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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

Written statement* submitted by BADIL Resource Center for Palestinian Residency and Refugee Rights, 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.

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Impeding the Palestinian People's Rights through Racist and Discriminatory Policies and Practices of Segregation, Fragmentation and Isolation

Since its creation, Israel has developed a comprehensive set of racist and discriminatory policies and practices to deny the Palestinian people from their lands, tighten its control and oppression of the Palestinian people. Imbuing all aspects of life controlled by Israel, whether through education, health, housing, civil and criminal justice, employment, industry and agriculture or transportation infrastructure, these policies and practices notably translate into discriminatory and illegal mechanisms of segregation, fragmentation and isolation that aim at severing the cohesion of the Palestinian people, their special connection to their lands, denying them their right to self-determination and exposing them to an institutionalized system of apartheid.¹

Illegality of Discriminatory Policies and Practices of Segregation, Fragmentation and Isolation under International Law

Segregation includes the enforced systemic separation, partial or total, of the Jewish-Israeli community from the Palestinian community, in a manner that discriminates against the latter. Fragmentation refers to the fracturing of the collective identity of the Palestinian people, whether territorially through the division of Mandatory Palestine in different areas subjected to distinct legal regimes; or socio-politically by way of the legal re-classification and hierarchization of Palestinians depending on their place of residence, while drastically restricting interactions between them. Isolation relates to the confinement, concentration and disconnection from one other of already fragmented Palestinian communities.

In the spirit of the Durban Declaration and Programme of Action, policies and practices of segregation, fragmentation and isolation constitute forms of racial discrimination that seek to perpetuate the exclusion of Palestinian participation from planning decision-making, hinder their socio-economic development and impede their enjoyment of their economic, social, cultural, civil and political rights, while serving the domination of Israeli-Jewish localities. Such practices do not only constitute institutionalized discriminatory mechanisms that violate Article 3 of the Convention on the Elimination of All Forms of Racial Discrimination,² but also widespread and systematic practices of institutionalized apartheid under Article 2 of the Convention on the Suppression and Punishment of the Crime of Apartheid,³ and qualify as a crime against humanity.⁴

Segregation, Fragmentation and Isolation through Discriminatory Planning in Umm al-Fahm

Israel harnesses discriminatory planning policies that systematize the segregation, fragmentation and isolation of Palestinian cities and villages, while simultaneously buttressing connections between surrounding Israeli-Jewish areas. Guided by the Planning and Building Law 1965,⁵ this has been achieved through the monopolization of urban transportation planning by Israeli-Jewish decision-making organs that foist their own planning priorities and needs on Palestinian localities, and systematically obstruct Palestinian infrastructures projects. For example, structural planning discrimination has manifested

¹ See BADIL, *Forced Population Transfer: The Case of Palestine – Segregation, Fragmentation and Isolation*, working paper no.23 (February 2020), available at: <http://www.badil.org/phocadownload/pap/badil-new/publications/research/working-papers/WP23-SFI.pdf>.

² General Assembly of the United Nations (UNGA), International Convention on the Elimination of All Forms of Racial Discrimination, 660 UNTS 195, 21 December 1965, Article 3.

³ UNGA, International Convention on the Suppression and Punishment of the Crime of Apartheid, 1015 UNTS 243, 30 November 1973, Article 2(b)-(d).

⁴ UNGA, Rome Statute of the International Criminal Court, 2185 UNTS 3, 17 July 1998, Article 7(1)(j).

⁵ Planning and Building Law, 5725-1965, LSI no.79 (Isr.).

through the persisting failure to approve a local structural plan, the absence of a proper planning committee at the local level, but the adoption instead of a regional master plan for the Wadi' Ara.⁶ Obstructions to adequate planning constitute both a means of control and a tool of expansion for surrounding Israeli-Jewish localities.

In Umm Al-Fahm, the segregation, fragmentation and isolation of the transportation system have taken the form of: the control and re-direction of the main Route 65 that used to connect the Wadi 'Ara valley, to connect Israeli-Jewish settlements in the coast and in the Galilee; the checkpoints that impede travel across the Green Line and totally disconnect Umm al-Fahm from the West Bank village of Umm al-Rihan; re-routing roads and, forcing drivers to go down old unpaved roads to reach the surrounding villages of 'Ar'ara and 'Ara; the lack of an adequate bus network and the absence of connections between Palestinian centers but with regular services to Israeli-Jewish areas; the encirclement of the Marj Ibn Amer valley, where Umm al-Fahm is situated, by Israeli-Jewish areas, particularly Mei Ami at its very south border; the restriction of urban growth through the construction of roads aimed at facilitating the connection of Israeli-Jewish settlements, including Road 6535 leading to Mei Ami; and the chronicle underfunding and various impediments on planning projects, such as the creation of an industrial zone along Route 65, and overall negligence over road accessibility issues that obstruct access to public facilities. These discriminatory policies appease Jewish-Israeli planning interests to continue on with expansion at the expense of Palestinians' access to their lands.

