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## Human Rights Council

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Agenda item 7

**Human rights situation in Palestine and other  
occupied Arab territories**

**Joint written statement\* submitted by the International  
Organization for the Elimination of All Forms of Racial  
Discrimination (EAFORD), Arab Organization for Human  
Rights, Indian Movement "Tupaj Amaru", International-  
Lawyers.Org, Union of Arab Jurists, non-governmental  
organizations in special consultative status, International  
Educational Development, Inc., 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.

[14 February 2017]

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

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## Threshing Arms of Occupation\*

### Introduction

The prolonged illegal Israeli occupation of the Occupied Palestinian Territory (OPT) is intricately linked with Israel's historically rooted apartheid system, and anti-democratic policies and practices targeting dissidents. All efforts by the international community to effectively address the violation of Palestinian inalienable rights are consistently undermined by Israel's non-cooperation and acts of intimidation.

In its last UPR, Israel rejected all recommendations containing the term "State of Palestine" – an absurd move that must, however, be seen in light of Israel's longstanding, strategic, and organized negation of Palestinian national identity and legitimate national claims. The foundation was already constituted by the State's propaganda that the establishment of Israel in 1948 proceeded on "a land without a people", when in fact it was planted on Palestinian land – at the expense of its indigenous inhabitants, half (700,000) of whom were forced into exile, while the other half moved under Jordanian and Egyptian control, later to be militarily occupied by Israel, or were incorporated into the Jewish Israeli State as "non-Jews" and therefore "second class citizens". Since then, Israel has institutionalized its dispossession, oppression, and discrimination against the Palestinian people within Israel and the remaining Palestinian territories upon which it imposed its military occupation in 1967. Palestinians, including Palestinian citizens of Israel, were relegated to the bottom of Israel's social hierarchy as enemies of the state. While Israel has always maintained a hierarchy based on ethnic-national origin, the recent years have additionally seen growing delegitimization and criminalization of political minorities, mainly of human rights and anti-occupation activists who support the inalienable rights of the Palestinian people. In this submission we would like to argue that the end of occupation will also help bring an end to Israel's larger apartheid and anti-democratic policies and practices.

At the same time as it subjects Palestinians to its brutal system of occupation and increasingly persecutes Israeli dissidents as public enemies, Israel undermines the unrelenting efforts by the international community to realize the inalienable rights of the Palestinian people and to establish real peace in the region<sup>1</sup>.

### Israel's Lack of Cooperation with the UN

Israel persistently refuses to cooperate with UN human rights mechanisms, to the extent of not granting UN staff access to occupied Palestine or even detaining a member under deplorable conditions<sup>2</sup>. In its national reports and Council Sessions, Israel consistently neglects its breaches of international law, such as illegal settlement construction, and grave human rights violations within occupied Palestine and persists in refusing to recognize and apply human rights and international humanitarian law there<sup>3</sup>.

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<sup>1</sup> The paralysis of the UN with regards to one of the oldest issues on its agenda, apart from Israel's consistent refusal to implement UN resolutions and recommendations and the abundant use of the veto right by the United States, stems from Israel's persistent non-cooperation with and acts of intimidation and defamation of UN bodies, Special Procedures, and Member States on the basis of allegations that this submission aims to counter.

<sup>2</sup> It will be recalled, for instance, that the Israeli Government declared the withdrawal of its cooperation with the HRC after the body had decided to dispatch a Fact-Finding Mission to Investigate the Impact of Israeli Settlements<sup>16</sup> on 22 March 2012, and that it had subsequently failed, as the first country, to appear in front of its Universal Periodic Review as scheduled in January 2013. Israel also refused to cooperate with the UN Commission of Inquiry on the Gaza Conflict of 2014. Moreover, Israeli consistently refuses even minimal cooperation with the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, denying him access to occupied Palestine or even detaining him overnight under deplorable conditions.

<sup>3</sup> All relevant bodies, including the High Contracting Parties to the Geneva Conventions, the UN treaty bodies, and the International Court of Justice have consistently reaffirmed the applicability of the Fourth Geneva Convention and Israel's international human rights treaty obligations to occupied Palestine.

This policy of denial not only exacerbates the human rights situation of the Palestinian people on the ground and cloaks Israel in impunity, but also threatens the work of this Council and the entire UN system. Israel's defiance for the most significant human rights mechanisms becomes even more blatant in view of its *ex post facto* attempts to justify and normalize its outrageous and unlawful behavior<sup>4</sup>.

