



## **Adalah's Analysis of the New Israeli Government's Guiding Principles and Coalition Agreements and their Implications on Palestinians' Rights**

10 January 2023

### **Introduction**<sup>1</sup>

The new government of Israel – sworn-in on 29 December 2022 – has made explicit the coalition parties' long-standing intent to further entrench Jewish supremacy and Palestinian repression throughout the State of Israel and the occupied West Bank through a two-tiered system of governance on all levels. The final versions of the coalition agreements and the fundamental guiding principles published by the government announce how it will begin to realize and advance this agenda.

The government's fundamental guiding principles states that, "The Jewish people have an exclusive and inalienable right over all areas of the Land of Israel."<sup>2</sup> This declaration goes even further than the principles enshrined in the 2018 Jewish National State Law (JNSL), which has distinct apartheid characteristics, and specifically, Article 1 of the law that defines self-determination as unique to the Jewish people within the 'State of Israel', rather than as an *exclusive* right to only the Jewish people in all of the areas it considers as the historic 'land of Israel'.<sup>3</sup>

This platform expands and roots the existing system of Jewish supremacy in Israel and in the Occupied Palestinian Territory (OPT) and the explicit denial of the Palestinian right to self-determination. A significant part of the policy guidelines' lines and legislative initiatives that the incoming government intends to advance are aimed at deepening the oppression of Palestinians in all the territories under Israeli control, as well as intensifying the oppression and strengthening the mechanisms of systematic discrimination against the Palestinians, citizens of Israel and residents of the occupied territories.

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<sup>1</sup> Adalah issued position papers concerning the new government's coalition agreements and guiding principles in Arabic, Hebrew and English. The documents are not identical, and contain some variations. For Arabic, [see](#). For Hebrew, [see](#).

<sup>2</sup> 37th Israeli Government Guiding Principles (Hebrew), [https://www.adalah.org/uploads/uploads/Guiding\\_principles\\_government.pdf](https://www.adalah.org/uploads/uploads/Guiding_principles_government.pdf).

<sup>3</sup> See footnote 1: Adalah, *Israel's Jewish Nation-State Law*, <https://www.adalah.org/en/content/view/9569/>

For the realization of this policy, the government undertook to, inter alia, entrench Israel's policy of segregation and racial control; expand and further institutionalize the two-tiered system of governance; entrench limitations on Palestinians' freedom of expression, by delegitimizing Palestinian identity and prohibiting legitimate political acts; and further advance de facto annexation measures in the occupied West Bank.

This paper is divided into 11 sections, outlining the main provisions of the new government's various coalition agreements that Adalah views as grave threats to the rights of Palestinian citizens of Israel and Palestinians living in the OPT: (1) Deepened political control over law enforcement and policing; (2) Accelerating the Judaization of the Naqab, Galilee, and beyond; (3) Curbing the prohibition of discrimination in services and products; (4) A new basic law on immigration; (5) Discrimination in education; (6) Impunity for the armed forces; (7) Silencing criticism against Israel; (8) Allowing candidates running for the Knesset to incite racism while undermining Palestinian political participation; (9) Separate and unequal funding for Palestinian localities in Israel; (10) Limiting the Supreme Court's authority; and (11) De facto annexation of the West Bank.

These policies amount to crimes under the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Rome Statute of the International Criminal Court. The above policies also demonstrate the clear criminal intent of the coalition members to commit crimes under the Rome Statute, including crimes against humanity (namely, the crime of Apartheid) and war crimes. It is therefore necessary for international bodies, including by the International Criminal Court and the International Court of Justice, to urgently intervene and for the international community to take action to reconstitute the United Nations Special Committee against Apartheid, initially established to review and report on the policies of Apartheid South Africa.

The coalition agreements include principles and commitments that entail extensive violations of the principle of separation of powers, religion and state relations, and violation of civil rights, including violation of the rights of women and LGBT+ people. This position paper will focus on the consequences of the coalition agreements on the rights of the Palestinians.

## **Section I: Deepened political control over law enforcement and policing**

The coalition agreements and the most recent legislation adopted based on these agreements provide for the new political leaders to have direct control over law enforcement authorities.

### *The 'Ben-Gvir Law' and structural changes to the police*

To enable Itamar Ben-Gvir, the new Minister of National Security and the leader of the 'Jewish Power' party ('Otzma Yehudit'), to have complete control over the police pursuant to the coalition agreement between this party and the Likud,<sup>4</sup> on 28 December 2022, the Knesset passed an amendment to the Police Ordinance (Amendment No. 37).<sup>5</sup>

The amendment makes the police subordinate to the National Security Minister and grants the Minister wide discretion to set the policies and priorities of the police.<sup>6</sup> The Jewish Power party (JPP) coalition agreement explicitly states that it intends to carry out structural changes within the police force, including policies regarding investigations, prosecution, and open-fire regulations. Such drastic changes are certain to heighten police violence and negative attitudes toward Palestinian citizens of Israel in particular, given the history of excessive use of violence, including lethal force, by the police against Palestinians, as well as the history of racist rhetoric and policies by the bill's initiators. For example, during the May 2021 events, Ben-Gvir wrote that policemen whose lives are endangered "should be firing and not dealing with riot dispersal measures."<sup>7</sup> Since beginning his role as National Security Minister, Ben-Gvir has not slowed this rhetoric down, telling the public, "it must be clear that security force personnel who defend their own lives will receive our full support" and "[a]ny terrorist who seeks to harm you loses his life."<sup>8</sup> Following through with this intention, the JPP coalition agreement clearly states: "The National Security Minister will examine the open-fire regulations of the Israeli police, and will make changes if necessary" (Section 102).<sup>9</sup>

The coalition agreement also states that the National Security Minister will be granted full control over the Israel Border Police; the Border Police will be 'an independent service,' subject to the Minister's authority, and this change should be legislated within 90 days of the government's formation (Section 90). This expansion of the National Security Minister's jurisdiction will also ensure that Ben-Gvir has full and absolute control over the "Israeli national guard" (JPP Coalition Agreement, Section 90). Former

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<sup>4</sup> [Annex to the first coalition agreement](#) signed on 25 November 2022 between the Likud and the Jewish Power Party (Section 5.1.1.) [Hebrew].

<sup>5</sup> Adalah, [Israeli Knesset advances law subordinating the authority of the police and its leadership to the Security Minister](#), 29 December 2022.

<sup>6</sup> See [The Police Ordinance](#), Amendment No. 37 [Hebrew].

<sup>7</sup> See [Itamar Ben-Gvir's official Facebook page](#) [Hebrew].

<sup>8</sup> I24, [Israel's National Security Minister Ben-Gvir pledges 'full support' to police officers](#), 2 January 2023.

