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# Target Locked: The Unrelenting Israeli Smear Campaigns to Discredit Human Rights Groups in Israel, Palestine, and the Syrian Golan

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April 2021



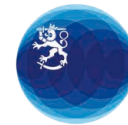
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Cover photo: A group of Israeli human rights defenders wave Palestinian flags and hold placards to condemn Israeli violence on Gaza, as the 26th Friday of «Great March of Return» demonstration continues near Israel-Gaza border, in Nahal Oz, Israel on September 21, 2018. © Mostafa Alkharouf / ANADOLU AGENCY / Anadolu Agency via AF

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## Executive Summary

Over the last decade, and at an accelerating pace over the last three years, human rights non-governmental organisations (NGOs) working, among others, on issues related to the occupation, settlement activity, accountability for international crimes and human rights violations, asylum seekers and refugees, political prisoners, or the rights of Palestinian minority within Israel, have been the primary target of a broad campaign of delegitimisation. This campaign has widely affected their ability to operate, including, for many Palestinian NGOs, their ability to access foreign funding.

The international context of shrinking civic space and heightened defiance towards human rights organisations and defenders has continued to be timely used by the Government of Israel against Palestinian, Israeli, Syrian and virtually all NGOs, at national and international levels, advocating for the rights of Palestinians and Syrians and seeking accountability for international crimes and human rights violations perpetrated in the Occupied Palestinian Territory (OPT) and Occupied Syrian Golan. The Government of Israel notably keeps abusing the legitimate fight against terrorism to drastically reduce civic space and silence critical voices. More recently, it has further used the coronavirus pandemic outbreak as another pretext to restrict fundamental freedoms in the name of public health. Israel's attitude against civil society also appears to be in a large part anchored in reaction to the perceived threat of the Boycott, Divestment, Sanctions (BDS) movement, of which some of the organisations targeted are supportive. The tense political situation in the OPT between the Palestinian Authority and the Hamas leadership in Gaza is putting even more pressure on NGOs and human rights defenders who dare criticise the Palestinian authorities' lack of respect for fundamental freedoms.

The strategy put in place by the Israeli Government is threefold: one, delegitimising civil society critical voices through "naming and shaming" and associating them with terrorists or anti-Semites; two, pressuring anyone giving a platform for their discourse; three, lobbying actively to cut their sources of funding.

Resorting to smear campaigns, intimidation and harassment measures, new restrictive pieces of legislation, administrative burden or judicial harassment and putting increased pressure on international donors who support those organisations have proven to be very effective to destabilise NGOs. These trends have reached alarming proportions, and significantly undermine the ability of human rights defenders and NGOs to carry out their legitimate and crucial work.

### Crafted measures against human rights NGOs

Within the Israeli administration, the Ministry for Strategic Affairs and Public Diplomacy (MSA) has been tasked since 2015 to "act against the delegitimisation and boycott campaigns against the State of Israel". Fiercely laying out the Israeli strategy, the MSA has publicly associated Palestinian human rights defenders as "anti-Semitic operatives with deep ties to terrorist groups fixated on destroying the State of Israel". Acting alongside are infamous government-controlled NGOs (GONGOs), whose main objective is to relay the propaganda of the Israeli Government against civil society actors, including at the international level. Both the MSA and government-affiliated groups are conflating legitimate criticism of gross Israeli human rights violations with anti-Semitism and are employing vague and unsubstantiated claims of terrorist affiliations against Palestinian civil society organisations (CSOs), in order to deprive the latter of funding essential to their sustainability. These campaigns are coupled with intimidation and harassment of human rights defenders: travel bans, arbitrary detentions and arrests, judicial harassment, deportation, physical and cyber-attacks, death threats. Through libel, defamation and publicly shaming human rights defenders, the Government

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and the organisations it controls attempt to delegitimise human rights activities in Israel and Palestine and put the lives of human rights defenders at risk, with the only objective of silencing critical voices and putting a stop to their activities.

### **Shrinking space: Development of the legislative and administrative arsenal**

These campaigns and attacks against CSOs and human rights defenders have been reinforced by a series of restrictive legislative and administrative attempts and measures adopted to impede these organisations' operations and access to Israel and the OPT. From 2010 onward, an unprecedented number of bills have been tabled at the Knesset to limit NGO civic space. This sustained legislative effort to further limit freedoms of association and of expression in Israel and also restrict monitoring activities and international scrutiny over the political situation and human rights violations in the occupied West Bank, including East Jerusalem and Occupied Syrian Golan, aim at strengthening domestic support to the Israeli nationalist right wing on the one hand, and deterring international solidarity with pro-peace and human rights organisations in Israel, OPT and Occupied Syrian Golan on the other hand. Among the restrictive pieces of legislation, an anti-BDS Law (2011) looms over civil society making it a civil offense to call for a boycott against Israel. The Israeli Government furthermore denies entry to anyone deemed to be associated with the BDS movement and deports those already in the country.

### **Access to funding: an alarming and widespread restriction**

Declining amounts of funding from international donors over the past decade have placed Palestinian NGOs, and beyond them their beneficiaries, in an even more precarious situation than before. Additionally, there is a broad consensus that the coronavirus crisis may contribute to a further reduction in funding since donors could be more likely to finance humanitarian assistance within that context.

Efforts by the Israeli Government have focused on domestically implementing legislation hindering NGOs access to local and foreign funding. In parallel, the Israeli Government along with its pro-governmental and anti-human rights groups have been conducting an offensive campaign by which, outside of Israel, they put pressure on funders to stop supporting Palestinian human rights NGOs based on accusations of their alleged support to terrorism. Within the Israeli society, it portrays those receiving funding from these same donors as "traitors", "enemies of Israel" and "foreign agents" acting against the interests of Israel.

The success of this campaign to de-fund NGOs lies not as much in the rare disavowal of donors than in the extra burden placed on human rights defenders and their organisations, who have to constantly defend themselves from allegations, and respond to donor verifications, jump through administrative hoops, and answer increasingly prescriptive calls for proposals, or having donors being more intrusive into NGOs' priorities and how the projects are being implemented. In this way, Israeli Government affiliated groups have positioned themselves as oversight mechanisms for all funding to the OPT and Israel and have succeeded in shifting the discourse at the expense of human rights work.

A more general shift of donor approach towards more stringent reporting procedures is exacerbating this problem for human rights NGOs in the OPT: funders are indeed increasingly moving away from more stable, long-term core funding to project funding; and at the same time becoming much more risk-averse and sensitive to anything that could raise the political sensitivity of projects and NGOs they fund. In such a context, NGOs are therefore requested to provide more detailed budgets and financial reports, and to undergo additional audits on top of their annual organisational audits. This impacts heavily human rights NGOs in the OPT, which tend to rely more on foreign aid and overseas development aid than their Israeli counterparts.

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Civil society and partners have started to deconstruct and push back against the pro-governmental organisations' slandering narratives and other discourses contributing to the closing civic space, but more remains to be done. Despite unprecedented, coordinated efforts within the Israeli, Palestinian and Syrian civil society, new trends affecting negatively human rights defenders and their organisations continue to emerge. Governments of Israel and the OPT, third countries, donors, institutions, and the international community at large all have their share of responsibilities. In the face of all this, civil society organisations have no choice but to continue carrying out their essential and vital work in the region, while finding new ways to be resilient and regain civic space.

### Who are human rights defenders?

The term "human rights defender" refers to any individual or group who, individually, or in association with others, acts peacefully in the name of individuals or groups, to promote, defend, and protect the human rights and fundamental freedoms recognized by the Universal Declaration of Human Rights, and guaranteed by various international human rights instruments. As a result of their active commitment in the defence and promotion of human rights, defenders are often subject to acts of reprisals, harassment, and violations of their rights by both State and non-State actors.<sup>1</sup>

The **United Nations Declaration on Human Rights Defenders, adopted by the General Assembly on December 9, 1998**, outlines the right of individuals "to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels,"<sup>2</sup> and the responsibility and duty of States to "protect, promote and implement all human rights and fundamental freedoms."<sup>3</sup> While not in itself a legally binding instrument, the Declaration sets out a series of rights and principles founded on human rights norms enshrined in other international instruments, which are themselves legally binding, such as the International Covenant on Civil and Political Rights. It also sets out a certain number of specific obligations owed by States as well as individuals in regard to promoting and protecting human rights.

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1 What are NGOs? A non-governmental organisation (NGO) is a non-profit group that operates independently of any government, usually to deliver resources or serve some social or political purpose.

The World Bank classifies NGOs as either operational NGOs, which are primarily concerned with development projects, or as advocacy NGOs, which are primarily concerned with promoting a cause and influencing public policy.

