

**UNITED AGAINST Apartheid,
Colonialism and Occupation**

**DIGNITY & JUSTICE
for the Palestinian People**

**Palestinian Civil Society
Strategic Position Paper**

*Durban Review Conference,
Geneva, 20 – 24 April 2009*



Printed by

BADIL Resource Center
for Palestinian Residency and Refugee Rights.
March 2009

Cover Photo:

Palestinians Refugees from Dheisha Camp (Bethlehem)
meeting Palestinians Refugees from Shtilla Camp (Lebanon)
(source: IBDA'A)

A document of the Palestinian Boycott, Divestment and Sanctions National Committee (BNC): Council of National and Islamic Forces in Palestine; General Union of Palestinian Workers; Palestinian General Federation of Trade Unions; Palestinian NGO Network (PNGO); Federation of Independent Trade Unions; Union of Palestinian Charitable Organizations; Global Palestine Right of Return Coalition; Occupied Palestine and Golan Heights Advocacy Initiative; General Union of Palestinian Women; Union of Palestinian Farmers; Grassroots Palestinian Anti-Apartheid Wall Campaign (STW); Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI); National Committee to Commemorate the Nakba; Civic Coalition for the Defense of Palestinian Rights in Jerusalem (CCDPRJ), and the Coalition for Jerusalem, Palestinian Economic Monitor.

www.bdsmovement.net

**UNITED AGAINST Apartheid,
Colonialism and Occupation**

DIGNITY & JUSTICE
for the Palestinian People

**Palestinian Civil Society
Strategic Position Paper**

*Durban Review Conference,
Geneva, 20 – 24 April 2009*

Launched October 2008

Executive Summary

This civil society position paper is an initiative of the *Palestinian BDS National Committee* (BNC) for the purpose of sharing our strategic analysis and conclusions, as well as a set of preliminary recommendations with civil society worldwide for collective debate and endorsement. We thereby hope to achieve effective interventions in the Durban Review Conference and build new and stronger alliances for the struggle outside and beyond this UN forum.

Part-I of this paper is a review of the “question of Palestine” as treated in the official *Durban Declaration and Programme of Action* adopted by the United Nations at the 2001 *World Conference Against Racism* (WCAR) in Durban, South Africa. We conclude that the WCAR had recognized the Palestinian people as one of the groups of victims of racism and racial discrimination, while it had remained silent about how they have been victimized by the State of Israel. No recommendations were made about how Israel’s racism and racial discrimination should be addressed, and no Durban Follow-up Mechanism has been available for this purpose. Some of the consequences since 2001 of such omission are presented at the end of the first section.

Part-II of the paper presents the way forward towards a revised Durban Programme of Action that will be relevant for the Palestinian people.

The first section summarizes the important findings of UN human rights mechanisms and independent experts, who have raised concerns that Israel’s regime¹ may amount to institutionalized racial discrimination and/or apartheid, as well as their substantial recommendations.

The second section presents an overview of Palestinian civil society analysis as developed since 2001. **It is**

argued that 60 years into the Nakba of 1948 and 41 years into Israel's occupation of the West Bank, including eastern Jerusalem and Gaza Strip (OPT), there is an urgent need to re-examine the nature of Israel's particular regime over the Palestinian people. Such close examination will show that this is a regime of apartheid, colonization and occupation. We then proceed to show how the crime of apartheid can be applied to the particular context of Israel's regime.

Analysis of Israel's criminal regime is followed by a brief overview of practical measures undertaken by civil society and NGOs since 2001 with the aim of exposing and suppressing such a regime. The paper ends with a summary of main conclusions.

In the annex is a list of specific recommendations to all relevant parties, with the aim to help formulate an effective programme of action for ending Israel's apartheid, colonization and occupation through a global and collaborative effort for justice and human dignity for all, including the Palestinian people. These recommendations are proposed for further review and discussion.

Preamble

Signatories to this strategic position paper for the Durban Review Conference are civil society movements and organizations who share a deep commitment to freedom, justice and equality and the combat of racism, racial discrimination, xenophobia and related intolerance worldwide. We also share practical experience derived from our struggles for ending foreign domination, colonialism, apartheid, slavery and their legacies and current manifestations in numerous regions of the world, with and alongside the United Nations.

As such, we, civil society organizations and social movements,

are deeply concerned about the fact that since the 2001 WCAR in Durban, the international community, including the United Nations decision making bodies, has failed to prevent new wars and the proliferation of foreign domination and exploitation in many parts of the world, while many victims of racial discrimination, genocide, apartheid and slavery still lack access to just and effective reparations.

consider that the impunity of the United States, Israel and their allies for acts which have resulted in the massive, systematic and persistent violation of fundamental human rights and dignity of millions of people constitutes a serious threat to world peace and security;

reaffirm that racism and continued foreign domination are the root causes of the plight of the people of Palestine who have suffered decades of settler-colonialism, occupation and institutionalized racial discrimination;

reiterate that the inalienable rights of the Palestinian people to self-determination, sovereignty and refugee return as part of reparations must be protected, promoted and enforced in order to restore justice and dignity of the person and states' respect of international law;

reiterate that racism as a root cause must be addressed and eradicated and the rights of the Palestinian people protected, in order to ensure that the objective of the Durban Declaration and Programme of Action, i.e. “a just, comprehensive and lasting peace in the region in which all peoples shall co-exist and enjoy equality, justice and internationally recognized human rights, and security”, can be achieved in the Middle East;

welcome the invitation of the United Nations for a review of the 2001 Durban Declaration and Programme of Action with the aim of assessing and enhancing them.

1 Part

Review and Assessment

The Question of Palestine in the Durban Declaration and Programme of Action

1. The Durban Framework

1. The Durban Declaration and Programme of Action adopted by the 2001 World Conference against Racism provides a useful conceptual framework for the combat of racism and racial discrimination as root causes of the protracted plight of the Palestinian people with the aim of eliminating and reversing their consequences for the sake of a just, comprehensive and lasting solution of the protracted colonial conflict over Palestine.
2. The Durban Declaration is composed of a preamble and 122 paragraphs in which states and the United Nations lay out the principles which are to guide the combat of racism, racial discrimination, xenophobia and related intolerance based on international law, including human rights treaties, in particular the *International Convention for Elimination of All Forms of Racial Discrimination* (ICERD). Many of these principles are directly relevant to the State of Israel and the Palestinian people.
3. These general principles are applied in sub-sections to: sources, causes, forms and manifestations of racism, racial discrimination, xenophobia and related intolerance; victims; measures of prevention, education and protection aimed at their eradication; effective remedies; and, strategies to achieve full and effective equality. **In the subsection on victims**, the Durban Declaration identifies a number of explicitly named vulnerable groups and victims, including, among others, people of African and Asian descent, indigenous peoples, migrants, refugees, religious communities, women, children, and **the Palestinian people**.

4. Although the Palestinian people is explicitly identified as a victim of racism and racial discrimination in the Durban Declaration,² the conceptual framework and principles were not applied to this group of victims: racism and racial discrimination are not explicitly recognized as a source or cause of the plight of the Palestinian people, and no recommendation is made to states on how to respond. Rather, the Durban Declaration repeats standard language of UN resolutions on Palestinian rights and the peace process.
5. The Durban Programme of Action (219 paragraphs) addresses sources of racism, racial discrimination, xenophobia and related intolerance and states what governments and the United Nations are committed to do, or expect States and other parties to do, in order to combat these phenomena based on the principles laid out in the Declaration. Operative recommendations are provided on general issues, victims, mechanisms of prevention, effective remedies and strategies to achieve full and effective equality, including, for example: recommendations to examine and reform systems of public health and education; reform of constitutions, laws and judicial systems; poverty alleviation; good governance, a.o. Roles are specified for a variety of actors, including governments, parliaments, political parties, the private business sector, the media and civil society.
6. The operative recommendations included in the Durban Programme of Action have been considered as largely ineffective by the majority of victims of gross human rights violations worldwide. These recommendations are generally vague and avoid naming of the States and sources concerned.
7. With regard to the Palestinian people as victims, the Durban Programme of Action is particularly meaningless, because no reference is made to the sources of racism and racial discrimination against them, and no practical measures are recommended for ending and reversing their consequences.

The Durban Declaration: Selected Principles

Members of the United Nations *reaffirm* the principles of equal rights and self-determination of peoples and *stress that states must protect such equality as a matter of highest priority (preamble)*;

Affirm that racism, racial discrimination, xenophobia and related intolerance constitute a negation of the purpose and principles of the Charter of the United Nations and serious violations of and obstacles to the full enjoyment of all human rights; *recognize that they are among the root causes of many internal and international conflicts, including armed conflicts (preamble, para 20)*;

Recognize that colonialism has led to racism, racial discrimination, xenophobia and related intolerance; *acknowledge* the suffering caused by colonialism and *affirm that, wherever and whenever it occurred, it must be condemned and its re-occurrence prevented (para 14, 99)*;

Acknowledge that no derogation from the prohibition of racial discrimination, genocide, the crime of apartheid and slavery is permitted (preamble); *recognize* that apartheid and genocide constitute crimes against humanity and are major sources and manifestations of racism, racial discrimination, xenophobia and related intolerance, *acknowledge the evil and suffering caused by these acts, and affirm that, wherever and whenever they occurred, they must be condemned and their re-occurrence prevented (para 15)*;

Express concern that in some states political and legal structures or institutions, some of which were inherited and persist today, constitute an important factor of discrimination in the exclusion of indigenous peoples (para 22);

Condemn political platforms, organizations, legislation and practices based on racism, xenophobia or doctrines of racial superiority and related discrimination; *recall that dissemination of all ideas based on racial superiority or hatred shall be punishable by law in accordance with the principles enshrined in the Universal Declaration of Human Rights and ICERD (para 85, 87)*;

Strongly affirm that victims of human rights violations resulting from racism, racial discrimination, xenophobia and related intolerance should be ensured access to justice and effective protection and remedies, including just and

adequate reparation or satisfaction for any damage suffered as a result of such discrimination (para 104);

State their awareness of the moral obligation of some states to the victims of slavery, apartheid, colonialism and genocide and call upon these states to take appropriate and effective measures to halt and reverse the lasting consequences of those practices (para 102); call upon states concerned and invite the international community to honor the memory of these victims (para 99, 106); emphasize that remembering and teaching about the facts and truth of the history, causes, nature and consequences of past crimes or wrongs are essential elements for international reconciliation and the creation of societies based on justice, equality and solidarity (para 98, 106).

