



# General Assembly

Distr.: General  
13 June 2023

English only

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## Human Rights Council

### Fifty-second session

27 February–31 March 2023

Agenda item 7

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

## **Written statement\* submitted by Al-Haq, Law in the Service of Man, 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.

[6 February 2023]

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\* Issued as received, in the language of submission only.



## Human Rights Council Resolution 31/36 (2016): Seven Years On, Mandate Remains Unfulfilled

The Palestinian struggle, one of settler-colonialism,<sup>1</sup> revolves around land.<sup>2</sup> Having ‘replacement’ as its foremost feature,<sup>3</sup> the Zionist settler-colonial project, starting in the 19th century, utilises elimination – one of the four logics of settler-colonialism<sup>4</sup> to dispossess the Palestinian people on both sides of the Green Line. Palestinian elimination is designed through, inter alia, 1. the institutionalised denial of Palestinian right of return, while solely according all Jews such a right; 2. the establishment of discriminatory planning and zoning regime which impedes Palestinian construction and encourages Jewish-Israeli expansion;<sup>5</sup> 3. the fragmentation of the Palestinian people, and designing personal statuses which hinder Palestinian ability to overcome such fragmentation;<sup>6</sup> 4. the creation of coercive environments which ultimately drive Palestinian displacement and forcible transfer,<sup>7</sup> and 5. the suppression of any resistance to Israel’s ensuing apartheid.<sup>8</sup>

Israel’s colonial settlement enterprise is one of the most visible examples of Israel’s elimination policy. Crucially, such enterprise does not operate in a vacuum, but is fostered and itself reinforces a more extensive and creeping system of domination over the Palestinian people, entrenching their fragmentation and denying their right to self-determination and sovereignty over natural resources.<sup>9</sup> Notably, Israel’s colonial settlement enterprise, which intentionally generates and reinforces widespread and systematic human rights violations against Palestinians, is advanced by corporations, which take advantage of and secure profit from the status quo.<sup>10</sup>

### \*Forcing Palestinians Out, Facilitating the transfer in of Israeli Settlers\*

Despite international recognition of the illegality of Israel’s settlements, Israel continues to facilitate the maintenance and expansion of its illegal colonial settlement enterprise. Through establishing ‘facts on the ground’, Israel continues to project and enforce Palestinian elimination, replacing them by Israeli settlers. With regard to this long-practiced tactic, the former UN Secretary-General Ban Ki-moon noted, “[t]he creation of new facts on the ground through demolitions and settlement-building raises questions about whether Israel’s ultimate goal is in fact to drive Palestinians out of certain parts of the West Bank”.<sup>11</sup> Last year, the Human Rights Committee, noting Palestinian systematic deprivation of their lands and houses, and Israel’s “restrictive zoning and planning regime in the West Bank”, expressed concerns with regard to Israeli “systematic practice of demolitions and forced evictions based on the discriminatory policies... [amounting] to racial segregation”.<sup>12</sup>

This long-established Israeli enterprise is further reinforced in its newly-formed government, whose fundamental guiding principles and coalition agreements explicitly reaffirm its intent to annex the occupied West Bank, and expand its colonial settlement enterprise, in violation of an array of Palestinian human rights, including the right to self-determination.<sup>13</sup> Specifically, the guiding principles state that, “[t]he Jewish people have an exclusive and inalienable right over all areas of the Land of Israel”.<sup>14</sup> Moreover, the guiding principles further pledge to “advance and develop settlement in all parts of the land of Israel – in the Galilee, Negev, Golan Heights, and Judea and Samaria”.<sup>15</sup>

Within similar vein, the Israeli Prime Minister, in the coalition agreement with Noam – a far-right Zionist political party –, vowed to lead “the formulation and promotion of a policy under which [Israeli] sovereignty will be extended” throughout the occupied West Bank, when Israel’s “national and international interests” permit.<sup>16</sup> To achieve these aims, the government has committed itself to implement a number of policies related to its administration and control over the West Bank, including, inter alia, allowing and encouraging the expansion of illegal settlements in the West Bank, and retroactively ‘legalising’ existing illegal colonial outposts.<sup>17</sup>

### \*The Cruciality of Human Rights Council Resolution 31/36 of 2016 and the Annual Updating of the United Nations Database\*

Recognising the need to address the role businesses and corporations play in the creation, maintenance, and expansion of Israel’s colonial settlement enterprise, the Human Rights Council passed Resolution 31/36 of 2016, which mandates the Office of the High

Commissioner for Human Rights (OHCHR) to produce, and annually update, a database of all businesses involved in activities related to Israel's colonial settlement enterprise.<sup>18</sup>

Following a three-year delay, and due to reported political pressure,<sup>19</sup> the OHCHR finally released the initial report of the UN Database. Alarming, since then, the OHCHR has yet to update the Database, as the fulfilment of its mandate has been indefinitely delayed due to budgetary and resource challenges. Al-Haq, Law in the Service of Man notes that these repeated, open-ended, and unexplained delays have no precedent in the handling of previous mandates by OHCHR. Should the High Commissioner be able to choose which mandates to implement, the effectiveness and credibility of the Council would be jeopardised.<sup>20</sup>

Furthermore, in its report, the OHCHR recommended that the Human Rights Council establishes a group of independent experts, with a timebound mandate, to report directly to the Council on any business engaged in activities related to Israeli colonial settlement enterprise.<sup>21</sup> Al-Haq, Law in the Service of Man notes its rejection for such a recommendation, as it disregards the mandate set out in Resolution 31/36. Instead, any challenges, including 'budgetary concerns', must be overcome to ensure the implementation of all mandates entrusted to OHCHR, in line with the principles of independence and impartiality.

