



# General Assembly

Distr.: General  
4 September 2019

English only

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## Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 9

**Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action**

### **Written statement\* submitted by United Nations Watch, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2019]

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\* Issued as received, in the language(s) of submission only.

GE.19-15168(E)



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## **Palestinian racist and apartheid laws and policies**

United Nations Watch is deeply concerned by the racist and apartheid laws and policies of the Palestinian Authority (“PA”) and Hamas, which violate the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) to which the State of Palestine acceded in 2014.

The PA recently submitted a report to the Committee on the Elimination of Racial Discrimination for its first review by that Committee. It listed various racial and ethnic minorities whose numbers, according to the PA, total less than 1% of the population. This lack of racial diversity is itself an indication of high levels of racism within Palestinian society.

According to rankings recently published by Insider Monkey, the Palestinian territories are among the top 25 most racist places in the world, with 44% of its population not wanting neighbors of a different race.<sup>1</sup>

Notably, Jews were absent from the PA’s list of minorities. Racial segregation, more specifically the ethnic cleansing of Jews, has been the policy in the West Bank at least since Jordan seized that territory in 1948 and massacred or forcibly expelled any remaining Jewish residents. Today, while Israel has a thriving Arab minority that actively participates in and contributes to Israeli society, Jews are completely absent from the West Bank.

The vision for any future Palestinian state is one that is free of Jews. This is clearly set out in the foundational documents of the main Palestinian nationalist movements: the Palestine Liberation Organization (PLO), its dominant Fatah faction, and Hamas. Those documents reject Israel’s right to exist in any part of the area between the Mediterranean Sea and the Jordan River, and view Jews and Zionism as the enemy. Such Palestinian rejectionism continues today in Palestinian legislation prohibiting land sales to Jews and rewarding Palestinian terrorists for murdering Jews.

## **Palestinian charters reject Israel’s right to exist**

The Palestinian National Charter (PLO Charter) describes Palestine as “the homeland of the Arab Palestinian people” (Article 1), calls for its “liberation” through “armed struggle” (Articles 8-9), and defines Palestine according to its boundaries during the British Mandate (Article 2), which include the entire State of Israel. The “liberation of Palestine” is described as “a national duty” and “aims at the elimination of Zionism in Palestine.”

Although, as part of the Oslo Accords, Yasser Arafat promised that the PLO Charter would be amended to remove all provisions calling for the destruction of the State of Israel, that change never occurred.<sup>2</sup>

Moreover, the charter of the PLO’s largest faction—Fatah—headed by PA President Mahmoud Abbas—contains similar language. It states that “Israeli existence in Palestine” is “a Zionist invasion” (Chapter 1, Article 8), and Palestine must be liberated through “armed public revolution” (Chapter 1, Article 17). The goal of the struggle is “uprooting the Zionist existence” and “this struggle will not cease unless the Zionist state is demolished and Palestine is completely liberated” (Chapter 1, Article 19).

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<sup>1</sup> The most racist countries in the world, Business Tech (March 21, 2016), <https://businesstech.co.za/news/lifestyle/116644/the-most-racist-countries-in-the-world/>.

<sup>2</sup> Andrew C. McCarthy, The Father of Modern Terrorism; The True Legacy of Yasser Arafat, National Review (Nov. 12, 2004), <https://www.nationalreview.com/2004/11/father-modern-terrorism-andrew-c-mccarthy/>; Julie Stahl, One Year Later, New PLO Covenant Nowhere to Be Found, CNS News (July 7, 2008), <https://www.cnsnews.com/news/article/one-year-later-new-plo-covenant-nowhere-be-found>; Dr. Mordechai Kedar, Arabs and Muslims Will Not Accept Israel as the Jewish State, Begin-Sadat Center for Strategic Studies (Jan. 18, 2018), <https://besacenter.org/perspectives-papers/muslims-israel-jewish-state/>.

PA institutions and officials continue to call for the liberation of Palestine and to reject Israel's right to exist as a Jewish state. As recently as July 2016, PA President Mahmoud Abbas said that he would never recognize Israel as a Jewish state: "It is impossible that I will accept. Let [Israel] continue to talk about a Jewish state and we will soundly reject it."<sup>3</sup>

The 1988 Hamas Charter proclaims that "the land of Palestine is an Islamic Waqf consecrated for future Muslim generations until Judgment Day" (Article 11); and "there is no solution for the Palestinian question except through Jihad" (Article 13). Article 15 states: "in the face of the Jews' usurpation of Palestine, it is compulsory that the banner of Jihad be raised."

In May 2017, Hamas released a new policy document which some said was a sign of moderation. However, the new document does not replace the charter and continues to view Israel as an enemy that needs to be eliminated.<sup>4</sup>

## **Palestinian laws aim to keep Jews out of areas controlled and claimed by the PA**

Palestinian rejection of Jewish rights in Palestine is manifest today in Palestinian legislation. In December 2018, the case of American-Palestinian Isaam Akel made headlines when he was sentenced to life in prison with hard labor for violating the Palestinian law prohibiting land sales to Israelis. He was tried for attempting to sell property located in the Muslim Quarter of the Old City of Jerusalem to a Jewish Israeli organization. The Palestinian Grand Criminal Court convicted Akel of "attempting to cut off a part of the Palestinian land and adding them to a foreign country."<sup>5</sup>

