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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

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.

[15 May 2017]

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

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Discriminatory Policies against Indigenous Palestinian Citizens of Israel

The Palestinian Return Centre (PRC) would like to bring to Council's attention to the discriminatory policies enforced by the Occupying power that result in the ongoing human rights violations of indigenous Palestinian citizens of Israel. This includes the continual denial of the rights of the displaced Palestinian refugees during the creation of Israel, such as the right of return.

Resolution 61/295, adopted by the General Assembly on 13 September 2007, clearly stipulates the human rights of indigenous people.¹ The rights of the indigenous Palestinians currently residing in Israel are therefore protected under the resolution. The PRC would particularly like to draw to the Council's attention the following sections:

"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."

Furthermore, Article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination 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

From its inception, Israel has left Palestinians dispossessed and has therefore prohibited them from exercising their right to development. It also continues to violate their collective rights in the present-day by adopting policies which discriminate based on race and religion.

Institutionalized Discrimination against Indigenous Palestinians

Contrary to a widely held perception, there is no guarantee of full equality for Jewish and Palestinian citizens within Israel. The definition of Israel as a 'Jewish state' makes inequality and discrimination against its Palestinian citizens both a reality as well as an institutionalised political project and therefore impedes the realization of full equality. The Association for Civil Rights in Israel has stated that "the right to equality is not yet enshrined in law regarding most aspects of life," something which is clearly demonstrated by the more than 30 main laws which discriminate, directly or indirectly, against Palestinian citizens of Israel.³

For example, under Israeli law its 1.3 million Palestinian citizens are afforded different treatment in the field of citizenship rights.⁴ 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.⁵ However, these same laws that privilege Jews simultaneously exclude Palestinians who were forced to

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

⁴ <http://www.refworld.org/docid/4954ce50c.html> (accessed August 8, 2016)

⁵ 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."

flee their homes in 1948, stripping them of their former citizenship status and denying them their internationally-recognized right of return.⁶

Furthermore, Israel lacks a written constitution or Basic Law that guarantees the right to equality. The existing Basic Law, entitled ‘Human Dignity and Liberty’ emphasizes the Jewish character of the state of Israel and includes a caveat which allows the fundamental rights outlined to be violated by a law which is deemed “befitting the values of the State of Israel”.⁷ The Knesset also rejected an amendment to the bill in 2016 which would stipulate the inclusion of an equality clause, demonstrating the way in which the Jewish nature of the Israeli state is prioritised over its reportedly democratic aspects at the expense of its indigenous Palestinian population.⁸ In July 2010, the United Nations Human Rights Committee expressed its concern that this law “does not contain a general provision for equality and non-discrimination”.⁹

Institutionalised discrimination has also led to the seizure of Palestinian land, as was the case with the 1950 Absentees’ Property Law. The law, which declared Palestinian refugees from the 1948 War to be “absentees”, gave control of their lands to the Israeli state.¹⁰ This law defines absentees as persons who were expelled, fled, or who left the country after the 29th of November 1947, mainly due to the war, as well as their movable and immovable property (mainly land, houses and bank accounts etc). Property belonging to absentees was placed under the control of Israel with the Custodian for Absentees’ Property. This law was the main legal instrument used by Israel to take possession of the land belonging to the internal and external Palestinian refugees, thus actualising the concerns raised in UN Resolution 61/295 regarding the dispossession of indigenous people and their territories.¹¹

Israel’s Discriminatory Land Policies

Israel’s policy of seizing Palestinian land for Jewish-Israeli use is not limited to the aforementioned Absentees’ Property Law from 1950 but is instead an ongoing problem. In 43 percent of Israeli towns, residential admission committees filter out applicants on the grounds of “incompatibility with the social and cultural fabric”. Human Rights Watch has noted that these committees, which operate by law, are “used to exclude Arabs from living in rural Jewish communities”.¹²

Since its inception, the Israeli state has consistently employed a discriminatory land distribution policy.¹³ While over 1000 new Jewish communities have been established, not a single Arab settlement has been authorized.¹⁴ Jewish settlements in the Naqab are retroactively recognized, while Bedouin villages that pre-date Israel’s independence are

⁶ 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.”

⁷ <https://www.middleeastmonitor.com/20160128-knesset-rejects-bill-for-equality-for-all-citizens/> (accessed May 10th, 2017)

⁸ <https://www.middleeastmonitor.com/20160128-knesset-rejects-bill-for-equality-for-all-citizens/> (accessed May 10th, 2017)

⁹ 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>

¹⁰ <http://www.adalah.org/en/law/view/538> (accessed August 8, 2016)

¹¹ Ibid

¹² <https://www.hrw.org/report/2008/03/30/map/land-and-housing-rights-violations-israels-unrecognized-bedouin-villages> (accessed August 8, 2016)

¹³ <http://www.adalah.org/en/content/index/2007> (accessed August 8, 2016)

¹⁴ Ibid

instead left without water, electricity, or infrastructure and face the danger of demolition at a moments' notice.¹⁵ Furthermore, Palestinian towns and villages are over-represented among the state's lowest socioeconomic tiers.

Israel's Latest Undemocratic Policies Towards Palestinian Citizens

In addition to all its aforementioned discriminatory policies, Israel continues to pass more bills which negatively impact its indigenous Palestinian population disproportionately and repressively. For example, in 2011 Israel passed an amendment to its Budget Foundations Law which authorises the Finance Minister to penalise institutions which commemorate "the day on which the [Israeli] state was established as a day of mourning".¹⁶ Furthermore, Israeli ministers have approved the wording of a new law that declares the right to self-determination in Israel to be "unique to the Jewish people".¹⁷ This law seeks to downgrade the Arabic language from being an official national language to simply having "a special status in the state", an act which directly harms the rights of the sizeable Palestinian minority living in Israel.

In 2016, Israel passed a counter-terrorism bill which "expands the powers of the police and the General Security Services to suppress legitimate protest activities by Palestinian citizens of Israel".¹⁸ This contributes to Israel's pre-existing interrogation system which violates Palestinian rights on a daily basis and includes measures such as a "temporary order" which allows the security agencies to conduct interrogations without audio or visual documentation, thus creating conditions which could potentially lead to torture.

Israel also passed another law in 2016 concerning the expulsion of Members of the Knesset (MKs). It stipulates that an MK can be ousted provided that a majority of 90 MKs vote to have them removed. This can be done on the grounds that the offending MK has denied the existence of Israel as a Jewish and democratic state.¹⁹ This amendment to the Basic Law therefore allows the Jewish-Israeli majority Knesset to delegitimize and marginalize MKs representing the Palestinian minority purely based on ideological grounds.

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 Israel to end its discriminatory policies against its Palestinian indigenous citizens;
- Conclude that 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 Special Rapporteur on Palestine.

¹⁵ Ibid

¹⁶ <https://www.adalah.org/en/law/view/496> (accessed May 10th, 2017)

¹⁷ <https://www.theguardian.com/world/2017/may/07/israeli-ministers-back-proposed-law-demoting-arabic-language> (accessed May 10th, 2017)

¹⁸ <https://www.adalah.org/en/law/view/598> (accessed May 10th, 2017)

¹⁹ <https://www.adalah.org/en/law/view/599> (accessed May 10th, 2017)