What are government-operated NGOs (GONGOs)? A government-operated NGO (or GONGO) is an organisation created by a government to resemble an NGO and to further some agenda. Foreign Policy describes a GONGO as a government-backed NGO set up to advocate on behalf of a repressive regime in the international arena. (*Foreign Policy*, "[What Is a GONGO?](#)", October 13, 2009.)

2 UN General Assembly, 53rd session, 53/144. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, March 8, 1999, UN Doc. A/RES/53/144, Article 1.

3 *Ibid*, Article 2(1).

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## Methodology

Alarmed by the increasingly deteriorating situation of human rights defenders and of organisations involved in the protection and promotion of the Palestinian and Syrian peoples' rights in Israel, the Occupied Palestinian Territory (OPT), and the occupied Syrian Golan Heights, the Observatory for the Protection of Human Rights Defenders (the Observatory) - a partnership of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT) - launched an investigation into the specific challenges and threats facing human rights organisations, including restrictions on accessing foreign funding, which is recognised as an inherent component of the freedom of association. The Observatory first conducted a field mission from April 9 to 21, 2018, during which delegates from the Observatory and from the FIDH MENA desk met with human rights organisations and legal groups based in Israel, in the occupied West Bank, including East Jerusalem, and in the occupied Golan, as well as with representatives of diplomatic missions, the EU Delegation, and United Nations agencies (see Annex 1).

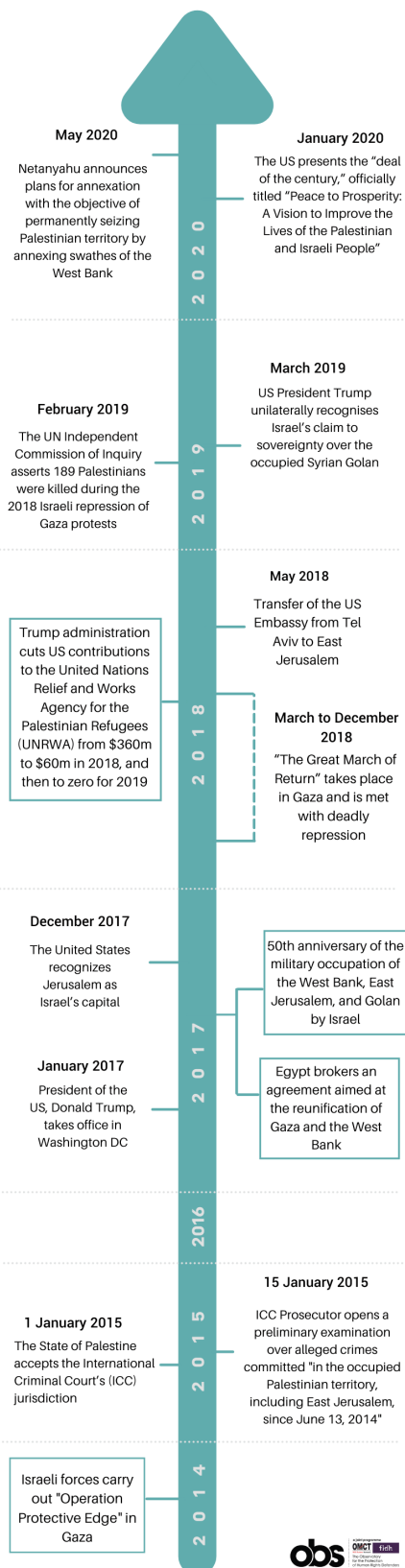
The findings of the mission were subsequently compiled with the aid of extensive research; through constant updates on the attacks on and responses from civil society that occurred between 2018 and December 2020; by consulting the Observatory's members, partners, and donors, as well as international institutions; and by consulting other publicly available sources.

Due to the great difficulty in accessing Gaza, which has been under total blockade since 2007, the 2018 mission focused on the situation of the civil society organisations (CSOs) in the occupied West Bank, including East Jerusalem, and in the occupied Syrian Golan (hereinafter Golan). Therefore, this report does not specifically address the situation in the Gaza Strip, although similar restrictions on foreign funding and attacks of the kinds described in this report have been reportedly affecting CSOs operating in that territory, in various ways.



# I. Political and Legal Context

## A. Political Context: Severe Downturn for the Rights of the Palestinians and Syrians Under Israeli Occupation





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**US Government political influence on the Israel-Palestine question has accelerated annexation plans**

2017 marked the 50<sup>th</sup> anniversary of the military occupation of the West Bank, East Jerusalem, and Golan by Israel. That same year, the newly-elected President of the United States (US), Donald Trump, took office in Washington DC, and, in a series of dramatic moves, immediately showed his support for the Israeli Prime Minister's intention to tighten his grip on the occupied West Bank, including illegally-annexed East Jerusalem,<sup>4</sup> thus going far beyond previous American policies towards Palestinians. This shift quickly materialised in December 2017, when the United States recognized Jerusalem as Israel's capital, running counter to decades of established US policy and peremptory rules of international law. The move was followed six months later by the transfer of the US Embassy from Tel Aviv to East Jerusalem, while Trump's son-in-law and adviser, Jared Kushner, was tasked with putting together a new Middle East Peace Plan.



Benjamin and Sara Netanyahu with Donald and Melania Trump in the Ben Gurion airport (Credit: State of Israel) [https://commons.wikimedia.org/wiki/File:Trump\\_visits\\_Israel\\_\(34433944710\).jpg](https://commons.wikimedia.org/wiki/File:Trump_visits_Israel_(34433944710).jpg)

Meanwhile, President Trump decided to put more pressure on the Palestinian Authority (PA) ahead of negotiations, by threatening to “stop the massive amounts” that the US was giving to the Palestinians, and by immediately cutting its contributions to the United Nations (UN) Relief and Works Agency for the Palestinian Refugees (UNRWA) from \$360m to \$60m in 2018, and then to zero for 2019.

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<sup>4</sup> Following the occupation of the West Bank in 1967, Israel unilaterally annexed East Jerusalem to its territory, in contravention of international law.

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In 2019, then-US President Trump unilaterally recognised Israel's claim to sovereignty over the occupied Syrian Golan, just as Prime Minister Netanyahu was campaigning for re-election on a pledge to annex Jewish settlements in the West Bank. Furthermore, as Israel continued to expand illegal settlements and related infrastructure in the occupied West Bank, including East Jerusalem, by legalising outposts built without the Israeli State's authorisation, including on private Palestinian land, the US administration announced that it would not consider Israeli settlements in the West Bank to be illegal under international law.

The US actions have served to embolden Israel, as it continues on its path of settling Palestinian and Syrian land and targeting the rights of the Palestinian and Syrian people, in direct contravention of international law and UN Security Council Resolutions, including Resolution 2334 (2016).<sup>5</sup> The US so-called "deal of the century," officially titled "Peace to Prosperity: A Vision to Improve the Lives of the Palestinian and Israeli People," was finally unveiled in January 2020 by President Trump and Israeli Prime Minister Netanyahu, but was immediately rejected by both the West Bank settlers' Yesha Council and the Palestinian leadership.

In May 2020, shortly after he was sworn in as the new leader of a unity government (in which he was to rotate the leadership with his former rival, Benny Gantz), Benjamin Netanyahu pushed to bring plans for annexation to the cabinet for discussion as soon as July 1, 2020, announcing that the time was ripe for his country to permanently seize Palestinian territory by annexing swathes of the West Bank. However, "much uncertainty remains around when, how - or even if - he will push forward with annexation and what effect it could have."<sup>6</sup> It is also uncertain whether subsequent claims to have frozen annexation - characterized as only a "temporary postponement" by Benjamin Netanyahu in August 2020<sup>7</sup> - were made falsely, in a move by the US administration towards normalizing relations between Israel and some Arab countries, namely Bahrain, Sudan, the United Arab Emirates, and most recently Morocco.<sup>8</sup> In the meantime, annexation plans have also been suspended due to the political crisis in Israel, where the collapse of the unity government triggered the dissolution of the Knesset (Israel's Parliament) on December 22, 2020, and led to new elections in March 2021.

### **Systematic diplomatic failures to account for serious violations of the rights of the Palestinians and Syrians under Israeli occupation**

Meanwhile, as described by the UN Commission of Inquiry on the 2018 protests in the Occupied Palestinian Territory,<sup>9</sup> Gaza, with a population density that is one of the highest in the world, has become unliveable, due to "movement restrictions imposed by Israel since the early 1990s, increasing in the 2000s and maintained after Israel withdrew its settlements from Gaza in 2005." After Hamas won the Palestinian legislative elections in 2006, Israel declared Gaza "hostile territory" in June 2007, and imposed an air, land, and sea blockade in a campaign of "economic warfare." From March until December 2018, after over a decade of a suffocating blockade, weekly unarmed protests at the fence between Israel and Gaza called "The Great March of Return" took place, to champion the right of return of Palestinian refugees and draw attention to the dire humanitarian situation in Gaza. In February 2019, the

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5 UNSC Resolution 2334 (2016), reaffirms that "settlements (are) a flagrant violation under international law," and demands that Israel "immediately and completely cease all settlement activities," available at: <http://unscr.com/en/resolutions/doc/2334>.