On victims:

Indigenous peoples: UN members *recognize* that they have been victims of discrimination for centuries, as well as their special relationship with the land; *welcome* efforts for a *Declaration on the Rights of Indigenous Peoples* and creation of a *Permanent UN Forum on Indigenous Issues*. *States are encouraged*, wherever possible, to ensure that indigenous people are able to retain ownership of their lands and natural resources (para 39, 42, 43, 44);

People of African descent: UN members *recognize* that they have for centuries been victims of racism, racial discrimination and enslavement and of the denial by history of many of their rights, and *assert* that they should be treated with fairness and respect for their dignity and should not suffer discrimination of any kind [...] (para. 34);

Refugees: UN members “*note with concern* that, among other factors, racism, racial discrimination, xenophobia and related intolerance contribute to the forced displacement and the movement of people from their countries of origin as refugees and asylum seekers” (para 52); and, “*underline the urgency of addressing the root causes of displacement and of finding durable solutions for refugees and displaced persons, in particular voluntary return in safety and dignity to the countries of origin, as well as resettlement in third countries and local integration, when and where appropriate and feasible*” (para 54).

2. The Durban Follow-up Mechanism

8. In the absence of substantial operative recommendations in the Durban Programme of Action, no UN-led follow-up mechanism was established to monitor, halt and reverse racism and racial discrimination against the Palestinian people. Diplomatic peace initiatives of States and the United Nations have ignored and dismissed the role of racism and racial discrimination by the State of Israel as a root cause and source of the protracted conflict.

The Durban framework as applied to Israel and the Palestinian people

In the Declaration (subsection on Victims),

States *express concern* about the plight of the Palestinian people under foreign occupation; *recognize* their inalienable right to self-determination and establishment of an independent state, as well as the “right to security of all states in the region, including Israel, and, *call upon* all states to support the peace process and bring it to an early conclusion” (para 63);

Call for “a just, comprehensive and lasting peace in the region in which all peoples shall co-exist and enjoy equality, justice and internationally recognized human rights, and security” (para 64);

Recognize the right of the refugees to return voluntarily to their homes and properties in dignity and safety, and urge all states to facilitate such return (para 65).

In the Programme of Action, the only operative recommendation is included in section III (measures of prevention, education and protection aimed at the eradication of racism, racial discrimination, xenophobia and related intolerance at the national, regional and international level):

The Programme *calls for* “the end of violence and the swift resumption of negotiations, respect for international human rights and humanitarian law, respect for the principle of self-determination and the end of all suffering, thus allowing Israel and the Palestinians to resume the peace process, and to develop and prosper in security and freedom” (para. 151).

3. Consequences of the Failure to Recognize & Address Racism and Racial Discrimination in Current Middle East Diplomacy

The State of Israel

9. Since the adoption of the Durban Declaration and Programme of Action in 2001, the State of Israel has promoted military aggression against states in the region (Iraq, Syria, Iran) and launched one more war of aggression (Lebanon, 2006). In the 1967 Occupied Palestinian Territory (OPT), Israel has unilaterally erased most of the arrangements for limited Palestinian self-rule based on the Oslo Accords by means of an aggressive and sustained military campaign. Since 2007, the entire Gaza Strip has been held under a siege which has widely been recognized as an extreme form of collective punishment of the civilian population and was termed a “prelude to genocide” by an independent expert.³
10. Sixty years into the Palestinian Nakba of 1948, the first massive population transfer that destroyed the historic country of Palestine, the State of Israel has continued to prevent the return of the Palestinian refugees by means of force, law and court rulings. Thus, for example, a new *Ensuring Prevention of the Right of Return Law* was passed in 2001, and in 2003, the Supreme Court reversed its previous decision permitting the return of internally displaced Palestinians citizens of Israel to their village (Iqrit) on the grounds that this would set a legal precedent for millions of Palestinian refugees whose claims are to be resolved in future political negotiations.⁴
11. By 2008, the State of Israel has confiscated or de facto annexed more than 3,350 km² (of a total of some 5,860 km²) of Palestinian land in the occupied West Bank for the purpose of Jewish colonization⁵ and is in effective control of all of historic Palestine (Israel and OPT). Israel continues to change the

demographic composition of the country for the exclusive benefit of its Jewish population through policies and practices which are in blatant violation of international law and public law norms:

12. Inside Israel, Palestinian citizens as a group remain discriminated against in all aspects of life.⁶ Expropriation of Palestinian-owned land continues by means of “development” policies that discriminate against Palestinian citizens in resource allocation, including plans to increase the Jewish population of the Naqab (Negev) and the Galilee. Particularly affected are Palestinian herding communities (Bedouin) and inhabitants of so-called “mixed cities”, i.e. towns inhabited by Jewish and a substantial indigenous Palestinian population.
13. Implementation of development plans is accompanied by segregation and house demolition: some 3,000 Palestinian inhabitants of the historic Palestinian town of Jaffa, for example, were recently issued demolition orders, because they are considered squatters in their own homes.⁷ Over 100,000 Bedouin, Palestinian citizens of Israel, live in so-called “unrecognized villages” which are deprived of access to basic services, including water, electricity, health clinics and public education and cannot usually obtain building permits. Current plans of the State of Israel aim to collect the Bedouin of the Naqab in seven “concentration areas” (in Hebrew: *rikuzim*) and confiscate what remains of their land; tens of thousands of Bedouin homes and property are slated for demolition.⁸
14. In the OPT, Israel’s colonial enterprise continues unabated in the West Bank. Areas particularly affected are occupied eastern Jerusalem, the occupied Jordan Valley and rural areas, in particular areas close to the Wall.⁹ Over 600 Israeli checkpoints prevent the freedom of movement of Palestinians, and thousands of tenders and plans for construction of Jewish-only housing units have been announced

since the Annapolis summit.¹⁰ By March 2008, construction was under way in over 100 colonies (Jewish-only settlements) and 58 “outposts”. In occupied and illegally annexed eastern Jerusalem alone, where colonization proceeds in the guise of discriminatory development plans,¹¹ new plans and tenders have been announced for construction of some 13,000 housing units since December 2007.

15. In the OPT, demolition of Palestinian homes and segregation of Palestinian communities have served both Jewish colonization and as a punitive measure against the occupied civilian population: Israel has demolished some 19,000 houses in the OPT between 1967 and 2006.¹² Between January 2000 and September 2007, more than 1,600 Palestinian buildings were demolished in Area C/West Bank, whereas over 3,000 houses are at risk of demolition.¹³ In the Gaza Strip, over 4,000 houses were demolished during military operations between 2000 and 2004.¹⁴ Since mid-2007, the approximately 1.5 million Palestinian inhabitants of the occupied Gaza Strip have been segregated physically, economically, socially and politically as a result of Israel’s siege.
16. The result is a new wave of forcible displacement of Palestinians in Israel and the OPT. More than 115,000 Palestinians are estimated to have been internally displaced during the last four decades of Israel’s occupation in the OPT¹⁵, while 266,442 persons in 78 communities are currently at risk of being displaced.¹⁶ In the Gaza Strip, Israeli military operations caused the temporary forced displacement of over 50,000 between 2000 and 2004 alone.¹⁷
17. Palestinian victims are denied due process and effective remedies by Israel’s courts. Extra-judicial killings (i.e. premeditated murder) of Palestinians wanted by Israeli Intelligence and civilian by-standers have been sanctioned by the Supreme Court.¹⁸

Palestinians in the OPT are among the most highly incarcerated groups of persons in the world: more than 40 percent of Palestinian males in the OPT are estimated to have served time in prison.¹⁹ 8,403 Palestinians, among them women and 293 children, and 649 so-called “administrative detainees”, are currently held without due process and exposed to torture and related forms of ill-treatment in Israeli detention centers and prisons.²⁰ Numerous cases where Israeli soldiers or settlers have killed or injured Palestinian civilians in the OPT with impunity have been documented by human rights organizations.²¹ The official commission of inquiry into the killing of 13 Palestinian citizens by Israeli police forces during a demonstration in 2000 (Orr Commission) has failed to hold those responsible to account.

18. Since 2001, the Israeli parliament has passed new discriminatory laws and amended existing laws for the purpose of limiting Palestinian access to fundamental rights and remedies. Examples of such laws are the 2003 *Citizenship and Entry into Israel Act (Temporary Law)* and its 2007 amendment, which deny most Palestinians from the OPT the right to live in Israel with their spouses, Palestinian citizens of the State; and, amendments (2005, 2006) of the *Civil Wrongs (Liability of the State) Law limiting access of Palestinians in the OPT to legal redress for the wrongdoings of Israeli soldiers*.
19. The State of Israel has not recognized or implemented the 2004 advisory opinion of the International Court of Justice regarding the illegal Wall and its associated regime in the OPT and continues to challenge the competence of the ICJ in this matter. Israel also argues that in the specific context of its protracted 41-years-old military occupation no *de jure* obligations on it derive from the Fourth Geneva Convention and international human rights law. These positions, although inconsistent with international legal standards, have been largely upheld by Israel’s Supreme Court.