<sup>9</sup> Jewish Power–Likud Coalition Agreement, Section 102 [Hebrew].

Prime Minister Naftali Bennett announced the establishment of this guard in May 2022, which is composed of Israel's Border Police, army reservists, and civilian volunteers.<sup>10</sup> Its aim is to institutionalize the cooperation between armed Jewish-Israeli civilians and the police following the May 2021 events.<sup>11</sup> During May 2021, organized groups of Jewish-Israeli armed civilians, which then-Public Security Minister Ohana called a "force multiplier for the authorities",<sup>12</sup> attacked Palestinian citizens of Israel and their property in "mixed cities", ostensibly with police collusion and protection.<sup>13</sup> For the most part, Israeli authorities afforded sweeping immunity to Jewish-Israeli civilians for these attacks, including and most egregiously in the case of the murder of Mussa Hassouna in Lod (Lydd).<sup>14</sup> This provision indicates the government's clear intention to establish an independent armed force, the main purpose of which is violent action against Palestinians.

### *The GSS operating in Palestinian towns and neighborhoods in Israel*

The coalition agreement between the Religious Zionist party (RZP) and the Likud states that the Shin Bet (GSS or "Shabak") security agency is to assist the police in fighting "nationalistic-motivated crime, organized crime, and crime families", and provides for the formation of a special Shabak unit for this purpose (Section 91). This unit, according to the agreement, will work in coordination with the Prime Minister's Office and the National Security Ministry (Section 92). The RZP's coalition agreement explicitly states that the "government is to direct the GSS to handle nationalistic-motivated crime among the Arab society in Israel" (Section 161). This provision is a direct continuation of a decision taken by the 'Ministerial Committee on Fighting Crime and Violence in the Arab Sector' in 2021 to assign Shin Bet agents and military forces to operate in Palestinian towns and neighborhoods under the guise of combating violence and crime.<sup>15</sup> This is part of a particularly insidious ongoing project of the government to use real fears in Palestinian communities regarding high incidence of organized crime as a pretext for

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<sup>10</sup> Haaretz, ['Capturing Terrorists Is Not Enough': Bennett Pushes for Civilian National Guard](#) (8 May 2022)

<sup>11</sup> See the [government's announcement](#) of the establishment of the "Israeli guard" [Hebrew].

<sup>12</sup> See the official Twitter account of the then-Public Security Minister Ohana [Hebrew]

[https://twitter.com/AmirOhana/status/1392357626068062209?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etwetembed%7Ctwtterm%5E1392357626068062209%7Ctwgr%5E%7Ctwcon%5Es1\\_%2Fwww.haaretz.co.il%2Fnews%2Fpolitics%2F1.9796886](https://twitter.com/AmirOhana/status/1392357626068062209?ref_src=twsrc%5Etfw%7Ctwcamp%5Etwetembed%7Ctwtterm%5E1392357626068062209%7Ctwgr%5E%7Ctwcon%5Es1_%2Fwww.haaretz.co.il%2Fnews%2Fpolitics%2F1.9796886)

<sup>13</sup> See [Adalah's numerous letters](#) to the Israeli authorities, calling on them to end the violence against Palestinian civilians and cease the overt police cooperation with violent Jewish mobs.

<sup>14</sup> See Adalah's appeal against the closure of the cases against all five Jewish-Israeli suspects in the case of the killing of Mussa Hassouna: [Adalah appeals prosecutor's decision to close the investigation against all Jewish Israeli suspects](#) (30 April 2022). The appeal is still pending.

<sup>15</sup> To read more, see Adalah's letter, *Israeli Government's decision to involve the Shin Bet and army to fight crime in Arab society is racist and illegal*, 4 October 2021: <https://www.adalah.org/en/content/view/10429>.

racialized policing in Palestinian communities. The decision to allow the covert activity of the GSS is reminiscent of the period of military rule from 1948-1966 and poses a further danger to the basic rights of Palestinian citizens of the state, who are already systematically targeted and oppressed by the police today.<sup>16</sup>

These policies amount to an expansion of the two separate law enforcement and policing systems based on racial identity: one for Palestinian citizens of Israel – in which this group is treated as ‘enemy aliens’ – and one for Jewish-Israelis. Moreover, these policies fall squarely within the total discretion of openly racist political leaders.

### *Ban on the Waving of the Palestinian Flag*

According to the coalition agreements, the government will take measures to further delegitimize the Palestinian historical experience and collective national identity and to prohibit lawful Palestinian political expression.

Per the coalition agreement between the JPP and the Likud, waving the Palestinian flag in institutions “supported by” the government or the local authorities will be prohibited (Section 135). The government shall act to promote this move within six months of its formation. This proposed new law is clearly aimed at legitimate political activity such as waving the Palestinian flag at protests at Israeli universities.<sup>17</sup> The previous government attempted to pass a similar law after the Palestinian flag was waived at events commemorating the Nakba Day in Israeli universities,<sup>18</sup> and a law prohibiting the waving of the Palestinian flag at state-funded institutions passed a preliminary Knesset vote in June 2022. Since the formal swearing-in of the government in late December, they have already begun to take action on this, and indeed go even further than was stated in the coalition agreements – with new National Security Minister Ben Gvir ordering the police commissioner to begin enforcing this ban on waving the Palestinian flag in all “public spaces”.<sup>19</sup>

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<sup>16</sup> See, e.g., [Israeli Police establish a paramilitary undercover unit assigned to operate exclusively within Arab towns](#), 2 September 2021; [Establishment of new Israeli police undercover unit exclusively for Arab communities is racist, illegal, & unprecedented in democracies around the world](#), 08 April 2021.

<sup>17</sup> Under existing law, waving or raising the Palestinian flag is not illegal. See [Adalah Q & A](#) (18 May 2022). See also Times of Israel, [Ben-Gurion University students hold flag-waving pro-Palestinian rally, drawing furor](#), 23 May 2022.

<sup>18</sup> For more details, see [Haaretz Bill to Ban Palestinian Flag at State-funded Institutions Gets Preliminary Knesset Approval - Israel News - Haaretz.com](#) (1 June 2022)

<sup>19</sup> Haaretz, [Under Ben-Gvir's Orders, Israel Police to Enforce Ban on Palestinian Flags in Public](#) (8 January 2023).

## *Expansion of Mandatory Minimum Penalties*

The government has set out revisions to the Israeli penal law, notably, legislation that expands the use of mandatory minimum sentences, which clearly targets Palestinians. According to the JPP's coalition agreement, the government will impose a three-year minimum sentence on "agricultural crimes" (Section 102(a)).<sup>20</sup> The government has previously introduced mandatory minimum sentences for criminal offenses that are mostly charged against Palestinians e.g., stone-throwing<sup>21</sup> and certain weapons offenses.<sup>22</sup> These penalties remove the court's discretion in sentencing and, thus, fail to account for the individual circumstances of each case.