Article 114 of the Jordanian Penal Code, applicable to the Palestinian territories, prohibits Palestinians from selling lands to "an enemy state or one of its subjects."<sup>6</sup> Enemy state refers to Israel. Courts have meted out the death sentence for this crime based on the PLO's Revolutionary Penal Code (1979) which applies the death penalty to traitors and those accused of "transferring positions to the enemy."<sup>7</sup>

Palestinians consider it treason to sell land to Israeli Jews. In October 2018, the Palestinian Fatwa Supreme Council issued a statement renewing the ban on property transactions with Israelis, emphasizing that "selling [property] to the occupation or facilitating the transfer of its ownership... is a great betrayal of the religion, the homeland, and morals."<sup>8</sup> At around the

<sup>3</sup> Abbas: I will never recognize Israel as a Jewish State, PMW (July 27, 2016), [https://palwatch.org/main.aspx?fi=820&doc\\_id=19012](https://palwatch.org/main.aspx?fi=820&doc_id=19012).

<sup>4</sup> Kate Havard, Hamas's New Document: More of the Same, Foundation for Defense of Democracies (May 2, 2017), <https://www.fdd.org/analysis/2017/05/02/hamass-new-document-more-of-the-same/>; Adam Rasgon, Analysis: The New Hamas Charter – No Moderation Here, Jerusalem Post (May 3, 2017), <https://www.jpost.com/Arab-Israeli-Conflict/Analysis-No-moderation-here-489581>.

<sup>5</sup> Palestinian court jails U.S.-Palestinian for life for Jerusalem land sale, Reuters (Dec. 31, 2018), <https://www.reuters.com/article/us-israel-palestinians-usa-detainee/palestinian-court-jails-u-s-palestinian-for-life-for-jerusalem-land-sale-idUSKCN1OU0JG>; Khaled Abu Toameh, Palestinian-American Sentenced to Life in Prison by PA for Selling Property to Jews, Jerusalem Post (Dec. 31, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/Palestinian-American-gets-life-in-prison-for-selling-properties-to-Jews-575903>.

<sup>6</sup> Elhanan Miller, Abbas toughens law against Palestinians selling land to Jews, Times of Israel (Oct. 21, 2014), <https://www.timesofisrael.com/abbas-toughens-law-against-palestinians-selling-land-to-jews/>; Khaled Abu Toameh, PA Edict: Selling Property to Israelis an Act of 'High Treason,' Jerusalem Post (Oct. 12, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/PA-edict-Selling-property-to-Israelis-an-act-of-high-treason-569254>.

<sup>7</sup> Elhanan Miller, Abbas toughens law against Palestinians selling land to Jews, Times of Israel (Oct. 21, 2014), <https://www.timesofisrael.com/abbas-toughens-law-against-palestinians-selling-land-to-jews/>.

<sup>8</sup> Khaled Abu Toameh, PA Edict: Selling Property to Israelis an Act of High Treason, Jerusalem Post (Oct. 12, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/PA-edict-Selling-property-to-Israelis-an-act-of-high-treason-569254>

same time, the PA daily Al-Hayat Al-Jadida reported that Abbas's Fatah faction emphasized that "sale of properties and lands to the occupation...constitutes high treason."

Separately, Palestinian law actively encourages the murder of Jewish Israelis through its program of martyr and prisoner payments. The 2003 Amended Palestinian Basic Law guarantees the right of "martyrs, prisoners of war, the injured and the disabled," to "education, health and social insurance."<sup>9</sup> A series of other laws from 2004 and 2013 mandate payments to these terrorists and/or their families with the amount of the payment determined according to the severity of the crime.

Each of these laws—Law No. 14 (2004), Amended Palestinian Prisoners Law No. 19 (2004), and Decree No. 1 (2013) on the Amendment of the Prisoners and Released Prisoners Law No. 19 (2004)—defines prisoner as "anyone incarcerated in the occupation's prisons for his participation in the struggle against the occupation,"<sup>10</sup> a reference to involvement in terror attacks against Israel. These laws provide financial reward to terrorists who killed or injured Israelis or attempted to do so. Pursuant to PA Government Decision No. 23 of 2010, the amount of the monthly salary is fixed based on the length of the prison term.<sup>11</sup> Thus, the more serious the crime, the longer the prison sentence and the higher the salary. The PA budget for 2018 allocated \$155 million (out of \$5 billion) to support for prisoners.

Both the land laws and the "pay for slay laws" are aimed at keeping Jews out of areas controlled and claimed by the PA, thereby promoting racial segregation in violation of ICERD Article 3.

United Nations Watch calls on UN member states and UN human rights officials—including the High Commissioner, the Special Rapporteur on racism, and all other relevant Special Procedures—to condemn these gross and systematic manifestations of Palestinian racism.

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<sup>9</sup> Article 22, 2003 Amended Palestinian Basic law (last visited June 3, 2019), <https://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>.

<sup>10</sup> Sander Gerber, Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and their Families, Appendix 5, Jerusalem Center for Public Affairs (2017), <http://jcpa.org/paying-salaries-terrorists-contradicts-palestinian-vows-peaceful-intentions/#appendix-5>; PA Law No. 19, BIRZEIT UNIVERSITY (last visited July 1, 2019), <http://muqtafi.birzeit.edu/pg/getleg.asp?id=14777>.

<sup>11</sup> PA Government Decision No. 23, Birzeit University (last visited July 1, 2019), <http://muqtafi.birzeit.edu/pg/getleg.asp?id=16259>.