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ISRAEL: APARTHEID IN ACTION

AMNESTY INTERNATIONAL: SUBMISSION TO THE 43RD SESSION OF THE UPR WORKING GROUP, 9 MAY 2023

SUMMARY

This submission was prepared for the Universal Periodic Review (UPR) of Israel in May 2023. In it, Amnesty International evaluates the implementation of recommendations made to Israel in its previous UPR, including in relation to arbitrary detention and torture, discrimination, movement restrictions, and impunity.

It also assesses the national human rights framework with regard to cooperating with international justice mechanisms, accepting the application of the Fourth Geneva Convention and international human rights law to the Occupied Palestinian Territories (OPT), ratifying the Convention against Torture without reservations, implementing recommendations of human rights mechanisms, and establishing a National Human Rights Institution.

With regard to the human rights situation on the ground, Amnesty International raises concerns about forced evictions and home demolitions in a discriminatory system amounting to apartheid against Palestinians in the OPT and in Israel. Other concerns regard attacks on Palestinian civil society and the rights of conscientious objectors to military service in Israel.

It ends with a set of recommendations to Israel, which, if implemented, would contribute to improving the human rights situation.

FOLLOW UP TO THE PREVIOUS REVIEW

Arbitrary detention and torture

1. Although Israel supported five recommendations to bring the practice of administrative detention into conformity with international law,¹ with a view to ending arbitrary detention, the number of Palestinian administrative detainees rose from 445 in January 2018 to more than 740, including at least two children, in August 2022.²
2. Regrettably, Israel merely noted seven states' recommendations to put a stop to torture and conform to the Convention against Torture (CAT) and its optional protocol.³ While prolonged administrative detention may amount to cruel, degrading and inhuman treatment or punishment in and of itself, additionally, detainees continued to be routinely subjected to torture and other ill-treatment.⁴ Of the more than 1,300 complaints of torture submitted to Israel's Ministry of Justice since 2001, only two had resulted in criminal investigations and no indictments as of the end of 2021.⁵

Discrimination against Palestinians regarding economic, social and cultural rights (ESCR), particularly the right to housing

3. Israel continued to violate Palestinians' right to adequate housing wherever they resided – whether in Israel or under military occupation in the OPT – through discriminatory policies including demolitions (details provided below under "Human rights situation on the ground"). Israel supported two⁶ of the seven recommendations⁷ to put an end to discrimination with regard to ESCR.
4. Israel merely noted all 17 recommendations related to ending settlement activities and continued to pursue settlement expansion.⁸ Israeli settlements in the occupied West Bank, including East Jerusalem, benefited from supportive policies with 2,888 new homes under construction in 2021 alone,⁹ despite their illegality under international law.

Movement restrictions

5. Israel merely noted 11 recommendations to lift restrictions on the freedom of movement of Palestinians in the OPT.¹⁰ Hundreds of permanent and temporary arbitrary restrictions on Palestinian freedom of movement were maintained by the Israeli army¹¹ and new obstructions were built as recently as September 2022, hampering access to healthcare and education.¹² The military fence/wall in the OPT continued to isolate some 11,000 residents from their communities.¹³
6. The blockade on Gaza continued, amounting to collective punishment. Despite Israel's support for a recommendation to ensure that constraints on freedom of movement do not restrict people's basic rights, including access to healthcare and education,¹⁴ in the Gaza Strip, at least five patients, including three children, have died to date in 2022 while waiting for permits, or after being denied permits, issued by the Israeli military to exit the blockaded territory for medical treatment;¹⁵ four patients died in 2021.¹⁶

Impunity for crimes under international law

7. Despite Israel's support for three recommendations to prevent and punish excessive use of force,¹⁷ Israeli forces continued to use lethal fire in policing situations, leading to apparently unlawful killings, which were inadequately investigated by the Israeli authorities, resulting in hardly any convictions and no custodial

sentences.¹⁸ Only one fifth of complaints of harm to Palestinians made to the Military Advocate General in 2019-2020 were investigated at all.¹⁹

8. Israel supported one²⁰ and merely noted six recommendations to end impunity for violations and crimes under international law, which continued in the reporting period.²¹ In the course of military offensives on Gaza in May 2021 and August 2022, Israeli artillery and aerial bombardment resulted in possible war crimes due to either indiscriminate attacks or direct attacks on civilians.²² These were not adequately investigated by the Israeli authorities,²³ nor was there any indication that any thorough and impartial investigations were planned.
9. Israel also did not support recommendations from 15 states to cooperate with international monitoring and investigating bodies, including from the Human Rights Council and the International Criminal Court (ICC), and its failure to cooperate continued.²⁴

