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## **JERUSALEM AND THE IMPLEMENTATION OF 35 C/RESOLUTION 49 AND 182 EX/DECISION 15**

### **SUMMARY**

This information document is submitted by Algeria, Egypt, Kuwait, Morocco, Saudi Arabia and Tunisia.

## **INFORMATION NOTE ON THE SITUATION IN THE OCCUPIED CITY OF EAST JERUSALEM**

Since the occupation by Israel of the West Bank and the Gaza Strip in 1967, the unilaterally annexed city of East Jerusalem has been subjected to a series of measures aimed at consolidating in practice what the annexation had instituted in the texts.

This is how successive Israeli governments – the current one in particular – have sought and seek still to tighten their stranglehold on the city and alter the very fabric of its population, thus striking at the unique character of East Jerusalem, not only in religious and cultural terms but historically and demographically as well.

### **APPLICABLE LAWS AND OBLIGATIONS**

Israel's status in the Gaza Strip and the West Bank – occupied Palestinian territories of which East Jerusalem is an integral and indissociable part – remains that of an occupying power with specific obligations towards the people under occupation.

Israel's military occupation of Palestinian territory is therefore inherently temporary and does not give the occupying power (Israel) sovereignty or title over the occupied territory.

The seminal principle in international law is reflected in Article 43 of the Hague Regulations, which stipulates that an occupant must restore, and ensure, public order and safety for the benefit of the occupied population while respecting the institutions and laws in force in the occupied territory.

Therefore, Israel cannot act for its own population's economic or social benefit to the detriment of the Palestinians.

More recent interpretations of the Hague Regulations permit changes to the local law by the occupying power if it is essential for: (1) implementation of international human rights law, (2) for the purpose of enhancing civil life during long-lasting occupations, or (3) where explicitly authorized by United Nations Security Council resolutions.

None of these exceptions may be invoked regarding settlement activities carried out in East Jerusalem.

These obligations and commitments are also found in UNESCO agreements such as the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970). For example, Articles 4 and 5 of the Convention for the Protection of Cultural Property in the Event of Armed Conflict require Israel (which is a signatory to the Convention) to respect and protect cultural property in the occupied territory, including East Jerusalem, and refrain from all activity in the site with the exception of "military necessity".

In addition, under interim agreements signed between Israel and the Palestine Liberation Organization (known as the Oslo Accords), Israel must cooperate and refrain from activity which would pre-empt scheduled negotiations on questions of final status, including that of East Jerusalem.

Seizures of all kinds, house demolitions, practices aimed at forcing the Palestinian population of East Jerusalem to leave the city; the gradual destruction of the education system (notably through the construction of the Separation Wall; unilateral excavation work in a city that is nonetheless protected by its inclusion in the World Heritage List and World Heritage in Danger List are forbidden under customary international law and UNESCO conventions and protocols, including several signed by Israel, which is therefore directly violating its international commitments.

## **HARMFUL TO THE PEACE PROCESS**

The Israeli Cabinet's unilateral decision to continue consolidating its stranglehold on the occupied Palestinian territories and above all East Jerusalem reinforces Palestinian concerns that there is currently no genuine partner for peace, but an occupying power intent on its illegal confiscation of Palestinian territories. While the international community struggles to end Israel's illegal settlement enterprise and to restart negotiations, the Israeli Government is actively working to undermine those efforts and to sabotage the two-State solution.

It is only through a complete cessation of these illegal settlement activities and restoration to Palestinians, in line with international law, of control over their territories, including East Jerusalem, that Israel can contribute to establishing peaceful and neighbourly relations between the two peoples.