

Shrinking Space: Appropriation, Fragmentation and Colonisation of the Occupied Palestinian Territory as a Means of Denying the Right to Self-determination

As Palestinian human rights organisations, we are deeply concerned about the implications of a prolonged regime of occupation in which Israel, the Occupying Power, is fragmenting the territory under its control in a manner that denies protected persons fundamental human rights and restricts their development as a people. With each passing year that Israel creates ‘facts on the ground’ in the Occupied Palestinian Territory (OPT) through its illegal practices of settlement construction and transfer of its civilian population into occupied territory, it risks irreversibly transforming the physical geography and demographics of the region. Through concerted policies of land appropriation, fragmentation and colonisation, Israel is fundamentally denying the Palestinian people their right to self-determination.

Shrinking Territory

During Israel’s 44-year occupation of the OPT, the amount of land available for Palestinian use has drastically diminished. Beginning with the illegal annexation of East Jerusalem in 1967, Israel has implemented a number of policies aimed at consolidating its control over strategic areas in the OPT. In addition to the confiscation of Palestinian land for the construction of settlements and their associated infrastructure, Israel’s large-scale appropriation of the Jordan Valley, construction of the Annexation Wall, and creation of an undefined ‘no-go’ zone along the Gaza Strip’s border area have severely restricted Palestinians from accessing significant areas of the OPT.

Israel’s control over large swathes of territory and its imposition of policies restricting or denying Palestinian access to these areas has resulted in the increased fragmentation and disconnection of Palestinian towns and villages. This fragmentation increased significantly in 1995 with the advent of the Interim Agreement on the West Bank and the Gaza Strip, which divided the West Bank into three distinct zones - Areas A, B and C - with the largest Palestinian population centres located in Area A. Since then, Israeli policies restricting access, movement, and building have prevented the vast majority of the Palestinian population from living in Area C, which covers 60 per cent of the West Bank.¹ Compounding this situation is Israel’s enforcement of a physical separation between East Jerusalem and the rest of the West Bank, as well as the complete isolation of the Gaza Strip from the rest of the OPT. These policies have left Palestinians with a non-contiguous land-locked archipelago of territory over which the meaningful exercise of the right to self-determination is impossible.

Prevention of Access to Livelihood and Displacement of People

While the appropriation and territorial division of the OPT is a significant factor in denying Palestinian rights, the situation is exacerbated by policies that prevent Palestinians from developing their land and benefitting from their natural resources. The physical separation of the West Bank from the Gaza Strip and the ban on travel between the two areas means that Israeli policies have differing effects on the Palestinian population depending on where they live, but all policies converge to entrench the separation and deny the population the ability to function as one cohesive unit.

Israel’s four-year long closure of the Gaza Strip and its enforcement of a non-demarcated military ‘no-go’ zone with live ammunition in border areas have severely limited opportunities for Palestinians to secure an income. Fishermen, farmers and rubble collectors are forced to risk their lives to work in or near the ‘no-go’

¹ United Nations Office for the Coordination of Humanitarian Affairs – occupied Palestinian territory (UN OCHA), ‘Humanitarian Fact Sheet on Area C of the West Bank’, (July 2011).

areas. In 2010, 68 rubble-collectors were shot by Israeli fire,² while in 2011, two have been killed and another 21 have been injured.³ Also this year, three fisherman have been wounded in 31 attacks launched against Palestinian fishing boats by the Israeli navy.⁴ Approximately 35 percent of the Gaza Strip's agricultural land is covered by Israel's 'no-go' zone, while the local fishing industry has been decimated after Israel gradually reduced the offshore fishing limit from 20 Nautical Miles (NM) in 1994 to three NM in 2008. Largely restricted from accessing other parts of the OPT or from travelling abroad, Palestinians in the Gaza Strip remain trapped in an increasingly oppressive situation of collective punishment from which no respite is being granted.

