**BADIL Resource Center for Palestinian Residency and Refugee Rights**

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13 May 2021

Re.: Special Rapporteur’s Reports on Discrimination, Segregation, and the Right to Adequate Housing to the General Assembly and Human Rights Council

To the attention of Mr. Balakrishnan Rajagopal, Special Rapporteur on the right to adequate housing,

In the prospect of the Special Rapporteur’s 2021 report to the General Assembly and 2022 report to the Human Rights Council, BADIL Resource Center for Palestinian Residency and Refugee Rights presents the following written submission focusing on four Israeli colonial-apartheid policies that infringe on the Palestinian people’s equal enjoyment of the right to adequate housing. Israel applies these specific forms of *de* *facto* and *de* *jure* segregation and discrimination on both sides of the Green Line; whether applied against Palestinian refugees, Palestinians in the occupied Palestinian territory (oPt), or Palestinians with an Israeli citizenship. These policies serve the same overarching goal: to control the maximum amount of land with the minimum number of Palestinians. This strategy has been enforced through various practices and policies, including the creation of coercive environment which incorporates the impairment of housing conditions, and by virtue, living conditions of the Palestinian people in order to undermine their ability to exercise their legitimate right to self-determination.

**Policy 1: Discrimination in Relation to Access to Land - Land Confiscation and Denial of Use**

Israel applies myriad policies and practices that discriminate against Palestinians in relation to access to land, thus undermining the accessibility dimension of the right to adequate housing. Israel’s central mechanism for land discrimination involves land confiscation, in that Palestinian ownership, or rights of ownership, is transferred to Israeli bodies and authorities, Zionist-Israeli organizations (namely the Jewish National Fund) and Jewish-Israeli individuals. These mechanisms can be divided into two types: *de facto* and *de jure* confiscation.

* In situations of *de facto* confiscation, Israel applies measures that seriously hinder or deny the landowner’s use and access of the land or property. Such limitations come in the form of Israeli military orders or laws that designate parcels of land as closed military zones, nature reserves, national parks, seam zones, and/or the construction of colonies, checkpoints, bypass roads, and the Annexation Wall.
* *De jure* confiscation, constituting the official transfer of ownership to Zionist-Israeli entities, highlights the discriminatory nature of land confiscation as Israeli-Jews are allowed to use the expropriated Palestinian lands while Palestinians’ access to their lands is forbidden. From 1950 onwards, the apartheid-colonial Israeli regime has systematically implemented a discriminatory land confiscation and redistribution policy. Most notable of these laws includes the 1950 Development Authority Law, the 1953 Land Acquisition Law, and the 1960 Israel Lands Administration Law, which facilitated the mass expropriation and privatization of Palestinian-owned land, rendering them inaccessible to Palestinians.[[1]](#footnote-1)

**Policy 2: Discrimination in Relation to Ownership of Housing and Land - Denial of Property Restitution**

Operating in tandem with the abovementioned policy of forbidding Palestinians’ access to their land is another discriminatory policy that focuses on denying the 9.1 million Palestinian refugees and internally displaced persons (IDPs) their right to property restitution. This policy undermines the security of tenure dimension of the right to adequate housing, namely Palestinians’ ownership rights. Per international refugee law, Palestinian refugee and IDP properties should be protected against destruction and arbitrary and illegal appropriation, occupation, and use until a durable solution is implemented.

However, through a series of discriminatory Israeli laws, such as the 1950 Absentee Property Law, Israel declared the property of all forcibly displaced Palestinians as ‘absentee property,’ and eventually utilized and privatized the properties, including houses, through a roll-out of additional laws in partnership with government and non-government agencies. While Israel continues to deny displaced Palestinians their right to reparations, including return, property restitution, and compensation, Palestinian refugees and IDPs continue to live in overcrowded refugee camps that lack basic infrastructure and sanitation in the oPt, Lebanon, Syria, and Jordan.[[2]](#footnote-2)

**Policy 3: Discrimination in Relation to Access to Water, Natural Resources, Services, and Construction**

Israeli policies and practices additionally discriminate against Palestinians on both sides of the Green Line in relation to access to water, natural resources, and services. This is evident in the two-tier legal system that Israel applies with regards to the provision of services in the West Bank, including east Jerusalem, where Zionist-Israeli colonies are located adjacent to Palestinian villages and towns. This two-tier system provides preferential treatment for Israeli-Jewish colonizers while simultaneously creating harsh living conditions of coercive environments for Palestinians living in the same areas.[[3]](#footnote-3) The Palestinian population does not enjoy the same right of access to water, natural resources, and services. For example, Israel controls all water resources in the West Bank; Palestinians are only able to use around 14 percent, whereas colonizers are allocated 86 percent. This is despite the fact that the Palestinian population is five times greater than the colonizer population in the West Bank.