As a result, segregation, fragmentation and isolation hastened the deterioration of Umm al-Fahm's socio-economic status compared to Israeli-Jewish localities, with its inhabitants being amongst the poorest and with the lowest access to education, ranking 19 out of 255 localities in the 2013 socio-economic index.⁷ As with other Palestinian localities, Umm al-Fahm has less commercial and industrial zones than Israeli-Jewish areas, which affects tax inflows, enhances dependency on sporadic government funding, and compels 55 percent of the workforce to seek outside employment.⁸ In turn, it enables Israel to exert control and domination over its Palestinian integrated labor, while reinforcing the economic opportunities for Israeli-Jewish localities.

Umm el-Fahm has been coerced into marginalization, and is socially excluded and prejudiced as an undesired "Arab" locality, and a security and demographic concern,⁹ in what is being further illustrated by the revival of the land swap of the Triangle region to a Palestinian state under Trump's plan, the Deal of the Century.¹⁰

Conclusion and Recommendations

Segregation, fragmentation and isolation pervade all aspects of the Palestinian society to create and nurture a system of inequality and institutionalized discrimination to the advantage of Israeli-Jewish areas. It is exemplified by the enforcement of an Israeli-Jewish dominated planning system that favors their dominant planning interests, while segregating, fragmenting and isolating Palestinian localities, the consequences thereof being denial of adequate

⁶ Wadi' Ara is a valley running northwest of the Green Line, home to a significant Palestinian population in Israel.

⁷ Israel Central Bureau of Statistics, "Local Authorities, in Alphabetical Order of Hebrew Names: Socio-Economic Index Value 2013, Rank and Cluster, and Variables used in the Computation of the Index," available at: https://old.cbs.gov.il/publications17/socio_eco13_1694/pdf/t01.pdf.

⁸ See Organization for Economic Co-operation and Development, *Spatial Planning and Policy in Israel: The Cases of Netanya and Umm al-Fahm* (Paris: OECD Publishing, 2017), 125, available at: https://read.oecd-ilibrary.org/urban-rural-and-regional-development/spatial-planning-and-policy-in-israel_9789264277366-en#page3 [accessed 24 May 2020].

⁹ Gideon Alon and Aluf Benn, "Netanyahu: Israel's Arabs Are the Real Demographic Threat," *Haaretz*, 18 December 2003, available at: <https://www.haaretz.com/1.4802179> [accessed 27 May 2020].

¹⁰ White House, *Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People* (28 January 2020), 13, available at: <https://www.whitehouse.gov/peacetoprosperty/>.

services, socio-economic deprivation, and stigmatization, eventually compelling displacement in seek of better opportunities.

In consideration of the above, mechanisms of segregation, fragmentation and isolation are flagrantly built upon racism, racial discrimination and related intolerance, act in a self-sustained manner to comprehensively discriminate against the Palestinian people, and contribute to the preservation and the perpetuation of a system of apartheid, in contravention with international human rights law. By accelerating disconnection between the people, estrangement from their lands and dispossession over their own destiny for the benefit of the dominant Israeli-Jewish population, such mechanisms deny to the Palestinians their right to self-determination, which is explicitly recalled under the Durban Declaration and Programme of Action.¹¹

Accordingly, BADIL calls on:

Member States of the UN Human Rights Council (HRC) to acknowledge practices and policies of segregation, fragmentation and isolation as amounting to apartheid, racism and racial discrimination aimed at impeding the Palestinian people's pursuance of their right to self-determination.

The UNHRC to request the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 to demand a country-visit, investigate and report on the impact of Israel's racist and discriminatory mechanisms of segregation, fragmentation and isolation on the cohesion of the Palestinian people, and the integrity of their lands, for the purpose of annihilating the Palestinians' legitimate right to self-determination.

All UN Member States to adopt effective measures at the UN and national levels to render Israel accountable for its flagrant human rights violations emanating from racist and discriminatory policies and practices of segregation, fragmentation and isolation, in line with the Durban Declaration and Programme of Action.

¹¹ World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, Declaration and Programme of Action, September 2001, para. 63.