

## BADIL Resource Center for Palestinian Residency and Refugee Rights



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Written statement submitted by Badil Resource Center for Palestinian Residency and Refugee Rights, a non-governmental organization with special consultative status.

### **Israeli Settlement Policy Amounts to Forced Population Transfer**

Israel defines itself as a Jewish state and conditions its existence upon the maintenance of a Jewish majority. Indeed, the Zionist movement that established Israel in 1948 combined Jewish nationalism with the colonial practice of transplanting people, mostly from Europe, into Palestine with the support of European colonial powers. For the past 64 years, Israel has continued its practice of settler implantation and the removal of indigenous Palestinians in a policy that amounts to forced population transfer.

Forced population transfer has been defined as the “systematic, coercive and deliberate ... movement of population into or out of an area ... with the effect or purpose of altering the demographic composition of a territory, particularly when that ideology or policy asserts the dominance of a certain group over another.”<sup>1</sup> The widespread and systematic forcible internal displacement of Palestinians by the Israeli Occupying Power and the ongoing denial of Palestinian refugees right to repatriation for the purpose of acquiring land and altering the demographic composition of the territory amounts to a forcible transfer of population.

In his report to the 16<sup>th</sup> Session of the Human Rights Council, the Special Rapporteur to the OPT, Richard Falk underscores the application of the forced population transfer framework to Israel’s policies in East Jerusalem. He describes Israel’s policies in East Jerusalem as amounting to an effort to complete its de-facto illegal annexation by pursuing a “policy designed to achieve the ethnic cleansing of Palestinians.”<sup>2</sup>

Forced population transfer is prohibited under international humanitarian law,<sup>3</sup> a violation of customary international law,<sup>4</sup> is a grave breach of the Fourth Geneva Convention,<sup>5</sup> and may amount to a war crime pursuant to the Rome Statute.<sup>6</sup>

Forced population transfer and settler implantation also violates human rights including the right to self-determination (common art. 1 to ICCPR, CESC), the principle of non-discrimination (see art 2 of ICCPR and ICESCR and art. 1 CERD), and the right to leave a country and to return to one’s country (art. 12 ICCPR).<sup>7</sup>

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<sup>1</sup> See: The human Rights Dimensions of Population Transfer including the Implantation of Settlers, Preliminary Report prepared by A.S. al-Khawasneh and R. Hatano. Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities, Forty-fifth Session, 2-27 August 1993, E/CN.4/Sub.2/1993/17, 6 July 1993, paras.15 and 17

<sup>2</sup> A/HRC/16/72 at para. 17.

<sup>3</sup> See ICJ, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion of 9 July 2004 at para. 101.

<sup>4</sup> See rule 129 and 130 of ICRC 2005 study on Customary International Humanitarian Law.

<sup>5</sup> Unlawful deportation or transfer constitutes a grave breach under Art.85(4) AP I

<sup>6</sup> Unlawful deportation or transfer constitutes a grave breach under Art.85(4) AP I

<sup>7</sup> See also ICCPR General Comment 27, paras. 8-11.

### *Forced Population Transfer in the OPT*

With the intention and result of de jure and de facto permanent requisition and annexation of occupied Palestinian land, all Israeli governments, in conjunction with the World Zionist Organization, have developed and implemented plans for the implantation of Jewish settlers and the integration of large sections of the OPT into Israeli state territory.

Israel pursues several processes in concert to increase the number of Jewish settlers while reducing the number of indigenous Palestinian civilians. These include home demolitions, deportation of civilians, land expropriation, evictions by settlers, in combination with several government incentives to encourage settler implantation in the OPT.

Home demolitions by military order have displaced more than 1,100 Palestinians in 2011, an 80 percent rise compared to 2010.<sup>8</sup> These numbers are likely to increase in 2012 as nearly 600 Palestinians have lost their homes thus far in 2012. The entire village of Jenba, a Palestinian village in Area C with a total population of 1,600, is threatened with demolition by military order.

In January 2012, Israel's Civil Administration announced plans to forcibly relocate approximately 27,000 Palestinian Bedouins of the Al-Ahmar community living in Area C. This process will begin with the uprooting of 2,000 persons from the area surrounding Ma'ale Adumim, an illegal settlement in East Jerusalem, to a garbage dump in Abu Dis.<sup>9</sup>

In East Jerusalem, Israel has sanctioned settler violence targeting Palestinians with the aim of forcibly removing them from their homes. Ateret Cohanim, a right-wing Jewish Zionist movement, has sought to violently displace Palestinians living in Jerusalem's Arab quarter in order to alter the demographic balance and prevent the establishment of East Jerusalem as a permanent capital of a potential Palestinian state. The organization's stated goal is to enter and settle areas inhabited by Arabs only. Its most controversial project is a seven-story building in Silwan, which the Israeli Court condemned as illegitimate several years ago, but continues to be home to several Jewish families.<sup>10</sup>

In April 2012, with the help of Israeli police, Jewish settlers succeeded in taking over two Palestinian homes in Beit Hanina thereby evicting two Palestinian families. Police handcuffed Khaled Natsheh, owner of one of the homes, while they emptied his home of its furniture. Jewish settlers have been harassing the Natsheh families since 1980 and succeeded in obtaining a court-order to remove them on March 1 2012.<sup>11</sup>

