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Item 7

Joint written statement submitted by Adalah – The Legal Center for Arab Minority Rights in Israel, Badil Resource Centre for Palestinian Residency and Refugee Rights, Center on Housing Rights and Evictions (COHRE), Housing and Land Rights Network – Habitat International Coalition (HIC), non-governmental organizations in special consultative status.

**Recurring Dispossession and Displacement of 1948 Palestinian Refugees
in the Occupied Palestinian Territory¹**

1. During the 1948 Arab-Israeli War, Palestinians fled or were expelled from parts of Mandate Palestine, many finding refuge in the Occupied Palestinian Territory (OPT), including East Jerusalem (“Palestinian Refugees”). At the beginning of 2009, there were over 1,813,000 Palestinian refugees in the OPT representing 45% of its population of approximately 4 million Palestinians. More than 754,000 reside in the occupied West Bank, and over 1,059,000 in the occupied Gaza Strip.²
2. Israel not only disrespects the right of these refugees to return to their homes of origin, but continues to dispossess and displace them within their place of refuge, namely the OPT over which Israel exercises effective control as an occupying power.
3. While aiming at illegally asserting control over the maximum amount of land with a minimum number of Palestinians and implanting Jewish-only settlements, Israel is forcibly displacing the Palestinian civilian population, refugees and non-refugees, in the OPT including East Jerusalem. Different measures have been adopted by Israel to achieve its goal, such as land confiscation, home demolition, eviction and the construction of the Wall. These practices run counter to international human rights and humanitarian law.
4. Dispossession and displacement of Palestinians, including refugees, in occupied East Jerusalem, illegally annexed by Israel, has noticeably increased. These policies and practices aim at asserting pressure on this community to leave the city.³ Of particular concern are Palestinian neighborhoods that face ongoing mass

¹ Al-Maqdese Society Developing Establishment, Arab Association for Human Rights (HRA), Association for the Defense of the Rights of the Internally Displaced Persons in Israel (ADRID), Civic Coalition to Defend Palestinian Rights in Jerusalem (CCDPRJ), Comitato Internazionale per lo Sviluppo dei Popoli (CISP), Israeli Committee against House Demolitions (ICAHD), Palestinian Grassroots Anti-Apartheid Wall Campaign and Zochrot Association, also share the views expressed in this statement.

² Badil, *Survey of Palestinian Refugees and Internally Displaced Persons 2008* (forthcoming).

³ OCHA, *Special Focus: The Planning Crisis in East Jerusalem: Understanding the Phenomenon of*

eviction and home demolition including those in Sheikh Jarrah, Silwan, Beit Hanina and Al-Turi.⁴

5. In some cases, Israel expropriates Palestinian-owned property through a complex system of legal, administrative and institutional mechanisms, subsequently leasing or transferring these properties to Jewish settlers. In other cases, settlers make use of Israeli courts to lay claim to property inhabited by Palestinians, claiming ownership by Jewish individuals or associations prior to 1948. The Israeli Supreme Court has ruled in favor of such claims while failing to recognize the rights of Palestinian refugees to reclaim lost land and property.
6. For example, some Palestinian refugees who moved to Sheikh Jarrah in 1956 following an agreement between UNRWA and the Government of Jordan were evicted from their homes by Israeli authorities on 2 August 2009, following a court ruling.⁵ As a result, 53 Palestinian refugees, including 20 children, have once again been displaced. With no alternative residence, the families are forced to camp out on the street in front of their homes. Their appeal to overturn the eviction was rejected on 9 August 2009. Their properties were handed over to a settler organization that intends to build a new settlement in the area, while placing 300 refugees living in the area at imminent risk of forced eviction dispossession and displacement.⁶
7. Settlers have also laid claim to several other plots in Sheikh Jarrah, including 33 buildings that are home to almost 175 people, most of whom are refugees. Although the case is still pending in the Israeli courts, a group of settlers, accompanied by Israeli police entered the area on 26 July 2009 and occupied one of the buildings.⁷
8. While the Israeli executive branch plans what it calls the “Judaization” of East Jerusalem, and the judiciary fails to respect and protect the rights of Palestinian refugees and their property, it is the legislative branch that plays an active role in preventing refugees from reclaiming lost land and property. On 3 August 2009, one day after the eviction of tens of Palestinian refugees in Sheikh Jarrah, the Knesset adopted a new land reform law – *Israel Land Administration (ILA) Law* – that legalizes the privatization of land originally owned by Palestinians, including refugees who currently reside in the OPT. This law retroactively legitimizes the ILA’s sale of absentee property, which includes refugee property. Thus, for instance, 96 such tenders were issued in 2007, while 106 tenders were published in 2008.⁸ The new law has repercussions on the right of Palestinian refugees to restitution and violates their property rights, in contravention of international humanitarian and human rights law.⁹

“illegal” Construction, April 2009.

⁴ Ibid.

⁵ Civil Court case 4744/02, TPS 12705.

⁶ OCHA, *Fact Sheet: Sheikh Jarrah*, August 2009.

⁷ OCHA, *Fact Sheet*, Op. cite.

⁸ *Adalah to Attorney General and Custodian of Absentee Property: Israel’s Sale of Palestinian Refugee Property Violated Israeli and International Law*, Press Release, 22 June 2009).

⁹ The 1907 *Hague Regulations* stipulates the need of combatants to respect the right to private property and explicitly prohibits permanent confiscation of private property following the

9. The new law allows the transfer of land from state and the Jewish National Fund “ownership” into private Jewish-ownership in occupied East Jerusalem, illegally annexed by Israel. The privatization process will encompass the settlements and areas planned for development (settlement construction) in occupied East Jerusalem. In essence, Israel will generate huge profits from the privatization of land in the OPT, despite its legal obligations as an occupying power under international humanitarian and human rights law to respect the right to private property and refrain from permanent confiscation of such property.

RECOMMENDATIONS

We therefore urge the Human Rights Council to call on Israel to:

- (1) Immediately halt dispossession and displacement of Palestinians, including refugees, in the OPT by putting an end to forced eviction and home demolition;**
- (2) Facilitate the return of the displaced to their homes as a result of forced eviction and house demolition; ensure the implementation of the UN *Principles on Housing and Property Restitution for Refugees and Displaced Persons* (“Pinheiro Principles”); and seek a durable solution to the refugee plight, namely repatriation;**
- (3) Protect the rights of Palestinians to land and property and ensure respect for international human rights and humanitarian law;**
- (4) Annul the new *Israel Land Administration Law*, end the transfer of ownership rights over Palestinian refugee property, and promote the right of Palestinian refugees to property restitution.**

termination of warfare. The U.S. Military Tribunal at Nuremberg was the first to address the confiscation of property following the end of fighting in the Second World War. In *U.S. v. Alfred Krupp et al.*, the tribunal ruled that such confiscation of property and its subsequent acquisition by the Krupp firm constituted a violation of Article 46 of the *1907 Hague Regulation*. *U.S. v. Alfred Krupp et al.* cited in *How Does Law Protect in War? Cases, document and teaching materials on contemporary practice in international humanitarian law, 2nd ed., Vol.2* (ICRC, 2006), p.1030, and Adalah’s letter addressed to the Attorney General on Tenders for selling absentees’ property administered by Amidar, 19 May 2009.