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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), Indian Movement "Tupaj Amaru", International-Lawyers.Org, Union of Arab Jurists, United Towns Agency for North-South Cooperation, 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.

[10 February 2019]

* Issued as received, in the language(s) of submission only.



Israel's Segregation System against Palestinians

The Palestinian people are constantly facing segregation at different levels due to Israel's occupation system and its policies and practices of racial oppression and discrimination.

The segregation system is perpetrated by different measures, among those: the West Bank separation wall, Israeli checkpoints on the border, separate roads and Israeli settlements. The segregation system carried out by the government of Israel constitutes a serious violation of international human rights law and poses a serious threat to the regional security and stability.

Separation Wall and Checkpoints

The segregation system perpetrated by Israel became apparent in 2002 when the construction of a separation wall was approved by the Israeli cabinet. The wall has been called in different ways: "Security Fence", "The Apartheid Wall" and "Anti-terrorist Fence". Despite the declared purpose of the wall being to assure national security against Palestinian attacks while preventing illegal entry into Israel, it also serves more insidious goals, such as land annexation. Indeed, the wall deviates extensively from the path of the Green line, and when Israel built the wall, it cut off residents of 150 Palestinian communities from their land.

The construction of the wall within the West Bank violates several human rights of the Palestinians who live on either side of it, such as their freedom of movement and their collective right to self-determination. The wall was declared unlawful by the International Court of Justice in 2004 in its advisory opinion, thus recalling Israel to cease the works of construction and to demolish those parts of the wall situated within Occupied Palestinian Territory (OPT); nevertheless, Israel has continued to build it and has failed to meet its obligation to provide reparation for all the damage caused by the construction.

The wall itself is reinforced and supported by an associated system of legal and administrative obstacles. Among those, gates and checkpoints controlled by Israeli Border Police and Israeli Military Police, situated deep inside the occupied territories, have to be crossed by those who are separated from their land, family and facilities such as schools or hospitals. This system precludes Palestinians' right of freedom of movement and access to essential services.

Due to the destructive impact on the daily life of the inhabitants of the Occupied Palestinian Territory it has a devastating effect both on adults and children, resulting in environmental and social distress, multiple losses of water resources, livelihood, and hope for the future, together with other wide-spread psychological implications.

The administrative barriers also create an oppressive system where civilians are subjected to the whims of Israel's often abusive police, undertaking assault and humiliation at the gates, including body searches as well as document searches.

The Israeli Prime Minister declared in February 2019 that Israel will begin building a new above-ground wall along the Gaza border, set to follow the underground barrier under construction meant to neutralise the threat of cross-border tunnels built by fighters from Gaza. The international community should oversee the construction of this new wall and its associated measures in order to prevent any attempt to annex land, as Israel has done in the West Bank, and so guarantee the respect of international law.

"Apartheid Road"

In January 2019, Israel opened a new road with an eight-meter wall separating Palestinian and Israeli traffic in the centre of the occupied West Bank connecting the illegal settlement of Geva Binyamin to Route 1 (Jerusalem-Tel Aviv highway).

This is just the latest emblematic symbol of the segregation, since across the Occupied Palestinian Territory a whole segregated road system has been established by Israel through the years, with settlers-only roads that are not accessible by Palestinians and where the mobility is determined by the kind of license owned. Imposing restriction on movement is one of the key tools used by Israel to enforce the occupation.

Israeli Settlements

Israel has not ceased its building of illegal settlements. It is currently building massive housing projects across the West Bank, violating fundamental rights of Palestinians, including their rights to property, equality, adequate standard of living, and freedom of movement. Settlements were declared illegal under international law by the International Court of Justice on 2004, in the same advisory opinion mentioned above, since they violate article 49, paragraph 6, of the Fourth Geneva Convention, which provides: “The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.” Settlements have also been repeatedly condemned by the international community and numerous UN Resolutions.

International tourism companies are benefiting by promoting tourism activities inside illegal Israeli settlements in the West Bank. With their behaviour, these companies contribute to serious violations of international humanitarian law and human rights law, and they provide support to the maintenance of the illegal situation, which is inherently discriminatory and abusive of the human rights of Palestinians.

Acts of physical violence committed by settlers against Palestinians and their property are still widespread inside the Occupied Territories. Israel is not complying properly with its duty to protect Palestinians, due to a general absence of law enforcement and leniency in judging settlers’ actions.

Although violence by settlers increased in January 2019, Israel announced its decision not to renew the mandate of the Temporary International Presence in Hebron (TIPH). Hebron is the second largest city in the West Bank and the only Palestinian city with a large community of Israeli settlers in the heart of it, heavily guarded by a vast Israeli military presence. For this reason, Hebron is considered a very unstable and sensitive area with several security problems.

The TIPH, a civilian observer mission present in the city of Hebron upon invitation by the Government of Israel and the Palestinian Authority since 1997, was aimed at assisting the two governments in their efforts to improve the situation in Hebron according to the Hebron Agreement. The mandate of TIPH was to observe and report on breaches of the agreement between the Palestinian Authority and Israel on Hebron, as well as on violations of international humanitarian law and international human rights law. By their presence all year round and seven days a week they aimed to promote a feeling of security to the Palestinians of Hebron and stability in the city. They were not authorized to intervene.

Israel justified its decision not to renew the mandate of the observers by claiming that TIPH was acting against Israel and creating friction and an atmosphere of conflict. Since Hebron has always been a particularly unstable area, this decision will increase the violence against Palestinian civilians, undermine an effective mechanism of conflict prevention, and constitute a threat to the security and stability of civilians in Hebron. It might also further increase the limitations imposed on the daily life of Palestinian civilians by settlers and so increase their segregation.

Conclusions

Many have raised the question of whether Israel’s segregation system over Palestinians constitutes the crime of Apartheid. The crime of Apartheid is defined as inhumane acts committed in the context of an institutionalised systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that systematic separation. Based on the current situation in Israel and the Occupied Territories, many in the international community agree with the widespread opinion that Israel is, in fact, engaging in apartheid against the Palestinian people.

According to the 1998 Rome Statute of the International Criminal Court (ICC), the investigation and the possible prosecution of the crime is under the jurisdiction of the ICC. The ICC is currently conducting a preliminary examination of the crimes committed in all parts of the territory of the State of Palestine, and we strongly support these efforts.

Recommendations:

- We call upon the international community to endeavour to end the Palestinian people's segregation carried out through different measures by Israel.
- We call upon the UN Security Council and the UN General Assembly, and all its Member States, to oversee the announced construction of a wall along the Israel-Gaza Border in order to ensure respect of international law.
- We urge the international community to take a clear position against the decision of Israel to end the Temporary International Presence in Hebron (TIPH) and to endorse the introduction of a permanent international presence in order to ensure the protection of Palestinian civilians in the West Bank against the abuses of Israelis.
- We especially call on the countries that sponsored the signing of the agreement concerning the international presence in Hebron to immediately put pressure on the Israeli government to continue its implementation.
- We call on all Member States to satisfy their legal duty under international law to take proper action in order to prevent segregation policies which might constitute the crime of apartheid.
- We restate the fundamental right of self-determination of the Palestinian people as well as their right of return to their lands and properties, as recognized under international law and by UN Resolutions, and we call upon the international community to endeavour towards its implementation.

Geneva International Centre for Justice (GICJ), The Arab Lawyers Association-UK, Human Rights Defenders (HRD), 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), The Iraqi Centre for Human Rights, The International League of Iraqi Academics (ILIA), Iraq Solidarity Association in Stockholm), Association Maonah for Human Rights and Immigration, NGO(s) without consultative status, also share the views expressed in this statement.