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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by The Palestinian Return Centre Ltd, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 August 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Human Rights Violations of Indigenous Palestinian Citizens of the State of Israel

The Palestinian Return Centre (PRC) would like to bring to Council's attention the ongoing human rights violations of indigenous Palestinian citizens of the State of Israel, the Occupying power, and the continual denial of the rights of the displaced Palestinian refugees during the creation of the State of Israel, including the right of return.

The resolution adopted by the General Assembly on 13 September 2007 stipulated the human rights of indigenous people.¹ The rights of the indigenous Palestinians currently residing in Israel are protected under the resolution; in particular we would like to draw to the Council's attention the following section:

"Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests."

The State of Israel is in breach of Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination, which stipulates that: *"States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."*²

Institutionalized discrimination against indigenous Palestinians

The Palestinian citizens of the State of Israel currently amount to approximately 1.3 million.³ Palestinian citizens of Israel are afforded differential and unequal treatment under Israeli law in the field of citizenship rights. The most important immigration and nationality laws—The Law of Return (1950) and The Citizenship Law (1952)—allow every Jew in the world to immigrate freely to Israel and to automatically become an Israeli citizen.⁴ However, the same laws that privilege Jews exclude Palestinians who were forced to flee their homes in 1948, stripping them of their former status and denying the internationally-recognized Palestinian right of return.⁵

The State of Israel lacks a written constitution or a Basic Law that constitutionally guarantees the right to equality and prohibits discrimination, either direct or indirect. The Basic Law: Human Dignity and Liberty does not enumerate a right to equality; on the contrary, this Basic Law emphasizes the character of the state as a Jewish state.⁶

¹ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf (accessed July 8, 2016)

² <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (accessed July 8, 2016)

³ <http://www.refworld.org/docid/4954ce50c.html> (accessed August 8, 2016)

⁴ Article 1 of The Law of Return states that, "Every Jew has the right to immigrate to Israel." Article 4A(a): "The rights of a Jew under this law... shall apply to the child and grandchild of a Jew, to the spouse of a Jew, the spouse of the child and grandchild of a Jew, except for a person who has been a Jew and converted his religion voluntarily." Under Section 2 of The Citizenship Law, "Every person who immigrated according to the Law of Return will be a citizen of Israel."

⁵ In accordance with UN General Assembly Resolution 194 (III), Article 11, issued December 1948, which stipulates that, "[The General Assembly] Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible."

⁶ Section 1(a) of The Basic Law: Human Dignity and Liberty states that, "The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state" (emphasis added). Even the Basic Law: Freedom of Occupation, which provides "every Israeli national or resident" constitutional protection "to engage in any occupation, profession or trade," includes the term "Jewish and democratic" in its statement of purpose

In July 2010, the United Nations Human Rights Committee (which monitors the International Covenant on Civil and Political Rights, or ICCPR) expressed its concern that Israel's Basic Law: Human Dignity and Liberty, "does not contain a general provision for equality and non-discrimination," and called on Israel to "amend its Basic Laws and other legislation to include the principle of non-discrimination and ensure that allegations of discrimination brought before its domestic courts are promptly addressed and implemented."⁷

Inside what is the State of Israel, the most important legal instrument for seizing Palestinian land was the 1950 Absentees' Property Law, which declared Palestinian refugees from the 1948 War to be "absentees" and gave control of their lands to the state.⁸ This law defines persons who were expelled, fled, or who left the country after 29 November 1947, mainly due to the war, as well as their movable and immovable property (mainly land, houses and bank accounts etc.), as "absentee". Property belonging to absentees was placed under the control of the State of Israel with the Custodian for Absentees' Property. The Absentees' Property Law was the main legal instrument used by Israel to take possession of the land belonging to the internal and external Palestinian refugees.⁹

Israel's undemocratic policies towards Palestinian citizens

Contrary to a widely held perception, there is no guarantee of full equality for Jewish and Palestinian citizens. The definition of the State of Israel as a Jewish state makes inequality and discrimination against Palestinian citizens of Israel a reality and a political project. The pairing of "Jewish" and "democratic" both codifies discrimination against non-Jewish citizens and impedes the realization of full equality.

