

# **Occupation and Democracy: An Impossible Match**

## **Israel's Universal Periodic Review Reveals Controversial Diplomatic Divisions between UN Member States**

**On 1 November 2013, the Human Rights Council adopted the draft report on Israel's human rights review. Israel's performance caused an even bigger disappointment than the months of political deadlock that preceded. It did not support any of the 238 recommendations, but will examine 231 of them and provide responses in due time, a common way to diplomatically reject these recommendations.**

Earlier this year, on 29 January 2013, Israel failed to appear before the Working Group of the Universal Periodic Review (UPR)\* for its second review and thus became the first country ever to boycott one of the most important mechanisms of the Human Rights Council. Israel's refusal to appear created a dangerous precedent for the work and effectiveness of the Human Rights Council.

The refusal was a political reaction to the Human Rights Council Resolution 19/17 earlier in 2012, which intended to “dispatch an independent international fact-finding mission, to be appointed by the President of the Human Rights Council, to investigate the implications of the Israeli settlements [...]” and following which Israel had suspended its relations with the (HRC).

It was only months of diplomatic tug-of-war later that Israel sulking decided to finally appear before the Council and undergo its human rights review on 29 October 2013. What could be considered as a diplomatic victory was however rendered a farce by the fact that Israel's participation in the process was subject of political bargaining such as attempts to undermine standing agenda Item 7 on the Human Rights Council's agenda, which uniquely deals with the human rights situation of Palestine and the Occupied Arab Territories.

### **National Report Israel 2013**

In their national report to the Human Rights Council, which was presented and discussed during the 17th UPR session, Israel portrayed itself as the victim of significant politically motivated and disproportionate scrutiny. It furthermore pointed to its strong cooperation with international human rights bodies and NGOs, and its welcoming attitude towards the High Commissioner and the Special Rapporteurs.

Ironically, the compilation prepared by the High Commissioner on Human Rights regarding Israel's UPR session contradicted the pink picture painted by Israel. It drew instead attention to the Special Rapporteur's report on the human rights situation in the Occupied Territories

regarding Israeli settlements and his condemnation of its continuing human rights violations and non-cooperation.

In this sense Israel's national report essentially lacked to address the central controversy of its national politics; the human rights protection within the occupied Palestinian Territories. The report only briefly reiterated PM Netanyahu's commitment to the Israeli-Palestinian peace process by quoting his speech of 2008 and further stressed Israel's willingness to make "painful compromises towards peace", such as the release of 104 Palestinian prisoners on 30 October 2013.

To provide evidence of its hypocritical agenda, Israel praised in highest terms the "right to adequate housing" while the very same moment a Palestinian father was standing in front of his demolished home in East Jerusalem, which Israel had torn down the night before after granting further 1700 new housing units to Israeli settlers. Not even the time to collect their personal belongings had been granted to the family, which were now crushed under the rubble of the house. The pain in their eyes stood in dire contrast to Israel's simultaneously proclaimed readiness to make painful compromises and thus rendered its compliance with human rights standards a tragic farce to avoid international criticism.

### **The Occupied Arab Territories**

One major issue remains; Israel's national report blatantly avoided to address the most controversial topic of the Occupied Arab Territories and the ongoing illegal settlements, which reveals its determination to evade further criticism. 73 member states contributed to the review, with the majority agreeing on criticisms towards human rights violations in the Occupied Arab Territories, the demand for Israel to sign the Convention Against Torture (CAT), to stop discrimination of Arabs and minorities, to end penal action against children and to minimize administrative detention. Interestingly, Israel's report hardly addressed any of these recurring points of criticism but focused mainly on its improvement for people with disabilities, gender equality and combating Anti-Semitism and racism.

The Palestinian delegation pointed towards the lack of Palestinian human rights issues within the Israeli national report and demanded the occupying power to comply with the Council's and other human rights bodies' mechanisms. Furthermore, Palestine demanded a withdrawal of Israelis in Jerusalem and the Occupied Territories, the insurance of the right to return for Palestinians and to stop the expansion of the illegal Israeli settlements.

