

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 human rights of internally displaced persons and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967

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(Please use this reference in your reply)

13 February 2023

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 human rights of internally displaced persons and Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967, pursuant to Human Rights Council resolutions 43/14 and 50/6, and Commission on Human Rights resolution 1993/2A.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the imminent risk of forced eviction and displacement for 85 Palestinian families, including the Shehade family, in Silwan, occupied East Jerusalem.**

According to the information received:

Imminent risk of forced eviction for the Shehade family and other Palestinian families in Silwan, occupied East Jerusalem

The Shehade family is a Palestinian family who has been living in Silwan neighborhood in occupied East Jerusalem for decades. They live in a building composed of five apartments, each of which is occupied by Naa'imeh, the grandmother of the family, and four families of her sons and daughters. In total, 33 members of the Shehade family, consisting of 9 adults and 24 children, reside in the five apartments.

The Shehade family faces an imminent risk of forced eviction and displacement, as a result of lawsuits brought against them by an Israeli settler association, Ateret Cohanim, to expropriate their property. In November 2022, the Jerusalem District Court ruled in favour of the settler association and instructed the Shehade family to vacate their home by 1 March 2023. The Shehade family filed a leave for appeal to the Israeli High Court of Justice on 3 February 2023, the Court rejected the appeal, effectively allowing the displacement and eviction of the Shehade family from the properties.

It is reported that the Shehade family is one of 85 Palestinian families, including over 700 individuals, who currently face the risk of imminent forced eviction and displacement from Batan al-Hawa, Silwan, as a result of legal actions brought by Israeli settlers.

The right to adequate housing for Palestinians in East Jerusalem

Palestinian neighborhoods in occupied East Jerusalem, such as Silwan and Sheikh Jerrah, have been subject to pervasive settlement activities by the Israeli Government and settler organizations, directly undermining the right to adequate housing for Palestinians living in those neighborhoods for many decades.

Following the Israeli annexation of East Jerusalem in 1967 - widely recognized as illegal under international law - Israel enacted the Legal and Administrative Matters Law in 1970. Together with its amendments in 1973, the Law allowed transfers of properties belonging to Jewish persons prior to 1948 to the Israeli General Custodian, and enabled the original Jewish owners or their heirs to reclaim their properties through it. By comparison, Palestinians who lost their properties in West Jerusalem do not enjoy the same right of restitution. On the basis of this Law and other laws and practices discriminatory towards Palestinians, hundreds of properties belonging to Palestinians have been reportedly taken over by Israeli settlers in East Jerusalem since the 1980s.

In Batan al-Hawa, Silwan, Ateret Cohanim has been seeking to take over Palestinian properties on 5.2 dunams of land through the Benvenisti Trust, a historical Jewish trust that existed in the late nineteenth and early twentieth centuries and held title to the properties in the area. The Trust's properties were dismantled by 1945 given their deterioration and tens of Palestinian housing units were constructed in the area after 1948.

In 2001, individuals affiliated with Ateret Cohanim approached the Israeli District Court to be appointed as new trustees of the Benvenisti Trust, seemingly as an attempt to claim the properties in Batan al-Hawa through the Trust. The Court approved the appointment, despite the fact that they had no affinity with the Trust or Jewish residents of the properties prior to 1948. After Ateret Cohanim effectively gained control of the Trust, the Israeli General Custodian transferred the land to its possession. Since then, Ateret Cohanim began legal proceedings to forcibly evict and dispossess Palestinian families living in Batan al-Hawa, including the Shehade family.

Ateret Cohanim's vigorous actions to take over Palestinian properties in Silwan are part of the broader effort to consolidate the Israeli ownership and control of the "Historic Basin" of Jerusalem. It is reported that none of their actions aimed at expanding Israeli settlements in East Jerusalem would have been possible without active support by Israeli authorities, including the judiciary and the General Custodian within the Ministry of Justice.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern for the Shehade family and numerous other Palestinian families in Silwan and other neighborhoods of East Jerusalem, who face constant risks of forced displacement and eviction from their homes.