## *Counter-Terror Laws*

The coalition agreements of both the JPP and the RZP suggest extreme measures in relation to Israel's definition of 'terrorism', as enshrined in the 2016 Counter-Terrorism Law, which, in its current form, is overbroad, vague, and criminalizes legitimate political acts.<sup>23</sup> The JPP's coalition agreement provides that the government should legislate a death sentence for terrorists before approving the 2023 budget (Section 116).<sup>24</sup> Section 116 makes clear that it will only be applied to "acts of terrorism aimed at harming the State of Israel as the state of the Jewish people", thus making it explicitly clear that the law will be racially implemented and specifically target Palestinians, while exempting Jewish-Israelis who commit extreme, violent acts of terrorism against Palestinians, from the death sentence.

The RZP agreement also states that the government shall advance legislation to revoke the residency and citizenship of terrorists and their accomplices (Section 162), while the JPP's agreement goes even further in seeking legislation to revoke citizenship and *expel* 'terrorists' (Section 127).

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<sup>20</sup> See, for example, Adalah's intervention regarding the prosecution of Palestinian herb harvesters, <https://www.adalah.org/en/content/view/9794>.

<sup>21</sup> Adalah, *Mandatory minimum sentences for convicted stone-throwers - Amendment No. 120 to the Israeli Penal Code*, <https://www.adalah.org/en/law/view/593>.

<sup>22</sup> Adalah, *Israeli Knesset passes law setting mandatory minimum penalties for weapons offenses; Adalah: This move will not help to fight crime but will infringe on fair trial rights and liberty of Palestinian citizens of Israel*, 7 December 2021: <https://www.adalah.org/en/content/view/10500>.

<sup>23</sup> Adalah, *Position Paper: Israel's Counter-Terror Law*, 29 November 2022 [https://www.adalah.org/uploads/uploads/Adalah's%202021%20Position%20Paper%20on%202016%20Counter-Terrorism%20Law%20\(Updated\)%20EN%20.pdf](https://www.adalah.org/uploads/uploads/Adalah's%202021%20Position%20Paper%20on%202016%20Counter-Terrorism%20Law%20(Updated)%20EN%20.pdf).

<sup>24</sup> Adalah objected to a similar proposed law in 2018, see [Adalah: Israel's proposed death penalty intended for Palestinians only](#) (13 November 2018).

Finally, the JPP agreement states that, as an amendment to the State Education Law, any teacher who allegedly ‘expresses support’ for terrorism will be prohibited from being hired (Section 122).

## **Section II: Accelerating the Judaization of the Naqab, the Galilee, and beyond**

Multiple coalition agreements, including with the RZP and JPP, include provisions that speak to the long-held Israeli practice of ‘Judaizing’ the Naqab (Negev) and the Galilee, both regions in the south and in the north, respectively, with large populations of Palestinian citizens of Israel.

From the agreements, it is clear that the new government seeks to expand this process of Judaization – a clear expression of the fundamental principle set forth in Article 7 of the JNSL, which provides that the state views development of Jewish settlements as a national value, thereby instituting racial segregation as a legal norm.<sup>25</sup>

### *Centralization of Power*

According to the JPP coalition agreement, laws will be introduced to authorize the Minister for Development of the Negev, Galilee and National Resilience to appoint members of the Israel Land Council, National Council on Planning and Building, and district planning committees (Section 99) that will have the effect of centralizing power to determine land and planning policies in Israel. In addition, the enforcement unit of the Israel Land Authority (ILA) and the Israel Nature and Parks Authority, as well as the Environmental Protection Ministry, will fall under the authority of the National Security Ministry, led by MK Ben-Gvir of the JPP (Sections 99, 100).<sup>26</sup> The history of two systems of law enforcement, with certain forms of severe enforcement against Bedouin citizens of Israel living in the Naqab in particular, makes these appointments deeply grave and alarming.

This centralized power will, according to the coalition agreements, be in the hands of individuals from radical right-wing and racist parties. Most notable of these appointments, in terms of the Judaization plans, is the position of the Minister for Development of the Negev and the Galilee (now renamed “Minister for Development of the Negev, Galilee and National Resilience) to JPP (Section 89).

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<sup>25</sup> To read Adalah’s position paper on this issue, see “[The Illegality of Article 7 of the Jewish Nation-State Law: Promoting Jewish Settlement as a National Value](#)”, March 2019.

<sup>26</sup> Haaretz, *Far-right Party, Likud Agree on Major Plan to ‘Judaize’ Negev, Galilee* (25.12.2022), <https://www.haaretz.com/israel-news/2022-12-25/ty-article/.highlight/far-right-party-likud-agree-on-major-plan-to-judaize-negev-galilee/00000185-45b5-d723-a3d5-7dbd28460000>.

## *Development-Induced Displacement*

The agreements further use ‘agricultural development’ as a guise for continued Israeli Jewish development and settlement across majority-populated Palestinian areas in Israel. The Shas agreement views agricultural development as a ‘Zionist value’ and as a means of preserving land (Section 78)<sup>27</sup>, while the RZP agreement puts forward the creation of a “Basic Law on Agriculture” to strengthen the expansion of agricultural projects in order to “maintain” the nation’s lands (Section 148). The RZP’s agreement (Section 131) and the JPP’s agreement (Section 146) both further state that the priority of the new government is to “preserve state land”, in part, by the provision of private farms to Israeli Jewish individuals, a discriminatory practice used historically by the State of Israel: confiscating Bedouin land and redistributing it for use by Jewish Israelis only.<sup>28</sup>

## *Land Distribution*

The coalition agreements also include provisions that alter and expand the powers of ministries and various sub-departments that have control over state land distribution. The RZP agreement, for example, states that 14 new towns will be established in the Naqab, at least 11 of which will be for Jewish citizens (Section 145). Beyond the expansion of ministerial authority, the agreements also include the entrenchment of racist methods of land allocation, notably, the expansion of Admissions Committees’ from towns of up to 400 people, to towns of up to 1,000 people (JPP, Section 111 and RZP, Section 147.2). These committees permit the rejection of applicants in some small towns based on arbitrary and discriminatory criteria, such as ‘social suitability’ and culture.<sup>29</sup> Based on such criteria, Palestinian citizens of Israel, as well as other groups (LGBTQ people, Ethiopians, and more) are excluded from living in these communities, built on ‘state land’. The RZP’s agreement will also expand the availability of waivers to opt out of the public land tender process and allow for the Israeli military, active reserves, and police projects to all be allocated land outside of the public tender process (Section 151).