THE NATIONAL HUMAN RIGHTS FRAMEWORK

10. Israel has dismissed the ICC Prosecutor's mandate to investigate the situation in Palestine,²⁵ undermining the ICC's work and pushing other states to distance themselves from the investigation,²⁶ with repercussions for international justice beyond the Palestine situation.²⁷
11. Israel continues to reject the applicability of the Fourth Geneva Convention and its obligations under international human rights law in the OPT, despite international consensus on the matter.²⁸
12. Israel maintains reservations to the CAT²⁹ which prevent the UN Committee against Torture from visiting Israel to monitor compliance, and the ICJ from adjudicating in disputes on torture by Israel.
13. In 2022, the Independent International Commission of Inquiry on the OPT, including East Jerusalem, and Israel (COI) found that "there has been a lack of implementation of the recommendations of past reports in relation to the core underlying root causes of the conflict" deepening "recurrent tensions, instability and protraction of conflict between states".³⁰ Israel has refused to cooperate with the COI.
14. Israel took no steps to establish a National Human Rights Institution in accordance with the Paris Principles despite accepting two recommendations to consider doing so.³¹ Israel's State Comptroller, the Commission for Equal Rights of Persons with Disabilities, and the Authority for the Advancement of the Status of Women,³² are not equivalent to a National Human Rights Institution.

THE HUMAN RIGHTS SITUATION ON THE GROUND

Apartheid and the right to adequate housing

15. Israel continued to maintain a system of apartheid over Palestinians in Israel and the OPT as well as Palestinian refugees through discriminatory laws, policies and practices that forcibly displace, segregate, and dispossess them of their land and property. Palestinians were denied equal nationality and status, subjected to severe restrictions on movement, deprived of social and economic rights, while Israel suppressed dissent in order to oppress and dominate them.³³

Inside Israel

16. All Palestinian refugees or internally displaced persons who were dispossessed since the 1940s are still barred from land and property that belonged to them or their families. For instance, 1,500 internally displaced Palestinians from Iqrit village near Acre in northern Israel now live 20km away, despite a Supreme Court decision granting their right of return.³⁴
17. The Israeli state has enforced land seizures from Palestinians while continuing to seek maximal Jewish Israeli control over land as a continuation of a policy from the late 1940s. Palestinian citizens of Israel endure discriminatory housing policies leading in some cases to forced evictions, particularly in the Negev/Naqab.³⁵ In 2019-2021, Israeli authorities demolished some 7,813 buildings, approximately one fifth of which were residential, in 35 "unrecognized" villages of the Negev/Naqab, home to more than 70,000 Palestinian Bedouin citizens of Israel.³⁶
18. Some 500 residents of Ras Jrah are at imminent risk of forced evictions for the expansion of the neighbouring Jewish town of Dimona in the Negev/Naqab, despite hearings on their case in May 2022.³⁷ Some 350 villagers of Umm al-Hiran in the Negev/Naqab in southern Israel were forced to move to the state-regulated Bedouin township of Hura by August 2018, to make room for the expansion of Bait Yatir, which is exclusively for religious Jewish citizens,³⁸ in Yatir forest planted by the Jewish National Fund (JNF).³⁹
19. The JNF, which owns about 13% of state lands, continued its policy not to lease land or accommodation to non-Jews. In January 2022, a JNF afforestation project sequestered lands near the Bedouin village of Sa'wa, leading to protests.⁴⁰

In East Jerusalem

20. Some 229,377 settlers continue to live in 14 Israeli settlements in East Jerusalem on 38% of the illegally annexed occupied territory, on land expropriated from Palestinians.⁴¹ On 5 September 2022, the Jerusalem District Planning Committee approved building plans for a new settlement, Givat HaShaked, with 500 homes for Jewish citizens of Israel, in the south of East Jerusalem.⁴² Between 2018-2022, the Jerusalem planning authorities approved plans and issued tenders for construction of 4,368 housing units in Israeli settlements in East Jerusalem.⁴³
21. At least 40 Palestinian properties in East Jerusalem were registered to Jewish owners in Sheikh Jarrah neighbourhood in 2021, putting them at risk of forced eviction. Palestinian families living in more than 150 other housing blocks were placed at risk of forced evictions since 2018, also based on a discriminatory amendment to the 1970 Legal and Administrative Matters Law that allows pre-1948 Jewish owners or their lawful heirs to reclaim their East Jerusalem properties.⁴⁴ Settler organizations such as Elad have relied on discriminatory laws and the assistance of state institutions to evict Palestinians, for instance the Sumarin family in Silwan whose eviction was approved by the Jerusalem District Court in December 2020.⁴⁵ The law's discriminatory provisions continue to preclude claims by Palestinians whose properties in West Jerusalem were confiscated after 1948.