6 *The Guardian* (June 9, 2020), available at: <https://www.theguardian.com/world/2020/jun/09/what-would-israel-annexing-the-west-bank-mean>.

7 Seán Federico-O'Murchú, "Read the full statement by the US, Israel and UAE on normalizing Israel-UAE relations," *CNN* (August 13, 2020), available at: <https://edition.cnn.com/2020/08/13/middleeast/mideast-trump-full-statement-uae-israel-intl/index.html>.

8 Lara Jakes, Isabel Kershner, Aida Alami, and David M. Halbfinger, "Morocco Joins List of Arab Nations to Begin Normalizing Relations with Israel," *The New York Times* (December 20, 2020), available at: <https://www.nytimes.com/2020/12/10/world/middleeast/israel-morocco-trump.html>.

9 UN report A/HRC/40/74, available at: <https://www.ohchr.org/EN/HRBodies/HRC/CoIOPT/Pages/OPT.aspx>.

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UN Independent Commission of Inquiry unveiled its report<sup>10</sup>: in the period from the start of the protests until December 31, 2018, 189 Palestinians were killed, "183 of these protesters with live ammunition. Thirty-five of these fatalities were children, while three were clearly marked paramedics, and two were clearly marked journalists." The Commission found that 6,106 Palestinians were injured with live ammunition and another 3,098 Palestinians were injured by bullet fragmentation, rubber-coated metal bullets, or direct hits from tear gas canisters.<sup>11</sup> The lethal and other excessive force used by Israeli forces during the demonstrations have remained largely unpunished to this day. In the two and a half years since the start of the Great March of Return protests, only one prosecution has been pursued by the Israeli authorities, and no investigation has been opened concerning the injury of protesters by Israeli forces. The only case prosecuted concerned the unlawful killing of a 14-year-old child protester, Othman Al Hillis, by an Israeli soldier, who was indicted on the charge of "disobeying an order leading to a threat to life or health," a disciplinary offense instead of a criminal charge. The derisory results of the prosecution - combined with the data showing that no other serious accountability measures have been pursued - indicate once again that the system remains unwilling or unable to deliver meaningful justice for Palestinian victims.

To add to the sensitive issue of criminal accountability, in December 2019 the Prosecutor of the International Criminal Court (ICC) announced that its preliminary examination into the "Situation in Palestine" - which started in 2015 following a submission by the State of Palestine accepting the Court's jurisdiction - had concluded that an investigation is warranted, because there is a reasonable basis to believe that war crimes and crimes against humanity were committed in the OPT. However, the Prosecutor, mindful of the controversy still surrounding the effective territory of the State of Palestine, requested that the Pre-Trial Chamber confirm the extent of the territory over which the Court can exercise jurisdiction. The Prosecutor's position is that the Palestinian territories comprise the West Bank, including East Jerusalem, and Gaza, but for the sake of certainty, she asked for a confirmation regarding on what territory the Prosecutor can investigate alleged crimes.

UPDATE: On February 5, 2021, the Pre-Trial Chamber I of the International Criminal Court (ICC) decided by majority that the Court's jurisdiction over Palestine extends to Gaza and the West Bank, including East Jerusalem, and that therefore, the Prosecutor is allowed to investigate international crimes committed on these territories.<sup>12</sup>

In 2017, Egypt, with the support of the United Nations, brokered an agreement to further advance intra-Palestinian reconciliation, aimed at the reunification of Gaza and the West Bank under a single, democratic, and legitimate national government. However, according to UNSCO, "as long as Gaza remains under the control of Hamas, intra-Palestinian divisions deepen, coupled with the persistence of Israel's closure regime and the absence of long-term political solutions, the situation in Gaza will remain very fragile."<sup>13</sup> Four years on, the situation continues to deteriorate, and the looming *de jure* annexation of parts of the West Bank has further marginalised the situation in the Gaza Strip, while the *de facto* annexation - legally asserting Israeli sovereignty and establishing permanency - of the West Bank has already occurred.<sup>14</sup> In his briefing of the UN Security Council in May 2020, the UN

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10 UN Independent Commission of Inquiry, available at: <https://www.un.org/unispal/document/un-independent-commission-of-inquiry-on-protests-in-gaza-presents-its-findings-press-release/>

11 The Commission also found that during the same timeframe, four Israeli soldiers were injured and one was killed, outside of the protest area.

12 FIDH, "Welcomed ICC landmark decision recognising its territorial jurisdiction over Palestine including Gaza and the West Bank," (February 9, 2021), available at: <https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/welcomed-icc-landmark-decision-recognising-its-territorial>.

13 UNSCO September 2019 report, available at: [https://unsco.unmissions.org/sites/default/files/unsco\\_ahlc\\_report\\_september\\_2019.pdf](https://unsco.unmissions.org/sites/default/files/unsco_ahlc_report_september_2019.pdf).

14 East Jerusalem was *de facto* annexed in 1967. In 1980, when the Israeli Knesset passed the Basic Law: Jerusalem, Capital of Israel, which declared that "Jerusalem, complete and united, is the capital of Israel," the *de jure* annexation was formalised.

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Special Coordinator for the Middle East Peace Process recalled that "the continuing threat of annexation by Israel of parts of the West Bank would constitute a most serious violation of international law, deal a devastating blow to the two-State solution, close the door to a renewal of negotiations, and threaten efforts to advance regional peace and our broader efforts to maintain international peace and security ..." before adding, "... it is a desperate cry for help. It is a call for immediate action ... Therefore, I ask you today, to join the Secretary-General in his call against unilateral steps that will hinder current diplomatic efforts to create the conditions for bringing Israelis and Palestinians back to the table."<sup>15</sup> Yet after over 50 years of failing to respect and uphold the basic rights of the Palestinian and Syrian people, third-party States, pleading the demands of burning conflicts in neighbouring countries, have once again failed to ensure the right to self-determination for Palestinians and Syrians, or accountability for serious violations of human rights.

### **Israel's strategy to fight off its human rights violations record**

In recent years, the gradual erosion of democracy in Israel has in turn led to the deterioration of the situation of human rights defenders and organisations operating in the country and in the OPT.

The Israeli Government has notably resorted to various laws that have undermined the fundamental freedoms of expression and association and the rights of minorities, and weakened the mandate of the Supreme Court, among other institutions, with the aim of silencing critical voices. This has resulted in legislative initiatives advanced in the Knesset such as the repressive NGO Bill and the Suspension Bill, which targets public officials representing the Arab minority. (See Chapter II. C below.)

These initiatives are taking place in a context of hostility, incitement, and political persecution against human rights organisations. Members of the NGO Breaking the Silence, for example, have been labelled as "traitors and foreign agents" by senior politicians, and the organisation has been threatened with administrative closure.<sup>16</sup> Right-wing organisations have also infiltrated organisations with "moles," with the aim of defaming them. In parallel, the imprisonment of young Israeli Arabs for comments posted on social media outlets - in blatant violation of the freedom of expression - and the use of administrative detention against Palestinians and Israelis alike have demonstrated a pattern of selective law enforcement.

In a letter addressed to Reuven Rivlin, the President of the State of Israel, in June 2016, several heads of Israeli NGOs, many of whom have been interviewed for this report, denounced the deterioration of democratic standards in Israel: "This reality, in which it is legitimate to label and slander individuals and groups - including the Israeli President, the IDF Chief of Staff, the Defence Minister, MKs, artists, academics, intellectuals, and others, as dissidents against the State - solely for their moral, social, and political positions, is unacceptable and must be stopped."<sup>17</sup> The objective behind these initiatives is obvious: the Israeli Government desires to limit the impact of organisations that have dissenting views, both in Israel and abroad.

According to Israeli civil society, by targeting organisations who defend human rights in the OPT, oppose the occupation, and work to ensure the rights of asylum seekers, Israel pays a double price for these persecutions: its democratic nature is considerably damaged, and the country is scorned.

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<sup>15</sup> <https://unsco.unmissions.org/security-council-briefing-situation-middle-east-including-palestinian-question-delivered-sc-1>.

<sup>16</sup> "Breaking the Silence is an organization of veteran soldiers who have served in the Israeli military since the start of the Second Intifada and have taken it upon themselves to expose the Israeli public to the reality of everyday life in the Occupied Territories." See: <https://www.breakingthesilence.org.il/about/organization>.

