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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

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFFORD), the Arab Organization for Human Rights, the Indian Movement "Tupaj Amaru", the International-Lawyers.Org, the Union of Arab Jurists and the Women's Centre for Legal Aid and Counseling, non-governmental organizations in special consultative status, the International Educational Development, Inc., the World Peace Council, non-governmental organizations on the roster

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).



Uncovered at Last: Israel's Apartheid State*

Israel is guilty of policies and practices that constitute the crime of apartheid as legally defined in instruments of international law. This submission necessarily draws on ESCWA's Report E/ESCWA/ECRI/2017/1 on Israeli Practices towards the Palestinian People and the Question of Apartheid. To stakeholders who have witnessed Israeli actions on the ground, the finding of the report is unequivocal: The evidence that Israel collectively submits Palestinians, regardless of their residency, to an entrenched system of apartheid and institutionalized racial discrimination is overwhelming.

Domestic Legislative Framework

Israeli apartheid is anchored in the body of laws instituted after the State's establishment in 1948. Israel adopted a series of Basic Laws, applied within its own territory and from 1980 onward in occupied East Jerusalem, that do not explicitly guarantee equality and the prohibition of discrimination (Basic Law: Human Dignity and Liberty). Some of the Basic Laws institutionalize discrimination, such as in the field of land policy¹. Challenging racial discrimination and domination in the "Jewish State" is prohibited by the Basic Law: Knesset.

Since 1948, Israel has been in a permanent "state of emergency", which bases on British Mandatory laws and entails hundreds of orders pertaining to security, civil and economic issues. Pursuant to its establishment, Israel incorporated the Defense (Emergency) Regulations into its domestic legislation and legal system governing the West Bank. On the basis of the regulations, Israeli authorities conduct, *inter alia*, innumerable house demolitions, deportations, indefinite administrative detentions, and closures and curfews of Palestinian towns and villages.

Further discriminatory laws pertain to entry and residence in Israel and attest to Israel's policy of demographic engineering, which aims at the maintenance of Israel as Jewish State. Notably, Israel passed the Law of Return in 1950, which provides for the entry and reception of Israeli citizenship of Jews regardless of their countries of origin and connection to historic Palestine, while permanently denying the right of return to indigenous Palestinians, including those with documented ancestral property. Israel's discriminatory legislation is buttressed by the para-statal status allocated to right-wing Jewish organizations².

Inhuman Acts on the Ground

The legislative framework facilitates inhuman acts as described in the Apartheid Convention aimed at perpetuating domination of the Jewish Israeli population over Palestinians, who are collectively and systematically oppressed. This is achieved through Israel's geographic and legal fragmentation of the Palestinian people, which gravely obstructs their resistance to the occupation and obscures the workings of the system to the outside world.

Right to Life and Liberty of Person

¹ The Israeli Basic Law (Constitution) places the management of Palestinian land seized by the State of Israel, the Israeli Development Authority or the Jewish National Fund permanently under their authority, while the 1951 State Property Law declared all land and property in an area under Israeli jurisdiction State land. 93 percent of land within Israel is State land, or land for "public purpose", and is exclusively allocated to Jewish Israelis, thereby preventing Palestinian use, development or ownership thereof.

² The para-statal status allocated to the World Zionist Organization (WZO), the Jewish Agency (JA) and the Jewish National Fund (JNF) provide legal mechanisms for the reinforcement of discrimination against Palestinians with regards to planning and zoning, managing the property and land in Israel and occupied Palestine, and facilitating Jewish immigration, thereby catering matters ranging from land use to public development planning to the exclusive benefit of Jewish nationals. The confiscation of land, the denial of building permits to Palestinians, and the demolition of Palestinian homes are part and parcel of this policy.

Israel violates Palestinians' right to life and security of person, particularly through the use of excessive and often lethal force and the failure to hold perpetrators accountable. Israeli forces regularly violently disperse peaceful protests to repress Palestinian opposition to the occupation and apartheid, execute extrajudicial killings and targeted assassinations, and launch massive military operations disproportionately affecting Palestinian civilians.

The constant presence of Israeli forces in Palestinian public and private domains, as they occupy checkpoints, patrol pathways, impose curfews, and search homes and bodies for weaponry or other suspect objects, leaves a sense of exposedness to the Occupying Power, to whom Palestinian lives and integrity carry little weight. Israel's suffocating blockade on Gaza and frequent disproportionate military offensives cause unquantifiable loss and suffering, further deprive the Palestinian people of a dignified life, and deepen despair.

Recent actions taken by radical right-wing Israelis provide ample evidence that Israel's occupation and apartheid facilitate and embolden such actors to affirm control over the Palestinian population. This is buttressed by divergent legal systems and courts that apply discriminatory standards of evidence and procedure to Palestinians as compared to Jewish Israelis, which implicate severe, disproportionate and often baseless penalties for Palestinians while Jewish Israeli perpetrators emerge unscathed. Israel's failure to prosecute Jewish Israeli perpetrators of racist acts as well as hate speech and incitement to hate by public officials further encourage extremist acts of aggression.

Israel persists in its large-scale arbitrary arrests and detention of Palestinians under untenable conditions of imprisonment and under the use of torture. Moreover, it imposes collective punishment in the form of, *inter alia*, home demolitions, military incursions and curfews, and most deplorably in the form of its blockade on the entire population of Gaza. It also continues to carry out deportations and forcible transfers of Palestinians, among them entire communities.