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<sup>27</sup> Shas–Likud Coalition Agreement (Hebrew), [https://www.adalah.org/uploads/uploads/Shas\\_Agreement\\_281222.pdf](https://www.adalah.org/uploads/uploads/Shas_Agreement_281222.pdf).

<sup>28</sup> Prof. Oren Yiftael, *Inappropriate and Unjust: Planning for Private Farms in the Naqab*, Adalah’s Newsletter, Vol. 24, April 2006: <https://www.adalah.org/uploads/oldfiles/newsletter/eng/apr06/ar1.pdf>.

<sup>29</sup> To read more about the discriminatory nature of Admissions Committees, see Adalah’s letter demanding the Knesset strike down a proposed amendment to expand the applicability of Admissions Committees, 27 December 2021: <https://www.adalah.org/en/content/view/10507>; and an analysis of Adalah’s 2014 Supreme Court case regarding the illegality of Admissions Committees, 17 September 2014: <https://www.adalah.org/en/content/view/8327>.



Importantly also, the JPP coalition agreement promises to expand the authority of the (now renamed) Ministry for Development of the Negev, Galilee and National Resilience. The Ministry's purview will now also include 'periphery areas', in addition to the Naqab and the Galilee, such as illegal settlements in Area C in the West Bank. This move will enable the state to funnel even more funding and other economic opportunities to them (Section 5.2.1.2). The JPP agreement also states that the NPA map will be amended to give additional benefits exclusively to Jewish towns in the Galilee, state resources from which Palestinian towns are expressly excluded (Section 109). These measures entrench a system of racial segregation and separate budgeting – separate and unequal.

Adalah, together with Arab mayors, local councils, public committees and residents, submitted a petition to the Israeli Supreme Court against the government challenging the government's decisions on 'National Priority Areas' (NPAs) designations,<sup>30</sup> which exclude Palestinian towns in the Triangle in Israel from land development and housing, while diverting enormous state resources solely to Jewish Israeli municipalities. Most recently, the Court provided an extension of time to the state – that will expire in February 2023 – to update it on its intended NPA policies that would also apply to the case of Palestinian towns in the northern Triangle. Based on these agreements, however, at least from the RZP agreement, it is clear that the NPAs will serve the new government's policy guidelines (Section 143), which provide, first and foremost, that the land of Israel is exclusively for the Jewish people (Section 1). This same section of the agreement also expands the availability of NPA designation to additional new settlements, which will only apply to Israeli Jewish municipalities.

The government's declaration of its fundamental principles state, in relevant part, that it plans to "advance and develop settlement in all parts of the land of Israel – in the Galilee, Negev, Golan Heights, and Judea and Samaria."<sup>31</sup> This plan is demonstrative of a system of land allocation and enforcement that amounts to apartheid.

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<sup>30</sup> Adalah *Israeli Supreme Court to Hold Hearing on the National Priority Areas (NPA) Case tomorrow*, 14 November 2022: <https://www.adalah.org/en/content/view/10741>.

<sup>31</sup> Ha'aretz, *Prioritizing Settlements, Weakening the Judiciary: Netanyahu's Far-right Government Outlines Key Policies*, 28 December.2022: <https://www.haaretz.com/israel-news/2022-12-28/ty-article/prioritizing-settlements-weakening-judiciary-netanyahu-government-outlines-policies/00000185-5830-d6a2-adf5-79f0bee80000>.

### **Section III: Curbing the Prohibition of Discrimination in Services and Products Law**

Section 19 of the coalition agreement between the Likud and Noam party, as well as Section 97 of the Likud–RZP’s agreement, propose an amendment to the Prohibition of Discrimination in Services and Products Law (2000). Currently, the law largely prohibits discrimination in providing services and products, while the amendment proposes to allow private business owners to deny service or products to people based on the owner’s ‘religious beliefs’ and to allow for the establishment of residential communities based on a “mutual religious background”.

Since the state’s establishment, the government’s development of cities, towns and communities has only ever been to assert the dominance of Jewish Israelis over the land while expelling Palestinians. This proposed change is extremely dangerous, not only because it allows for more housing and development exclusively for Jewish citizens of the state, but also because it bars Palestinians from living in these new Jewish-only towns.<sup>32</sup> This law, if passed, legalizes clear segregation between Jewish Israeli and Palestinian citizens of the state and further entrenches Jewish hegemony in the field of housing.

Although sharply curbing the applicability of the ban on discrimination is a prominent feature of the new government, Jewish Israeli localities have already long tried to enact discriminatory policies against Palestinian citizens of Israel. In 2018, for example, the Afula municipality pledged to preserve the Jewish character of the city and banned non-residents from entering its public park.<sup>33</sup> Closing the park to non-residents is part of a broader project of racist segregation that draws on the spirit of the 2018 Jewish Nation-State Law. Although the court ordered the municipality to reopen the park based on the lack of municipal authority,<sup>34</sup> this type of discriminatory action makes clear that a variety of local and national authorities seek to segregate and discriminate in the accessibility of services.

This new amendment is certain to result in even further discrimination against Palestinian citizens of the state, as its legalization will only increase its occurrence.

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<sup>32</sup> This move – as Adalah previously argued in its [petition to the Supreme Court](#) against the admissions committees – clearly contradicts the Supreme Court’s decision in the 2000 Qa’dan case (HCJ 6698/95, *Adel Qa’dan v. Israel Land Administration*), in which the Supreme Court held that discrimination between Jewish and Arab citizens of the state in the use and allocation of state-controlled land is impermissible.

<sup>33</sup> Adalah, *The Jewish Nation-State Law effect: Afula city council members swear to 'preserve city's Jewish character'*, 19 December 2018: , <https://www.adalah.org/en/content/view/9653>.

<sup>34</sup> Adalah *Afula's public park will be open to all visitors - including non-residents - following Adalah's petition*, 24 July 2019 <https://www.adalah.org/en/content/view/9783>.

## **Section IV: Ban on Palestinians: A new Basic Law: Entry, Immigration and Status in Israel**

The coalition agreement between the Likud and the RZP includes the proposal of a basic law, entitled *Basic Law: Entry, Immigration and Status in Israel* (Section 93). On 19 December 2022, the Knesset put forward two versions of the proposed law, which are largely consistent with previously proposed laws that were tabled.<sup>35</sup> The aim of this law, as stated in Section 2 of the bill introduced by RZP MK Simcha Rotman,<sup>36</sup> is to constitutionally legislate issues of entry to Israel, immigration, and receiving legal status in Israel, in addition to ensuring an immigration policy that will “preserve the unique right of self-determination to the Jewish people in the State of Israel and to preserve its sovereignty and security”.