<sup>17</sup> "Shrinking space for civil society in Israel: Joint Open Letter to Federica Mogherini," (June 23, 2016), available at: <https://www.fidh.org/en/issues/human-rights-defenders/shrinking-space-for-civil-society-in-israel-open-letter-to-federica#>.



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Still pertinent four years later, this Government repression seems to have become entrenched, partly in reaction to a perceived global threat that has exacerbated tensions between the Government and its critics: specifically, the emergence, around 2005, of the Boycott, Divestment, and Sanctions (BDS) movement, in response to the continuing efforts of Israel to expand its reach over Palestinian territory, and the concomitant shrinking of Palestinians' rights. In the absence of any effective international diplomatic pressure, and of Israel's failure to respect international agreements and international law, civil society organisations called on consumers and celebrities to refrain from supporting Israel's economic expansion. The movement describes itself as working "to end international support for Israel's oppression of Palestinians and pressure Israel to comply with international law."<sup>18</sup> Israeli efforts have increasingly focused on addressing this particular threat, through various measures that will be discussed later in this report. (See Chapter II. C for more information.)

As a consequence, and with the rise of the nationalist far-right wing in Israel, Israeli NGOs are often seen as being part of a subversive movement, and accordingly have lost support from the Israeli public.

In this regard, the German Institute for International and Security Affairs<sup>19</sup> identified three strategies used by the Israeli Government to promote its agenda: firstly, it uses naming and shaming tactics to delegitimize human rights NGOs, notably through media campaigns identifying the latter with terrorist organisations; secondly, it silences human rights organisations by shaming educational, cultural, and media institutions that allow those organisations to address their audiences; and thirdly, it imperils human rights organisations' funding through lobbying activities in donor countries that discourage foreign Governments from giving funds to NGOs.

Attacks of this nature, moreover, are not limited to human rights organisations. Civil society organisations have denounced campaigns against Israeli institutions that nurture and facilitate critical discourse (including schools, galleries, colleges, festivals, and theatres), as well as attacks on entities that promote Palestinian culture. In July 2020, Israeli forces raided the Yabous Cultural Centre and Edward Said National Conservatory of Music (ESNCM) in the centre of occupied East Jerusalem, alleging a connection to funding terrorism.<sup>20</sup> The directors, Rania Elias and Suhail Khouri, were detained and interrogated for 12 hours on unsubstantiated charges of financing terrorist organizations.<sup>21</sup> In parallel, a campaign by the International Holocaust Remembrance Association (IHRA) has led several countries, including the US and France, to adopt a controversial definition of anti-Semitism that has been criticised by Palestinian rights organisations as politicised and inaccurate, as it allows for an interpretation that equates criticism of policies of the State of Israel to anti-Semitism. In a last effort before leaving office, the Trump administration announced in November 2020, when Mike Pompeo made the first-ever visit of a Secretary of State to the illegal settlements, including the Golan Heights, that the US State Department would designate as "anti-Semitic" organisations that engage in peaceful means to end human rights violations against Palestinians, including boycotts, and would deem such organisations ineligible for Government funding.<sup>22</sup> In fact, the kind of protest that these policies target is in line with the rights to freedom of expression and association, as the European Union has already

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18 "What is BDS?", available at: <https://bdsmovement.net>. A majority of Palestinian civil society organisations signed the BDS call issued in 2005, including many that do not actively promote BDS.

19 Amal Jamal, "The Rise of 'Bad Civil Society' in Israel. Nationalist Civil Society Organizations and the Politics of Delegitimization," *Schiftung Wissenschaft und Politik* (January 2018), available at: <https://www.swp-berlin.org/en/publication/israel-the-rise-of-bad-civil-society>.

20 "Israeli forces storm two Palestinian cultural centres in East Jerusalem," *Middle East Eye* (July 22, 2020), available at: <https://www.middleeasteye.net/news/israel-palestine-yabous-edward-said-centre-east-jerusalem-stormed>.

21 Palestinian Center for Human Rights, "IOF Raid Yabous Cultural Centre and Edward Said National Conservatory of Music in Occupied East Jerusalem," *International Middle East Media Center* (July 24, 2020), available at: <https://imemc.org/article/pchr-iof-raid-yabous-cultural-centre-and-edward-said-national-conservatory-of-music-in-occupied-east-jerusalem>.

22 US Department of State, "Secretary Michael R. Pompeo and Israeli Prime Minister Benjamin Netanyahu. Remarks to the Press" (November 19, 2020), available at: <https://2017-2021.state.gov/secretary-michael-r-pompeo-and-israeli-prime-minister-benjamin-netanyahu/index.html>.

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recognised. Indeed, the European Court of Human Rights (ECtHR) recently ruled<sup>23</sup> that calls for boycotts fall within the right to freedom of expression, and clearly distinguished actions and statements concerning subjects of general interest - e.g., respect for international law by the State of Israel, and the human rights situation in the OPT - that fall within the scope of political speech, from incitement to hatred, violence, and intolerance.

It is against this background that NGOs, including international NGOs, that continue to defend Palestinians' and Syrians' fundamental rights, in both the Occupied Territories and Israel, face growing pressure and continued attacks, through restrictive legislation and governmental policies, limitations on freedom of movement, smear campaigns, intimidation, and raids aimed at delegitimising human rights work, and arbitrary arrests.

## **B. Legal Context: International Legal Framework**

The particular status of the territories studied, and the uncertainties concerning the evolution of international law, require an analysis of the applicability of international law to this situation before any description of the relevant international rules relating to freedom of expression, freedom of association, and NGOs' access to funding.

### **Applicable international law in the Occupied Palestinian Territory and occupied Syrian Golan**

The occupied Syrian Golan and the OPT, comprising the West Bank, including East Jerusalem, and the Gaza Strip, have been under Israeli military occupation since 1967. The *de jure* applicability of the Fourth Geneva Convention to the OPT has been confirmed by the High Contracting Parties to the Convention, and repeatedly affirmed through resolutions of the United Nations Security Council and General Assembly and by the International Committee of the Red Cross. This Convention is dedicated to the Protection of Civilian Persons in Time of War and applies to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance (Article 2).

A situation of armed conflict or occupation, moreover, does not release a State from its conventional human rights obligations. The International Court of Justice, UN human rights treaty bodies, successive High Commissioners for Human Rights and Special Procedures of the Commission on Human Rights and its successor, the Human Rights Council, have consistently maintained that international human rights law and international humanitarian law apply concurrently in all of the OPT and the occupied Syrian Golan. Notably, in its Advisory Opinion on the Wall, the International Court of Justice pointed out that Israel remains bound by its obligations under several international human rights treaties.<sup>24</sup> Israel, as a State party to many of the core international human rights conventions, continues to bear responsibility for implementing its human rights obligations in the OPT. Before being granted the status of non-member observer State by the UN General Assembly in 2012,<sup>25</sup> the PA, the Palestine Liberation Organization (PLO), and the Palestinian Legislative Council (PLC) had made numerous statements and undertakings by which they had declared themselves bound by international human rights obligations. In April 2014, in a move to exercise its legal rights as a State, the OPT finally acceded to 19 international conventions and treaties, and stated

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<sup>23</sup> European Court of Human Rights Press Release, re *Baldassi and Others v. France*, "Criminal conviction of activists involved in the BDS campaign boycotting products imported from Israel had no relevant and sufficient grounds and violated their freedom of expression" (June 11, 2020), available at: [https://hudoc.echr.coe.int/eng-pr ess#%22itemid%22:\[%22003-6718555-8953654%22\]](https://hudoc.echr.coe.int/eng-pr ess#%22itemid%22:[%22003-6718555-8953654%22]).

<sup>24</sup> *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion on the Wall) issued by the International Court of Justice on July 9, 2004, paras. 102-113, wherein the Court concluded that the protection offered by human rights conventions do not cease in cases of armed conflict, and that ICCPR, ICESCR, and CRC are applicable in respect of individuals within the jurisdiction of a State, even concerning those individuals under its jurisdiction outside its own territory.

<sup>25</sup> UNGA resolution 67/19.

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that the ratification of core human rights treaties was an important step toward protecting and promoting the rights of the residents of the West Bank and Gaza.

### **International legal provisions guaranteeing the freedom of association and NGOs' access to funding**

The right to freedom of association is a fundamental and universal right enshrined in numerous international treaties and standards, especially Article 22 of the International Covenant on Civil and Political Rights (ICCPR). It plays a vital role in the exercise of many other rights, such as civil, cultural, economic, political, and social rights. In its Communication No. 1274/2004, the UN Human Rights Committee (CCPR) observed: "The right to freedom of association relates not only to the right to form an association, but also guarantees the right of such an association freely to carry out its statutory activities. The protection afforded by article 22 extends to all activities of an association [...]," which means that fundraising activities are also protected by Article 22.

