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Human rights situation in Palestine and other occupied Arab territories

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).

Israel's Ongoing Illegal Occupation and Settlements Expansion

Mr. President, Distinguished Members of the Council,

The Palestinian Return Centre (PRC) is concerned about the failure of the international community to exert real pressure on the State of Israel, the Occupying power, to bring its actions in line with its obligations under international law and UN resolutions.

Ongoing violations of international law

Israel's entire settlement enterprise in the OPT is illegal under international law, as reaffirmed by the International Court of Justice in its Advisory Opinion¹ on Israel's Separation Wall in 2004. As reiterated by the International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory: "All Israel's settlements in the Occupied Palestinian Territory, including East Jerusalem, are illegal under international law. The Fourth Geneva Convention prohibits an Occupying Power from transferring its civilian population into an occupied territory".²

The existence of settlements leads to violations of many of the human rights of Palestinians, including the rights to property, equality, an adequate standard of living and freedom of movement. In addition, the radical changes Israel has made to the map of the West Bank preclude any real possibility of establishing an independent, viable Palestinian state as part of the fulfillment of the right to self-determination.

The illegal Israeli settlements in the OPT continue to deny the right of return of Palestinian refugees displaced in 1967, as noted in UN General Assembly Resolution 237 which "Calls upon the Government of Israel to... facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities."³ In fact, during the 1967 war, some 200,000 Palestinian residents of the West Bank and Gaza Strip were stranded outside the country and blocked from returning. Almost immediately upon seizing the territories, the Israeli army issued Military Order 58⁴, which authorizes the seizure of any property held by West Bank residents who were outside the area on 7 June 1967 or who subsequently left.

The right of return for these Palestinian refugees displaced outside the OPT is also guaranteed under the following international law regulations: Universal Declaration of Human Rights, Article 13;⁵ International Convention on the Elimination of all forms of Racial Discrimination, Article 5⁶; International Covenant on Civil and Political Rights, Article 12; Fourth Geneva Convention, Article 49.⁷

Illegal Israeli settlements in the Occupied West Bank, including East Jerusalem

In 1977, the West Bank's Israeli population was merely 7,000. By 1988, it had grown to 63,000; by 1993, to 100,000; by 2006, to 230,000.⁸ In late 2013 the population of persons living in the West Bank settlements was 350,010; in late

¹ <http://www.icj-cij.org/docket/files/131/1671.pdf> (accessed July 17, 2016)

² <http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/FFM/FFMSettlements.pdf> (accessed July 29, 2016)

³ <http://www.ohchr.org/Documents/Issues/Racism/IWG/session12/A.RES.68.237.pdf> (accessed July 29, 2016)

⁴ https://www.aka.idf.il/SIP_STORAGE/FILES/0/60630.pdf (accessed July 29, 2016)

⁵ <http://www.un.org/en/universal-declaration-human-rights/index.html> (accessed July 29, 2016)

⁶ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (accessed July 29, 2016)

⁷ <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (accessed July 29, 2016)

⁸ <http://online.wsj.com/article/SB10001424052748704259304575043101789714506.html>. (accessed July 21, 2016)

2012 there were 196,890 individuals living in Israeli neighborhoods in East Jerusalem.⁹ The current settler population in the West Bank (including East Jerusalem) is estimated to be upwards of 547,000.¹⁰

Currently, more than half a million settlers live in 137 settlements officially recognized by the Israeli Ministry of Interior, and more than 100 settlement outposts, which are unauthorized but still receive substantial state support.¹¹ The population of settlements grew 23 percent from 2009 to 2014, far outpacing growth of less than 10 percent in Israel overall.¹²

As reported by the Office for the Coordination of Humanitarian Affairs (OCHA), there has been a sharp increase in ratification of declarations of state land. According to OCHA, ratification is a preliminary stage of settlement expansion. Official Israeli data for 2015 released in May indicate that there was a sharp increase in the review and ratification of areas of the West Bank, which had been declared as “state land”, mainly during the 1980s.¹³ Under Israeli regulations, ratification is a necessary step for the allocation of land for settlement expansion or for the retroactive “legalization” of unauthorized outposts. Overall, a total of over 62,000 dunums (or 15,300 acres) were ratified as state land in 2015, the largest total since 2005, and more than four times higher than 2014.¹⁴ With home demolitions in the West Bank hitting a 10 year-high, in 2016 the facts on the ground point to a sharp acceleration in the Israeli settlements expansion project.

Impact of Settlements on Palestinians

The settlement expansion directly affects the suffering of Palestinian refugees that continue to be marginalised by living in camps throughout the West Bank. According to United Nations Relief and Works Agency (UNRWA) there are 774,167 registered refugees in the West Bank, a quarter of whom live in 19 camps.¹⁵ Most of the others live in West Bank towns and villages. Some camps are located next to major towns and others are in rural areas.

The discriminatory planning and zoning regime applied by the Israeli authorities effectively prohibits Palestinian construction in 70 percent of Area C. According to OCHA, due to the lack of adequate planning and discriminatory allocation of public land, it is nearly impossible for Palestinians to obtain building permits in most of Area C.¹⁶ Israel has developed building plans for Palestinians on only 1 percent of Area C, most of which has already been built up, and on this basis Israel in practice rejects almost all Palestinian building-permit requests without justification.