20. The State of Israel has alleged that the illegal situation in the OPT is mainly a result of measures undertaken on grounds of military necessity and state security, while military aggression against Palestinians and other Arab people and states has been justified on grounds of the need to combat “Islamic terror”. The State of Israel and affiliated agencies (e.g. World Zionist Organization, Jewish Agency, Jewish National Fund) deny that racism and racial discrimination are a root cause and a consequence of the protracted conflict with the Palestinian people and undermine principled debate by claiming that such debate would constitute a form of anti-Semitism (see Section III/B, box on anti-Semitism).

The International Community

21. Sharing the racist agenda of justifying foreign domination through the propagation of Islamophobia, the United States and its allies have supported Israel’s policy of aggression. Western states and the diplomatic community have dismissed Palestinian arguments for their right to resist colonialism and foreign occupation based on serial General Assembly resolutions. The international community represented by the “Quartet” (United States, European Union, Russian Federation and the UN Secretary General) have failed their obligation to undertake measures which could have ensured Israel’s respect and compliance with international law, UN resolutions and the ICJ advisory opinion. No High Contracting Party to the Fourth Geneva Convention has taken any measure, including those called for in the Convention, to remedy Israel’s continuous grave breaches (Article 147).
22. The international community, foremost western public officials and the mass media, has rather largely adopted a so-called “balanced approach” whereby the systematic and massive violations of international human rights and humanitarian

law (IHL) committed by the State of Israel are carefully balanced in diplomatic statements against Palestinian violations of IHL committed in the context of resistance, as if Palestinian non-state actors were an equal party in an inter-state armed conflict, rather than a case of racism, colonialism and foreign occupation. The diplomatic community has thereby protected Israel from condemnation by the UN Security Council for its illegal practices, and thus it shares the responsibility for the results.

23. Western states, in particular in North America and Europe, have rewarded Israel's non-compliance with its legal obligations by upgrading diplomatic, economic and military cooperation. This, while in 2006, the international community imposed harsh diplomatic and economic sanctions against the occupied Palestinian population in order to undermine the result of the democratic Palestinian elections in the OPT. These states, as well as the private sector involved, are complicit in the maintenance of the illegal colonialist and racist situation and the impunity of the State of Israel and its agents.
24. The international community has thereby failed to protect and undermined the inalienable rights of the Palestinian people, including the right to self-determination and the right of return of the Palestinian refugees. As a result, it has contributed to an unprecedented humanitarian crisis in the OPT, undermined the prospects for achieving the declared objective of current Middle East diplomacy, i.e. a two-state solution of the conflict in compliance with international law, and failed to combat racism and racial discrimination as provided by the Durban Declaration and Programme of Action.

Towards a Revised Programme of Action

to Combat Racism and Racial Discrimination against the Palestinian People

1. The Role of the United Nations, Human Rights Mechanisms and Independent Experts

25. Irrespective of the fact that no relevant Durban follow-up mechanism has been available, the UN General Assembly, UN human rights mechanisms and independent experts have made important contributions to the application of the principles of the Durban Declaration and Programme of Action to the State of Israel and the Palestinian people by: (i) drawing attention to Israel's systematic racial discrimination against the Palestinian people, including segregation and apartheid; (ii) addressing sources, causes, forms and contemporary manifestations of this regime; and, (iii) recommending/undertaking practical measures in order to halt and reverse its manifestations.²²

Institutionalized Racial Discrimination:

The *Convention on the Elimination of Racial Discrimination* broadly defines racial discrimination as “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” Racial discrimination is **institutionalized**, if it shows a systematic and massive pattern, in particular segregation along racial lines, as a result of laws, policies or practices which are sustained over time. **Institutionalized racial discrimination is prohibited and may amount to apartheid.** Article 3 of the Convention requires states to condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all such practices in their territories.

26. The nature of Israel's regime: institutionalized racial discrimination and apartheid

- All human rights treaty committees and UN Special Rapporteurs have raised concerns about Israel's systematic failure to comply with its obligation to apply human rights treaties to the Palestinian population in the OPT under its effective control.²³
- Some, including the *Committee on the Rights of the Child* (CRC) and the *Committee against Torture* (CAT), have raised concern about the prevalence of torture and the difference in the definition of a child in Israel (persons under 18) and in the OPT (persons under 16) according to Israeli legislation.²⁴
- Many of them, including the *Committee on Economic, Social and Cultural Rights* (CESCR), CERD, the *UN Special Rapporteur on the Right to Adequate Housing* and the *UN Special Rapporteur on the Right to Food* have raised concerns that Israel's laws, policies and practices affecting Palestinian access to fundamental rights, including housing, land and water in Israel and the OPT, may amount to systematic racial discrimination.²⁵
- The *Committee on the Elimination of Racial Discrimination* (CERD) in its 2007 review of the State of Israel raised concerns five times about violations of Article 3 of the *International Convention on the Elimination of All Forms of Racial Discrimination* in which states condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all such practices.²⁶
- Since 2005, reports of the *UN Special Rapporteur on Human Rights in the OPT* have alerted the United Nations to the fact that Israel's protracted military occupation is not a "normal" (legal) form of occupation, i.e., an interim measure

that maintains law and order in a territory following armed conflict, but rather the regime of a colonizing power under the guise of occupation which includes many of the worst features of apartheid, such as the fragmentation of the territory, a policy of mass detention, and a system of separate roads and permits which restrict freedom of movement on grounds of nationality, religion and ethnicity.²⁷

27. Sources, causes, forms and contemporary manifestations of Israel's regime of institutionalized racial discrimination:

- CESCR (1998)²⁸ noted with grave concern that “the Status Law of 1952 authorizes the World Zionist Organization/Jewish Agency and its subsidiaries, including the Jewish National Fund, to control most of the land in Israel, since these institutions are chartered to benefit Jews exclusively.” The Committee expressed the view that large-scale and systematic confiscation of Palestinian land and property by the State and the transfer of that property to these agencies constitute an institutionalized form of discrimination, because these agencies by definition would deny the use of these properties to non-Jews. Thus, these practices constitute a breach of Israel's obligations under the Covenant” (para. 11). CESCR further noted with concern “that the Law of Return, which allows any Jew from anywhere in the world to immigrate and thereby virtually automatically enjoy residence and obtain citizenship in Israel, discriminates against Palestinians in the diaspora upon whom the Government of Israel has imposed restrictive requirements which make it almost impossible to return to their land of birth” (para. 13). In its 2003 review of Israel's periodic report, CESCR noted with regret that its previous observations

remain outstanding issues of concern²⁹ and added that it was “particularly concerned about the status of “Jewish nationality”, which is a ground for exclusive preferential treatment for persons of Jewish nationality under the Israeli Law of Return, granting them automatic citizenship and financial government benefits, thus resulting in practice in discriminatory treatment against non-Jews, in particular Palestinian refugees” (para. 18).

- In 2007, CERD³⁰ characterized as segregation Israel’s policy of maintaining separate “Arab and Jewish sectors” in the areas of education, health and housing, and the lack of equal access to public services and state land of Palestinian citizens inside Israel (inside the 1949 cease-fire lines; para 22). With regard to the OPT, CERD noted with concern the application of different laws and practices applied to Israelis and Palestinians (para 35). It raised particular concerns about Israel’s practices, including segregation by means of the Wall and its associated regime, expansion of Jewish settler colonies and severe restriction on the freedom of movement of Palestinians, as well as unequal distribution of resources and services and home demolition, which amount to racial discrimination and change the demographic composition of the country (para. 14, 32 - 35).

28. Recommendations and practical measures undertaken in order to halt and reverse the manifestations of Israel’s regime of institutionalized discrimination/apartheid, colonization and belligerent occupation include recommendations to the State of Israel to comply with its obligations under international law, and recommendations to states and the United Nations to abstain from measures which help maintain the illegal situation and act upon their obligation to ensure Israel’s compliance with international law:

- An initiative by the UN General Assembly resulted in the 2004 ICJ *advisory opinion on the legal consequences of Israel's construction of a Wall and associated regime in the OPT*. The ICJ affirmed the applicability of all international humanitarian and human rights law in the OPT, called upon Israel to dismantle the illegal Wall and its associated regime of infrastructure and ensure full reparation for damages incurred to the victims, and recommended that states abstain from measures which help maintain the illegal situation. Subsequent General Assembly resolutions have established a UN *Register of Damages (UNRoD) which was not yet operative by mid-2008*.
- In 2007, CERD called upon Israel to facilitate the return of Palestinian refugees to their land and properties and enact the right to equality of all citizens as a general norm of high status in domestic law (no such right to equality currently exists in Israel). CERD expressed concern that Israel's para-statal institutions, such as the Jewish National Fund and the World Zionist Organization, as well as the Israel Land Administration, are managing land, housing and services in a discriminatory manner for the benefit of the Jewish population and called upon Israel to ensure that these bodies are bound by the principle of non-discrimination (paras 16 - 21). It recommended ensuring that the definition of Israel as a Jewish nation State does not result in any systematic discrimination based on race, colour, descent or national or ethnic origin (para 17). Similar recommendations have been issued by CESCR since 1998.
- Since 2006, the UN *Special Rapporteur on Human Rights in the OPT* has reminded the diplomatic community that it was “pointless to recommend to the Government of Israel that it show

respect for human rights and international humanitarian law”, and that “all members of the United Nations have a legal obligation to protect the right of self-determination of the Palestinian people and take measures to ensure that Israel respects international law”. He has appealed in particular to Western states, allies of Israel, to take such measures “in order to safeguard the credibility of the international human rights regime”. The Special Rapporteur has deplored the fact that international commitment to putting an end to Israel’s occupation, colonization and apartheid appears to be forgotten and that instead one finds an international community divided between the West and the rest of the world. He has called upon the UN Secretary General to withdraw from the Quartet, which has in effect imposed economic sanctions on the Palestinian people for having, by democratic means, elected a government unacceptable to the West and Israel. He has also recommended a second ICJ opinion on “the legal consequences of Israel’s protracted regime of occupation which includes elements of colonialism and apartheid”.³¹