The ability to seek, secure, and use resources is essential to the existence and effective operation of any association, no matter how small.<sup>26</sup> Associations need resources to survive and to function; without the ability to access them, the right to freedom of association can be rendered meaningless. Moreover, access to resources is important not only to the existence of the association itself, but also to the enjoyment of other human rights by those benefiting from the work of the association. Undue restrictions on resources thus impact not only the right to freedom of association, but other human rights as well.<sup>27</sup>

Without funding, NGOs cannot effectively engage in the defence and promotion of human rights, which is why access to funds and resources is seen as essential for NGOs, and thus as an integral component of the right to freedom of association by UN Special Procedures and international experts.<sup>28</sup>

See UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association report A/HRC/38/34 (2018) on Trends with regard to the exercise of the rights to freedom of peaceful assembly and of association:

*34. The restriction of access to funding, particularly foreign funding, is of particular concern. Despite the fact that States have recognized on multiple occasions that resources are necessary for the existence and sustainable operation of associations, there is a clear tendency to discriminate against and stigmatize organizations that receive foreign funding. Beyond suspension and dissolution measures for failure to comply with the established requirements, organizations are open to criminal prosecution. The common argument used by Governments to justify restrictions on foreign funding is that it is necessary in order to protect State sovereignty from outside interference. This argument deliberately stigmatizes associations that use foreign funding, by equating their objectives with those of foreign agents. It deliberately fails to recognize the legitimate work carried out by associations and their contribution to national development, merely because they are funded by foreign sources.*

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<sup>26</sup> Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai. A/HRC/23/39, para 8. (April 24, 2013), available at: <https://undocs.org/A/HRC/23/39>.

<sup>27</sup> *Ibid*, para 9; "Factsheet: Civil society's ability to access resources. Special Rapporteur Maina Kiai's report to the Human Rights Council (A/HRC/23/39)" (June 2013), available at: <http://freeassembly.net/wp-content/uploads/2015/05/Funding-report-factsheet-final.pdf>.

<sup>28</sup> Maina Kiai, "Foreword," in the Observatory report, "Violations of the right of NGOs to funding: from harassment to criminalization," (2013), available at: [https://www.omct.org/files/2013/02/22162/obs\\_annual\\_report\\_2013\\_uk\\_web.pdf](https://www.omct.org/files/2013/02/22162/obs_annual_report_2013_uk_web.pdf).



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The UN Declaration on Human Rights Defenders explicitly grants human rights defenders the right to access funding. Article 13 of this Declaration states: "Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration."

It should be noted that while the UN Declaration on Human Rights Defenders protects the right to solicit, receive, and utilise funds, it does not place restrictions on the sources of the funding (public/private, local/foreign). Therefore, it implicitly includes in its scope the right of NGOs to access funds from foreign donors. This large scope was confirmed by the UN Special Rapporteur on the Situation of Human Rights Defenders, who emphasised that the Declaration protects the right to "receive funding from different sources, including foreign ones."<sup>29</sup>

The Special Rapporteur also considered that "Governments should allow access by human rights defenders, in particular non-governmental organizations, to foreign funding as a part of international cooperation, to which civil society is entitled to the same extent as Governments."<sup>30</sup> In addition, he stressed that access to funding "is an inherent element of the right to freedom of association," and that "in order for human rights organizations to be able to carry out their activities, it is indispensable that they are able to discharge their functions without any impediments, including funding restrictions."

The Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association took up these recommendations in his 2012 report to the Human Rights Council, and added that "[a]ny associations, both registered or unregistered, should have the right to seek and secure funding and resources from domestic, foreign, and international entities, including individuals, businesses, civil society organizations, Governments and international organizations."<sup>31</sup> States should therefore promote and guarantee the right of NGOs to access funding - including foreign funding - as an integral part of their obligation to respect and promote the right to freedom of association.<sup>32</sup>

### **International legal provisions guaranteeing the freedom of opinion and expression**

The rights to freedom of opinion and expression are, according to the Human Rights Committee, "indispensable conditions for the full development of the person. They constitute the foundation stone for every free and democratic society."<sup>33</sup> These fundamental rights are established under Article 19 of the International Covenant on Civil and Political Rights (ICCPR), under the same broad terms as Article 19 of the Universal Declaration of Human Rights.

In addition to Article 19 of the ICCPR and the UDHR, the right to freedom of expression is protected under: Articles 12 and 13 of Convention on the Rights of the Child (CRC)<sup>34</sup>; Article 13 of the Convention on Migrant Workers (CMW)<sup>35</sup>; Article 15§3 of the Convention

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29 See UN General Assembly, Report of the Special Rapporteur on the situation of human rights defenders, UN Document A/66/203 (July 28, 2011), para. 70.

30 *Ibid.*

31 See UN Human Rights Council, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, UN Document A/HRC/20/27 (May 21, 2012), paras. 67-72.

32 For more information see the Observatory report, "Violations of the right of NGOs to funding: from harassment to criminalization," (2013), available at: [https://www.omct.org/files/2013/02/22162/obs\\_annual\\_report\\_2013\\_uk\\_web.pdf](https://www.omct.org/files/2013/02/22162/obs_annual_report_2013_uk_web.pdf).

33 Human Rights Council of UN, General Comment No. 34 on article 19 of ICCPR, Geneva (September 11, 2011), available at: <https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>.

34 United Nations Office of the High Commissioner for Human Rights - Convention on the Rights of the Child, available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

35 United Nations Office of the High Commissioner for Human Rights - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>.

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on Economic, Social and Cultural Rights (CESCR)<sup>36</sup>; and Article 5 of the Convention on the Elimination of all forms of Racial Discrimination (CERD).<sup>37</sup>

The rights to freedom of opinion and expression are closely linked to other human rights, such as the rights to privacy, freedom of association, and assembly, among others.

As a consequence, "States should refrain from imposing restrictions on: discussion on government policies and national debate; reporting on human rights, government activities and corruption; engaging in election campaigns, peaceful demonstrations or political activities; and expression of opinion and dissent, including by persons belonging to minorities or vulnerable groups."<sup>38</sup>

Israel has signed and ratified most of the core international human rights treaties, with the notable exception of the Optional Protocol to the Convention Against Torture and the Convention for the Protection of All Persons from Enforced Disappearance. Consequently, Israel has the legal obligation to respect and guarantee the above-mentioned provisions in both Israel and the territory that it occupies.

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36 United Nations Office of the High Commissioner for Human Rights - International Covenant on Economic, Social and Cultural Rights, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

37 United Nations Office of the High Commissioner for Human Rights - International Convention on the Elimination of All Forms of Racial Discrimination, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>.

38 Human Rights Council of UN, Universal Periodic Review, A/HRC/12/16 (June 4, 2009), available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-16.pdf>.

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## II. Crafted Measures Against Human Rights NGOs in Israel, the OPT, and the Occupied Syrian Golan

Civil society organisations are key actors in the social and political fabric of Israel, the OPT, and the occupied Syrian Golan. There are more than 40,000 registered NGOs in Israel, and another 2,800 NGOs in the OPT,<sup>39</sup> ranging from small grassroots and community-based or religious groups to larger local organisations with UN consultative status, as well as international non-governmental organisations. Among these, only a few organisations monitor and investigate violations of human rights and international humanitarian law, support capacity-building and awareness-raising, or conduct advocacy and litigation activities. While very small in number, human rights groups play an invaluable role in documenting and publicising violations of human rights and humanitarian law perpetrated by the Israeli Government, the PA, Hamas, and international businesses in Israel and the OPT. These organisations give voice to Palestinian, Syrian, and Israeli citizens and victims, who are increasingly concerned about Israel's expansionist settlement enterprise, the looming *de jure* annexation of parts of the West Bank, including the Jordan Valley, and, consequently, about the prospects (or lack thereof) for peace and democracy in the region.

Over the last decade, and at an accelerating pace over the last three years (2017-2020), human rights NGOs and associations working on issues related, among others, to the occupation, political prisoners, settlement activity, accountability for international crimes and human rights violations, asylum seekers and refugees, or the rights of the Palestinian minority within Israel, have been the primary targets of a broad campaign of delegitimization which widely affected their ability to operate, including, for many Palestinian NGOs, their ability to access foreign funding. Some, but not all, of these organisations are also supportive of the Palestinian-led BDS movement.<sup>40</sup> The international context of shrinking civic space and heightened defiance towards human rights organisations and defenders has continued to be used by the Government of Israel against Palestinian, Israeli, Syrian, and international NGOs advocating for the rights of Palestinians and Syrians, and seeking accountability for violations perpetrated in the OPT and occupied Syrian Golan. Resorting to smear campaigns, intimidation, and harassment measures, new restrictive legislation, administrative burden, and judicial harassment, and putting increased pressure on international donors who support those organisations, have proven to be very effective tactics to destabilise NGOs. These trends have reached alarming proportions, and significantly undermine the ability of human rights defenders and NGOs to carry out their legitimate and crucial work.