In the rest of the OPT

22. Between 2018-2022, 4,323 Palestinian West Bank residents were forcibly evicted, and some 3,500 buildings demolished due to discriminatory zoning and planning.⁴⁶ More than 5,000 other Palestinians are at imminent risk of forced eviction,⁴⁷ particularly in the Jordan Valley's herding communities such as Humsa and Hadidiya, and in the South Hebron Hills. In Masafer Yatta in the South Hebron Hills, more than 1,000 Palestinians face violence from armed forces and settlers, and home demolitions, on a daily basis, with the aim to evict them.⁴⁸
23. Israel continued to pursue its policy of land seizures, which it had extended to the OPT following its military occupation in 1967.⁴⁹ Even though in 2020 the Israeli Supreme Court⁵⁰ repealed a 2017 law that had allowed the

expropriation of private Palestinian land in the West Bank,⁵¹ the court's decision upheld settlement expansion as a legitimate aim and referred to alternative ways that expropriation could be carried out, including using Military Order Number 59 Regarding Government Property (Judea and Samaria).

24. The authorities retroactively "legalized" expropriation of property.⁵² In August 2021, the High Court of Justice dismissed a petition filed by Palestinian residents of Beita against the establishment of Evyatar, a "settlement outpost" on their land, claiming that land ownership was yet to be determined.⁵³ The Israeli Attorney General subsequently approved the results a survey by the Israeli Civil Administration, enabling the declaration of the area as "state land".⁵⁴ Israeli authorities allowed settlers to violently take over private Palestinian land, for instance near Nabi Saleh west of Ramallah in the northern West Bank in March 2021.⁵⁵ From the beginning of 2020 to the end of September 2021, human rights organizations documented 451 settler attacks on Palestinians and on their property, of which 245 were directed at Palestinian farmers on their lands.⁵⁶
25. Meanwhile, Israeli authorities provided subsidies, tax incentives and low-cost utilities and resources to encourage Jewish Israelis to live in 279 illegal settlements and outposts on roughly 40% of the West Bank (excluding East Jerusalem), home to over 465,400 Israeli settlers.⁵⁷ In 2018-2022, the Israeli government approved plans and issued tenders for 10,294 housing units to be built in Israeli settlements in Area C of the West Bank (excluding East Jerusalem).⁵⁸ In the same period, the Israeli government approved construction permits for just 27 Palestinian housing units in the area.⁵⁹
26. Hundreds of homes were destroyed in Gaza during Israeli offensives in May 2021 and August 2022.⁶⁰ Some 1,000 homes wrecked in Israel's offensive in Gaza in 2014 were not rebuilt as of 2022.⁶¹ Materials for rebuilding are lacking due to the Israeli blockade against Gaza since 2007.⁶² Israel continued to use unlawful lethal force to restrict Palestinians' access to a zone between 300m and 1,500m wide along the periphery of Gaza, covering over 35% of Gaza's agricultural land. It also restricted access to 85% of Gaza's fishing waters, regularly shooting at fishermen venturing beyond it.

Freedoms of association and expression, and protection of human rights defenders

27. On 18 August 2022, Israeli armed forces raided the Ramallah offices of seven Palestinian civil society organizations: Addameer, al-Haq, Defense for Children International – Palestine (DCIP), the Union of Agricultural Work Committees, Bisan Center for Research and Development, Health Work Committees, and the Union of Palestinian Women Committees, and confiscated files and equipment.⁶³ The raids and closures were conducted pursuant to a military order based on the 1945 Defence (Emergency) Regulations.
28. The organizations had been subjected to spyware hacking,⁶⁴ and baselessly designated as "terrorist" and "unlawful" by the Israeli Minister of Defense in October 2021 and January 2020,⁶⁵ curtailing their activities and fundraising, following a 2016 Israeli "counter-terrorism" statute.⁶⁶ Addameer, al-Haq, and DCIP work in legal advice, human rights documentation, reporting and advocacy, including through submitting information to UN mechanisms and the ICC investigation. Addameer's lawyer Salah Hammouri has been held in administrative detention since 7 March 2022 and is threatened with revocation of his right to live in Jerusalem, his hometown.