At a time when Israel's colonial settlement enterprise remains entrenched, the UN Database represents a key tool to ensure that corporations do not continue to benefit from a situation of prolonged occupation and injustice, without taking the risk of being listed on the UN Database. Indeed, the annual update of the UN Database provides an opportunity to hold companies accountable for their actions by adding or removing them from the list; serving as a necessary incentive and deterrent against engagement with Israel's illegal settlements.

#### \*Recommendations\*

Obstructing the updating of the UN Database undermines accountability, perpetuates the expansion of Israel's colonial settlement enterprise, and undermines the credibility and effectiveness of the Human Rights Council. Accordingly, Al-Haq, Law in the Service of Man calls on Member States of the Council to:

- i. Demand that Israel ceases all its settlement activities in the Occupied Palestinian Territory, and dismantles its settler-colonial apartheid system imposed over the Palestinian people as a whole, in order to fulfil Palestinian people's right to self-determination;
- ii. Publicly call on the UN High Commissioner for Human Rights to annually and comprehensively update the UN Database, assuring transparency of business enterprises that are involved in and profit from Israel's illegal colonial-settlement enterprise, and ensuring that Human Rights Council mandates are implemented without delay, to protect the effectiveness and credibility of the Council as a whole; and
- iii. Take concrete measures to end Israel's colonial settlement enterprise, which appropriates Palestinian land and natural resources, including by banning the import and sale of goods and services produced in Israeli settlements.

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1 Faye Sayegh, 'Zionist Colonialism in Palestine' (1965) 2 Settler Colonial Studies 206.

2 Patrick Wolfe, 'Settler Colonialism and the Elimination of the Native' (2006) 8 Journal of Genocide Research 387.

3 Ibid 388.

4 John Collins, Global Palestine (Hurst and Company 2011) 31.

5 BADIL, 'Forced Population Transfer: The Case of Palestine: Discriminatory Zoning and Planning, Working Paper No.17'.

6 John Dugard and John Reynolds, 'Israel's Forcible Transfer of Palestinians in the Occupied Territory' (2013) 24 European Journal of International Law 867.

7 Simon Reynolds, 'Coercive Environments: Israel's Forcible Transfer of Palestinians in the Occupied Territory'.

- 8 Rania Muhareb, Elizabeth Rghebi, Pearce Clancy, Joseph Schechla, Nada Awad, and Maha Abdallah, 'Israeli Apartheid: Tool of Zionist Settler Colonialism' (Al-Haq, 2022) pp. 121-67.
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- 10 Marya Farah and Maha Abdallah, 'Security, Business and Human Rights in the Occupied Palestinian Territory' (2019) 4 Cambridge University Press 7, 7.
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- 12 Human Rights Committee, 'Concluding Observations on the Fifth Periodic Report of Israel' (30 March 2022) UN Doc CCPR/C/ISR/CO/5 para 42.
- 13 Adalah, 'Adalah's Analysis of the New Israeli Government's Guiding Principles and Coalition Agreements and their Implications on Palestinians' Rights' (10 January 2023), available at: [https://www.adalah.org/uploads/uploads/37\\_govt\\_position\\_paper\\_Eng\\_100123.pdf](https://www.adalah.org/uploads/uploads/37_govt_position_paper_Eng_100123.pdf).
- 14 37th Israeli Government Guiding Principles, available in Hebrew at: [https://www.adalah.org/uploads/uploads/Guiding\\_principles\\_government.pdf](https://www.adalah.org/uploads/uploads/Guiding_principles_government.pdf).
- 15 Ibid.
- 16 Adalah, 'Adalah's Analysis of the New Israeli Government's Guiding Principles and Coalition Agreements and their Implications on Palestinians' Rights' (10 January 2023), available at: [https://www.adalah.org/uploads/uploads/37\\_govt\\_position\\_paper\\_Eng\\_100123.pdf](https://www.adalah.org/uploads/uploads/37_govt_position_paper_Eng_100123.pdf); and Noam Coalition Agreement, Section 26, available in Hebrew at: [https://www.adalah.org/uploads/uploads/Noan\\_agreement\\_281222.pdf](https://www.adalah.org/uploads/uploads/Noan_agreement_281222.pdf).
- 17 Adalah, 'Adalah's Analysis of the New Israeli Government's Guiding Principles and Coalition Agreements and their Implications on Palestinians' Rights' (10 January 2023), available at: [https://www.adalah.org/uploads/uploads/37\\_govt\\_position\\_paper\\_Eng\\_100123.pdf](https://www.adalah.org/uploads/uploads/37_govt_position_paper_Eng_100123.pdf).
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