



## Effective Measures Needed to Ensure Accountability Amid Escalating Israeli Attacks against the Palestinian People

Throughout May 2021, Israel escalated its crackdown of Palestinian protesters on both sides of the Green Line as mass demonstrations erupted against Israel's imminent threat of forcibly transferring eight Palestinian families from their homes in the Sheikh Jarrah neighborhood in Jerusalem. Israel's illegal evictions in Sheikh Jarrah are only the most recent example of Israel's longstanding policies of displacement and dispossession, which the Palestinian people have endured for decades, and its institutionalized regime of racial domination and oppression, which amounts to the crime of apartheid, as defined by the Rome Statue of the International Criminal Court and the Apartheid Convention.<sup>1</sup> Due to inaction and a lack of political will by the international community, Israel has been enabled to continue to commit widespread and systematic human rights violations against the Palestinian people for decades with impunity.

In order to effectively address the root causes of settler colonialism and apartheid and ensure accountability for violations of international human rights law and international humanitarian law, the international community must address Israel's policies and practices targeting the Palestinian people as a whole as "one comprehensive regime developed for the purpose of ensuring the enduring domination over non-Jews".<sup>2</sup> In this context, our organizations welcome the historic resolution adopted by the Human Rights Council (HRC) during its 30th Special Session, which established a standing Commission of Inquiry to address Israel's latest and ongoing violations against the Palestinian people on both sides of the Green Line while also addressing the root causes, "including systematic discrimination and repression based on national, ethnic, racial or religious identity."

Following the Nakba of 1948, 85 percent of the Palestinian indigenous population became refugees. Since then, Israel has designed and institutionalized a series of laws, policies and practices aimed at displacing and dispossessing Palestinians.<sup>3</sup> Israel's institutionalized racial domination and oppression forms the foundation of its apartheid system over the Palestinian people as a whole.

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<sup>1</sup> UN General Assembly, International Convention on the Suppression and Punishment of the Crime of Apartheid, 30 November 1973, A/RES/3068(XXVIII) and Rome Statute of the International Criminal Court, (last amended 2010), 17 July 1998.

<sup>2</sup> UN ESCWA, "Israeli Practices Towards the Palestinian People and the Question of Apartheid," 2017, available at: [https://www.middleeastmonitor.com/wp-content/uploads/downloads/201703\\_UN\\_ESCWA-israeli-practices-palestinian-people-apartheid-occupation-english.pdf](https://www.middleeastmonitor.com/wp-content/uploads/downloads/201703_UN_ESCWA-israeli-practices-palestinian-people-apartheid-occupation-english.pdf).

<sup>3</sup> Al-Haq, "Joint Urgent Appeal to the United Nations Special Procedures on Forced Evictions in East Jerusalem," 10 March 2021, p. 2, available at: [https://www.alhaq.org/cached\\_uploads/download/2021/03/10/joint-urgent-appeal-to-the-united-nations-special-procedures-on-forced-evictions-in-east-jerusalem-1615372889.pdf](https://www.alhaq.org/cached_uploads/download/2021/03/10/joint-urgent-appeal-to-the-united-nations-special-procedures-on-forced-evictions-in-east-jerusalem-1615372889.pdf).

Today, Palestinian families from the Sheikh Jarrah and Batn Al-Hawa neighborhoods in East Jerusalem continue to face the imminent threat of forcible transfer, after settler organizations filed eviction cases against them in Israeli courts. Most of the families living in Sheikh Jarrah and Batn Al-Hawa neighborhoods are refugees from 1948, who have been denied their right of return and to reclaim their original land and properties.

In Sheikh Jarrah, eight families of 19 households, including 87 Palestinians, are at imminent risk of forcible transfer, due to the case filed against in Israeli courts by Nahalat Shimon International, a settler organization based in the United States. Previously in 2008 and 2009, Nahalat Shimon International succeeded in evicting three Palestinian families of 67 Palestinians, from Sheikh Jarrah.<sup>4</sup> As the Occupying Power, Israel is unlawfully applying Israeli domestic law in occupied territory. Israel's forced eviction orders stem from claims made under the inherently discriminatory 1970 Legal and Administrative Matters Law, which grants Jewish Israelis the exclusive right to pursue claims to land and property allegedly owned by the Jewish population in East Jerusalem before the establishment of the State of Israel.<sup>5</sup> Israeli courts consistently rule in favor of such lawsuits filed by Israeli settler organizations to evict Palestinian families.<sup>6</sup> By unlawfully applying Israeli domestic law to occupied territory, Israeli courts have ruled in favor of such lawsuits undertaken by settler organizations to evict Palestinian families.