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<sup>39</sup> Gianfrancesco Constantini, Estephan Salameh, and Maher Issa, "Mapping Study of Civil Society in Palestine," (January 28, 2015), available at: [https://eeas.europa.eu/sites/eeas/files/final\\_report\\_mapping\\_update\\_2015-en.pdf](https://eeas.europa.eu/sites/eeas/files/final_report_mapping_update_2015-en.pdf); Civic Freedom Monitor: Palestine, ICNL (July 12, 2017), available at: <http://www.icnl.org/research/monitor/palestine.html>; Nissan Limor, "Israel's Third Sector" (August 2004), available at: <http://www.icnl.org/research/library/files/Israel/third.pdf>.

<sup>40</sup> "What is BDS?", available at: <https://bdsmovement.net>. A majority of Palestinian civil society organisations signed the BDS call issued in 2005, including many that do not actively promote BDS.

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## A. The Actors Targeting Human Rights NGOs: The Israeli Apparatus

### The Ministry of Strategic Affairs and Public Diplomacy

The Israeli Government and officials, and notably the **Israeli Ministry of Strategic Affairs and Public Diplomacy (MSA)**, have systematically and persistently targeted Palestinian civil society organisations and human rights defenders, describing them as “anti-Semitic operatives with deep ties to terrorist groups fixated on destroying the State of Israel.”

The MSA was originally created in 2006 to coordinate security, intelligence, and diplomatic initiatives regarding Iran and other strategic threats. In 2015, the MSA was specifically assigned by Prime Minister Benjamin Netanyahu to “act against the delegitimization and boycott campaigns against the State of Israel.” Its main responsibility is to “lead the campaign against the actions of anti-Israel delegitimization and boycott campaigns.”<sup>41</sup>

In recent years, the MSA has published several reports which contain a number of defamatory attacks against human rights organisations, including Al-Haq, its General Director, and other Al-Haq staff members, the Palestinian Center for Human Rights (PCHR), and Al Mezan Center for Human Rights (Al Mezan), among others.

In May 2018, the MSA published a report called *The Money Trail* on European Union (EU) funding to Palestinian and international NGOs. According to PCHR, “The report called upon the EU to stop the direct and indirect funding for Palestinian and international human rights organizations, accusing them to be linked with terrorism (as described in the report), or those engaged in activities for boycotting Israel. The report targeted Palestinian and international human rights organizations including Al-Haq, the Palestinian Centre for Human Rights, the Palestinian NGO Network, al-Mezan Center for Human Rights, the Applied Research Institute in Jerusalem, the Agricultural Development Association (WA), the Norwegian People’s Aid, Trocaire Foundation, the Euro-Mediterranean Human Rights Network, and other organizations that the report claims to be financially supported by the EU.”<sup>42</sup> It added: “The Ministry also uses a promotional website named ‘For Israel - 4IL’ which has several social media pages, and describes itself as an official page for the Israeli Ministry of the Strategic Affairs of Israel, with a mission to defend Israel against hate speeches and anti-Semitism online. The website focuses primarily on BDS movement and linking it to terrorism.” In February 2019, the MSA released another report titled *Terrorists in Suits*. Based on misleading and often inaccurate information, the report claims to prove the connections between dozens of human rights organisations and what it calls “terrorists’ groups,” including BDS, Hamas, and the Popular Front for the Liberation of Palestine (PFLP). In this report, the Ministry accuses several Palestinian NGOs, especially human rights organisations, of seeking to eradicate the State of Israel.

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41 Government of Israel. Prime Minister’s Office. Ministry of Strategic Affairs and Public Diplomacy. See: [https://www.gov.il/en/departments/Units/ministry\\_of\\_strategic\\_affairs\\_and\\_public\\_diplomacy](https://www.gov.il/en/departments/Units/ministry_of_strategic_affairs_and_public_diplomacy).

42 Ministry of Strategic Affairs and Public Diplomacy, “THE MONEY TRAIL the Millions Given by EU Institutions to NGOs with Ties to Terror and Boycotts against Israel An In-Depth Analysis” (May 2018), available at: [http://eipa.eu.com/publicaffairs/wp-content/uploads/The-Money-Trail\\_English.pdf](http://eipa.eu.com/publicaffairs/wp-content/uploads/The-Money-Trail_English.pdf).



**State of Israel**  
Ministry of Strategic Affairs  
and Public Diplomacy



# TERRORISTS IN SUITS

**The Ties Between  
NGOs promoting BDS  
and Terrorist Organizations**

**February 2019**

Cover of the MSA report « Terrorists in Suits ». ©Ministry of Strategic Affairs and Public Diplomacy - Israel



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In a statement on June 10, 2019, the then-Israeli Minister for Strategic Affairs, Gilad Erdan, smeared NGOs who document and monitor human rights violations committed by the Israeli authorities and security forces against the Palestinian population, and who call for justice and international accountability, including Al-Haq, stating, "we have revealed that the supposed 'human rights' NGOs are, in reality, filled with antisemitic operatives with deep ties to terrorist groups fixated on destroying the State of Israel."<sup>43</sup> This statement once again confirms the Israeli Government strategy to tie criticism of Israel to anti-Semitism or terrorism, notably by fallaciously accusing Palestinian human rights NGOs of aiding or abetting terrorist activities against the State of Israel.

Moreover, several organisations gravitate around, and act in close coordination with, the Ministry of Strategic Affairs, which openly asserts its connection with "pro-Israel organisations" on its website, and claims to have established with them a "national task force" called the Campaign Against Delegitimization. The main objective of these government-controlled NGOs is clearly to relay the propaganda of the Israeli Government against civil society actors, including at the international level.

While it is extremely difficult to identify them all, several of these organisations have been publicly active in their efforts to discredit and attack critics of Israeli policies:

### **NGO Monitor**

The **NGO Monitor** was founded in 2002, as part of the conservative Israeli think tank JCPA (the Jerusalem Center for Public Affairs; see below). It presents itself as a "research institute dedicated to promoting transparency and accountability of NGOs claiming human rights agendas, primarily in the context of the Arab-Israeli conflict." NGO Monitor has a long track-record of criticizing Palestinian and Israeli NGOs for getting much of their funding from foreign Governments, and proudly notes on its website that it gets no Government funding.

Several sources point out that despite its "non-governmental" origins, NGO Monitor has close ties with the Israeli Government, particularly the Ministry of Strategic Affairs and the Ministry of Foreign Affairs. Based on information provided on its website, most of NGO Monitor's funding comes from private sources overseas, especially from the United States.

NGO Monitor maintains a public database profiling leading Israeli, Palestinian, and Syrian human rights NGOs, alongside international NGOs,<sup>44</sup> and is generally among the first sources that pop up in a Google search when you type in the name of any human rights NGO. But a close look at NGO Monitor's website and its publications shows a clear agenda on its part to expose Israeli, Palestinian, and Syrian human rights NGOs that oppose the Israeli occupation. Indeed, NGO Monitor's publications and annual reports "document a long and quite successful record of vilifying, smearing, and intimidating Israel's critics by deliberately spreading false and misleading information about organizations, including Israeli human rights organisations, in an attempt to discredit them."<sup>45</sup> NGO Monitor has been analysed by the Policy Working Group as having a "one-sided focus, intrinsic bias."<sup>46</sup> On the one hand, NGO Monitor focuses exclusively on human rights and civil society organisations that

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43 Maayan Jaffe-Hoffman, "30 Financial Accounts Associated With BDS-Promoting NGOs Shut Down," *The Jerusalem Post* (June 11, 2019), available at: <https://www.jpost.com/Israel-News/Report-30-financial-accounts-associated-with-BDS-promoting-NGOs-close-592073>.

44 NGO Monitor, "NGO Social Media Propaganda Marks Israel's UN Review" (January 23, 2018), available at: <https://www.ngo-monitor.org/ngo-social-media-propaganda-marks-israels-un-review>.

