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UN Special Rapporteur on the Right to Development
United Nations Human Rights Office of the High Commissioner
hrc-sr-development@un.org

Input for the Special Rapporteur's 2023 report on reinvigorating the right to development

Dear Office of the Special Rapporteur for the Right to Development,

Please accept this input concerning key challenges in the effective realisation of the right to development in Israel and the occupied Palestinian territory (oPt). We trust this input will help inform the Special Rapporteur's September 2023 report outlining a future vision in "reinvigorating the right to development." This input was prepared by Bimkom – Planners for Planning Rights, an Israeli human rights organisation that acts to strengthen democracy and human rights in the field of spatial planning and housing policies in Israel, occupied East Jerusalem and Area C of the West Bank.

The key challenges to effective realisation of the right to development in Israel and the oPt, as outlined below, are:

1. Systematic violation of development rights
2. Use of planning to promote discriminatory political agenda
3. Promotion or stalling of plans in response to political developments
4. Residents are not consulted and plans are not responsive to their needs

The use of planning to hinder and not advance development is not limited to Israel and the oPt. We therefore trust that addressing these challenges will substantially contribute to a renewed understanding of the right to development, and the essential role that spatial planning plays in fulfilling this universal right.

1. Development rights are systematically violated

The Israeli government uses planning policies to prevent proper development in Palestinian neighbourhoods and localities in the occupied Palestinian territory (oPt), aimed at displacing the Palestinian population. Planning and development of the built environment affect all areas of human life and impact the human and social rights and dignity of individuals and communities. The purpose of planning should be to improve human lives and provide for needs and rights, in line with the International Covenant of Economic, Social and Cultural Rights (ICESCR) and UN Sustainable Development Goal 11.

Policy example: restrictive planning policies in occupied East Jerusalem

In the Palestinian neighbourhoods of occupied East Jerusalem (EJ), extremely small areas are zoned for residential use, amounting to only 13% of the EJ area; most plans fail to provide additional land reserves for development, allow very limited building rights, and include only sparse road networks and infrastructure systems. Obtaining a building permit is a complicated and costly bureaucratic process. In recent years, only 8% of all building permits in Jerusalem were issued in Palestinian neighbourhoods. It is estimated that at least half of the 60,000 housing units in EJ have no permits, rendering their residents vulnerable to costly fines and home demolitions, potentially placing over 100,000 persons at risk of forcible



displacement. Between 2004-2020, 1,081 dwelling units were demolished, resulting in 3,521 people losing their homes. At least 10,000 additional housing units are required to meet Palestinian needs in EJ.

Planning example: the area known as E-1

E-1 is an area of 12 square kilometres in Area C of the oPt, located to the east of the Jerusalem municipal borders and next to the settlement of Ma'ale Adumim. Two Israeli plans for new Jewish settlements are currently being promoted in E-1, comprising about 3,500 housing units, which will house about 12,000 residents. The plans are largely located on lands owned by residents of al-Isawiya, a Palestinian neighbourhood of East Jerusalem with over 18,000 residents. Currently al-Isawiya residents are forced to live on only 8% of their original land area (800 dunams out of 10,000 dunams in the past), at a density of three times of that the adjacent Jewish settlement-neighbourhood (the French Hill). Their lands in E-1 were declared as Israeli state lands and allocated to the Jewish settlements. In addition, there are several Bedouin communities living in E-1, some of which moved to this area after being expelled by Israel from their lands in the Negev in the early years after Israel's establishment. Hundreds of families from these herder communities were forcibly moved to allow for the establishment of Ma'ale Adumim in the 1980s. Their livelihood sources have been restricted, and their access to grazing lands and water in the area has been constantly reduced over the years. Some communities have been able to remain in their locations thanks to international interventions against government decisions to displace them, as is the case of the village of Khan al-Ahmar.

2. Planning is used by the Israeli government as a tool to promote discriminatory political agenda

The Israeli government promotes development in Jewish localities and settlements (both in Israel and in the West Bank), while systematically discriminating against Palestinian citizens of Israel as well as the Palestinians living in the oPt. This policy contradicts the principle of equality, and the professional role of planning, which is to ensure decent living conditions for all. The government's policy is to establish and develop neighbourhoods and settlements for Jews only in the Negev, the Galilee, Israel's mixed cities, the West Bank and East Jerusalem, and to retrospectively grant planning approval to illegal Jewish settlements. These steps are intended to ensure a Jewish majority in different areas, while creating and reinforcing separation on a national, ethnic, or religious basis.