In parallel, the Jerusalem District Court held a hearing on 26 May 2021 regarding the forced eviction of 108 Palestinians of 18 households from their homes in the Batn Al-Hawa neighborhood in Silwan; however, the Court postponed its ruling.<sup>7</sup> Based on an alleged property deed from the Ottoman rule period, the Benvenisti Trust, a Jewish Trust, claims ownership of 5.2 dunums of Batn Al-Hawa land. In 2002, the Custodian General transferred the land to the Benvenisti Trust, whose management is in the hands of the settler organization Ateret Cohanim. The decision was sanctioned by the Jerusalem District Court and the transfer of ownership was done without informing the Palestinian residents who have contracts proving ownership of the land they have lived on since the 1950s.<sup>8</sup>

Ateret Cohanim has since filed "eviction orders" against the Palestinian families. In 2017, the Palestinian residents filed a petition with the Israeli High Court to contest the evictions, arguing, in accordance with Ottoman law applied at the time, that the ownership applies only to the buildings, which no longer exist, and not the land itself. In June 2018 the Israeli government acknowledged that the Israeli Custodian General's transfer of the land to the Benvenisti Trust was done without investigating the nature of the Trust, the Ottoman laws, or the existing buildings. In spite of this, the Israeli High Court rejected the appeals of the families, paving the way for the

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<sup>4</sup> Al-Haq, "Sheikh Jarrah and Silwan: Ongoing Nakba and Israeli Dispossession of Palestinians," 21 May 2021, available at: <https://www.alhaq.org/advocacy/18442.html>.

<sup>5</sup> Al-Haq, "Joint Urgent Appeal to the United Nations Special Procedures on Forced Evictions in East Jerusalem," 10 March 2021, p. 5, available at: [https://www.alhaq.org/cached\\_uploads/download/2021/03/10/joint-urgent-appeal-to-the-united-nations-special-procedures-on-forced-evictions-in-east-jerusalem-1615372889.pdf](https://www.alhaq.org/cached_uploads/download/2021/03/10/joint-urgent-appeal-to-the-united-nations-special-procedures-on-forced-evictions-in-east-jerusalem-1615372889.pdf). Ibid. p. 5.

<sup>6</sup> Al-Haq, "Sheikh Jarrah and Silwan: Ongoing Nakba and Israeli Dispossession of Palestinians," 21 May 2021, available at: <https://www.alhaq.org/advocacy/18442.html>.

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

settler group Ateret Cohanim to continue its legal proceedings to evict 81 Palestinian families of approximately 436 Palestinians.<sup>9</sup>

Israeli evictions in Sheikh Jarrah and Batn Al-Hawa are only the latest examples of Israel's longstanding policies to displace and dispossess Palestinians, which is one of many tools used by Israel to impose and maintain its apartheid system over the Palestinian people as a whole and to further expand and entrench its settler-colonialism.

### **Conclusion and Recommendations:**

Our organizations condemn Israel's escalating attacks and targeting of the Palestinians people and welcome the mounting international recognition<sup>10</sup> that Israel is committing the crime of apartheid against the Palestinian people as a whole. We also welcome the recent statement by nine UN Special Procedures urging the ICC to "investigate acts and policies that have taken place during the conflict or have contributed to it, that may amount to the crime of apartheid and crimes against humanity."<sup>11</sup> We urge Member States of the Human Rights Council to take the following actions:

1. Recognize that, through its laws, policies, and practices, Israel has established an institutionalized regime of systematic oppression and domination over the Palestinian people as a whole, amounting to the crime of apartheid;
2. Call on Israel to cease the unlawful application of its domestic laws and policies in occupied East Jerusalem and to immediately repeal its 1950 Absentees' Property Law and 1970 Legal and Administrative Matters Law;
3. Condemn Israel's apartheid system and call for the reconstitution of the UN Special Committee against Apartheid and the UN Centre against Apartheid to ensure the implementation of the Apartheid Convention with the aim of bringing the illegal situation to an end; and
4. Pursue international justice and accountability for widespread and systematic human rights violations perpetrated against the Palestinian people, including the crime of apartheid, by activating universal jurisdiction mechanisms and supporting a full, thorough, and comprehensive investigation by the International Criminal Court into the Situation in Palestine without any further delay.

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<sup>9</sup> *Ibid.*

<sup>10</sup> CIHRS, "Palestine: Civil Society Welcomes Mounting Recognition of Israeli Apartheid at the UN HRC," 5 November 2020, available at: <https://cihrs.org/palestine-civil-society-welcomes-mounting-recognition-of-israeli-apartheid-at-un-hrc/?lang=en>.

<sup>11</sup> OHCHR, "Gaza-Israel: UN experts welcome ceasefire, call for ICC probe," 21 May 2021, available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27108&LangID=E>.