45 Yacoub Kahlen and Robert E. Foxsohn, "NGO Monitor should not be taken seriously," *The Electronic Intifada*, (October 18, 2005), available at: <https://electronicintifada.net/content/ngo-monitor-should-not-be-taken-seriously/5773>; PHROC and PNGO, "Position Paper on the Ongoing Campaign to Silence, Delegitimize, and De-fund Palestinian Civil Society Organizations and Human Rights Defenders," (March 26, 2018), available at: <http://www.pngo.net/position-paper-on-the-ongoing-campaign-to-silence-delegitimize-and-de-fund-palestinian-civil-society-organizations-and-human-rights-defenders>.

46 The Policy Working Group (PWG) is a collective of Israeli ex-diplomats, academics, and others, who on a voluntary basis advocate for and promote a transformation of relations between Israel and Palestine from occupation to coexistence, based on a two-state solution. See: [http://policyworkinggroup.org.il/report\\_en.pdf](http://policyworkinggroup.org.il/report_en.pdf).

criticize Israel's occupation of the West Bank and the Gaza Strip, while on the other hand it does not monitor or publish any information about organisations that promote the Israeli occupation and settlement enterprise.

A recent report by the Policy Working Group,<sup>47</sup> entitled *NGO Monitor: Shrinking space; Defaming human rights organizations that criticize the Israeli occupation*, denounced the work and strategies of NGO Monitor as containing baseless claims and using faulty research to delegitimize the work of its targeted NGOs. According to the report, its main tactics are to demonize NGOs that support BDS, to weaponize the idea that BDS is in fact a manifestation of anti-Semitism, and to accuse its targets of being affiliated with terrorist groups.

## Im Tirtzu

The Israeli organization "**Im Tirtzu**" (Hebrew for "If you will it") is an organisation, established in 2006, that sees itself as dedicated to combating a "campaign of de-legitimization against the State of Israel and to [providing] responses to Post-Zionist and Anti-Zionist phenomena." Im Tirtzu is mostly known for its campaigns against the US-based New Israel Fund (NIF) and foreign Government-funded NGOs. According to critics, Im Tirtzu's strategies focus on delegitimising Israeli leftists and human-rights groups, and on driving a wedge between them and their funding sources. In 2017, Benjamin Netanyahu congratulated Im Tirtzu on ten years of "fighting for the truth about Israel and Zionism."<sup>48</sup>



Cover of a report by Im Tirtzu « The New Israel Fund and the BDS campaign » ©Im Tirtzu

<sup>47</sup> *Ibid.*

<sup>48</sup> Mairav Zonszein, "Breaking the Silence," *The Intercept* (March 3, 2019), available at: <https://theintercept.com/2019/03/03/breaking-the-silence-israel-idf>.



Im Tirtzu presents itself as "one of Israel's most visible and outspoken defenders of Zionism," and "the largest grassroots Zionist movement in Israel that cultivates Zionist leaders for the sake of Israel's future."<sup>49</sup> The organisation has been widely labelled as "fascist" by human rights NGOs and left-wing groups. As a matter of fact, in 2013, a verdict by a Jerusalem District Court judge recognized "certain lines of resemblance" to fascism in the ideology and activities of the organization.<sup>50</sup> The ruling was officially rescinded by the court as per the request of all the parties involved, as part of the lawsuit. But many people still refer to this episode.

Im Tirtzu lambasts Israeli organisations that criticise Israel's policies for being foreign-funded, and has made several public statements naming and labelling major Israeli human rights NGOs as "radical anti-Israel organizations."<sup>51</sup> Documented links between Im Tirtzu's founders, Prime Minister Benjamin Netanyahu, his Likud party, and its funding connections, have revealed the GONGO nature of Im Tirtzu.<sup>52</sup> In fact, not only has the Prime Minister publicly endorsed the organisation, but he has been seen in many public videos calling on Israeli citizens to support it.<sup>53</sup>

In June 2018, a controversial bill to criminalise the filming of Israeli soldiers while they are on operational duty cleared its first hurdle in the Knesset,<sup>54</sup> but went no further and can no longer be revived. However, following the bill's initial success, Im Tirtzu had immediately posted on its website a note and a YouTube video extolling the merits of its staff for having contributed to the wording of the bill, which contained material compiled by them.<sup>55</sup> The Im Tirtzu report that led to the bill claimed that "delegitimization organisations use 'human rights' as an excuse to film IDF soldiers."<sup>56</sup>

## **Other Government-affiliated groups**

Information regarding all the Government-affiliated groups acting against human rights NGOs is not widely available, and some groups are still operating under the radar. However, a handful of organisations have been identified as having ties, or even as having publicly boasted of their ties, to the Ministry of Strategic Affairs. The following groups are often cited as sources of attacks against human rights organisations:

According to various sources, the MSA began funding a not-for-profit company named "**Concert - Together for Israel**"<sup>57</sup> (previously known as "Kela Shlomo") in January 2018. Its mission was "to cooperate with people and groups looking to conceal funding they receive from Israel for projects promoting a positive image," and to "provide a rapid and coordinated

49 Im Tirtzu, "Who we are" (YouTube video), available at: <https://www.youtube.com/watch?v=O1QcCEFAwqE>.

50 Noam Sheizaf, "Jerusalem Court: Okay to call Im Tirtzu a 'fascist group'," +972Mag, (September 8, 2013), available at: <https://972mag.com/jerusalem-court-okay-to-call-im-tirtzu-a-fascist-group/78591>.

51 Im Tirtzu, "Who we are" (YouTube video), available at: <https://www.youtube.com/watch?v=O1QcCEFAwqE>.

52 @HablocOrg (Twitter), available at: <https://twitter.com/HablocOrg/status/1029375544880705536>; The Democratic Bloc (Facebook), available at: <https://www.facebook.com/watch/?v=384081638668419>; <http://drucker10.net/?p=3150>; Uri Blau, "U.S. Ambassador's Adviser Ran 'Dark Money' Nonprofit That Donated \$1m to Right-wing Israeli Group," *Haaretz* (October 6, 2017), available at: <https://www.haaretz.com/israel-news/premium-u-s-ambassadors-aide-ran-dark-money-nonprofit-that-donated-to-im-tirtzu-1.5455978>; Chemi Shalev, "Im Tirtzu and the Proto-fascist Plot to Destroy Israeli Democracy," *Haaretz* (December 16, 2015), available at: <https://www.haaretz.com/opinion/premium-the-proto-fascist-plot-to-destroy-israeli-democracy-1.5378187>.

53 *Ibid.*

54 Jeffrey Heller, "Israel targets rights groups with bill to outlaw filming of soldiers," *Reuters* (June 17, 2018), available at: <https://www.reuters.com/article/us-israel-palestinians-bill/israel-targets-rights-groups-with-bill-to-outlaw-filming-of-soldiers-idUSKBN1JD0KT>.

55 Im Tirtzu, "New Bill to Protect IDF Soldiers Inspired by Im Tirtzu," (June 2018), available at: <https://imti.org.il/en/billprotectingsoldiers>.

56 *Ibid.*

57 Eyal Hareuveni, "Such a Mysterious Israeli Ministry of Strategic Affairs," *Orient XXI* (October 29, 2018), available at: <https://orientxxi.info/magazine/such-a-mysterious-israeli-ministry-of-strategic-affairs.2709>; Itamar Benzaquen and The Seventh Eye, "Jerusalem Post took government money to publish anti-BDS special," +972 (October 4, 2020), available at: <https://www.972mag.com/israeli-propaganda-bds-jerusalem-post>; The Seventh Eye (July 29, 2020), available at: <https://www.the7eye.org.il/382244>.

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response against the attempts to tarnish the image of Israel around the world."<sup>58</sup> Concert aimed to simultaneously undermine BDS and draw supporters to the Israeli cause.

The creation of this non-profit followed attempts by the MSA in the fall of 2017 to directly fund American Jewish institutions to help them fight the BDS movement, by organising "missions" to Israel for influencers. Fearing the repercussions of this direct relationship if discovered, as well as the onerous registration requirements in the United States for foreign-funded entities under the 1938 Foreign Agents Registration Act (FARA), most organisations had refused the funding, and the MSA's initial project has overall been unsuccessful.<sup>59</sup>

The MSA then allocated a budget totalling around 37 million USD (128 million shekels) to Concert "for a variety of projects and strategies for 'mass awareness' against the 'delegitimization of Israel,' on the condition that it raised equal an amount from private donors." However, Concert was only able to raise a small percentage (18 million shekels instead of the promised 128 million) of the matching private donations in the required time. Ironically, by channelling money to organisations abroad, the Israeli Government was doing the very same thing for which it reproached human rights NGOs who relied on foreign funding to carry out their projects.

