



45th Regular Session of the United Nations Human Rights Council

Item 3&5: Interactive dialogue with the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) - Interactive Dialogue

Oral Intervention¹

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For five decades, Israel has applied a practice of withholding bodies of deceased Palestinians, and imposed severe restrictions on their funerals and their families' mourning rituals, as part of its colonial and apartheid control over the Palestinian people as a whole.

This violates Israel's obligation under the Fourth Geneva Convention, to return mortal remains, the rights of deceased Palestinians to dignity and their loved ones to the respect of family life under the ICCPR, and the duty to repatriate mortal remains under the declaration on indigenous peoples rights. It also amounts to a cruel and inhumane treatment, and collective punishment. Since 2015, Israel began withholding Palestinian bodies as part of a collective punishment policy against alleged Palestinian attackers.

Regarding restrictions on funerals, the Israeli parliament, the Knesset, enacted, on 7 March 2018, an amendment to the Counterterrorism law, imposing severe restrictions on the funerals of deceased Palestinians and conditioning their release on the fulfillment of such restrictions.

Regarding the indefinite withholding of bodies, the Israeli cabinet adopted, on 2 September 2020, a new, broad policy ordering the withholding of the body of any Palestinian accused of carrying out or attempting to carry out an attack regardless of his/her political affiliation. The policy is based on British emergency regulation 133(3) of 1945. The Israeli High Court of Justice approves the use of this regulation for withholding bodies as bargaining chips in potential prisoner swap deals.

Punishing the dead by deeming their bodies disposable, ungrievable and unworthy of dignified treatment, is a form of cruel dehumanization and othering that targets the erasure and expropriation of their memory and the disciplining of their community. Moreover, the

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uncertainty and prolonged waiting leaves families without closure trapped in a permanent state of ambiguous loss.

Since 2015, Israel withheld in total the bodies of more than 250 Palestinians killed or extrajudicially executed by the Israeli occupying forces. The vast majority of Palestinian bodies withheld by Israel were released under severe restrictions including: conditioning the time and place of the funeral as well as the number of mourners and restricting the families' right to hold autopsies, disrupting the families' quests for truth and accountability. By the end of August 2020, Israel continues to withhold the bodies of 65 deceased Palestinians as bargaining chips, in addition to at least 253 bodies languishing in the cemeteries for enemy combatants, where they were buried without proper documentation.

We urge EMRIP to call on Israel to immediately return the withheld bodies of deceased Palestinians, to put an end to this policy, and lift all restrictions on Palestinian funerals and mourning rituals.

Palestinian families whose loved ones' bodies continue to be withheld, are missing, or have been forcibly disappeared by Israel deserve urgent international justice and accountability, particularly in light of the Israeli judiciary's endorsement of this policy.