- In 2007, the UN *Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs in Occupied Territories* recommended to the General Assembly to “urge the Security Council to consider sanctions against Israel if it persists in paying no attention to its international legal obligations, and to “ensure that other States are not taking actions that assist in any way the construction of the separation wall in Occupied Palestinian Territory, either directly or indirectly, and that bilateral agreements between Israel and other States do not violate their respective obligations under international law”.³²

29. Additional practical measures undertaken include new efforts at improving international protection available for the Palestinian victims and limited efforts to build accountability for gross violations of international law:

- Efforts for more effective protection of the occupied Palestinian population through monitoring, documentation, assistance and advocacy have been undertaken by *UN agencies and NGOs in the OPT* under the leadership of OCHA and OHCHR. An initiative with particular relevance to the root causes of the conflict is a permanent Working Group on Forced Displacement formed in 2008, in order to implement the *Collaborative Response to Internal Displacement* in the OPT based on the 1998 *Guiding Principles on Internal Displacement*.
 - UNRWA's Commissioner General, the High Commissioner on Human Rights and Archbishop Desmond Tutu have been among the few courageous voices publicly calling for an end to impunity for massive violation of human rights and war crimes and for holding to account those responsible, in particular the State of Israel, its organs and agents.
30. By 2008, none of these initiatives led by the UN General Assembly, human rights mechanisms, agencies and independent experts have led to tangible results for the Palestinian victims.

2. The Role of Civil Society and NGOs

The Civil Society Analysis of Israel's Regime over the Palestinian People: Apartheid, Colonialism and Occupation

31. Since the 2001 NGO Forum at Durban, civil society organizations and NGOs have undertaken

a systematic effort at analyzing the colonial and apartheid-nature of Israel's regime over the Palestinian people. Such analysis reflects the experience of the Palestinian and other Arab people and non-Zionist Jews; it is supported by historical research in Israel's archives and findings of independent experts and UN human rights mechanisms.

The Crime of Apartheid:

Apartheid is one of the most severe forms of racism, i.e. "a political system where racism is regulated in law through acts of parliament."³³ Article 3 of the *Convention on the Elimination of Racial Discrimination* defines apartheid as a form of racial segregation. The *Convention on the Suppression and Punishment of the Crime of Apartheid* (1976) defines apartheid as "similar **policies and practices of racial segregation and discrimination** as practised in southern Africa" which have "the **purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them**, in particular by means such as segregation, expropriation of land, and denial of the right to leave and return to their country, the right to a nationality and the right to freedom of movement and residence (Article II). The *Rome Statute* defines apartheid as inhumane acts "committed in the context of an **institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.**"

Apartheid constitutes a crime against humanity. Members of organizations and agents of an apartheid-state are subject to criminal prosecution, irrespective of the motive involved, and whenever they commit, participate in, directly incite or inspire, directly abet, encourage or cooperate in the commission of the crime of apartheid (Article III, 1976 Apartheid Convention). All states are obliged to condemn, suppress and punish those involved in the crime of apartheid.³⁴

32. The sources of Israel's regime are found in the racist ideology of late 19th century European colonialism which was adopted by the dominant stream of the

Zionist movement (World Zionist Organization, Jewish Agency, Jewish National Fund, a.o.) in order to justify and recruit political support for its colonial project of an exclusive Jewish state in Palestine (i.e. in the area of current Israel and the OPT). Thus, secular political Zionism translated ancient religious-spiritual notions of Jews as “a chosen people” and of “Eretz Israel” into an aggressive and racist, political colonial program, which - based on the doctrine that Jews were a nation in political terms with superior claims to Palestine - called to “redeem” Palestine, which was declared to be “a land without people.”³⁵

33. Realization of this racist project was pursued with the support of Western imperial powers (especially Britain and the United States) and later the United Nations, through a policy and practice of colonization and population transfer (“ethnic cleansing”) whose main features were the massive settlement of Jewish immigrants in Palestine and the transfer of a majority of the indigenous Arab population.³⁶ The Zionist project of planned ethnic cleansing started well before the break of the armed conflict of 1948³⁷, but it was mainly accomplished during and in the guise of that armed conflict: 750,000 – 900,000 indigenous Palestinians were forcibly displaced and some 500 Palestinian communities depopulated by Zionist militias and – as of 15 May 1948 – by the army of the State of Israel, in order to make space for the new state on 78 percent of pre-war Palestine.
34. The State of Israel has inherited and institutionalized the racist ideology and practice of the early Zionist movement. Since 1948, Israeli legislators and governments, in conjunction with the Zionist organizations and their subsidiaries, have established and developed a regime of institutionalized racial discrimination that caters to

the interest and advantage of the dominant group (see below) and maintains the inferior status of the indigenous Palestinian people and oppresses them systematically. By means of this regime, the State of Israel continues to assert control over a maximum amount of Palestinian land with a minimum number of Palestinians through colonization, denial of refugee return and more forced population transfer.

35. Israel's regime over the Palestinian people amounts to apartheid; it shows many of the features of the crime as defined by international law (ICERD, Apartheid Convention, Rome Statute):

- Racial discrimination against the indigenous Palestinian people was formalized and institutionalized through the creation by law of a “Jewish nationality”, which is distinct from Israeli citizenship; no “Israeli” nationality exists. The 1950 *Law of Return* is an effective nationality law, because it entitles all Jews and Jews only to the rights of nationals, namely the right to enter “*Eretz Israel*” (Israel and the OPT) and immediately enjoy full legal and political rights. “Jewish nationality” under the *Law of Return* is extraterritorial in contravention of international public law norms pertaining to nationality.³⁸ It includes Jewish citizens of other countries, irrespective of whether they wish to be part of the collective of “Jewish nationals”, and excludes “non-Jews” (i.e., Palestinians) from nationality rights in Israel.³⁹
- The 1952 *Citizenship Law*⁴⁰ was passed in order to regulate the acquisition of Israeli citizenship by Jews and non-Jews. This legal framework has created a discriminatory two-tier legal system whereby Jews hold nationality and citizenship, while the remaining indigenous Palestinian citizens hold

only citizenship.⁴¹ Under Israeli law the status of Jewish nationality is accompanied with first-class rights and benefits which are not granted to Palestinian citizens.

- Return of Palestinian refugees and IDPs has been prevented by means of force and legislation on racist grounds, i.e. simply because they are not Jews: Palestinian refugees were excluded from entitlement to citizenship in the State of Israel under the 1952 *Citizenship Law*. They were “denationalized” and turned into stateless refugees in violation of the law of state succession. Land and other property of these refugees and IDPs have been confiscated by the State of Israel, and approximately 500 depopulated Palestinian villages were destroyed in an operation termed “cleaning the landscape” that lasted until the 1960.⁴² The approximately 150,000 Palestinians who remained in Israel after the 1948 Nakba were placed under a military regime (1948 – 1966) similar to the regime currently in place in the OPT.

36. Since 1967 the State of Israel has extended its apartheid regime to the OPT in the guise of belligerent occupation:

- Parts of the occupied West Bank, including eastern Jerusalem, were annexed immediately after the 1967 war in violation of international law, and revocation of the permanent resident status of Palestinian inhabitants of the city is ongoing under Israel’s civil law.
- In particular since the 1993 Oslo Accords, Israeli domestic (civil and criminal) law has been applied to Jewish civilians (“nationals”) and colonies⁴³ in the remaining OPT, while a repressive military regime⁴⁴ governs the IHL protected Palestinian population living under occupation. This two-tier legal system has

institutionalized racial discrimination against the Palestinian population in the OPT and served as the engine of Jewish colonization of the remaining territory (22 percent) of historic Palestine, denial of return of the 1967 refugees, and further transfer of the indigenous Palestinian population in the guise of protracted military occupation.⁴⁵ As observed by independent UN experts and human rights mechanisms, Israel's occupation regime shows many of the extreme forms of oppression that are the features of apartheid, including, among others, segregation, murder (extra-judicial killings, "targeted assassinations"), torture or cruel inhuman treatment (incl. house demolition), arbitrary arrest and illegal imprisonment, and deliberate imposition of living conditions calculated/likely to cause physical destruction in whole or in part (*see also* Section II).