Policy example: Discriminatory planning policies utilised by Israel in East Jerusalem

Since 1967 planning policy in EJ has been dictated by two principles: demographic balance, geared towards ensuring a Jewish majority; and land expropriation (of over 38 percent of the area of EJ) to create Israeli spatial contiguity and prevent a Palestinian built continuum. Led by these two principles, plans for most EJ Palestinian neighbourhoods are intentionally limited and therefore inadequate. Despite improvements over time in the quality of these plans, most do not respond sufficiently to the needs of the residents, and particularly to their housing needs. These plans differ patently from plans prepared and approved for Jerusalem's Jewish neighbourhoods. Furthermore, only general plans were prepared for most Palestinian neighbourhoods, which are not sufficiently detailed for building permits to be issued. To obtain a building permit based on such general plans, residents are obliged to prepare – at their own cost - an additional detailed plan. Even in cases when this was achieved, bureaucratic obstacles make obtaining building permits an exceedingly difficult and costly process, that most EJ residents cannot afford.



Planning example: preventing a two-state solution using E-1 plans

The E-1 area forms a vital passage between the northern and southern parts of the West Bank. The plans for two Jewish settlements in E-1 are far-reaching in terms of their strategic location, and their implementation will have significant local, regional, and international ramifications. The construction of the proposed Jewish settlements in E-1 will block prospects of a continuous north-south stretch of Palestinian land, effectively cutting the West Bank in two and preventing the implementation of a two-state solution to the Israeli-Palestinian conflict. Such plans would be an effective annexation of additional land by Israel. The E-1 plans will also obstruct Palestinian travel between the north and south parts of the West Bank and prevent development of the adjacent Palestinian towns.

3. The promotion or stalling of plans is done in reaction to political developments

Planning permits are withheld from Palestinians and enforcement measures are carried out in retaliation for political developments. In the same vein, planning permits for Jewish settlements are at times granted as declarative measures following political incidences.

Policy example: transferring enforcement units to the Ministry of National Security

The current government's coalition agreements include transferring responsibilities of the Green Police and the Illegal Construction Enforcement Unit to the Ministry of National Security under minister Ben Gvir. The Illegal Construction Enforcement Unit previously operated under the Ministry of Finance (together with the Planning Authority), and its powers include carrying out demolitions. The Green Police is responsible for protecting open land and previously operated under the Ministry of Environmental Protection. Both units are expected to be mobilized against the Bedouin population who live in villages which are unrecognized by the state, and therefore not planned. In the eyes of the authorities, their homes are "illegal" and the lands are zoned as open land.

Planning example: Planning settlements in E-1 as a reaction to political developments

In November 2021, the government instructed the Planning Bureau in the Civil Administration to advance the E-1 settlement plans, in response to the United Nations Assembly decision to recognize the Palestinian delegation as an Observer State. In February 2020 Prime Minister Netanyahu decided to promote the E-1 settlement plans shortly before the elections, to appeal to right-wing voters.

4. Residents are not consulted and plans are not responsive to their needs

In Israel, most significant or large-scale planning initiatives are carried out by the national or local government, and there is no obligation to conduct public participation processes. Plans are therefore often devised with little input of affected residents, particularly from marginalised groups, including women, minority ethnic groups and those from the geographic and economic periphery.



Policy example: lack of women's participation in planning for the Negev Bedouin communities

State-led plans are approved and implemented without the participation of Bedouins, and particularly Bedouin women, in the processes of data collection and analysis, decision making and planning. Therefore, state planning reinforces these communities' marginalization. This is even more so for women, as plans do not focus on their need to access public services such as education and health facilities; childcare facilities that could enable them to work away from home; employment and business centres. Even the planned Bedouin townships lack sufficient public services and commercial, office and industrial areas; many Bedouin villages (including state-recognised ones) are remote from larger cities where there are more public services, labour opportunities and vocational training provided by the state, and accessibility is further limited by the lack of public transportation. This type of planning reinforces patriarchal definitions of 'forbidden' spaces for women, and adversely affects their autonomy and economic activity.

Planning example: Planning settlements in E-1 will cause harm to Bedouin communities

The E-1 plans ignore the Bedouin residents who have lived in this area for decades and are detrimental for them. Implementation of these plans will result in forcible displacement of the herder communities. Parts of the proposed plans are drawn over the residential areas of several Bedouin communities and designate their homes for demolition, and other parts cover the grazing areas of most of the communities in the area and will deeply harm their livelihood, affecting particularly the women, who take a major part in caring for the herds. The forced eviction contradicts the Fourth Geneva Convention from 1949, which prohibits the transfer of population from occupied territories.

Moreover, the plans for the two Jewish settlements are based on planning briefs that were drafted 20 years ago, with no consideration of their relevance in the current context. As a result, they are not even driven by planning needs of the Jewish population of settlers in this area. According to the Central Bureau of Statistics, there has been recent decline in the population in Ma'ale Adumin, while the areas designated for housing within this settlement have not been fully built. Therefore, there is no justification for the establishment of two new adjacent settlements.