Participation in the Life of the Community and Self-Generating Development

Israel's distinction between Jewish "nationality" and "citizenship" or "residence" status of Palestinians forms the basis for discrimination. Jewish nationals, whether they reside in Israel-proper or in the Occupied Palestinian Territory (OPT), are accorded legal rights and privileges, whereas Palestinians, regardless of their residency, are collectively subjected to a system of apartheid and institutionalized discrimination in all spheres of life. In contravention to the Apartheid Convention, Israel obstructs Palestinians' participation in the political, economic, social and cultural life of their community and deliberately creates conditions preventing the full development of the Palestinian people by perpetuating its control over Palestinian governance, natural resources, and economy and by denying them fundamental human rights. Inside Israel, Palestinian participation, including by politicians and political parties, in decision-making processes is limited and challenging this state of affairs is prohibited by law.

Moreover, Israel deprives Palestinians on both sides of the Green Line of vital infrastructure, essential resources, and social services, as well as of equal access to employment, housing, education, and healthcare. The active destruction and expropriation of Palestinian land and property gravely infringe on basic rights and lead to incessant displacement. Moreover, Israel enacts discriminatory laws governing entry and residence as well as family reunification³ and perpetuates practices that discriminate against the Palestinian population, *inter alia*, the denial and revocation of residency statuses. This reveals the nature of the occupation that incarcerates, controls, and oppresses the Palestinian people and seeks to rob them of their human dignity.

The Perpetuation of Segregation

A further dimension of Israel's practices is the creation of segregated physical spaces along racial lines. Israel has not only gradually expropriated Palestinian land and property for exclusive Jewish use and relegated Palestinians to disconnected enclaves – which in the West Bank are controlled by Israel and surrounded by massive Israeli settlement blocs, walls, checkpoints and vast security zones and roads for the exclusive benefit of Israeli settlers – but has also entrenched the segregation of these enclaves from Jewish Israeli areas inside Israel and occupied Palestine. This

³ While Israeli legislation allows spouses of Israeli citizens to relocate to Israel, it prohibits Palestinians from occupied Palestine or abroad to reside with their spouses in Israel.

segregation is underpinned by the deeply disparate allocation of infrastructure, services and access to resources. To entrench the segregation between the Jewish and Palestinian populations, Israel passed legislation prohibiting interfaith marriages between Jews with Muslims or Christians.

Persecution of Political Opponents

To sustain the system of occupation and apartheid, dissidents need to be disenfranchised and silenced. Accordingly, Israel employs repressive methods to restrict, discredit, and criminalize opposition to State policies and practices. While Israel has a long history of stifling Palestinian national expression and resistance to the occupation by, *inter alia*, closing down institutions, violently dispersing peaceful protests, and arresting human rights defenders, recently passed laws criminalize and impose drastic restriction and economic sanctions on Israeli individuals and institutions that “act against state policies”. Israeli dissidents are confronted with harassment, violence and arrests on the part of Israeli authorities, the military, and hostile organizations and individuals.

Conclusion and Recommendations

The undersigned organizations are convinced that the only way to end violations in the region is to dismember Israeli apartheid and occupation. The liberation of Palestinians from the shackles of racial oppression and the dissolution of discrimination against ethnic and increasingly political minorities within Israel would give way to real democracy and just peace in the region. In the light of this, we call on the United Nations, in particular the Human Rights Council, and Member States to take all necessary measures to ensure that Israel:

- Take all necessary measures to finally end the prolonged occupation of Palestine and fulfill Palestinians’ right to national self-determination, which involves the end of all annexationist and settlement activity and the destructive blockade on Gaza as well as the right of return of Palestinian refugees and internally displaced persons;
- Scrupulously abide by its obligations as UN Member State, implement its international human rights obligations, and fully cooperate with relevant treaty bodies and mechanisms, particularly with the fundamental provisions of equality and non-discrimination;
- Immediately cease incitement, killings and injuring of Palestinian civilians, adequately investigate all committed crimes, and bring perpetrators to justice;
- Cease its policies of apartheid that degrade, dispossess, and discriminate against Palestinians in occupied Palestine and in Israel;
- Cease and rescind its anti-democratic and racist practices and laws, and guarantee the fundamental rights and freedoms of ethnic and political minorities in Israel.

We furthermore recommend to the United Nations take the following steps:

- Ensure accountability for Israel’s longstanding violations of international law and human rights law as well as for its non-cooperation with UN human rights mechanisms;
- Call on Member States to cease all forms of military, police or intelligence cooperation with the Israeli authorities;
- Advise Member States to impose political and economic sanctions on Israel.

*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association- UK, Human Rights Defenders (HRD), The Brussels Tribunal, Euro-Mediterranean Human Rights Monitor, Human Rights and Democracy Media Center “SHASM”, Defending Freedom Throughout the MENA Region, Youth Against Settlements (YAS), Alternative Information Center (AIC), Association of Humanitarian Lawyers (AHL), Hebron Human Rights Defenders (HRD), The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), Alliance to Renew Co-operation among Humankind, General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), The Iraqi Centre for Human Rights, The Perdana Global Peace Foundation, The International League of Iraqi Academics (ILIA), Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, NGOs without consultative status, also share the views expressed in this statement.