37. Israel's apartheid regime, moreover, meets the indicators of patterns of systematic and massive racial discrimination developed by UN experts in order to detect and prevent violent conflict or genocide,⁴⁶ for example:

a. *Prior history of genocide or violence against a group; significant flows of refugees and internally displaced persons, especially when those concerned belong to a specific ethnic or religious group:*

The State of Israel has a track record of massive and ongoing forcible transfer of indigenous Palestinians, in particular in the guise of armed conflict, and subsequent denial of the right to return. Between 750,000 and 900,000 Palestinians were displaced before and during the war of 1948, followed by approximately 400,000 in 1967. Their properties, including a large area of privately or communally owned land, were expropriated by practices which constitute war crimes and grave violations of

international human rights law. Today, 70 percent of the Palestinian people are either refugees (7 million) inside and outside historic Palestine and/or internally displaced persons (450,000) in Israel and the OPT. Palestinian victims are denied access to remedies and reparations, and forced displacement is ongoing.⁴⁷ Palestinian refugees constitute the largest and longest unresolved case of stateless refugees in the world.

b. The systematic exclusion – in law or in fact – of groups from positions of power and access to resources; policies of segregation:

Since 1948, the State of Israel has carried out “Jewish nationality”- based material discrimination against the Palestinian people by means of discriminatory legislation on land ownership/administration and political participation.⁴⁸ The State of Israel holds and administers 93 percent of the land in Israel (so-called “state land”), most of which has been confiscated from Palestinian refugees and IDPs. Zionist organizations mandated since the pre-state period to cater to exclusive Jewish interests were granted public status under Israel’s law⁴⁹ and carry out various public functions on behalf of the State, including management of 13 percent of Israeli “state land”, water resources and other property confiscated from displaced Palestinians, as well as planning, funding and development of Jewish settlement in Israel and the OPT. More recent legislation, public policies and practices have adopted the same racist criteria to segregate, oppress and exclude Palestinian citizens of Israel from equal access to public policy making, services and other aspects of life.⁵⁰

c. Lack of a legislative framework and institutions to prevent racial discrimination and provide recourse to victims of discrimination; a policy or practice of impunity:

Equality is not mentioned as a constitutional right in the *Basic Law: Human Dignity and Liberty*,

which serves as Israel's Bill of Rights. As a result, the right to equality is relegated to a secondary level and can only be derived from other rights granted by the Basic Law. Equality of Palestinian citizens is also obstructed by Israel's self-definition as a "Jewish and democratic state"⁵¹. Israel's laws bar return of Palestinian refugees and IDPs and restitution of their property. Israeli courts, in particular the Supreme Court, are complicit in the policies of government and the military which prevent recourse for Palestinian victims and encourage impunity of Israeli police, soldiers and Jewish settlers for offenses and crimes against Palestinians in Israel and the OPT. "Hafrada" (in Hebrew: separation, segregation) represents an official policy of Israeli governments regarding the Palestinian population in Israel and the OPT with the aim to change the demographic composition of the country, and "transfer" is planned, publicly endorsed and promoted for this purpose by members of the government, parliament, political parties, the military, the academy, and the media.⁵²

Additional indicators relevant for the detection of Israel's apartheid but not addressed here include:

- Grave statements by political leaders/prominent thought leaders that express support for affirmation of racial or ethnic superiority and/or dehumanize, condone or justify violence against a racial/ethnic group; - Grossly biased versions of historical events in school books and other educational materials; - Serious patterns of individual attacks by private citizens which appear principally motivated by the victim's membership of a specific group; - Militia groups and/or extreme political groups based on a racist platform; - Existence of proactive communities abroad fostering extremism/racism and/or providing arms; - Policies aimed at the prevention of delivery of essential services or assistance in certain regions or targeting certain groups; - Failure of the presence of external factors, such as the United Nations, to mitigate racial discrimination.

(Source: A/HRC/4/WG.3/7 of 15 June 2007, para 46 - 50)

Practical Measures Undertaken by Civil Society and NGOs

38. Education, advocacy and campaigning have been undertaken to raise public awareness of Israel's colonial apartheid regime and build pressure on states and the United Nations to condemn and prevent its continuation, end occupation, protect the inalienable rights of the Palestinian people and ensure reparation of victims.
39. A global civil society Campaign for Boycott, Divestment and Sanctions against Israel (BDS) until it complies with international law is being implemented for this purpose. Based on the call by the 2001 NGO Forum of the WCAR in Durban, and in response to Israel's defiance of the 2004 ICJ advisory opinion and the complicity of Western governments, courageous members of churches, academic unions and solidarity committees in Europe and North America were the first to act for divestment from companies implicated in Israel's illegal and criminal regime, boycotts of affiliated institutions, goods and services, and calls for sanctions. In July 2005, over 170 Palestinian unions, associations, NGOs and their networks reflecting the three major sectors of the Palestinian people – those under military occupation, Palestinian citizens of Israel and refugees in exile - launched a strategic call for a comprehensive BDS Campaign until Israel ends its occupation and colonization of Palestinian land, provides full equality to its Palestinian citizens, and respects and promotes the right of return of the Palestinian refugees. Since 2008, the Campaign is guided by the Palestinian BDS *National Committee* (BNC) in coordination with the *International Coordination Network on Palestine* (ICNP). *It operates with a growing network of partners worldwide, including trade unions, who implement BDS actions and explore new measures for effective action.*

40. New measures have been undertaken since 2001 to combat impunity and ensure adequate and effective recourse and remedies to Palestinian victims: in light of the complicity of Israel's courts, which, in the best case, delay/moderate execution of gross violations of international law and/or provide partial compensation to the Palestinian victims of war crimes and crimes against humanity, independent experts and human rights organizations have launched judicial procedures against suspected perpetrators in foreign courts, mainly under universal jurisdiction. None of the suspects have been indicted so far, and many cases have not been admitted by courts, for procedural reasons or due to political pressure. However, a message of warning has been sent to the State of Israel that its organs and agents will not enjoy impunity at all times.
41. The memory of the Palestinian victims of apartheid, colonialism and occupation has been honored, and awareness of the facts, causes and consequences of past and ongoing crimes and wrongs has been raised, in particular through the *Nakba-60 Campaign in 2008.* The State of Israel continues to deny the Palestinian Nakba (catastrophe) of 1948, and governments and the United Nations have remained silent. However, a large number of civil society actors worldwide, including scholars, artists, media and human rights organizations, have joined forces with the *National Committee for the Commemoration of the Nakba*, in order to study, commemorate and expose the facts about how Israel was established at the expense of the Palestinian people who were ethnically cleansed from their homeland sixty years ago. This Campaign, led by the CBOs of Palestinian refugees/IDPs, NGOs and the PLO in Palestine and in exile, has achieved unprecedented public outreach. As a result, the public in the Arab region, Europe, Africa, Asia and the Americas is more

aware of the crimes committed by Israel and the urgent need for justice for the Palestinian victims, in particular return of the refugees and IDPs and restitution of their land and other property.

Note on False Allegations of Anti-Semitism

Anti-Semitism, defined as racism and racial discrimination against Jewish persons on grounds of their membership of that religious or ethnic group, is a phenomenon rooted in Europe. It is foreign, in historical terms, to the Arab world, whose indigenous population, although predominantly of Muslim religion, has been composed of a multitude of religious and ethnic groups, including Christians and Jews. Early Arab resistance to Jewish immigration to Palestine was not motivated by the membership of these immigrants of a particular religious or ethnic group, but rather by the fact that Jewish colonization was organized by a foreign (European) Zionist movement based on a racist doctrine, with the objective to replace the indigenous Arab population and establish foreign domination. Due to the fact that since 1948 the State of Israel has pursued the same objectives, rejection of racist foreign domination and exploitation has remained the predominant motive of modern critique of and resistance against the policies and practices of that State and must not be confused with anti-Semitism.

False allegations of anti-Semitism are frequently raised by agents and organs of the State of Israel and affiliated Zionist organizations with the aim to discredit and silence criticism of Israel's illegal policies and practices against the Palestinian people, even if such criticism is squarely based on international law. These false allegations are usually based on the argument that criticism of the State of Israel for its racist policies against the Palestinian people constitutes a "racist attack against the Jewish collective", i.e. a form of anti-Semitism.⁵³ This argument is derived from the ideology, laws and charters of the State of Israel and Zionist organizations which automatically convey the status of "Jewish nationals of *Eretz Israel*" to all Jewish persons

in the world, irrespective of the wish of the person (see para.34, this document). The State of Israel, Zionist organizations, and their organs and agents are thereby complicit in the proliferation of anti-Semitism, because they suggest that all Jewish persons in the world are implicated in the illegal and criminal policies and practices of undertaken by Israel against the Palestinian people.

Such false allegations are promoted with particular success among societies of Europe and North America, where an environment of anti-Arabism and Islamophobia meets with public anger and substantial critique triggered by actions of Israel and Zionist organizations and the complicity of Western governments. In this context, anti-Semitism is frequently confused with legitimate critique of Israel's policies. When measures aimed at eradicating anti-Semitism are employed - for lack of awareness or political pressure - to stymie legitimate debate about the role of Zionism and the State of Israel, this further undermines the credibility of the global human rights regime, in particular among the Palestinian and other Arab people and Muslim communities.

There is no room for racism, including anti-Semitism, in the struggle for Palestinian rights. We consider these false allegations of anti-Semitism as a blatant example of the "intellectual legitimization of racism", which has been identified as a major challenge in combating racism. We call for political will to address racism in the case of the State of Israel, and we consider such political will as a *sine-qua-non* for the achievement of a major objective of the Durban Programme of Action, i.e. "the eradication of anti-Semitism, anti-Arabism and Islamophobia worldwide" (para. 150).

Conclusions

42. Sixty years into the Nakba of 1948 and 41 years into Israel's occupation of the OPT, there is an urgent need to re-examine the nature of Israel's legal and political regime over the indigenous Palestinian people. In-depth analysis exposes a system which has for six decades systematically discriminated and oppressed all Palestinians – refugees in exile, citizens of Israel and those in the OPT - on grounds of their nationality, in order to prevent Palestinian self-determination and for the purpose of colonization and domination by Jewish immigrants. Israel's regime is the expression of a racist ideology and political movement termed Zionism by its founders; in legal terms, it is a system that uniquely combines apartheid, settler-colonialism and belligerent occupation.
43. The United Nations, in particular its Security Council and General Assembly, and the diplomatic community led by the United States, have failed to recognize and effectively address racism and racial discrimination as a root cause of Israel's systematic and persistent effort to colonize Palestinian land and oppress, dispossess, displace and/or dominate the Palestinian people, including at the 2001 Durban World Conference Against Racism. Furthermore, the former have participated in furthering the racism and racial discrimination at the root of Israel's policies and practices by providing political, economic and military support to Israel's regime of apartheid, colonialism and occupation.
44. As a result, all diplomatic efforts for Middle East peace have failed to end Israel's occupation and military aggression. By failing to protect and ensure justice for the Palestinian people in accordance with their inalienable right to self determination,

among other fundamental rights sanctioned by international law, the international community has undermined the credibility of international law, including international humanitarian and human rights law and the UN Charter, as a tool for ensuring peaceful and lawful international relations and the social and economic advancement of all peoples.

