to desist from taking any further action, which tends to change the status of Jerusalem.

Despite the clear position taken by UNGA and UNSC, Israel's Jerusalem Law 1980 declared that "Jerusalem, complete and united, is the capital of Israel", and was interpreted by the Supreme Court of Israel as an effective annexation of East Jerusalem in HCI 282/88 Awad v. Prime Minister et al., 42(2) PD 424.

In clear defiance of Israel's attempts to change the status of Jerusalem, UNSC resolution 478 of 20 August 1980 reaffirmed that the acquisition of territory by force is inadmissible and proceeded to declare the Jerusalem Law 1980 null and void, and in violation of international law. It further called on states with diplomatic missions in Jerusalem to withdraw them.

In 1993, Israel and the State of Palestine agreed that the status of Jerusalem would be covered during permanent status discussions and in 1995, further agreed that the permanent status negotiations were to commence no later than 4 May 1996. Despite this, there has been no agreement on the status of Jerusalem and it remains an issue of contention. Israel continues to declare Jerusalem as its capital.

Recent Developments with the United Nations

The UN remains opposed to Israel's attempts to alter the status of Jerusalem. According to UNGA resolution 72/15 of 30 November 2017, all actions taken by Israel to impose its laws, jurisdiction and administration on Jerusalem are illegal and therefore, null and void and have no validity whatsoever. UNGA resolution ES-10/19 of 21 December 2017 provides that the status of Jerusalem is a final status issue to be resolved through negotiations in line with relevant UN resolutions. It further provides that decisions and actions, which purport to have altered the character, status or demographic composition of Jerusalem, have no legal effect, are null and void, and must be rescinded in compliance with relevant UNSC resolutions.

With regard to the annexation of East Jerusalem under Jerusalem Law 1980, UNSC resolution 2334 of 23 December 2016 states that it will not recognize any changes to the 4

June 1967 lines, including with regard to Jerusalem, other than those agreed by the parties through negotiations.

Occupation and Annexation of East Jerusalem

Israel's occupation of East Jerusalem following the 1967 war and its subsequent annexation in 1980 coupled with Israel's declaration that Jerusalem "complete and unified" is its capital, are illegal attempts by Israel to alter the status of Jerusalem. Since annexation, Israeli laws and policies have heavily discriminated against Palestinians.

Despite the numerous UN resolutions calling on states not to recognise Jerusalem as Israel's capital or to have diplomatic missions established in Jerusalem, the United States of America ('US') proceeded to do so on 6 December 2017 and 14 May 2018 respectively.

Settlement Activities and Constructions

Since Israel's establishment in 1948, there has been a systematic strategy to transfer Israeli populations into Jerusalem and displace Palestinians. This strategy escalated following East Jerusalem's illegal occupation in 1967, which saw the destruction of the Moroccan Quarter and the Syriac Quarter, two historic sites. The trend has continued following East Jerusalem's illegal annexation in 1980.

Israel has since constructed and expanded many Israeli settlements in East Jerusalem. At present, there are 13 Israeli neighbourhoods in East Jerusalem, and between 2000 and 2018, Israeli population in East Jerusalem has grown from 167,078 to 220,036.

Many Palestinian residents in Jerusalem have had their homes demolished and many have been confined to crowded and poor neighbourhoods. Palestinians remain fearful of the real risk of having their homes demolished to facilitate further Israeli settlements construction and expansion.

Other Large Scale Constructions

Israel has rigorously pursued the construction of the separation wall (aka. the 'apartheid wall') in order to achieve its objective to expand Jerusalem as its great capital. In 1995, the International Court of Justice issued an advisory opinion declaring the construction illegal and contrary to international law; however, despite this, the construction continues today.

Israel is also currently constructing a cable car, which crosses into East Jerusalem and has the potential to move thousands of people through East Jerusalem on a daily basis. Other controversial large infrastructure projects include the construction of tunnels and plans to construct an underground railway. The plans suggest that the underground railway would connect West Jerusalem with the Moroccan Gate, reaching the fringes of the Al-Aqsa Mosque, and has parts above ground crossing several neighbourhoods in Jerusalem.

Control of Holy Sites

On 21 August 1969, the Al-Aqsa Mosque in Jerusalem was set afire by Denis Michael Rohan, an Australian citizen. UNSC resolution 271 of 15 September 1969 grieved at the extensive damage to the Al-Aqsa Mosque in Jerusalem under Israel's occupation, recognised that the destruction of Holy Places endangered peace and security, and called on Israel to observe the Geneva Conventions and international law governing military occupation. There continues to be reports of damage to the Al-Aqsa mosque, including underground excavations weakening its foundations and putting various households within its compounds at risk of collapse.

Israel has also sought to take control of holy sites by regulating or restricting access and use at its discretion. Israeli authorities have imposed a system of checkpoints and permits, which regulates access to the city from its Palestinian outskirts and therefore, prevents their unrestricted access to their holy sites. Israel has also resorted to the use of curfews and

enforcing closures of holy sites. These measures affect both Palestinian Christians and Muslims alike. Al-Aqsa Mosque and the Dome of the Rock remain controlled by Israeli security forces.

Discriminatory Zoning, Planning, and Permits

Israeli zoning and planning policies in East Jerusalem are discriminatory and violate international law. It is near impossible for Palestinians to obtain building permits and many Palestinians have been forced to build without them. This places their properties at risk of demolition. Many Palestinians have traumatically witnessed their homes demolished for want of a building permit. Some Palestinians have even been forced to leave their communities due to the discriminatory policies, which render it impossible to build homes for themselves.

Other Demolitions and Evictions

Apart from the demolitions and evictions to facilitate Israeli settlements expansion, there have been ongoing demolitions to facilitate the construction of large-scale infrastructure projects, such as the cable car. This has also led to demolitions and forced evictions in Silwan. Many families in Kahn al-Ahmar-Abu al-Helu are also facing potential demolitions and are at risk of forced evictions.

Recommendations

The authors of this statement recommend the following:

1. The international community must exert sustained pressure on Israel to:
 - comply with international human rights law in the occupied territories and end its human rights violations;
 - allow access to the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967;
 - end the illegal occupation and withdraw from all occupied territories;
 - abandon its plans to annex parts of the West Bank;
 - rescind all measures taken to alter the status, character, demographic and geological structure of Jerusalem and resume constructive discussion and dialogue towards a just resolution.
2. The Human Rights Council must:
 - defend the legitimacy and necessity of agenda Item 7, addressing all misguided allegations against its purpose and scope;
 - condemn Israel's attempts to alter the status, character, demographic and geological structure of Jerusalem.

Geneva International Centre for Justice (GICJ), Just Atonement Inc., The Arab Lawyers Association-UK, Human Rights Defenders (HRD), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), The Iraqi Centre for Human Rights, NGO(s) without consultative status, also share the views expressed in this statement.