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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), Association Ma'onah for Human Rights and Immigration, 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.

[03 February 2020]

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



The illegality of Israeli settlements in the Occupied Palestinian Territory

Introduction

Israeli settlements are one of the main and most serious issues in the Palestinian-Israeli conflict. Settlements are a symbol of the discriminatory system that the Palestinian people have been facing since 1948. They have a devastating impact on the human rights of Palestinians.

The issue of settlements has received a lot of attention throughout the years by United Nations bodies and the international community. Following the Oslo Accords, Israel enjoys joint security control over Area B of the West Bank and full control over the security, planning and construction in Area C, the latter constituting 62 per cent of the West Bank. Based on this information, Israel has control over a substantial part of the Occupied Palestinian Territory. Thus, Israel decides which laws are to be applied, and has chosen to implement military law to the Palestinian population. Israeli settlers, on the other hand, are under the criminal legal system of Israel. This practice is against international humanitarian law and human rights law.

Israel, as the Occupying Power, must respect international customary law and the Fourth Geneva Convention. The Palestinian population of the Occupied Palestinian Territory should be protected by these regulations. Therefore, the Occupying Power has several obligations and duties under International humanitarian law.

Israeli settlements and international Humanitarian Law

Article 49 paragraph 6 of the Fourth Geneva Convention imposes on the Occupying Power the duty of refraining from deporting or transferring parts of its civilian population into these territories including East Jerusalem. These territories remain occupied and Israel continues to have the status of Occupying Power.

The settlements are characterized by the extensive use of land for construction and housing, the acquisition and destruction of property, each constituting an element of a violation of international humanitarian law.

The Hague Regulations of 1907 declares that the public domain of the occupied population such as land, forest and farm is licensed. In other words, the Occupying State has the right to use this property only to a minimal degree. This follows from the principle that the occupation is only temporary.

The occupying power is responsible for protecting local civic life and respecting the legal rights of all civilians in the territory. This responsibility has been violated in the occupied Palestinian territories concerning the settlement policy. The occupation arrangement put in place by Israel effectively prevents Palestinians from obtaining a legal remedy for wrongful acts against them and their resources causing health and financial harm.

The settlements built by Israel in the West Bank including East Jerusalem are illegal since the settlements have proven to be neither temporary, nor to provide any benefit to the Palestinian civilians. Moreover, the occupying power does not offer any legitimate security concerns or purposes for the expansion of settlements. The settlements are solely reliant on the widespread, but militarily unjustified, exploitation and destruction of Palestinian private and public assets. Their only purpose is to encourage Israelis to live permanently on the land of Palestine.

The Israeli settlement policy is also an infringement of jus cogens. As the International Court of Justice declared, the rules of the Geneva Conventions are inviolable principles of customary international law. States must respect the human rights of the people living in their jurisdiction. This rule also includes the people living on a territory which is under effective state control but outside the national borders.

The International Court of Justice confirmed Israel's obligation to extend the application of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and other treaties to which it has acceded. Israel is a party to numerous international human rights treaties and, as an occupying power, has well-defined responsibilities to respect, protect and fulfil the human rights of the Palestinians.

The right to non-discrimination

Article 2, paragraph 1, of the ICCPR, imposes on States the duty to respect and guarantee rights recognized in the Covenant without distinction of any kind, such as race, color, sex, language, religion, political or another opinion, national or social origin, property, birth or another status.

Article 26 of the ICCPR also recognizes the right of all persons to equal protection of the law; it prohibits any discrimination and guarantees equal protection against discrimination on any ground.

In similar terms, article 2, paragraph 2, of the ICESCR and Article 2 of the Convention on the Rights of the Child (UNCRC) prohibit any discrimination based on any ground. Regarding racial discrimination, the Committee on the Elimination of Racial Discrimination (CERD) as one of the critical non-discrimination treaties develops further provisions to eradicate intolerance and discrimination.

When it comes to the settlements put in place by the Israeli government, the right to equality and non-discrimination are among the numerous grave violations, as the discriminatory actions taken by Israel, are based on ethnic, national, and racial factors.

The Israeli settlements also result in constant human rights abuses committed by settlers and the Israeli army. Many Palestinian civilians have been killed or injured by Israeli soldiers, police and security personnel, including during demonstrations against the seizure of land and the construction of settlements.

The violence that Palestinians face from the settlers has been for a long time part of the Palestinians daily life. The violations against Palestinians take several forms targeting them and their property. Israel's failure to investigate the violence against Palestinians, and the wide range of legal, economic and procedural barriers in accessing the justice system, severely limits the access of Palestinians to justice.

Furthermore, the Israeli government grants settlers permits to access Palestinian land and natural resources for the benefit of private Israeli companies, while simultaneously denying such permits to Palestinian companies.

The Right to adequate housing

The expropriation of private properties from Palestinians is happening without legal justification, as well as, the denial of the right to an adequate standard of living, which includes the right to housing, water and food, is also caused by the constantly rising number of settlements.

The right to adequate housing is the right of every person to have a safe and secure home and community in which to live in peace and dignity. Israel's policy related to house construction, particularly in East Jerusalem is linked with the establishment of Jewish settlements. Israeli authorities order the eviction of Palestinians from their houses and replace them with settlers. Also, several Palestinian houses have been demolished to build houses for settlers. Even after moving to a new area, Palestinians face discrimination and harassment from the Israeli authorities that support the settlers.

The settlements have had a compelling effect of fragmenting the West Bank and changing the demographic composition of the territory. As such, the Palestinians right to self-determination has been utterly compromised.

Recommendations

- The United Nations and Human Rights Council should pay increased attention to the continuous breach of international law by Israel through the expansion of settlements and the associated apartheid system.
- Palestinians must have adequate access to justice. The United Nations and the international community must take all necessary measures to prevent violence committed by Israeli forces and the settlers against the Palestinian people.
- Acts of violence committed by the settlers against Palestinians must be investigated and victims must be provided with effective remedies.
- Review the construction permit system in order to prevent demolitions and forced displacement of Palestinians and to end the constant development of illegal Israeli settlements.

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, NGO(s) without consultative status, also share the views expressed in this statement.