This new law would expand upon the ban on Palestinian family unification law, first legislated as a ‘temporary order’ in 2003, that prohibits Palestinian citizens of Israel and Palestinian residents of East Jerusalem from marrying and living together in Israel and in Jerusalem with their Palestinian spouses from the West Bank and Gaza. Benjamin Netanyahu described the law proposed by Likud members in 2021 as “the way to stop the immigration of Palestinians” and added that the current “Temporary Order” that bans the unification of Palestinian families (*Citizenship and Entry into Israel Law*), that has to be renewed every year, is not enough, and that ultimately stopping Palestinians from immigrating to Israel would only be accomplished by passing an “iron law”: a Basic Law.<sup>37</sup>

The bill of MK Rotman, suggests imposing a maximum annual quota of persons who receive status in Israel, overlooking the individual circumstances of each case.<sup>38</sup> In addition, this new proposal will set a prohibition on non-citizens or residents of the state from seeking a remedy in the courts regarding their entry into Israel, while Jewish individuals who are ‘entitled’ to immigrate under the 1950 Law of Return are excluded

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<sup>35</sup> E.g. previous proposal of Basic Law: Entry, Immigration and Status in Israel, 21 June 2021:

<https://main.knesset.gov.il/Activity/plenum/Pages/SessionItem.aspx?itemID=2159350> (Hebrew)

<sup>36</sup> Three proposals were introduced on 19 December 2022, two of those are identical. See [Hebrew] documents, here:

<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2196908> and here:

<https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2197103>.

<sup>37</sup> Ynet, *Netanyahu: "The way to stop the immigration of the Palestinian: Immigration basic law"*, 5 July 2021: <https://www.ynet.co.il/news/article/Hygz500eau>.

<sup>38</sup> Proposed law initiated by MK Rotman, section 11(b).

from these provisions.<sup>39</sup> The law, if passed, is also likely to give the government sweeping discretion to ban citizens or residents of any country or area they so choose from receiving any status in Israel, while also having the right to deport any non-citizen or non-resident and if, for any reason, these persons cannot be deported, the government would be entitled to withhold all of their money and belongings until they leave the country, in addition to incarcerating them indefinitely and limiting their movement inside of Israel.<sup>40</sup>

If passed, the law would constitutionalize Israel's right to ban Palestinians from practicing their right to family life.<sup>41</sup>

## **V. Discrimination in education**

Discrimination in education is another key component of the new government's principles, as laid out in the coalition agreements. The guiding principles document of the new government states that the enhancement of Jewish identity in education will be a priority. In addition, several coalition agreements lay out an expansion of the Absorption of Discharged Soldiers Law (1994)<sup>42</sup> that reinforces the discriminatory provision of scholarships in higher education – creating separate and unequal scholarship funding tracks, with the substantial majority of funding effectively only available to Jewish Israelis – by increasing scholarships to former soldiers to attend colleges and universities to cover 100% of their tuition fees for each year of service in the military (JPP, Section 18).<sup>43</sup> The JPP agreement goes even further by emphasizing that the state will support “affirmative action” in admissions for former soldiers in the faculties of law, computer science, medicine, and accounting (Section 20). As Palestinian citizens of Israel are largely exempt from and do not serve in the military, this law codifies a free and privileged system of higher education for Jewish Israelis who do serve in the military.

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<sup>39</sup> Ibid, section 5(b).

<sup>40</sup> Ibid, section 7.

<sup>41</sup> Adalah, *Israeli Supreme Court Upholds Ban on Family Unification*, 12 January 2012, <https://www.adalah.org/en/content/view/7185>. See also: [Adalah's petition to the Supreme Court against the ban on family unification](#) [Hebrew]; and [an introduction to Adalah's petition](#) [English].

<sup>42</sup> For more information on the pre-existing discriminatory nature of this law, see Adalah's initial analysis and position paper on the law, 26 May 2022: <https://www.adalah.org/en/content/view/10632>.

<sup>43</sup> See also, Zionist Datit, Section 18, Shas, Section 18, United Torah Judaism, Section 18 ([https://www.adalah.org/uploads/uploads/United\\_Torah\\_Judaism\\_agreement\\_281222.pdf](https://www.adalah.org/uploads/uploads/United_Torah_Judaism_agreement_281222.pdf)), and Religious Zionism, Section 18.

The JPP agreement also expressly promotes the new government's plan to provide cost-of-living scholarships for students going through the process of conversion to Judaism (Section 38).

## **Section VI: Impunity for the Israeli armed forces**

According to JPP's coalition agreement, before passing the budget for 2023, the coalition will legislate a law determining the legal responsibility of soldiers or personnel of Israel's security forces who acted "while performing their duty in an operation against terror" and were not acting with malice. The government's guiding principles make clear that it will act to "strengthen" Israel's armed forces and provide full support to soldiers and police officers to fight and defeat terror. This law is expected to codify Israel's policy of near-blanket impunity to its armed forces in cases involving Palestinians. Such policies have already been explicitly affirmed by government leaders, including during the May 2021 events whereby Prime Minister Benjamin Netanyahu assured Israeli Border Police that they enjoyed such sweeping impunity: "We hear talk of apprehension over [future] commissions of inquiry, investigations, inspections – we will give you all the tools [you need] to protect yourselves and the citizens of Israel. You have our full backing; do not be afraid."<sup>44</sup>

The government's aim to afford its armed forces unlimited and unreviewable discretion is also evident in its commitment to further relax the police's open-fire regulations. Ben-Gvir has made clear in several instances that this change is intended to ensure that soldiers and police officers are not afraid to open fire and that every incident in which they are attacked "will end with a dead terrorist".<sup>45</sup> Also, the law widely known as the 'Dromi Law', which removes criminal liability from people who discharge a firearm at intruders, is set to be expanded, such that opening fire will be allowed in cases of theft from military bases (and an additional amendment to cover car theft is also being considered).<sup>46</sup>

This expands upon Israel's existing policy of near-blanket impunity to its armed forces. This has long been evident in the fact that, since the October 2000 killings, the Supreme Court has intervened only once in the authorities' decision to close a case for the

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<sup>44</sup> Times of Israel, *Netanyahu calls for administrative detentions to quell Arab-Jewish violence*, 13 May 2021, <https://www.timesofisrael.com/netanyahu-calls-for-administrative-detentions-to-quell-arab-jewish-violence/>.

<sup>45</sup> See [Hebrew] media interviews with the National Security Minister Ben-Gvir: <https://www.ynet.co.il/news/article/hj3slgwij>, <https://omny.fm/shows/kan-2971/23-12-2022?t=64m11s>.