At the outset, allow us to reiterate that the establishment and expansion of Israeli settlements in the occupied Palestinian territory have been widely condemned as illegal and amount to the transfer by Israel of its own civilian population into the occupied territory, which is strictly prohibited under international humanitarian law and constitutes a war crime. We thus call on Israel and other actors to halt all settlement activities in the occupied Palestinian territory, including East Jerusalem, in accordance with international law.

With regard to the Shehade family and other Palestinian families in Silwan at risk of forced eviction and displacement, we recall that forced displacement and evictions of protected persons in the occupied territory may amount to forcible transfer, prohibited under articles 49 of the Fourth Geneva Convention, which, as the occupying Power, Israel is obliged to respect. Article 49 permits the occupying Power to carry out total or partial evacuation of protected persons under very narrow circumstances, where "...the security of the population or imperative military reasons so demand". Based on the information available to us, the sole motivation for the planned eviction appears to be illegal settlement activities and none of the permitted grounds has been met. We wish to further recall that article 53 of the said Convention also prohibits "[a]ny destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations" except "where such destruction is rendered absolutely necessary by military operations".

We also reiterate that forced evictions constitute a gross violation of the right to adequate housing protected by article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and may also lead to violations of other human rights, such as the right to life, the right to security of the person, the right to non-interference with privacy, family and home and the right to the peaceful enjoyment of possessions. As highlighted by the Committee on Economic, Social and Cultural Rights in its general comment no. 7, evictions can take place only in exceptional circumstances, and after procedural protections, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, evictions should result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves.

We would also like to alert your Excellency's Government that these planned forced evictions follow a larger pattern of forced evictions and housing demolitions in the Occupied Palestinian Territory as highlighted in recent thematic reports by the Special Rapporteur on the right to adequate housing (A/HRC/49/48 and A/77/190). Such systematic or widespread forced evictions and arbitrary housing demolitions should in the view of the Special Rapporteur on the right to adequate housing be considered as acts amounting to domicile (A/77/190) and may thus as well incur international criminal responsibility.

We also remind your Excellency's Government the Guiding Principles on Internal Displacement, which recognize, inter alia, the right of everyone "to be protected against being arbitrarily displaced from his or her home or place of habitual residence". Guiding principle 7(1) establishes that "Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether". Guiding principle 7(2) also stipulates that "The authorities undertaking such displacement shall ensure to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated"; and guiding principle 7(3) states that "(b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation; (c) The free and informed consent of those to be displaced shall be sought; (d) The authorities concerned shall endeavor to involve those affected, particularly women in the planning and management of their relocation; (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities shall be respected". Guiding principle 9 further provides that "States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands." This is particularly relevant, given the status of Palestinians as protected persons under the Israeli occupation.

Finally, we wish to reiterate our concerns about discriminatory laws and practices that undermine the housing, land and property rights of Palestinians in East Jerusalem. A number of us, the undersigning special procedures mandate-holders, have already raised concerns about Israel's discriminatory zoning and planning regime in East Jerusalem in our previous communication of 31 March 2022 (AL ISR 2/2022). We regret that no reply from your Excellency's Government has been received to date.

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 above-mentioned persons in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on the legal and factual grounds on which Ateret Cohanim's representatives were appointed as new trustees of Benvenisti Trust and the land in question was transferred to its possession.

3. Please provide information on whether and how the Palestinian families in Silwan, including the Shehade family, have been informed about Ateret Cohanim's eviction suits against them.
4. Please provide information on measures undertaken to ensure that the Shehade family and other families at risk of forced eviction and displacement are offered alternatives to eviction.
5. Please provide information on remedies available to the Shehade family and other families facing the same risk, should the evictions be executed.
6. Please provide information on measures taken to ensure compliance with the Guiding Principles on Internal Displacement and the prohibition of arbitrary displacement of any individual.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the threatened forced eviction of the Shehade family and any other Palestinian households in East Jerusalem.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please note that a copy of this letter is being transmitted to the State of Palestine for their information.

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

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