Freedom of Conscience

29. Four Israeli conscientious objectors to military service were jailed repeatedly in August and September 2022.⁶⁷ At least 13 other conscripts have been jailed since 2018 for their conscientious objection to military service.⁶⁸

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Israel to:

Apartheid and the right to adequate housing

30. End the system of apartheid by dismantling measures of discrimination, segregation and oppression currently in place against the Palestinian population and undertake a review of all laws, regulations, policies and practices that discriminate on racial, ethnic or religious grounds, and repeal or amend them to bring them into line with international human rights law and standards.⁶⁹
31. Amongst others, repeal or revoke the following laws and regulations, or suspend them until they are brought into conformity with international human rights law, particularly anti-discrimination provisions: the Absentees' Property Law (Transfer of Property Law) of 1950; the Land Acquisition Law of 1953; Military Order Number 59 Regarding Government Property (Judea and Samaria); and the British Land (Acquisition for Public Purposes) Ordinance of 1943.
32. Grant equal and full human rights to all Palestinians in Israel and the OPT without discrimination, while ensuring international humanitarian law protects Palestinians in the OPT.
33. End forcible transfers of population, arbitrary arrests, administrative detention, torture and other ill-treatment, unlawful killings and infliction of injuries, as well as restrictions on other fundamental rights, such as arbitrarily restricting Palestinians' freedom of movement and residence in their communities, their right to family life, and their rights to access livelihoods, housing, food, water, essential healthcare services and education.
34. Immediately cease all settlement activity as a first step towards dismantling Israeli settlements in the OPT.
35. Provide adequate provisions to ensure non-discrimination, transparency and accountability in terms of zoning, allocation, distribution and use of state land in Israel, and reform quasi-state Jewish institutions to achieve this end.
36. Ensure adequate remedies for all those whose land was illegally expropriated and whose homes were demolished as a result of discriminatory policies.
37. Immediately grant legal recognition and status to 35 "unrecognized" villages in the Negev/Naqab, with legal security of tenure to the residents and halt all efforts to forcibly remove the inhabitants of unrecognized villages.
38. Recognize the right of Palestinian refugees and their descendants to return to homes where they or their families once lived in Israel or the OPT, and to receive restitution and compensation and other effective remedies for the loss of their land and property, in line with international law.

Freedom of movement

39. Lift the blockade on the Gaza Strip, and other forms of arbitrary restrictions on freedom of movement in the OPT of people and goods that result in collective punishment.

End impunity and ensure cooperation with international institutions

40. Guarantee prompt, impartial, independent and effective investigations into apparently unlawful killings and serious injuries, possible war crimes and crimes against humanity committed by state officials and actors.
41. Allow Amnesty International and other human rights organizations, as well as UN appointed investigators, including the COI, and UN special rapporteurs, unrestricted access to Israel and the OPT, including the Gaza Strip, to investigate suspected violations of international law by all parties.
42. Co-operate with the investigation by the ICC, as well as with those undertaken by national courts under universal jurisdiction.
43. Comply fully with international humanitarian law, in particular the principle of distinction, prohibition of indiscriminate and disproportionate attacks, and the requirement to take precautions in attack.

Freedom of association, expression, and protection of human rights defenders

44. Revoke the "terrorism" and "unlawful" designations for seven Palestinian civil society organizations: Addameer, Al-Haq, Defense for Children International – Palestine, the Union of Agricultural Work Committees, Bisan Center for Research and Development, Health Work Committees, and the Union of Palestinian Women Committees.
45. Cancel the military orders closing the organizations' offices.
46. Allow the organizations' staff to do their human rights, medical, social welfare and research work free from harassment.
47. Release Salah Hammouri unless he is charged with an internationally recognized offence, and remove the threat of his deportation from Jerusalem.
48. Repeal or revoke, amongst others, the following laws and regulations, or suspend them until they are brought into conformity with international human rights law, particularly anti-discrimination provisions: 2016 Counter-Terrorism Law; and the 1945 Defence (Emergency) Regulations.

Freedom of conscience

49. Free conscientious objectors to military service immediately and unconditionally.

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