<sup>46</sup> Jewish Power–Likud Coalition Agreement, Section 104.

police's killing of a Palestinian, despite the thousands of Palestinians killed and injured by Israeli security forces<sup>47</sup>, with zero accountability.

### **Section VII: Silencing criticism against Israel**

The JPP coalition agreement stipulates that the government has 180 days from the time it is sworn-in to pass a law imposing a tax on donations given by foreign governmental entities to nonprofit civil society organizations (Section 136). The agreement with RZP also stipulates that if the Palestinian Authority (PA) continues to take steps against Israel before the International Criminal Court or other international bodies, the government committed to formulating policies and measures against the PA and against its actions, among other things, through economic means.

These proposed measures are a clear attempt to silence NGOs and other entities trying to hold Israel accountable for its war crimes against Palestinians. This agreement aligns with statements made by RZP leader Bezael Smotrich, who referred to human rights organizations as an 'existential threat' to Israel.<sup>48</sup>

### **Section VIII: Allowing candidates running for the Knesset to incite racism while undermining Palestinian political participation**

In the JPP's coalition agreement, the government has committed to amend Article 7A of the Basic Law: The Knesset,<sup>49</sup> such that the law will no longer prohibit political parties and candidates who incite racism to run for the Knesset (Section 131). Previously, in 2019, the Supreme Court disqualified three candidates – Benzi Gopstein, Baruch Marzel, and Michael Ben-Ari – of the JPP from running for the Knesset.<sup>50</sup> According to the Supreme Court, Gopstein and Marzel's statements and activities systematically incited racism against the Palestinian population and thus, they were barred from participating in elections for the Knesset.

The new government claims that this situation is "discriminatory" against Jewish candidates and must be changed so that it will be possible to "disqualify from participating in the elections a list or a candidate who denies the existence of the State

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<sup>47</sup> See, e.g., U.N. Office for the Coordination of Humanitarian Affairs, [Database of Casualties](#).

<sup>48</sup> Times of Israel, *Smotrich says human rights organizations are 'existential threat' to Israel*, 21 November 2022:

<https://www.timesofisrael.com/smotrich-says-human-rights-organizations-are-existential-threat-to-israel/>.

<sup>49</sup> Read more about Article 7A Basic Law: The Knesset here: [Basic Law: The Knesset - Adalah](#)

<sup>50</sup> EA 5487/19 *Segal v. Ben Gvir* (2019). English summary available here: [Summary of cases from the 2018-19 term | Cardozo Israeli Supreme Court Project](#)

of Israel as a Jewish and democratic state or supports terrorism, and not a situation whereby one [segment of the] public is discriminated against and only one side is being disqualified while supporters of terrorism are not disqualified".<sup>51</sup>

The proposed amendment will allow candidates and political parties that incite racism against Palestinians to participate in the elections, while a list or candidate advocating for democratic values, including a state for all of its citizens, could be barred from participating in elections and labeled as a political threat to the state.<sup>52</sup> Fundamentally, this anomaly is due to the fact that the principles of a democratic regime clash with the definition of the state as a 'Jewish State'. If passed, this amendment will constitutionally protect racist ideologies and severely curtail democratic views.

### **Section IX: Separate and unequal funding for Palestinian localities in Israel**

The new government intends to withdraw its long-term budgetary commitments to Palestinian localities in Israel under Resolution 550 – "the economic plan to bridge gaps in the Arab community by 2026" passed by the former government on 24 October 2021, whose stated purpose was to be used as a supplemental budget to tackle inequality.

According to the JPP coalition agreement, the Resolution will be amended in order to "be adapted to the new government's policy", and so that it will "ensure proper and optimal use of the funds," by placing emphasis on directing the budget "to the needs of personal security and the maintenance of law and order in Arab society, as well as to employment activities for youth" (Section 94).

Additionally, the new government intends to use Resolution 550 to exclude Palestinian towns and localities in Israel from benefits for housing, construction, and land. For instance, the JPP coalition agreement stipulates that villages and towns in the Galilee that *do not* fall under Resolution 550, i.e., excluding all Palestinian towns and villages, will be designated as 'National Priority Areas' (Section 109) (see Section II above for detailed explanation).

Previously, the government has used Resolution 550 to exclude Palestinian citizens of Israel from other funds in different fields, including funds for scholarships for higher

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<sup>51</sup> JPP Coalition Agreement, Section 131.

<sup>52</sup> Despite the fact that the Supreme Court did not disqualify the Arab political party National Democratic Assembly (Balad/Tajammu') from the 2022 Israeli national parliamentary elections, Chief Justice of the Supreme Court, Esther Hayut explicitly stated that if the party were to propose a Basic Law: State of all its Citizens, it could result in the party being barred from participating in elections to the Knesset. See Adalah's Press Release [Israel's top court unanimously overturns ban on Arab party from running in country's impending national elections](#) (6 October 2022).

education;<sup>53</sup> funds for improvements of local councils' operations and organization;<sup>54</sup> and a governmental plan intended to “promote demographic growth and sustainable economic development in villages in the eastern Naqab region”.<sup>55</sup> The above commitments indicate that the government intends to continue the existing budgetary policy that turns Resolution 550 into a tool for discrimination and exclusion from other budgets, as well as to disregard any budgets offered under it.

## **Section X: Limiting the Supreme Court's authority**

A clear component of the new government's agenda is to overhaul the judiciary, to the effect of severely weakening and limiting the authority of the courts, and in particular, the Israeli Supreme Court.

The new Justice Minister Yariv Levin, who will lead these changes – in accordance with the coalition agreements – has made his intention to render the judiciary futile well known in recent years. In a 2019 interview, MK Levin stated that if it were up to him, the Israeli Judicial Selection Committee would be dissolved, and an American-style model would be adopted, whereby judges are nominated and confirmed by the politicians in power.<sup>56</sup> Since the government was seated, MK Levin has already begun his efforts to make good on this promise by announcing his intention to make key changes to the judiciary including: passage of the Override Clause (see below); giving complete control over the judicial selection process to the government in power; doing away with the ‘reasonableness’ rule that can ground annulment of administrative decisions; and allowing for the political appointment of ministerial legal advisors.<sup>57</sup>

All of the coalition agreements state that such judicial changes would include the ‘Basic Law: The Override Clause’, which would allow the Knesset to legislate a law even if the Supreme Court finds that it is unconstitutional (Section 30 of all coalition agreements). The Knesset will therefore be able to effectively preclude any matter from judicial review. For years, the Supreme Court has shown little willingness to provide a check on the legislature to protect fundamental rights, especially those of Palestinian citizens of