45. The State of Israel must be held accountable to its legal obligations. Impunity for its massive and systematic violations of international law and treating it as an exception above the law of nations must be ended. Only thus can justice and dignity be restored to the Palestinian people, and lasting, comprehensive peace be established in the Middle East. As states and the United Nations have lacked political will for effective action, the wider international community, in particular churches, unions, NGOs, cultural and academic figures, and independent experts are called upon to develop and strengthen effective measures, such as the civil society Campaign for Boycott, Divestment and Sanctions against Israel (BDS) and legal action, that can create political will among states and the United Nations to respect their legal obligations to the Palestinian people and halt and reverse Israel's regime of apartheid, settler-colonialism and belligerent occupation.

Annex

Recommendations to the Durban Review Conference (for further discussion)

General

1. We call upon the international community at large, and in particular on States, the United Nations, and the High Contracting Parties to the Fourth Geneva Convention, to respect their legal obligation to:
 - Condemn and suppress war crimes and crimes against humanity committed by Israel's regime of apartheid, colonization and population transfer; ensure punishment of the perpetrators and adequate and effective reparation of the Palestinian victims, including return and property restitution for those displaced and dispossessed as a result of such international crimes;
 - Protect Palestinian civilians under foreign occupation and ensure respect of international humanitarian law by the State of Israel as the occupying power: belligerent occupation is to be temporary, and acquisition of territory by force is prohibited under international law. Israel is obliged to comply with international humanitarian and human rights law in the OPT, lift the siege of Gaza, release Palestinian political prisoners, end its occupation, and return the territory to the sovereign Palestinian people;
 - Respect, protect and promote the fundamental human rights of the entire Palestinian people, in particular the inalienable rights to self-determination and

return of the refugees to their homes and properties and the right to equality.

2. We urge the international community, in particular Non-Aligned States, including Arab states, their regional organizations, the United Nations and global civil society to undertake practical and effective measures that create political will to recognize and eradicate Israel's regime of apartheid, colonialism and occupation against the indigenous people of Palestine, including boycotts, divestment and suspension of economic and diplomatic relations.
3. We urge all participants in the Durban Review process and Conference to adopt the following practical and effective measures in the revised Durban Programme of Action, as well as a robust UN follow-up mechanism to monitor their implementation:

For the UN General Assembly to:

4. Activate the "Uniting for Peace" procedure in order to overcome the failure of the UN Security Council to take effective action against the State of Israel whose criminal regime represents a threat to global peace and security.
5. Adopt a resolution calling upon the UN Secretary General to withdraw from the Quartet on the Middle East peace process whose declared positions and practical measures undertaken violate international law, including the Charter of the United Nations, and have undermined the credibility of the global human rights regime.
6. Adopt resolutions that condemn and declare as illegal Israel's entire regime of protracted belligerent occupation and request a new ICJ advisory opinion

about the legal consequences deriving for the State of Israel and the international community from Israel's regime of occupation that includes elements of colonialism and apartheid.

7. Adopt resolutions that bind states to apply diplomatic and economic pressure, including sanctions, on the State of Israel to implement the 2004 ICJ advisory opinion and related UN resolutions and respect its international law obligations; establish/activate mechanisms to monitor the compliance of the international community with these resolutions.
8. Adopt a resolution that condemns as an extreme manifestation of apartheid Israel's denial of the right of return of Palestinian refugees and IDPs, affirms the right of these victims to just and effective reparation, including return to their homes and restitution of their property, and calls upon the State of Israel to provide such reparation.
9. Support and increase resources to the Committee on the Inalienable Rights of the Palestinian People and the Division for Palestinian Rights, with particular focus on civil society participation.
10. Establish a UN-led judicial mechanism/tribunal whereby individual Palestinian victims can have access to adequate and effective remedies, including reparation, in light of the fact that current UN mechanisms, including complaint mechanisms and the UN Register on Wall Damages, are blatantly ineffective.

UN Human Rights Mechanisms, Special Procedures and Independent Experts

11. For the *Human Rights Council*, the *Committee on the Elimination of Racial Discrimination* and OHCHR to initiate action towards the creation of a collaborative

UN mechanism of investigation of Israel's regime of apartheid, colonization and occupation, including examination of the applicability of the crimes of apartheid and genocide, and its consequences for all Palestinian victims (those in the OPT, Palestinian citizens of Israel, and refugees) with the aim to recommend to the entire UN system practical measures for their eradication. Central to this process should be consultation with Palestinian victims, civil society and NGOs.

12. For the *Committee on the Inalienable Rights of the Palestinian People* to activate its mandate and resources, and support the efforts of the United Nations and civil society to eradicate Israel's racist regime and protect the inalienable rights of the Palestinian people, similar to the support provided in the past to the people of South Africa by the UN Special Committee Against Apartheid.

For International Humanitarian and Development Agencies and Organizations to:

13. Give high priority in operations to a practical and collaborative protection response that can prevent and/or reverse forced displacement of Palestinians and respect and promote the right of all displaced Palestinians, including the refugees, to return to their homes and properties in accordance with international law, UN resolutions and the *Guiding Principles on Internal Displacement*.
14. Do not render aid or assistance to Israel's regime of apartheid, colonialism and occupation during implementation of humanitarian and development operations, including permits and security coordination, and hold the State of Israel accountable for damages incurred to infrastructure and services financed and supported by the international community for the Palestinian people in the OPT.

Civil Society, NGOs and the Private Sector, including media, worldwide

15. For civil society and NGOs to build pressure on the States, the United Nations and the private sector to suspend cooperation with Israel and to inspect and investigate its compliance with international law and UN resolutions.
16. Sustain and develop public awareness-raising about Israel's criminal regime of apartheid, colonialism and occupation; promote and support the struggle of the entire Palestinian people in historic Palestine (OPT and Israel) and in exile, until we achieve our rights to self-determination, justice and return, and equality as individuals and as a people. For the media to support this effort.
17. Sustain and develop the global BDS Campaign against Israel based on the 2005 Palestinian civil society call. We call in particular upon the trade union movement, professional unions and associations, churches and the NGO sector to undertake practical measures which isolate Israel's colonial apartheid regime and support the Palestinian people.
18. For independent human rights organizations and legal experts to continue their legal efforts for the punishment of perpetrators of international crimes against the Palestinian people and for accountability of the State of Israel and those complicit in such crimes. We urge you to explore new legal strategies whereby Zionist organizations, foreign companies and governments that collaborate with Israel's regime can be held accountable in court, including the European Human Rights Court.
19. For scholars, experts and civil society to continue to study and expose the facts, causes and consequences of past and current wrongs and crimes committed

by the State of Israel, Zionist organizations and their allies and to undertake activities that promote accountability and reparations, and restore honor and dignity to the Palestinian victims.

We extend our hand to the victims of racism worldwide, in particular to indigenous peoples and other victims of slavery and colonialism, in order to join forces in our common struggle for a world without racism, racial discrimination, xenophobia and related intolerance.

Endorsers of BNC Strategy Position Paper for Durban Review Conference

Members of the BNC:

1. Council of National and Islamic Forces in Palestine (including all Palestinian political parties)
2. Global Palestine Right of Return Coalition (12 member organizations)
3. General Union of Palestinian Workers
4. Palestinian General Federation of Trade Unions (PGFTU)
5. General Union of Palestinian Women (GUPW)
6. Palestinian Non-Governmental Organizations Network (PNGO, 132 Member organizations)
7. Ittijah: Union of Arab Community Based Associations (74 member organizations)
8. Independent Federation of Unions – Palestine (IFU)
9. Palestinian Farmers Union (PFU)
10. Occupied Palestine and Golan Heights Advocacy Initiative (OPGAI, 16 member organizations)
11. Grassroots Palestinian Anti-Apartheid Wall Campaign (Stop the Wall, 13 organizations and 50 popular committees)
12. Palestinian Campaign for the Academic and Cultural Boycott of Israel (PACBI)
13. National Committee for the Commemoration of the Nakba (20 member organizations and networks)
14. Civil Coalition for Defending the Palestinians' Rights in Jerusalem (CCDPRJ, 18 member organizations)
15. Coalition for Jerusalem (41 Member organizations)
16. Union of Palestinian Charitable Organizations
17. Palestinian Economic Monitor

Endorsers (by 29 November 2009):

1. Academic Program for the Study of Involuntary Migration, Al-Najah University (Palestine)
2. Adalah-New York (USA)
3. Advisory Group on Forced Evictions to the Executive Director of UN Habitat
4. Alkarama (Dignity) for Human Rights (Switzerland)
5. Alternative Information Center – AIC (Palestine)
6. American Arab Anti-Discrimination Committee – Massachusetts (USA)
7. Americans United for Palestinian Human Rights, Oregon (USA)
8. Arab Commission for Human Rights (France)
9. Arab Human Rights Committee (France)
10. Arbeitskreis Nahost Berlin (Middle East Group Berlin)