Israel's response to Security Council resolution 2334 of 23 December 2016, which demands the end of all illegal settlement activity in occupied Palestine, was exemplary for the State's acts of retaliation and intimidation towards any entity expressing legitimate criticism towards its unlawful activities<sup>5</sup>. Netanyahu and other government officials resorted to their usual allegations of the UN reflecting a "bias against Israel" and supporting bodies "whose sole intent is to spread incitement and anti-Israel propaganda"<sup>6</sup>. Netanyahu moreover condemned the UN for singling out and targeting "the only democracy in the Middle East".

#### **"The Only Democracy in the Middle East"**

Israel prides itself on being "the only democracy in the Middle East". By contrast, the self-proclaimed Jewish State sustains a hierarchical social stratification, in which Palestinians are forced to the fringes. Moreover, political opponents of the radicalizing government face increasingly discriminatory and oppressive laws and practices.

The principles of equality and prohibition of racial discrimination are not incorporated in Israel's Basic Laws. This lack is compounded by Israel's self-identification as a Jewish state, as a result of which the Palestinian citizens of Israel are afforded no constitutional protection against racial discrimination. Israel's legal system entails a discriminatory dualistic allocation of "nationality" and "citizenship"<sup>7</sup>, the former of which is accorded to Jews, while Palestinian citizens as non-Jews are merely entitled to the latter. As a result, Palestinian citizens of Israel face substantial discrimination in access to resources and public services, such as education, housing, and employment. Moreover, the 2007 amendment to the Citizenship and Entry into Israel Law disproportionately affects Palestinian citizens of Israel in that it bans family unification by prohibiting Palestinians from the West Bank and Gaza (as well as citizens of the Islamic Republic of Iran, Iraq, the Syrian Arab Republic and Lebanon) from living with their spouses in Israel and receiving residency status.

Further factors of institutionalized, systematic discrimination are the inequitable allocation of municipal budgets to Palestinian-populated areas, underrepresentation of Palestinian citizens in decision-making processes, and a discriminatory zoning and planning policy, which subjects Palestinians, particularly Bedouin communities, to confiscation of property, home demolitions, and displacement.

This situation is compounded by an entrenched stigmatization of Palestinian citizens as "enemy of the state" and "security threat". This stigmatization is increasingly applied to political opponents, including Jewish Israeli dissidents. Statute 103 of the Israeli Penal Code, entitled "Defeatist Propaganda", stipulates:

<sup>4</sup> Accusing the HRC of "structural bias" and presenting itself as victim of politically motivated scrutiny, allegations which are reiterated by certain Member States, notably the US, Israel turns Council Sessions into political bargaining, for instance by seeking to undermine standing agenda Item 7 on the HRC's agenda.

<sup>5</sup> Among other retaliatory measures, Israel's UN Mission announced that it would halt its annual dues of \$6 million to the UN and that it would cut ties with Member States having voted in favor of the resolution or "acting against Israeli interests", declaring that these states would pay a diplomatic and economic price and recalling its ambassadors from New Zealand and Senegal. Prime Minister Benjamin Netanyahu also asserted that he would reassess its ties with the UN. Israel's consistent denial of its human rights obligations in occupied Palestine culminated in its declaration at the 32nd HRC Session that it would leave the Council as response to the UNHCHR's reiteration of its obligations under international human rights and humanitarian law.

<sup>6</sup> In a statement published shortly after the adoption of the resolution, the Prime Minister's office proclaimed Israel's full rejection of "shameful anti-Israel resolution", underlining that it would not abide by its terms.

<sup>7</sup> See Israel's Law of Return (1950) and the Citizenship and Entry to Israel Law (1952).

“Anyone who, during a period of warfare, and with the intention of causing public panic, disseminates information that might undermine the spirit of the soldiers and inhabitants of Israel in their resilience against the enemy, will be sentenced to five years imprisonment; anyone who does so with an intent to harm national security will be sentenced to ten years imprisonment.”

As this vague provision can be widely interpreted and arbitrarily applied, it has resulted in the incarceration of numerous human rights defenders and other citizens of Israel opposing the brutal occupation.