More than 30 main laws discriminate, directly or indirectly, against Palestinian citizens of Israel, and the current government coalition has proposed a flood of new racist and discriminatory bills which are at various stages in the legislative process. In the State of Israel there is no guarantee of full equality for Jewish and Palestinian citizens; as the Association for Civil Rights in Israel suggests, "the right to equality is not yet enshrined in law regarding most aspects of life."¹⁰

Israel's discriminatory land policies

In 43 percent of Israeli towns, residential admission committees filter out applicants on the grounds of "incompatibility with the social and cultural fabric". These committees, which operate by law, are "used to exclude Arabs from living in rural Jewish communities", as Human Rights Watch has noted.¹¹

The Palestinian minority in Israel has long suffered state discrimination in matters of land and planning rights. Israel has used legal implements to marginalize its Palestinian citizens. Since its creation, the State of Israel has consistently employed a discriminatory land distribution policy.¹² While over 1000 new Jewish communities have been established, not a single Arab settlement has been authorized.¹³ Jewish settlements in the Naqab are retroactively recognized, while Bedouin villages that pre-date Israel's independence are not and are left without water, electricity, or infrastructure.¹⁴ Arab towns and villages are over-represented among the state's lowest socioeconomic tiers.

⁷ Concluding Observations of the Human Rights Committee—Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 2, available at: <http://www2.ohchr.org/english/bodies/hrc/docs/CCPR.C.ISR.CO.3.doc>

⁸ <http://www.adalah.org/en/law/view/538> (accessed August 8, 2016)

⁹ Ibid

¹⁰ <http://www.acri.org.il/en/category/the-right-to-equality/> (accessed August 8, 2016)

¹¹ <https://www.hrw.org/report/2008/03/30/map/land-and-housing-rights-violations-israels-unrecognized-bedouin-villages> (accessed August 8, 2016)

¹² <http://www.adalah.org/en/content/index/2007> (accessed August 8, 2016)

¹³ Ibid

¹⁴ Ibid

Israeli forces are demolishing homes of Bedouin Arabs in the Negev with more than 1,000 homes destroyed since 2011.¹⁵ Al-Arakib, a Bedouin village that has been demolished over 80 times since 2010, was again destroyed on April 21st, 2015.¹⁶ Today, 70,000 Arab Bedouin citizens live in 35 villages created prior to 1950.¹⁷ The villages are deemed “unrecognized” by the State of Israel and the inhabitants labelled as trespassers thus denying these citizens access to state infrastructure like water, electricity, sewage, education, health care and roads. Israel intends to reforest, build new settlements and build military centres on Arab Bedouin land.¹⁸

Recommendations

Israel’s refusal to cooperate with independent international mechanisms has profound implications for the protection of human rights worldwide. Accordingly, the Palestinian Return Centre calls on Mr. President and the Distinguished Members of the Council to:

- Take strong measure to pressure the State of Israel to end its discriminatory policies against its Palestinian indigenous citizens;
- Call on the Special Rapporteur on indigenous people to urgently investigate the violations of the human rights of the indigenous Palestinians and include the situation in her next report;
- Call for an independent mechanism to investigate the discriminatory and often unlawful way in which land allocation, planning, and home demolitions are implemented;
- Conclude that, to date, Israeli domestic investigations demonstrate an unwillingness and inability to genuinely carry out investigations or prosecutions in compliance with international standards;
- Condemn Israel’s persistent non-cooperation with UN Mechanisms, including the COI and Special Procedures.

¹⁵ Dr.Thabet Abu Rass, “Two years since Prawer Plan,” Communist Party of Israel, Sept 28, 2013, <http://maki.org.il/en/?p=1288> .

¹⁶ IMEMC and Agencies, “Bulldozers Take Lands in Al Araqib and Al Khader” <http://www.imemc.org/article/71304>

¹⁷ “Demolition and Eviction of Bedouin Citizens of Israel in the Naqab (Negev) - The Prawer Plan.” Adalah , <http://adalah.org/eng/?mod=articles&ID=1589#What-is-the-Prawer-Plan> .

¹⁸ Ibid