

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967**

REFERENCE: UA  
ISR 8/2015:

20 November 2015

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pursuant to Human Rights Council resolutions 25/17, 24/6, 26/7, and 5/1.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged imminent forced eviction against a Palestinian family from their house at [REDACTED] in the Old City, East Jerusalem, Occupied Palestinian Territory, scheduled to take place on 30 November 2015**. A temporary injunction against the eviction is currently in place.

The alleged forced eviction against the Ghaith-Sub Laban family was the subject of an earlier joint urgent appeal, sent on 30 April 2015 (A/HRC/30/27, p. 42) by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the independence of judges and lawyers; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967. In the communication, the Special Rapporteurs raised concerns following information received regarding the forced eviction of the Ghaith-Sub Laban family, consisting of eight persons, from their house in the Old City, East Jerusalem. The Special Rapporteurs

further addressed in their communication two attempts to carry out the forced eviction on 9 February 2015 and on 16 March 2015.

We regret that to this date we did not receive a response from your Excellency's Government to our joint urgent appeal.

According to the new information received:

The Ghaith-Sub Laban family has rented the house since 1953 and are protected tenants under the Protected Tenant Law of 1972.

On 14 September 2014, an Israeli Magistrate's Court granted the petition of the settler organization Galetzia Trust to forcibly evict the family based on a claim that the house had been abandoned, despite the family's protected tenant status and that they continue to live in the house. The Ghaith-Sub Laban family appealed this decision on 14 December 2014. The settler organization had also alternatively claimed that the family had lost their protected tenancy status because they had installed an air-conditioning unit in the property without the requisite building permit.

On 31 May 2015, an Israeli District Court heard the appeal of the 14 September 2014 Magistrate's Court's decision. The decision of the Magistrate's Court to grant the eviction order relied on information provided by the settler organization, despite the fact that the family asserted in court that they continued living in the house. During the appeal hearing the settler organization stated that the property originally belonged to Ashkinazi Jews and that an Ashkinazi Jewish family, not a Palestinian Muslim family, should live in the house.

On 9 June 2015, the High Court granted an injunction against the implementation of the eviction order until the end of the appeal hearing. On 11 October 2015, the Israeli District Court rejected the Ghaith-Sub Laban family's appeal. The District Court found no procedural or legal irregularities in the decision of the Magistrate's Court, despite the fact that the Magistrate's Court based its decision on evidence by settlers only and that the presiding Magistrate was herself a settler. In addition to upholding the eviction order, the District Court ordered the family to pay 10,000 shekels (approximately 2580 USD) towards costs of the court proceedings and as damages to the petitioning settler organization.

On 2 November 2015, the family was notified that the eviction is planned to take place on 30 November 2015. On 10 November, the family filed a request to appeal the decision of the District Court before the High Court. On 18 November 2015 a temporary injunction to halt the eviction was granted until further decision by the High Court. Reportedly, such decision could concern the request for appeal, to which the settler organization has been requested to respond by 3

December 2015. However, the High Court could also decide to revoke the injunction before deciding on whether to grant an appeal.

Allegedly, the settler organization has additionally contacted the Israeli National Insurance Institute and the Israeli Ministry of Interior, with the claim that the Ghaith-Sub Laban family has abandoned their East Jerusalem house. As a result, the National Insurance Institute stopped the family's social benefits in June 2015 including their medical insurance. This is particularly difficult for two family members, Nora Ghaith-Sub Laban (59 years old) and Mustafa Sub Laban (64 years old), since both of them suffer from health conditions requiring regular access to medical services. Should the Israeli Ministry of Interior accept the settlers' claim that the Ghaith-Sub Laban family does not live in East Jerusalem the residency status of the family may also be revoked.

Within the context of Israeli settlement activity, this case is an example of the risks of forced eviction and displacement, and the insecure residency status, faced by Palestinian residents of occupied East Jerusalem.

While we do not wish to prejudge the accuracy of these allegations, we reiterate our concern that the forced eviction of the Ghaith-Sub Laban family from their house is contrary to your Excellency's Government obligation to respect, protect and fulfil the right to an adequate standard of living, including housing, the right to non-discrimination and the right to freedom from arbitrary or unlawful interference with one's privacy, family and home, as enshrined in articles 2 and 11 of the International Covenant on Social, Economic and Cultural Rights (ICESCR) and articles 2 and 17 of the International Covenant on Civil and Political Rights (ICCPR), both ratified by Israel on 3 October 1991.

We also wish to reiterate your Excellency's Government's obligation under the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War 1949. According to article 49 of the Convention, Israel as the Occupying Power must refrain from transferring or deporting Palestinian persons, who fall under the definition of protected persons as provided by article 4. The probability that settlers would move into the property in East Jerusalem also invokes article 49, which stipulates that the Occupying Power may not transfer its own population into the territory it occupies.

We further recall the General Comments No. 4 and 7 of the Committee on Economic Social and Cultural Rights, which stress the need to provide adequate legal protection from forced eviction, including access to an effective remedy of those that are affected by eviction orders. According to these General Comments, Israel must further explore all feasible alternatives to forced eviction in consultation with the affected persons. Moreover, it must avoid homelessness of the evicted persons by providing adequate alternative housing facilities.

We once again express our concern about the adherence to fair trial guarantees in the court proceedings concerning the eviction. The fact that the decision of Magistrate Court, as upheld by the District Court, was based solely on evidence and testimony provided by settlers, as well as the fact that the Magistrate judge was herself a settler, raise doubts about the compliance with the requirement of impartiality and independence of the judiciary, and with the principle of fairness and equality before courts, as provided for by article 14 of the ICCPR. In addition, the claims that the family lost their status as protected tenants due to having abandoned the house and/or having installed an air conditioning unit without a permit seem inherently contradictory, and seriously calls into question the finding that the family had abandoned their house.

The loss of the national health insurance by the family poses a serious threat to the family's enjoyment of its right to health, as protected by article 12 of the ICESCR under which States parties have the immediate obligation to guarantee that the right will be exercised without discrimination of any kind. We also wish to warn against taking steps entailing the forced displacement of this family, by revoking the family's residence status in the occupied East Jerusalem. We further recall the International Convention on the Elimination of All Forms of Racial Discrimination (1965), which guarantees the principle of non-discrimination on the grounds of race or ethnicity, notably with regards to the right to nationality (Art. 3(d)(iii)), the right to housing (Art. 3(e)(iii)) and the right to public health (Art. 3(e)(iv)).

Finally, we are concerned that continuing settlement activities and the on-going occupation of Palestinian territory by Israel hamper the enjoyment of the right to self-determination of the Palestinian people, as protected by the common article 1 of the ICCPR and the ICESCR.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response to this and our previous urgent appeal of 30 April 2015 on this situation and we urgently appeal to Your Excellency's Government to refrain from carrying out the order to evict the family. We also urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence.

We may publicly express our concerns in the near future as this is a serious matter warranting immediate attention. We are of the view that the information upon which the press release would be based is sufficiently reliable. The press release would indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

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