In the West Bank, including East Jerusalem, Israeli policies that deny Palestinians access and building permits – the latter resulting in the demolition of homes and infrastructure – make it increasingly difficult for Palestinians to remain living in certain areas of the OPT. Palestinian residents of East Jerusalem and Area C, which remain under full Israeli civil control, are particularly vulnerable to these policies; They find it increasingly difficult to live on, work or develop land and feel increasing pressure to move to Areas A or B, which are under Palestinian civil control and therefore allow for development opportunities. In July 2011, United Nations (UN) Special Coordinator for the Middle East Peace Process, Mr. Robert Serry, expressed that "worrying developments were taking place in the Israeli-controlled Area C of the West Bank, including a surge in demolitions with 700 Palestinians displaced this year, and continued settlement activity, including the recent confiscation of 19 hectares of private Palestinian land."⁵ As a result of these policies, Palestinians are not only denied their right to self-determination, but also increasingly face the prospect of forcible transfer.

The Colonial Character of the Occupation

The intent behind these policies of division, fragmentation and displacement are clear: since 1967, Israel has held the position that the status of the OPT is disputed rather than occupied,⁶ and State maps refer to the West Bank as Judea and Samaria – in effect, part of Israel. As part of Israel's illegal attempts to exercise sovereign powers over East Jerusalem and Area C, it has built a significant network of settlements and related infrastructure while offering incentives encouraging its citizens to move to the OPT. These settlements, illegal under international law, ensure a lack of contiguity between neighbouring Palestinian villages and allow for Israel's control over key natural resources.

The settler-colonial enterprise is sustained by Israel's illegal practice of applying its laws extra-territorially to the settler population in occupied territory, creating two parallel and unequal societies in the OPT. Israeli settlers benefit from superior living conditions, protection under Israeli civil law, greater access to the natural resources of the OPT, complete freedom of movement and the enjoyment of all other human rights. In contrast, Palestinians in neighbouring villages live under the jurisdiction of Israeli military law and are denied basic civil, political, economic, social and cultural rights, the most crucial being the right to self-determination. As the gulf between the rights and protections granted to settlers as compared to the occupied Palestinian population widens, the question remains: how much longer will the international community allow Israel's occupation of the OPT to continue?

² Al-Haq, 'Shifting Paradigms: Israel's Enforcement of the Buffer Zone in the Gaza Strip', (2011) 9-10.

³ According to documentation by Al Mezan Centre for Human Rights.

⁴ Ibid.

⁵ UN OCHA, 'Press Release: UN Special Coordinator for the Middle East Peace Process warns Security Council of "Dramatic" Deadlock in Peace Process, Calls for "Credible Political Path Forward" and Bold Actions on the Ground' (26 July 2011).

⁶ Israel Ministry of Foreign Affairs, 'Film: Israel Palestinian Conflict: The Truth about the West Bank' (12 July 2011) <<http://www.youtube.com/watch?v=XGYxLWUKwWo&feature=share>> accessed 12 August 2011.

Conclusion

As Palestinians lose more of their lands and their rights for the furtherance of Israel's settlement project, they are consistently denied recourse to effective judicial mechanisms to stop the confiscation of their territory and to seek accountability for violations committed against them. The failure of the international community to take action as per the recommendations of the "UN Fact-Finding Mission Report on the Gaza Conflict" has only reinforced the perception amongst Palestinians that international law does not protect them.

Initiatives planned by Palestinian representatives at the UN in New York this September offer some hope of reframing the conflict within the parameters of international law. However, Palestine's acceptance as a UN member State will not change the fact that Palestinians in the OPT continue to live under a prolonged occupation in which Israel's attempts to exercise sovereign power over the OPT is in flagrant disregard of international humanitarian law's absolute prohibition on the colonisation of occupied territory.

As the UN body responsible for protecting and promoting universal human rights and for addressing systematic violations of international law, we urge this Council:

- To unequivocally condemn Israel's denial of the right to self-determination of the Palestinian people and, recalling resolution A/HRC/RES/16/31 on Israeli settlements in the OPT, to call upon the international community to ensure that Israel is held accountable for its continuing illegal settlement activity and the transfer of its civilian population into the OPT.
- To recommend to the General Assembly that it request, according to its authority under Article 96 of the UN Charter, that the International Court of Justice render an advisory opinion on what the legal consequences are of a regime of prolonged occupation with features of colonialism and apartheid for the occupied people, the Occupying Power and third States.