Israel’s confiscation of land, water, and other natural resources for the benefit of settlements and residents of Israel also violate the Hague Regulations of 1907¹⁷, which prohibit an occupying power from expropriating the resources of occupied territory for its own benefit. A clear example of this is the continual use of water in the West Bank as a tool of colonial domination. Israel’s state owned Mekorot, continues to deprive Palestinians access to their own water sources. Almost 200,000 Palestinians in the West Bank do not have access to running water, and require permission before

⁹ <http://www.btselem.org/settlements> (accessed June 15, 2016)

¹⁰ Ibid

¹¹ Includes 12 settlements in East Jerusalem. For the number of authorized settlements, see Israel Central Bureau of Statistics, “Localities and Population, by District, Sub-District, Religion and Population Group B’Tselem,” Statistical Abstract of Israel 2014. For unauthorized outposts, see B’Tselem, “Settlements,” undated, <http://www.btselem.org/settlements> (accessed October 21, 2015).

¹² These numbers do not include East Jerusalem. “West Bank Settlement Expansion Surged Under Netanyahu,” Haaretz, December 15, 2014, <http://www.haaretz.com/news/diplomacy-defense/1.631924> (accessed June 29, 2015). Note that official Israeli national data, here and elsewhere in this report, include Israeli settlements.

¹³ Sharp increase in ratification of declarations of “state land”

<https://www.ochaopt.org/content/sharp-increase-ratification-declarations-state-land> (accessed August 20, 2016)

¹⁴ Ibid

¹⁵ <http://www.unrwa.org/where-we-work/west-bank> (accessed August 1, 2016)

¹⁶ <http://www.ochaopt.org/content/under-threat-demolition-orders-area-c-west-bank> (accessed August 15, 2016)

¹⁷ <https://ihl-databases.icrc.org/ihl/INTRO/195> (accessed August 23, 2016)

collecting it themselves.¹⁸ The lack of water and other basic services resulting from Israeli policies has created an environment that often leaves Palestinians with no choice but to leave their communities which allows Israel's land takeover and further expansion of its settlements.

The restrictions that the illegal Israeli occupation impose in order to facilitate settlement expansion has severe economic repercussions for Palestinians. The World Bank estimates that if Israel lifted administrative restrictions, such as on construction and resource extraction in Area C, it could generate \$3.4 billion annually for the Palestinian economy, an increase of 35 percent in its GDP.¹⁹ The additional revenues would generate \$800 million in government tax receipts, equal to half the Palestinian Authority's debt.²⁰

Furthermore, many Israeli policies that harm Palestinian businesses and the Palestinian economy are directly related to settlements. Israel has designated 70 percent of Area C for settlement regional councils (which are off-limits to Palestinian construction) and has approved master plans for Jewish settlements covering 26 percent of Area C.²¹ Israel also builds settlement infrastructure, such as roads, checkpoints, and the separation barrier, on expropriated Palestinian land, that at times increases Palestinian transportation delays and costs.²²

Recommendations

Considering the UN Human Rights Council's concern over the matter of Israel's occupation of the OPT, and the urgency to bring to the attention of the Security Council and General Assembly any matter which may threaten the maintenance of international peace and security, the Palestinian Return Centre calls on Mr. President and the Distinguished Members of the Council to:

- Take strong measures to bring to an end the ongoing illegal Occupation of the Palestinian territories, which is the root cause of the ongoing Israeli human rights violations.
- Exert real pressure on the State of Israel to end its settlements project in the Occupied Palestinian territories.
- Recommend that states review their trade with settlements to ensure they are consistent with their duty not to recognize Israeli sovereignty over the occupied Palestinian territories.
- Call on Israel to comply with International Humanitarian Law rules and norms including the investigation of and accountability for all violations in accordance with international standards.
- Accountability must be pursued for all violations of human rights and humanitarian law, including attacks on medical personnel and infrastructure.
- Reiterate that Israel was accepted into the United Nations on *condition* that it accepts the Right of Return of the Palestinian refugees. Admission of Israel to membership in the United Nations (General Assembly Resolution 273 of May 11, 1949) requires Israel to comply with General Assembly Resolution 194 of December 11, 1948.

¹⁸ <https://www.amnesty.org/en/library/asset/MDE15/027/2009/en/e9892ce4-7fba-469b-96b9-c1e1084c620c/mde150272009en.pdf/> (accessed August 23, 2016)

¹⁹ World Bank, "Area C and the Future of the Palestinian Economy," October 2, 2013

²⁰ Ibid

²¹ United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory, "Area C of the West Bank: Key Humanitarian Concerns," January 2013, https://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_january_2013_english.pdf (accessed April 23, 2015). See also Amira Hass, "High Court to Rule Whether Palestinians are Denied Building Rights," Haaretz, April 27, 2014, <http://www.haaretz.com/news/national/premium-1.587508> (accessed April 23, 2015).

²² Human Rights Watch, *Separate and Unequal*, p. 14-17.