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<sup>53</sup> See Adalah's letter sent on behalf of the The National Committee of the Heads of Arab Localities demanding the cancellation of the criterion that excludes Arab local councils from a scholarship program for university students. [Hebrew] [https://www.adalah.org/uploads/uploads/scholarship\\_plan\\_250722.pdf](https://www.adalah.org/uploads/uploads/scholarship_plan_250722.pdf)

<sup>54</sup> See Adalah's letter objecting the Interior Minister's exclusion of Arab localities from the plan. [Hebrew] [https://www.adalah.org/uploads/uploads/hamraa\\_plan\\_270622.pdf](https://www.adalah.org/uploads/uploads/hamraa_plan_270622.pdf)

<sup>55</sup> Governmental plan to encourage demographic growth and sustainable economic development in settlements in the Eastern Negev region [Hebrew] see here: [https://www.gov.il/he/departments/policies/dec1416\\_2022](https://www.gov.il/he/departments/policies/dec1416_2022)

<sup>56</sup> See [Hebrew] <https://www.ynet.co.il/articles/0.7340.L-5448425.00.html>

<sup>57</sup> Times of Israel, [Justice minister unveils plan to shackle the High Court, overhaul Israel's judiciary](#), 4 January 2023.



the state, but with the latest commitments from the coalition agreements, any possibility for Supreme Court action will be further limited.<sup>58</sup>

## **Section XI: De Facto Annexation of the West Bank**

In the coalition agreement with Noam, the Prime Minister expressly pledges to lead "to the formulation and promotion of a policy under which [Israeli] sovereignty will be extended" throughout the occupied West Bank, when Israel's "national and international interests" so permit (Section 26). The RZP's agreement states clearly that Israeli sovereignty over the West Bank is a priority – that the state of Israel has a "natural right" over all of the land, and a fundamental purpose of the new government will be to promote Israeli sovereignty over the West Bank (Section 118).<sup>59</sup>

To realize these goals, the government has committed to undertake several policies regarding administration and control over the West Bank, including: to permit – and encourage – increased illegal Jewish settlements in the OPT, retroactive legalization of existing illegal settlements, and the transfer from military to civilian control over Israeli Jewish settlers unlawfully occupying Palestinian land – all amounting to the de facto annexation of the West Bank.

### *New Authority over Settlement Expansion*

Prime Minister Netanyahu has given leadership roles in critical areas overseeing West Bank administration to radical right-wing political leaders – namely RZP's leader, Bezalal Smotrich – who have made clear their intention to quash any semblance of Palestinian statehood and to annex the West Bank. Per the RZP's coalition agreement, the party was allocated control over the former Ministry of Settlement Affairs (now the Ministry of National Missions), as well as a ministerial post within the Ministry of Defense responsible for COGAT management (Section 6.4) and the Civil Administration over the West Bank and the head of the "Department of Defense's subcommittee for Judea and Samaria [the West Bank] and the Seam Zone".<sup>60</sup> The RZP will also appoint

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<sup>58</sup> See Hassan Jabareen, "Israel's High Court Doesn't Defend Minorities," Ha'aretz, 15 May 2018 (about the proposed "override law", the Jewish Nation-State Law, and numerous Supreme Court decisions regarding the rights of Palestinians in Israel): <https://www.haaretz.com/opinion/2018-05-15/ty-article-opinion/.premium/israels-high-court-doesnt-defend-minorities/0000017f-eefd-da6f-a77f-feffab5f0000>

<sup>59</sup> See also, Noam Coalition Agreement, Section 26 (Hebrew), [https://www.adalah.org/uploads/uploads/Noam\\_agreement\\_281222.pdf](https://www.adalah.org/uploads/uploads/Noam_agreement_281222.pdf).

<sup>60</sup> Yesh Din, et al. "Analysis of the appendices to the coalition agreements signed between the Likud and Religious Zionism" (Updated 15.12.2022).

the chairperson of the Knesset's Committee on Special National Infrastructure Projects and Jewish Religious Services, which provides resources to Jewish settlers in the West Bank. These appointments effectively give the RZP control over all settlement construction projects in the West Bank; authority over nearly all issues relating to the settlements: the building of homes, demolition of homes and other buildings, and all other aspects of daily life. This ministerial position will also no longer require the Prime Minister's approval at various stages of West Bank settlement construction projects; instead, it will only be required once, during the initial stages.<sup>61</sup>

### *Control over COGAT and the Civil Administration*

Perhaps most alarming is the RZP's control over COGAT and the Civil Administration.<sup>62</sup> Smotrich has made clear that he intends to use this authority to *de facto* annex the West Bank by, in particular, dismantling the Israeli military's Civil Administration over the Israeli Jewish settlers illegally residing there and instead putting their governance under Israeli civil domestic law, while continuing to keep Palestinians under military rule. This move will more deeply entrench the two separate systems of governance that already exist based on racial identity, an unquestionable hallmark of a system of apartheid.

### *Retroactive legalization of settlement outposts*

Several coalition agreements also expressly state plans to retroactively legalize so-called 'young' settlements – illegal Jewish Israeli outposts in the West Bank – within the next 18 months (RZP, Section 119 and JPP, Section 151). Such a move would amount to a massive step forward in the *de facto* annexation of the West Bank.<sup>63</sup> The RZP coalition agreement includes further provisions to substantially expand funding to the government's settlement division, to promote the 'security' of the Jewish settlement in Hebron, and to establish a five-year plan to expand Jewish settlements across the West Bank (Section 122-126). Until the legalization of all settlements is completed, the government committed to promote a "humanitarian solution" that will allow illegal Israeli

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<sup>61</sup> Times of Israel, *Netanyahu said to cede significant control over settlement construction to Smotrich*, 23 December 2022:

<https://www.timesofisrael.com/netanyahu-said-to-cede-significant-control-over-settlement-construction-to-smotrich/>.

<sup>62</sup> Adalah *The Law Allowing for the Appointment of an Additional Minister in the Defense Ministry is Intended to Advance Apartheid and De Facto Annexation in the Occupied Palestinian Territory*, 29 December 2022: <https://www.adalah.org/en/content/view/10767>.

<sup>63</sup> To read more about the Supreme Court's 2020 decision regarding the illegality of the Settlement Regularization Law, see Adalah's *Initial analysis of the Israeli Supreme Court's decision in the Settlements Regularization Law Case*, 15 June 2020, <https://www.adalah.org/en/content/view/10035>.

