

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 independence of judges and lawyers; and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967

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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 independence of judges and lawyers; and Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 pursuant to Human Rights Council resolutions 25/17, 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 the Ghaith-Sub Laban family from their home in the Old City, East Jerusalem, following two attempts on 9 February and 16 March 2015.**

According to the information received:

The Ghaith-Sub Laban family, consisting of eight members, including two children aged 9 and 2 years old, face an imminent threat of a forced eviction from their home at [REDACTED]. The Ghaith-Sub Laban family has protected tenant status under the Protected Tenant Law of 1972. This status entails that the tenant cannot be evicted, except in limited circumstances provided for by law, such as not paying rent. The family continues to pay rent and maintains this status under Israeli law even after the Israeli Guardian of Absentee Property passed ownership of their home to the Galetzia Trust in 2010. This Trust is related to a number of settler organizations, including the Ateret Cohanim, which operates in the Old City in occupied East Jerusalem.

On 14 September 2014, an Israeli Magistrate Court granted a petition by the Galetzia Trust, to evict the Ghaith-Sub Laban family based on the claim that they had deserted the house and thus lost their protected tenant status. The Court heard only testimonies by settlers and the case was presided over by a judge who is herself a settler.

On 14 December 2014, the Ghaith-Sub Laban family appealed the decision by the Magistrate Court and an appeal is scheduled to be heard by the District Court on 31 May 2015.

On 9 February 2015, the first attempted forced eviction of the Ghaith-Sub Laban family was carried out by settlers, accompanied by a lawyer from the Israeli Enforcement Authority. Allegedly, in contravention of Israeli legal procedures, the family did not receive the required notification before the attempted eviction was carried out and there was no accompanying police escort as required by law. The attempt was only halted by the arrival of journalists and activists who gathered peacefully at the address to provide a protective presence.

On 16 March 2015, the second attempted eviction was carried out by more than 20 Israeli police officers. A representative of the Galetzia Trust, and the lawyer from the Israeli Enforcement Authority who had attended the first attempt, were also present. Peaceful activist also gathered in solidarity on this occasion. The eviction was halted at the last moment by a temporary injunction filed by the family. As the injunction was valid only for the 16 March 2015, and in light of two attempts which took place prior to the appeal date, the family faces an imminent threat of forced eviction.

On 19 March 2015, the family appealed to the High Court seeking to contest a rejection by the Magistrate Court to issue an injunction to prevent their eviction prior to the appeal session in May. A decision is expected shortly. It is noted that the settlers seeking the eviction of the Palestinian family have sought compensation of over 35 000 NIS (USD 9000) for their costs in the case, including the cost of the failed eviction attempts.

This case sits within a context where hundreds of Palestinian residents of East Jerusalem are at risk of forced displacement due to settler activities, especially in the areas of the Old City, Sheikh Jarrah and Silwan, and where 35 per cent of land in East Jerusalem has been confiscated for settlement use. We are concerned in general, by the insecure residency status of East Jerusalem Palestinians, effects of the Centre of Life policy, reports of demolitions and forced evictions of Palestinians, settler take-overs of Palestinian property and settler violence in East Jerusalem.

While we do not wish to prejudge the accuracy of above allegations, there seems to be enough evidence to raise serious concerns that the forced eviction of the Ghaith-Sub Laban family from their home would be contrary to international human rights law and standards with regard to the right to adequate housing. We are deeply concerned that these actions would also be in breach of international humanitarian law. Further, based on the information received, we also understand that it would be contrary to Israeli domestic law.

With reference to articles 2 and 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and articles 2 and 17 of the International Covenant on Civil and Political Rights (ICCPR), the forced eviction would be contrary to the rights to adequate housing, to non-discrimination and to freedom from arbitrary or unlawful interference with privacy, family and home. These articles guarantee non-discrimination in the exercise of the rights in the Covenants, and the right to an adequate standard of living, including housing, respectively. The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 has stressed that the right to adequate housing should be seen as the right to live somewhere in security, peace and dignity, including various aspects such as accessibility and legal security of tenure. Even in cases where the legality of the eviction order appears to be established (which we do not suggest is the case here), the Committee has noted in its General Comment No. 7 that States must ensure that prior to carrying out any evictions, that all feasible alternatives are explored in consultation with the affected persons, that adequate housing alternatives are provided to avoid homelessness and that due process is ensured. Legal remedies or procedures and procedural protections should be provided to those who are affected by eviction orders

Under International Humanitarian Law the forced eviction would be carried out against a Palestinian family in occupied East Jerusalem, thus displacing protected persons under article 4 of the Fourth Geneva Convention. This may amount to a violation of the prohibitions on forcible transfer under articles 49 of the Fourth Geneva Convention, which, as the occupying Power, Israel is obliged to respect. The additional factor that settlers would likely be taking over the house engages the provision of the same article prohibiting the occupying Power from transferring parts of its own civilian population into the territory it occupies.

The fact that the presiding Magistrate is a settler, and that only testimonies of witnesses affiliated with the settler organizations were heard, calls into question the independence and impartiality of the Magistrate, as well as the fairness and equality of the treatment of the Ghaith-Sub Laban family under the justice system in contradiction of article 14 of the ICCPR. Furthermore, it appears clear that the family strongly contests the claim that they abandoned their home and thereby lost their status as protected tenants. Effecting the eviction or allowing it to go ahead before the family has been given the opportunity to mount a defence that the allegation is false, and before the date of the appeal hearing on 31 May 2015, would render the act devoid of any legitimacy under the

law and would violate a number of the human rights of the family associated with the rights to adequate housing and fair trial. In addition, we would note that irrespective of the existence of protected status under the law, the Ghaith-Sub Laban family are entitled to receive protection from being unjustly evicted.

The insecurity caused by the ongoing threat of forced eviction, causing anxiety and fear for the family, including the two young children, adds to our concern of the impact this process is having on the family.

In light of the specific context of the occupation, we are also concerned that this case contains an element of discrimination, contrary to article 2(2) of the ICESCR and 2(1) of the ICCPR, and that, as part of a broader pattern of practices and policies implemented by Israel against Palestinians in East Jerusalem, the case impacts on the right to self-determination of the Palestinian people, protected under common article 1 of the ICCPR and ICESCR.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the Ghaith-Sub Laban family in compliance with international instruments.

1. Please provide any additional information and any comment you may have on the above mentioned allegations, including the legal basis of the eviction order.
2. With respect to the residency status of Palestinians in East Jerusalem, please provide information on what measures Israel has taken or intends to take to ensure that they, as protected persons under international humanitarian law, are not subjected to violation of their human rights and are not subject to forced evictions, displacement and forcible transfer contrary to international human rights law and standards and international humanitarian law.
3. Please provide information of the mechanisms available under domestic law to guarantee security of tenure to the Ghaith-Sub Laban family, including in relation to their status as protected tenants.
4. Please provide information concerning the steps taken to ensure the rights of due process and procedural fairness are applied in this case, including while the appeal of the eviction order is pending.
5. Please provide a precise account of the two attempted evictions, in particular the exact procedures implemented and the timelines to ensure that the

affected family, including two children, were informed and consulted, and offered alternatives; and that adequate compensation was considered and afforded to them.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the threatened forced eviction of the Ghaith-Sub Laban family.

We note that should the case develop further to the detriment of the human rights of the concerned family, we reserve the possibility of publicly expressing our concerns. Any press release will indicate that we have been in contact with your Excellency's Government to clarify the issues 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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