As a response to the criticism expressed by the Palestinian delegation Israel huffed and puffed an outraged objection to Palestine's recommendation and demanded it to be deleted from the protocol.

### **Further Critique**

The issue of Freedom of Movement for Palestinians was another point of criticism from countries such as Norway, Russia and Saudi-Arabia, which Israel thrust aside and instead insisted on its necessity for national security in compliance with human rights standards. It additionally sustained to promote a high standard of living for Palestinians in the West Bank by decreasing checkpoints and increasing the dialogue on tax collection, which seemed hardly believable.

The settlements were also justified as being agreed upon and discarded them as a hurdle to peace. Israel's obvious attempts to avoid criticism and to reduce the seriousness of these illegal methods of occupation, brings us to question the genuineness of its peace efforts.

As a response to the accusation of violating International Law by using torture and not signing CAT, Israel pointed to the necessity of these 'interrogation methods' to ensure the safety of its population and protect them from any terrorist or suicide bomber attack. Additionally, according to Israeli law, the victims of these 'enhanced interrogation methods' may sue for compensation. It seems like a drop on a hot stone after being physically and psychologically damaged for the rest of your life.

On the point of Arbitrary Detention raised by several participating countries, Israel defended its actions as lawful and preventive measures against persons who pose a threat to national security, which was also enshrined in the Fourth Geneva Convention under Art.78. This argument is the most widely and vaguely used excuse and does not hold any explicit basis in any international treaty.

Furthermore, regarding the United Kingdom's question on supervisor mechanisms of the Israel Defense Force (IDF), it has established supervisor organs to ensure conformity with International Humanitarian Law, which investigate and review possible actions by its soldiers that may amount to War Crimes or Crimes Against Humanity. In how far these investigations however will be subject to political bias was unfortunately not further elaborated by the Israeli delegation.

Further recommendations and concerns raised by the reviewing countries included domestic violence, gender discrimination, specifically the high school drop-out rates of girls, land ownership and rights of Bedouins, policies towards African immigrants and refugees and the immediate implementation of the first round's recommendations as well as the just given ones.

### **Adoption of the UPR Report**

To return to the recent adoption of its UPR Report, Israel furthermore stressed how much effort it put into the promotion and protection of human rights and how unfair the continued discrimination of Israel in the HRC was. The tip of the iceberg however was Israel's rejection of all recommendations on the grounds that 'they contain the term "State of Palestine."' Several delegates argued that Israel does not hold the right to refute the status of Palestine as an independent state, as it was voted and decided on by 138 countries of the General Assembly.

Although every country has the freedom to state its opinion, to reject recommendations on the pure basis of the term 'State of Palestine' is more than unreasonable and proves a further time how two-faced the state of Israel pursues its policies towards its occupied territories.

All in all, the participating countries and NGOs left Room XX disillusioned by Israel's insincere commitment to international human rights instruments and the responsibilities imposed by the Human Rights Council. It will be to see in near future whether its feign promises of change will result in a genuine attempt to an implementation of the many recommendations.

As Cuba fittingly expressed it; Israel presumes to be a democracy, this concept however is incompatible with its role as an occupying power, which additionally violates international law and the fundamental freedoms of the Palestinian people. If Israel insists on being the "only democracy in the Middle East", then it should take the recommendations seriously, change its discriminatory treatment of Palestinians and withdraw from the Occupied Territories.



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*\* The Universal Periodic Review (UPR) is a mechanism of the United Nations (UN) Human Rights Council (HRC) that emerged out of the 2005 UN reform process. Established by General Assembly resolution 60/251 of 3 April 2006, the UPR periodically examines the human rights performance of all 193 UN Member States. It is intended to complement, not duplicate, the work of other human rights mechanisms, including the UN human rights treaty bodies. This is the first international human rights mechanism to address all countries and all human rights. The Working Group on the UPR, which is composed of the HRC's 47 Member States and chaired by the HRC President, conducts country reviews.*