Jewish settler outposts in the West Bank to be connected to electricity, "for the purpose of providing the basic living conditions needed by the residents."<sup>64</sup>

Within days of the swearing in of the new government, it has already started implementing the RZP coalition agreement (Section 124): the state informed the Supreme Court during a hearing that it will be reversing its previous position concerning the illegal outpost of Homesh, which was built on privately owned Palestinian land. Instead of evacuating the illegal outpost, the government intends to amend the 2005 Disengagement Law so as to allow Israeli entry to the area.<sup>65</sup>

### *Further entrenching Israeli sovereignty over Jerusalem*

Finally, the coalition agreements express the goal of deepening Israeli Jewish control over Palestinian territory through their stated plans regarding the status of Jerusalem. The government's guiding principles document emphasizes the express goal of "strengthening" the status of Jerusalem. The RZP coalition agreement states that all of Jerusalem is the capital of Israel and that the government will have the ongoing goal of extensive support of building, employment, and increased budgeting to Jerusalem (Section 156). It will also maintain "full sovereignty" and strengthen governance over all of Jerusalem (Section 157), including stopping any activity by the Palestinian Authority in the city.

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<sup>64</sup> Coalition agreement with Shas, section 180.

<sup>65</sup> The Israeli government dismantled the Homesh settlement as part of the 2005 Disengagement Law. In practice, Israel has not blocked settlers from entering the area and for the past year, it stationed permanent military forces in the area. Ha'aretz, [Israeli Gov't Reverses Evacuation of Illegal West Bank Outpost From Disengagement Plan - Israel News \(2 January 2023\)](#). To read more about the petition pending before the Supreme Court, see HCJ 2821/19 *Iman Fawzi Abd a-Rahman Saif et al. v. Commander of IDF Forces in the West Bank et al.*, and see also Yesh Din, [Landowners from Burka petitioned the High Court of Justice to allow them to access their land where the settlement of Homesh was located](#).

## **Conclusions**

The policies and guidelines put forward by the new government, headed by Prime Minister Benjamin Netanyahu, entrench Israel's institutionalized policy of segregation, discrimination, oppression, and control against Palestinians in all areas of life, exemplified in:

- a. A policy of segregation and racial discrimination in the proliferation of fundamental rights, particularly in the areas of citizenship, the right to family life, land allocation, housing, budgeting, service provision, and law enforcement.
- b. A policy of racial domination, which manifests itself in violence and oppression, including the relaxation of open-fire regulations; deep and institutional politicization of the police and law enforcement agencies; exemption from criminal liability for police officers and soldiers and increased severity of punishments for certain criminal offenses.
- c. Expansion and further institutionalization of the two-tiered system of governance, including law enforcement, which differentiates between Jewish-Israelis and Palestinians in all areas under Israel's control.
- d. Entrenchment of the limitations on Palestinians' freedom of expression, delegitimization of Palestinian identity, and prohibition of legitimate political acts.
- e. Entrenchment of de facto annexation measures in the occupied West Bank.

These principles expand upon Israel's ongoing violations of international law, including actions that are absolutely prohibited under such laws, in particular:

- I. **The International Convention on the Elimination of All Forms of Racial Discrimination** (CERD), in which Article 2 states that member states are required to not only condemn racial discrimination but also "to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms..."
- II. **The International Convention on the Suppression and Punishment of the Crime of Apartheid**: policies of racial segregation, discrimination, and control over Palestinians in all areas under Israel's control violate the Convention, which defines Apartheid practices as a crime against humanity. This includes the following articles:
  - Article 2 of the Convention, which states that: "the prohibition applies to acts which constitute "domination by one racial group of persons over any other racial group of persons and systematically oppressing them".

- Article 2(c) that determines that the crime of apartheid includes: “Any legislative measures and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and the deliberate creation of conditions preventing the full development of such a group or groups...”
- Article 2(d) that determines that the crime of apartheid includes “Any measures including legislative measures, designed to divide the population along racial lines”
- Article 2(f) determines that the crime of apartheid includes “Persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.”

- III. **The Rome Statute of the International Criminal Court:** These policies, *inter alia*, consist of the expansion and strengthening of the settlements and expropriation of land, in violation of international law norms defined as war crimes in Article 8(2) of the Rome Statute; de facto annexation practices, and the unification of the laws applied to the settlers with those applied inside Israel, in complete disregard of the laws of occupation, and which also constitutes a crime of aggression according to Article 8(2)(a) of the Rome Statute; and the crime of apartheid according to Article 7(1)(j) to the Rome Statute.
- IV. In addition, policies that advocate for the impunity of police and soldiers are contrary to international law, which imposes a positive obligation on States to act to prevent violations of the lives of those under its control, including the prosecution of those responsible for the violations and the provision of remedies for violations of international law.<sup>66</sup>

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<sup>66</sup> International Covenant on Civil and Political Rights, Art. 2§3; Rule 149, Customary IHL Database (A State is responsible for violations of IHL attributable to it, including those committed by its armed forces); Rule 150, Customary IHL Database (A State responsible for violations of IHL is required to make full reparation for the loss or injury caused); The Hague Convention IV, art. 3 (A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.); Additional Protocol (I) to the Geneva Conventions, art. 91 (A party to the conflict which violates the provisions of the Conventions or of this Protocol shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces.); UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 21 March 2006, A/RES/60/147.

**Ultimately, the guiding principles of the new government indicate clear criminal intent of the coalition members, headed by PM Benjamin Netanyahu, to commit crimes according to the Rome Statute, including crimes against humanity (namely, the crime of Apartheid) and war crimes.<sup>67</sup>**

**In light of the above, immediate and urgent action by the authorized international bodies is required, including the International Criminal Court and the International Court of Justice.<sup>68</sup> It is also imperative that the international community take action to reconstitute the United Nations Special Committee against Apartheid.<sup>69</sup>**

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<sup>67</sup> Article 7(1)(j) of the Rome Statute.

<sup>68</sup> On 30 December 2022, the United Nations General Assembly has passed a resolution requesting the International Court of Justice, to render an advisory opinion on the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement and annexation of the Palestinian territory, see draft resolution: <https://www.un.org/unispal/document/israeli-practices-affecting-human-rights-settlements-report-of-unga-special-political-and-decolonization-committee-fourth-to-ga-draft-resolutions-a-77-400/>

<sup>69</sup>In 1962, the UN General Assembly (UNGA) adopted resolution 1761 establishing the Special Committee against Apartheid, which remained active until 1994. The mandate empowered the Committee to “keep the racial policies of the Government of South Africa under review” and to “report either to the Assembly or to the Security Council or to both”. See UN General Assembly, *The policies of apartheid of the Government of the Republic of South Africa*, 6 November 1962, A/RES/1761, available at: <https://www.refworld.org/docid/3b00f1dc8.html>.