11. Australians for Palestine (Australia)
12. Association Belgo-Palestinienne (Belgium)
13. L'associazione L'altra Lombardia - SU LA TESTA (Italy)
14. Birthright Unplugged (USA)
15. Breed Platform Palestina, Haarlem (Netherlands)
16. British Committee for the Universities of Palestine – BRICUP (UK)
17. Campaign to End Israeli Apartheid – Southern California (USA)
18. Canada Palestine Association - Vancouver (Canada)
19. Canadian Arab Federation (Canada)
20. Centre for Refugee Rights/ Aidoun (Lebanon)
21. Centro Presente (USA)
22. Children & Youth Centre / Chatila Camp (Lebanon)
23. Coalition Against Israeli Apartheid (Canada)
24. Coalition of the Civil Society Organizations (Lebanon)
25. Coalition of Lebanese Associations in Support of Resistance and Intifada (Lebanon)
26. Collectif Urgence Palestine (Switzerland)
27. Commissione Antidiscriminazione del Forum Umanista (Italy)
28. Development Planning Unit, University of Central London (UK)
29. European Coordinating Committee on Palestine
30. Forum of NGOs working amongst Palestinian Refugee Communities, Lebanon
31. Forum Palestina (Italy)
32. Gender, Livelihoods and Resources Forum (India)
33. German Palestinian Association
34. Green Party (USA)
35. Haags Vredesplatform – Hague Peace Platform (Holland)
36. Help to Change (Italy)
37. Housing and Land Rights Network – Habitat International Coalition
38. Human Call Association / Ein El-Helweh Camp (Lebanon)
39. Humanistic Peace Council, The Netherlands
40. Institute for Arab Culture - ICArabe (Brazil)
41. International Jewish Anti-Zionist Network – IJAN
42. International Federation for Human Rights [German Section of the European Association for Human rights] (Germany)
43. International Movement for a Just World (Malaysia)
44. Internationale Socialisten (Netherlands)
45. Ireland Palestine Solidarity Campaign (Ireland)
46. International Solidarity Movement (Germany)
47. Israeli Committee Against House Demolitions
48. Jerusalem Cultural Association (Lebanon)
49. Jewish Voice for a Just Peace in the Middle East – EJJJ (Austria)

50. Juedische Stimme fuer gerechten Frieden in Nahost-EJJP (Germany)
51. Kerk en Vrede, Utrecht (Netherlands)
52. Kurdistan Network (Italy)
53. League of Beirut's Sons/Natives (Lebanon)
54. Movimento dos Trabalhadores Rurais Sem Terra – MST (Brazil)
55. Movimento Palestina Para Todas -MOPAT (Brazil)
56. Mouvement pour L'Autonomie Kabylie (France)
57. National Lawyers Guild (USA)
58. Netherlands Palestine Committee (Netherlands)
59. New York City Labor Against the War (USA)
60. Palästina-Solidarität Basel (Switzerland)
61. Palestijns Platform voor Mensenrechten en Solidariteit (Netherlands)
62. Palestijnse Gemeenschap in Nederland (Netherlands)
63. Palestine Foundation (Stichting Palestina)
64. Palestine House (Canada)
65. Palestine Right to Return Coalition, Al-Awda, Nederland (Netherlands)
66. Palestine Solidarity Campaign (UK)
67. Palestine Solidarity Committee (South Africa)
68. Palestine Solidarity Committee – Wits University (South Africa)
69. Palestinian Center for Rapprochement - PCR (Palestine)
70. Palestinian Committee of Norway
71. Palestinian Return Centre (UK)
72. Palestinian Youth Network – PYN (International)
73. Red Solidaria contra la Ocupación de Palestina (RESCOP) - Solidarity Network Against the Occupation of Palestine (Spain, Catalonia and the Basque Country). Network members:
 - Asociación Al-Quds de Solidaridad con los Pueblos del Mundo Árabe (Málaga)
 - ASPA Asociación Andaluza por la Solidaridad y Paz
 - Asociación Hispano Palestina Jerusalén (Madrid)
 - Asociación Pro-Derechos Humanos de Andalucía
 - Boicot Preventiu
 - CSCA (Madrid, Asturias)
 - Comunidad Palestina en Canarias
 - Comunitat Palestina Catalunya
 - Ecologistas en Acción
 - Grupo de ONGs por Palestina, member organizations:
 - ACSUR
 - Fundación CEAR (Comisión Española de Ayuda al refugiado)
 - IEPALA
 - Mundubat
 - Solidaridad Internacional
 - MPDL.

- Plataforma 2015 y más
 - Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos – España
 - INTERPUEBLOS - Comité de Solidaridad con los Pueblos
 - ISM Cataluña / Valencia
 - MEWANDO (Euzkadi) - (Middle East without war and oppression), members:
 - Mundubat
 - Solidaridad Internacional-Nazioarteko Elkartasuna
 - Médicos del Mundo-Euskadi
 - Fundación Paz y Solidaridad-Comisiones Obreras de Euskadi
 - Coordinadora de ONG´s de Euskadi
 - Centro Cultural Palestino Biladi
 - Paz con Dignidad Euskadi
 - Mujeres por la Paz - Acción solidaria con Palestina (Canarias)
 - PCE (Madrid)
 - Palestinarekin Elkartasuna komite Internazionalistak (Euzkadi)
 - Paz Ahora
 - Paz con Dignidad
 - Plataforma de Solidaridad con Palestina (Sevilla)
 - SODEPAU
 - SODEPAZ
 - Xarxa de Solidaritat amb Palestina de Valencia
 - Xarxa d'Enllaç amb Palestina
74. Red Youth of Norway
 75. Rotterdam Palestine Committee (PKR)
 76. Sathi all for Partnerships (India)
 77. Scottish Palestine Solidarity Campaign (Scotland)
 78. Socialist Youth League of Norway
 79. Solidaridad Canaria (Canary Islands)
 80. Stichting TALLIQ - Justice for Palestinian Children
 81. StopdeOorlog Coalitie (Netherlands)
 82. Stop the Occupation (Stop de Bezetting), Amsterdam
 83. Tamil Center for Human Rights (France)
 84. Tiye International, Utrecht (Netherlands)
 85. Transnational Institute, Amsterdam (Netherlands)
 86. Turkse Arbeidersvereniging in Nederland (Netherlands)
 87. Voice of Palestine (Canada)
 88. Vredescafé Amstelveen (Netherlands)
 89. Vrije Academie, Den Haag (Netherlands)
 90. Vrouwen in het Zwart Nederland (Netherlands)
 91. Vrouwen Voor Vrede (Netherlands)
 92. Wallmapuwen – Partido Mapuche (Chile)
 93. Wheels of Justice (USA)
 94. Women for Palestine (Australia)
 95. Women's International League for Peace and Freedom (Sweden)

Endnotes

- ¹ The term “regime” in this paper designates the system of laws, structures, policies and practices which regulate the relationship between the State of Israel and the Palestinian people. The term does not refer to a particular government or period of rule.
- ² See the subsection entitled “Victims”, paras 63 – 65, quoted in the box below.
- ³ Prof. Richard Falk, University of Princeton, appointed UN Special Rapporteur on Human Rights in the OPT in 2008; see for example: electronicintifada.net, 21 January 2008; also: www.transnational.org/Area_MiddleEast/2007/Falk_PalestineGenocide.html
- ⁴ HC 840/97, Sbait et al. v. State of Israel, 2003.
- ⁵ BADIL *Survey of Palestinian Refugees and Internally Displaced Persons 2006 – 2007*, p.18. According to OCHA, 40% of the West Bank have been rendered inaccessible and unusable for Palestinians, while 14% of this area has been confiscated. See: *Report of the Special Rapporteur on the situation of human rights in the 1967 OPT*, Richard Falk, para 32-33; A/63/326 of 25 August 2008,
- ⁶ For examples, see paras 27, 37 and related footnotes in this document.
- ⁷ Arab Association for Human Rights, *Uprooted Citizens*, 7 May 2008.
- ⁸ Human Rights Watch: [Land and Housing Rights Violations in Israel’s Unrecognized Bedouin Villages, March 2008; Isabelle Humphries, Washington Report on Middle East Affairs, “Bringing Life to the Desert”: Israel’s Master Plan for Dispossession in the Negev, 15 March 2008.](#)
- ⁹ See, for example: *Palestinian Economic Prospects: Aid, Access and Reform*; World Bank, 22 September 2008, p. 47 – 56. For illustrative maps, see: OCHA OPT Map Center.
- ¹⁰ In March 2008, Peace Now (“The Death of the Settlement Freeze – 4 Months since Annapolis”), had reported tenders for 745 housing units and plans for over 3,600 housing units since December 2007. The Applied Research Institute - Jerusalem (ARIJ) informed of plans for almost 30,000 units, including 13,000 in Jerusalem, on 18 July 2008.
- ¹¹ Civic Coalition to Defend Palestinian Rights in Jerusalem, *Submission to the Universal Periodic Review of Israel* (July 2008).The *Outline Plan Jerusalem 2000* (2004, 2006) outlines measures, including segregation, in order to preserve a 70:30 percent ratio of Jewish vs. Palestinian population (the so-called “demographic balance”).
- ¹² Israeli Committee Against House Demolitions, “Statistics on House Demolition (1967 – 2007)”, October 2008.
- ¹³ Monitoring Israeli Colonization Activities Project, *The Israeli Policies in Area C: Silent Transfer of the Palestinian*