In relation to differential treatment in housing construction, building permits are difficult to near impossible for Palestinians to obtain in east Jerusalem and in the 60 percent of the West Bank under exclusive Israeli control, Area C. Israel rejects more than 94 percent of Palestinian building permit applications and this has led to the demolition of many Palestinian-built private and public use structures in Area C, including schools and clinics, by Israeli forces.

Such discriminatory policies also extend to the Palestinian citizens of Israel; notably including the Palestinian Bedouins living in villages in the Naqab. In 1965, Israel passed the *Planning and Building Law 5275-1965,* which designated these Palestinian villages as ‘unrecognized villages’. The Israeli government denies unrecognized villages access to basic services, such as water, electricity, telecommunications, sewage systems, healthcare, education and proper infrastructure. This is in stark contrast to Jewish-Israeli localities established in the same area, which are given automatic recognition, services and support despite the fact that they are often built without the required permits.[[4]](#footnote-4)

**Policy 4: Spatial and Residential Segregation - Israeli Zoning and Planning**

On both sides of the Green Line, Israel applies an array of mechanisms that creates spatial and residential segregation against Palestinians. Palestinians with an Israeli citizenship, constituting 20 percent of Israel’s population, reside in three main geographic areas: the Galilee, the Triangle regions, and the Naqab. Most of these localities lack proper planning procedures and the needs of their populations in terms of housing, infrastructure, allocation of land and development are not met, while Jewish-Israeli localities are developed through various means.

In Israel’s highly-centralized nature of planning, the Palestinian population are not included in decision-making and in developing the Master Plans that govern zoning, construction and development of their cities. Additionally, Palestinian local authorities that submit building plans and zoning proposals face unreasonable delays in getting them approved, thus impeding the issuing of legal building permits. The rejection rate is high, and usually the justification for rejection tends to relate to national and district plans currently in place and Ministry of Interior policy which aims to inhibit Palestinian building and development.

As for the West Bank, Palestinian communities in Area C (comprising 60 percent of the oPt) are particularly subject to an oppressive zoning and planning framework consisting of selectively-deployed Ottoman, British Mandate and Jordanian-era land laws, supported by an extensive web of Israeli military orders. It is a framework designed to displace Palestinian inhabitants, primarily through arbitrary declarations of large swathes of land as belonging to the ‘state’ - and to replace them with Jewish-Israeli colonizers.[[5]](#footnote-5)

Altogether, these four policies are employed by the Israeli apartheid-colonial regime to discriminate against the Palestinian people’s right to adequate housing. These mechanisms subsequently impair the Palestinian people’s enjoyment of human rights and their inalienable right to self-determination.

BADIL remains at the disposal of the Special Rapporteur for any interactive discussion on the above presented research.

1. *See* BADIL Resource Center for Palestinian Refugees and Residency Rights, *Forced Population Transfer: Land Confiscation and Denial of Use,* working paper no. 21 (Bethlehem: BADIL, 2017), available at: [wp21-LC.pdf](https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp21-LC.pdf) [↑](#footnote-ref-1)
2. *See* BADIL Resource Center for Palestinian Refugees and Residency Rights, *Forced Population Transfer: Denial of Reparations,* working paper no. 22 (Bethlehem: BADIL, 2018), available at: [WP22-Reparations-of-Reparations.pdf](https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/WP22-Reparations-of-Reparations.pdf) [↑](#footnote-ref-2)
3. *See* BADIL Resource Center for Palestinian Refugees and Residency Rights, *Coercive Environments: Israel’s Forcible Transfer of Palestinians in the Occupied Territory,* in focus (Bethlehem: BADIL, 2017), available at: <https://badil.org/phocadownloadpap/badil-new/publications/research/working-papers/FT-Coercive-Environments.pdf> [↑](#footnote-ref-3)
4. *See* BADIL Resource Center for Palestinian Refugees and Residency Rights, *Forced Population Transfer: Denial of Access to Natural Resources and Services,* working paper no. 20 (Bethlehem: BADIL, 2017), available at: [wp20-DANRS.pdf](https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp20-DANRS.pdf) [↑](#footnote-ref-4)
5. *See* BADIL Resource Center for Palestinian Refugees and Residency Rights, *Forced Population Transfer: Discriminatory Zoning and Planning,* working paper no. 17 (Bethlehem: BADIL, 2014), available at: [wp17-zoninig-plannig-en.pdf](https://www.badil.org/phocadownloadpap/badil-new/publications/research/working-papers/wp17-zoninig-plannig-en.pdf) [↑](#footnote-ref-5)