Israel also introduced legislative and extralegal measures to drastically restrict the freedom of expression, association and peaceful assembly inside Israel. Notably, the Boycott Prohibition Law<sup>8</sup> and the Budget Foundations Law<sup>9</sup> (“Nakba Law”) impose drastic economic sanctions on individuals and institutions that “act against state policies” and express opposition to Israeli policies and practices in the OPT, and criminalize institutions that commemorate “the day of the establishment of the state as a day of mourning” or which contest the “the existence of Israel as a Jewish and democratic state”.

In the context of the new laws, Israeli NGOs opposing the occupation and state policies have become increasingly discredited, are prevented from receiving foreign funds<sup>10</sup>, and are declared as “terror or terror supporting organizations”.

### **Defaming Opposition to the Occupation as Anti-Semitism**

A further measure used to intimidate and delegitimize opposition to Israel’s illegal undertakings is defaming respective entities and actors as “anti-Semitic”. Israeli Energy Minister harshly criticized US abstention from Security Council resolution 2334, claiming that it is an “anti-Israel resolution, against the Jewish people and the state of the Jews”.

The dangerous allegation that legitimate opposition to a violent and inhumane system of occupation and apartheid is equivalent to anti-Semitism is perpetuated by the Israeli state and repeated by numerous Member States. Equating the Jewish people with the self-proclaimed Jewish State and defaming anyone critical of its illegal actions as anti-Semitic is not only inaccurate but also constitutes an affront to the countless Jewish individuals who do not affiliate with the Israeli State and oppose its colonialist practices.

Many Jewish Israelis protesting against their government and the occupation would furthermore underline that the occupation is also detrimental to Israeli security and democracy. Shattering the manifold pillars of the occupying system would not only finally guarantee Palestinians their inalienable rights but would also end violence and liberate Jewish Israelis, particularly minority groups such as Ethiopian and Mizrahi Jews, whose experiences of police violence and discrimination are inherently interlinked with the system of occupation.

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<sup>8</sup> The Boycott Prohibition Law, passed on 11 July 2011, declares any support of and advocacy for cultural, economic or academic boycott of Israel, one of its institutions or the goods it produces, a civil offence, which is punished with stringent penalties. Institutions supporting boycotts are divested of their tax-exempt status, are ineligible for vital forms of public funding, and can be sued by those affected by boycotts.

<sup>9</sup> Similarly, the Budget Foundations Law (“Nakba Law”), adopted on 22 March 2011, enables the Minister of Finance to withdraw state funding to public institutions, including schools and other local bodies, that organize any activities commemorating “the day of the establishment of the state as a day of mourning” or which contest the “the existence of Israel as a Jewish and democratic state”. Particularly, the law penalizes cultural, academic or other institutions that commemorate the Nakba and question Israel as “Jewish democracy”.

<sup>10</sup> The passing of the “Foreign Funding Law” (Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity) on 2 March 2011, which requires the submission of periodic reports to the Registrar of Associations detailing their expenditures and disclosing donors, as well as of several bills imposing severe restrictions on NGOs receiving foreign funds are a further reflection of the Government’s mounting efforts to silence civil society groups opposing Israel’s illegal actions.

**Conclusion**

The system of occupation and apartheid, which is rooted in the violence of the 1948 *Nakba* and the ensuing dispossession, displacement and oppression affecting generations of Palestinians as well as the discrimination against ethnic and increasingly political minorities within Israel, must be disassembled to give way to real democracy and peace in the region for the benefit of all citizens. This cannot be achieved without granting the Palestinian people their right to self-determination and to independence in their State of Palestine.

**Recommendations**

We, NGOs Signatories to this statement, therefore recommend to the UN Human Rights Council and the relevant UN bodies to:

- Ensure accountability for Israel’s continued violations of international law and human rights law as well as for its non-cooperation with UN human rights mechanisms.
- Put pressure on the Israeli government to cease its policies of Apartheid that degrade, dispossess, and discriminate against Palestinians in the OPT and in Israel.
- Take all necessary measures to compel Israel to cooperate with UN human rights mechanisms and implement their resolutions and recommendations, including by:
- Calling on Member States to end all forms of military, police or intelligence cooperation with the Israeli authorities.
- Urging Member States to impose political and economic sanctions on Israel.

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\*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association- UK, Human Rights Defenders (HRD), Alternative Information Center (AIC), The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), Alliance to Renew Co-operation among Humankind, The Iraqi Centre for Human Rights, The Perdana Global Peace Foundation, The International League of Iraqi Academics (ILIA), Women Solidarity for an Independent and Unified Iraq, Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty-CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, NGOs without consultative status, also share the views expressed in this statement.