- Population*, 12 October 2008: http://www.poica.org/editor/case_studies/view.php?recordID=1592 Also: UN Office for the Coordination of Humanitarian Affairs (OCHA), "Lack of Permit" Demolitions and Resultant Displacement in Area C, May 2008. "Area C" designates the major portion of land in the occupied West Bank which had remained under sole Israeli control as part of the interim agreements between the PLO and Israel in the 1990s. For illustration see, for example: www.ochaopt.org/documents/Reference_opt_CAP2006.pdf
- ¹⁴ Palestinian Center for Human Rights (PCHR), "Statistics related to Al Aqsa Intifada/Destruction of Land and Property": www.pchrgaza.org/alaqsaintifada.html See as well: Human Rights Watch, *Razing Rafah: Mass House Demolitions in the Gaza Strip*, October 2004.
- ¹⁵ *BADIL Survey of Palestinian Refugees and Internally Displaced Persons 2006-2007*, pp. 43-44. See also: IDMC and NRC, *Forced Displacement Continues*, Report of 10 September 2008.
- ¹⁶ Palestinian grassroots Anti-Apartheid Campaign, Ma'an Development Center, *Threatened Villages: Palestinian population centres between isolation and expulsion*: www.stopthewall.org/downloads/pdf/ThreatenedvillagesFS.pdf
- ¹⁷ Human Rights Watch, *Razing Rafah: Mass House Demolitions in the Gaza Strip*, October 2004.
- ¹⁸ For more information about extrajudicial killings, see: www.pchrgaza.org/special/position_extra.html For the ruling of Israel's Supreme Court see: <http://elyon1.court.gov.il/Files/ENG/02/690/007/a34/02007690.a34.htm>
- ¹⁹ Addameer, *Political Detention: The Infinite Violation of Human Rights*, at: www.addameer.org/detention/background.html
- ²⁰ B'tselem, August 2008.
- ²¹ Between September 2000 and November 2004, only 74 cases of 1,600 civilian deaths were investigated and only 16 resulted in an indictment. See: Human Rights Watch, *Promoting Impunity: The Israeli Military's Failure to Investigate Wrongdoings*; June 2005.
- ²² Initiatives described in this section are examples; they do not represent a comprehensive list of initiatives undertaken.
- ²³ See: A/HRC/WG.6/3/ISR/2 of 15 September 2008. The Government of Israel regularly refuses to submit or discuss information concerning the OPT based on its unique interpretation that it has no obligations under human rights treaties there, despite its effective control of the territory.
- ²⁴ *ibid*, para 13.
- ²⁵ *ibid*, para 12. See also the references to CESCR below, as well as A/HRC/7/16/Add.1, p. 37; E/CN.4/2004/10/Add.2, p. 3, and, [E/CN.4/2003/5/Add.1](http://www.unhcr.org/refugees/pdf/E/CN.4/2003/5/Add.1).
- ²⁶ CERD/C/ISR/CO/13, paras. 22, 23, 33, 34 and 35.
- ²⁷ See for example, UN Special Rapporteur, Prof. John Dugard: *Human Rights Situation in Palestine and other Occupied Arab Territories*, A/HRC/4/17 (29 January 2008); A/HRC/7/17

- (21 January 2008).
- 28 E/C.12/1/Add.27 of 4 December 1998.
- 29 E/C.12/1/Add.90, paras. 12–16.
- 30 CERD/C/ISR/CO/13
- 31 See, for example: A/HRC/2/5 of 5 September 2006, para 75-76; and, A/62/275 of 17 August 2007, pp. 3, 20.
- 32 A/62/360 of 24 September 2007.
- 33 Uri Davis, *Apartheid Israel, Possibilities for the Struggle Within*, Zed Books, London, 2003, p. 37.
- 34 See, for example: Roger S. Clark, “Apartheid”, *International Criminal Law*, Second Edition, Volume I, Edt. M. Cherif Bassiouni, 1991, p. 645.
- 35 Such religious-spiritual notions were shared by Jews for thousands of years, but it took European colonialism to translate these into a political movement. Non-European Jews did not start such a movement. Like other colonial movements, religious concepts were exploited for this purpose. On this topic, see, for example: Israel Shahak, *Jewish History, Jewish Religion: The Weight of 3,000 Years*. London: Pluto Press, 1994; and, Israel Shahak, “Israel’s discriminatory policies are rooted in Jewish religious law”, *Washington Report on Middle East Affairs*, July/August 1995.
- 36 Unlike other colonial enterprises which pursued the exploitation of indigenous labor, the purpose of Zionist settler-colonialism has been to reduce the need for the indigenous Palestinians and to get rid of them. See for example: Nur Masalha, *Expulsion of Palestinians: The Concept of ‘Transfer’ in Zionist Political Thought, 1882 – 1948*. Institute for Palestine Studies, 1992; and, Ilan Pappé, *The Ethnic Cleansing of Palestine*. Oneworld Publications, 2006.
- 37 Armed conflict between Zionist militias and local Palestinian forces had started immediately after the UN had recommended to partition Palestine in November 1947 (UN General Assembly Resolution 181); approximately 300,000 Palestinians were already displaced by the time the State of Israel was declared and international armed conflict started in May 1948. See: BADIL *Survey of Palestinian Refugees and IDPs 2006-2007*, Chapter 1.
- 38 Thus, for example, former Israeli Prime Minister Golda Meir explained: “the frontier [of Israel] is where Jews live, not where there is a line on the map.” In: Sou’ad A. Dajani, *Ruling Palestine: A History of the Legally Sanctioned Jewish-Israeli Seizure of Land and Housing in Palestine*, Center on Housing Rights and Evictions (COHRE) and BADIL, 2005, p.72.
- 39 Palestinians are not expressly identified as a racial/national group in laws and public documents of the State of Israel. Palestinians are designated by the term “persons outside the scope of the Law of Return” in Israel’s laws. Other designations used by the administration, Israel’s Central Bureau of Statistics and the official media are “minorities” or

“Arabs”. Such designations reflect the **denial of Palestinians as a national group** and serve to **hide the discriminatory character** of Israeli laws and policies. For detailed legal analysis see, for example: W. Mallison, “The Zionist-Israeli juridical claims to constitute ‘the Jewish people’ nationality entity and to confer membership in it. Appraisal in public international law”, 32 *George Washington Law Review*, 1964, pp 983 – 1075; also: Roselle Tekiner, “Race and the Issue of National Identity in Israel”, *Journal of Middle East Studies*, 23 (1991), 39 – 55; and, Adalah, “Institutionalized Discrimination Against Palestinian Citizens of Israel”, Report to 2001 WCAR, Durban, August/September 2001,

40 In the official Israeli translation, this 1952 Law is wrongly entitled “Law of Nationality.”

41 Roselle Tekiner, “Race and the Issue of National Identity in Israel”.

42 Aron Shai, “The Fate of Abandoned Arab Villages in Israel, 1965 -1969” in: *History and Memory*, Vol. 18, issue #2 (Fall 2006), University of Indiana Press. See also: Meron Benvenisti, *Sacred Landscape: the Buried History of the Holy Land*, Berkeley: The University of California Press, 2000; Walid Khalidi, “Why Did the Palestinians Leave, Revisited.” *Journal of Palestine Studies*, 134:2 (1995); Slaman Abu Sitta, *Atlas of Palestine 1948*, Palestnie Land Society, December 2004; Ilan Pappé, *The Ethnic Cleaning of Palestine*.

43 **The Israeli Parliament has issued legislation which extends Israeli law to the OPT as a matter of extraterritorial jurisdiction**, for example: *Emergency Regulations (Offense Committed in Israeli-Held Areas) Ordinance*, the *Knesset Election Law of 1969*, the *Income Tax Ordinance of 1978*, the *Value Added Tax of 1978*, a.o. Palestinian courts still rendered judgments against Jewish settlers under civil and criminal law prior to the 1993 Oslo Accords, the jurisdiction of Israeli. **Under the Oslo Accords and subsequent interim agreements between Israel and the PLO, however, jurisdiction over Jewish persons and settlements in the OPT was granted to the State of Israel and its courts in violation of international law.** Since then the scope of extension of Israeli law into the OPT has increased massively.

44 A regime based on a myriad of Israeli military orders and remnants of Ottoman, British, Jordanian and Egyptian law and regulations.

45 Historical records confirm that the 1967 occupation, including establishment of the military government there, was premeditated with the aim to “complete the unfinished business of 1948”. See, for example: Tom Segev, *1967. Israel, the War, and the Year that Transformed the Middle East*, Metropolitan Books, 2007, p. 458.

46 These indicators were developed to strengthen the capacity of CERD to detect and prevent at the earliest possible stage

developments in racial discrimination that may lead to violent conflict and genocide. For further detail see: Human Rights Council, Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, Geneva, 3-7 September 2007, Item 7; A/HRC/4/WG.3/7 of 15 June 2007.

⁴⁷ BADIL *Survey of Palestinian Refugees and Internally Displaced Persons 2006-2007*, Chapter 1.

⁴⁸ For example, Basic Law: Israel Lands (1960); Basic Law: The Knesset (1958), Amendment 9 (1985); Agricultural Settlement Law (1967). See also: Usama Halabi, "Israel's Land Laws as a Legal-Political Tool"; BADIL *Working Paper No. 7*, December 2004.

⁴⁹ World Zionist Organization-Jewish Agency (Status) Law (1952); Keren Kayemet Le-Israel Law (1953); Covenant with Zionist Executive (1954) (1971).

⁵⁰ Numerous studies document the impact of discrimination on Palestinian citizens. For examples, see: www.adalah.org, www.arabhra.org, www.acri.org.il and Human Rights Watch (2001), *Second Class. Discrimination Against Palestinian Arab Children in Israel's Schools*, at: <http://www.hrw.org/reports/2001/israel2/>

⁵¹ The Jewish character of the state is defined by three inter-related components: (1) that Jews form the majority of the state; (2) that Jews are entitled to certain preferential treatment (e.g. the Law of Return); and (3) that a reciprocal relationship exists between the state and Jews outside of Israel. *Ben Shalom vs. Central Election Committee*, 43 P.D. IV 221 (1988).

⁵² Since the early 1990s, *Hafrada* (הפרדה) has been adopted and implemented on the Palestinians in the OPT. It refers not only to Israel's siege of Gaza, but also to the system of military checkpoints, closures and the Wall which isolate and fragment Palestinian communities in the occupied West Bank. Other names for *hafrada* in English usage include "unilateral separation" or "unilateral disengagement." B'Tselem and the Association for Civil Rights in Israel have described Israel's "separation policy" applied since 2001 constituting "a policy of expulsion of Palestinians"; see: *Ghost Town: Israel's Separation Policy and Forced Eviction of Palestinians from the Center of Hebron*. Jerusalem: B'Tselem, May 2007.

⁵³ See, for example, the "Working Definition of Antisemitism" promoted by the European Forum on Antisemitism: <http://www.european-forum-on-antisemitism.org/working-definition-of-antisemitism/english/>