In the Jordan Valley, Israel's settlement policy has worked to reduce the Palestinian population from 320,000 in 1967 to 56,000 today. In its last session, the Human Rights Council recognized that Israel established 26 settlements and five Nahal brigade encampments in the 1970s in order to consolidate its control over this area. Since 1970, Israel has declared most of the Jordan Valley as state land and assigned it within the jurisdictional control of two regional councils that oversee settlement expansion and settler implantation.<sup>12</sup>

The Israeli Government offers several incentives in order to encourage settler implantation in the OPT. These include generous loans from the Ministry of Housing, lower prices to lease land from the Israeli Land Authority, incentives for teachers, grants from the Ministry of Industry & Trade, and tax breaks from the Ministry of Finance. The impact of these incentives is evidenced in the increasing number of Israeli Jewish settlers in the OPT. According to Israel's Central Bureau of Statistics, the West Bank experiences the highest number of internal migration, or migration within Israel Proper and the OPT.<sup>13</sup> Significantly, in its statistical representation of migration, Israel refers to the OPT as "Judea and Samaria" and regards

<sup>8</sup> <http://www.bbc.co.uk/news/world-middle-east-18247330>

<sup>9</sup> <http://www.btselem.org/video/2012/01/israel-plans-expel-tens-of-thousands-of-bedouins-west-bank>

<sup>10</sup> <http://www.haaretz.com/print-edition/news/settlers-marketing-east-jerusalem-homes-for-22-jewish-families-1.7142>

<sup>11</sup> <http://english.wafa.ps/index.php?action=detail&id=19585>

<sup>12</sup> <http://www.maan-ctr.org/pdfs/Eyeon%20theJVReportFinal.pdf>

<sup>13</sup> <http://www1.cbs.gov.il/reader/>

settler implantation to these areas as internal migration in contravention of humanitarian law. Moreover, Government incentives also ensure that the annual population growth of Jewish persons in the OPT, at 4.9 percent, is higher than the growth rate of Jews in all other Israeli localities.<sup>14</sup>

#### *Forced Population Transfer within Israel Proper*

Israel also pursues a policy of forced population transfer of Palestinians even within its own borders. In September 2011, the Israeli Government approved the Praver Plan<sup>15</sup>, which recommends the destruction of 14 villages in the Beer Sheva (Beer Al-saba') district located in the Negev (Naqab), effectively displacing 30,000 Palestinians from their homes. These plans, referred to as the "final solution" by the Israeli Government, cumulatively constitute an Israeli policy of forced population transfer against the indigenous Bedouin Palestinians.

Additionally, Israel institutionalizes the removal of indigenous Palestinians who have been, and continue to be, forcibly transferred. Consider that Israel defines itself as a Jewish state necessitating a Jewish majority in order to maintain its Jewish character.<sup>16</sup> With a 5.9 million person Jewish-Israeli population, Israel therefore considers the return of nearly seven million Palestinian refugees as a demographic threat to its character. As put by Professor Ruth Lapidoth and featured by the Israeli Ministry of Foreign Affairs, "[i]f Israel were to allow all [Palestinian refugees] to return to her territory, this would be an act of suicide on her part, and no state can be expected to destroy itself."<sup>17</sup>

#### *BADIL urges the Human Rights Council to:*

1. Condemn Israel's complicit and explicit support for right-wing settler movements aimed at evicting and forcibly displacing Palestinians from their homes.
2. Condemn Israel's mass expulsion of Palestinian Bedouin communities surrounding East Jerusalem and urge Israel to restore their residency rights;
3. Reiterate the illegality of Israel's unilateral annexation of East Jerusalem and affirm its occupied status in international law notwithstanding settler efforts to consolidate their control over it;
4. Urge High Contracting Parties of the Geneva Convention to sanction Israel's settlement enterprise by refusing to engage in any commerce or trade that benefits the settlement economy or otherwise facilitates its expansion; and
5. Commission a study to examine whether Israel's settlement expansion and settler implantation for the purpose of acquiring land and altering the demographic composition of the territory amounts to forcible transfer of population.

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<sup>14</sup> *Id.*

<sup>15</sup> The main recommendations of the Praver Plan are that over half a million dunums of Palestinian Bedouin land be confiscated through a variety of methods and that special legal, policing and administrative mechanisms be established to facilitate and accelerate this process. The full recommendations of the plan can be seen here: <http://www.adalah.org/upfiles/2011/Overview%20and%20Analysis%20of%20the%20Praver%20Committee%20Report%20Recommendations%20Final.pdf>

<sup>16</sup> [http://www.jadaliyya.com/pages/index/445/palestinian-refugees-and-the-peace-process\\_caught-between-israeli-xenophobia-and-palestinian-political-expediency](http://www.jadaliyya.com/pages/index/445/palestinian-refugees-and-the-peace-process_caught-between-israeli-xenophobia-and-palestinian-political-expediency).

<sup>17</sup> <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Do+Palestinian+Refugees+Have+a+Right+to+Return+to+o.htm>.