The **Jerusalem Center for Public Affairs** (JCPA) identifies itself as an independent research organisation in the fields of diplomacy and foreign policy. It was founded in 1967 and is headed by Dore Gold, former Israeli Ambassador to the United Nations and General Director of the Israeli Ministry of Foreign Affairs.<sup>60</sup>

The **Meir Amit Intelligence and Terrorism Information Center** is an online media organ that aims to fight against what they call a "de-legitimation campaign." According to Meir Amit, this campaign against Israel and the Jewish people is managed by "organisations affiliated with radical Islam joined forces with extreme leftist organizations, human rights organizations, and NGOs from Western countries."

**Ad Kan**, or "no more" in Hebrew, is part of the powerful political network that supports Israeli settlements in the occupied territories, and has as its mission to dig up dirt on Israelis who "seek to join the anti-Israel platform." Supporters have attempted on several occasions to infiltrate the NGO Breaking the Silence, and once succeeded in planting an undercover activist who visited the office on a weekly basis over the course of a year and a half, growing close to several staff members while also videotaping the group.<sup>61</sup>

## **B. Intensification of Smear Campaigns and Other Attacks and Acts of Harassment Against Human Rights NGOs**

A major tactic of the Government of Israel and the organisations it controls in recent years has been to carry out smear campaigns, coupled with a wide array of acts of intimidation and harassment against human rights defenders, with the only objective being to discredit human rights work in Israel and Palestine, and in turn to silence critical voices.

As a result, a number of NGOs interviewed reported having to substantially increase the amount of time and resources spent in responding to smear campaigns and other attempts to delegitimise

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<sup>58</sup> Ian Firstenberg, "Israel turns to Unlawful Detention When Propaganda Fails to Silence Anti-Zionists," *broke-ass stuart*, (August 12, 2020), available at: <https://brokeassstuart.com/2020/08/12/israel-turns-to-unlawful-detention-when-propaganda-fails-to-silence-anti-zionists>.

<sup>59</sup> Josh Nathan-Kazis, "Jewish Groups Reject Israel Funding For Fear Of Being Branded Foreign Agents," *The Forward* (May 29, 2018), available at: <https://forward.com/news/401876/israeli-ministrys-repeated-efforts-to-fund-american-jewish-groups-rejected>.

<sup>60</sup> See: <https://jcpa.org/about>.

<sup>61</sup> Mairav Zonszein, "Breaking the Silence," *The Intercept* (March 3, 2019), available at: <https://theintercept.com/2019/03/03/breaking-the-silence-israel-idf>.

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their human rights work, through litigation or communications strategy, as well as by improving their physical and digital security, including by increasing the safety of their premises. In the long run, the increasing resources dedicated to responding to these attacks, though extremely hard to quantify, may well significantly reduce the resources and time spent by these organisations on operational activities such as monitoring, documenting, and reporting on human rights violations.

### **Smear campaigns increase in force**

Smearing human rights defenders and NGOs is a very powerful strategy used widely across the globe by Governments that seek to damage the credibility of their critics. Because NGOs and their staff often benefit from little more than partial public support, and unstable sources of financing (including international funding), raising doubts about their integrity - for instance by portraying them as anti-Semites - or accusing them of financing terrorism, has a negative impact on their ability to carry out their work. Disinformation campaigns - under which umbrella "smearing" falls - have accordingly been recognized as a global threat by many international experts, and are closely monitored by UN Special Procedures. They often fuel acts of judicial harassment, which tie the hands of civil society actors, who then find themselves occupied with defending themselves, trying to avoid expensive fines, and indeed staying out of prison.

According to a 2019 PCHR report, "Israeli authorities recruit all its diplomatic resources and all its pressure groups to conduct smear campaigns against the human rights organizations in the OPT and their supporters via several methods such as: reports, media statements, diplomatic letters, social media, and their pressure groups worldwide. Various attempts are carried out by the Ministry of Strategic Affairs and Public Diplomacy in Israel to undermine the Palestinian civil society through various objects, by using fallacies based on the connection between the civil society institutions and the Boycott Divestment and Sanctions (BDS) movement, and the Palestinian organizations and terrorism. Furthermore, the Israeli authorities [resort] to accusations of anti-Semitism against any criticism of its violations in the OPT from any party around the world, in constant pursuit to deflect attention and distort facts.."<sup>62</sup>

The current wave of smear campaigns against Israeli, Palestinian, and Syrian organisations was accurately summarised by the Belgian platform CNCD in their most recent report, *Occupation and shrinking space*, published in 2020: "Palestinian and Israeli CSOs are facing a strategic and holistic campaign by dozens of extremist pro-occupation groups operating in Israel, Europe and the US, which is coordinated by the Ministry of Strategic Affairs (MSA). Both the MSA and Government-affiliated groups such as NGO Monitor are conflating legitimate criticism of gross Israeli human rights violations with anti-Semitism and are employing vague and unsubstantiated claims of terrorist affiliations against Palestinian CSOs, in order to deprive the latter of funding essential to their sustainability. In doing so, Israel wants to delegitimize liberal human rights voices advocating a free and democratic society in Israel and Palestine and is openly attacking the fundamental right to freedom of expression."<sup>63</sup>

Already in 2011, the Observatory denounced the intensification of attacks that aim to delegitimise or intimidate NGOs and Israeli human rights defenders, either through media smear campaigns or legislative attempts to restrict their scope of action, particularly following their denunciation of the crimes against international law committed during Operation Cast Lead. In a report issued in January 2018, the German Institute for International and Security Affairs confirmed that these smear campaigns date back to 2009-2010, when groups like Im Tirtzu and the Institute for Zionist Strategies, with support from the Israeli Minister of Education, began a campaign to limit academic freedom in Israeli institutions.<sup>64</sup>

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62 PCHR, 2019, available at: <https://reliefweb.int/report/occupied-palestinian-territory/israeli-attacks-human-rights-organizations-and-activists>

63 CNCD, "Occupation and Shrinking Space: the attack on civil society in the occupied Palestinian territory and in Israel" (January 22, 2020), available at: <https://www.cncd.be/israel-palestine-occupation-shrinking-space-report-2020>.

64 Amal Jamal, "The Rise of 'Bad Civil Society' in Israel. Nationalist Civil Society Organizations and the Politics of Delegitimization," *Schiftung Wissenschaft und Politik* (January 2018), available at: <https://www.swp-berlin.org/en/publication/israel-the-rise-of-bad-civil-society>.

**Campaigns against Israeli NGOs monitoring the Israeli occupation of the West Bank, including East Jerusalem, and Israeli military offensives in the Gaza Strip:**

One Israeli NGO, Breaking the Silence, reported that they became a target after they published soldiers' testimonies on the Israeli military offensive of 2009 and have since been considered an enemy of the State, and again in 2015 when they published another report on Gaza and were subsequently subjected to constant attacks.<sup>65</sup> In 2017, Breaking the Silence was again labelled "an enemy of Israel" by Deputy Foreign Minister Tzipi Hotovely after she cancelled a planned meeting between the Israeli Prime Minister and the German Foreign Minister, who had insisted on meeting with Breaking the Silence and B'Tselem during his trip.<sup>66</sup>



A picture taken on May 13, 2019, shows an anti-occupation billboard, by Israeli NGO Breaking The Silence, erected on a street in the Israeli coastal city of Tel Aviv. ©JACK GUEZ / AFP

**Campaigns against Palestinian organisations for their support of BDS started in 2014:**

NGO Monitor, working hand in hand with the MSA, began publishing a table showing a list of Palestinian and Israeli NGOs, along with their funding sources, specifically targeting their perceived involvement in the BDS campaign.<sup>67</sup> Several inaccuracies in this list have been identified, for instance the assertion that Al-Haq was a signatory to BDS' 2005 founding document,<sup>68</sup> whereas Al-Haq was clearly not listed as one.

65 Mairav Zonszein, "Breaking the Silence," The Intercept (March 3, 2019), available at: <https://theintercept.com/2019/03/03/breaking-the-silence-israel-idf>.

66 "Meet the IDF soldiers declared 'enemies of the Israeli state'," The Independent (April 28, 2017), available at: <https://www.independent.co.uk/news/world/middle-east/israel-idf-soldiers-enemy-state-breaking-silence-hebron-tzipi-hotovely-sigmar-gabriel-a7708476.html>.

67 See NGO Monitor's list (March 2014), available at: [https://www.ngo-monitor.org/data/images/File/BDS\\_Table.pdf](https://www.ngo-monitor.org/data/images/File/BDS_Table.pdf)

68 BDS Movement, "Palestinian Civil Society Call for BDS" (July 9, 2005), available at: <https://bdsmovement.net/call>.



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Another upsurge in attacks - and in legislative lobbying - occurred in 2015 after human rights NGOs criticised the conduct of the Israeli forces in their 2014 military offensive on Gaza known as Operation Protective Edge. The subsequent opening in January 2015 of a preliminary examination by the ICC of possible international crimes committed in the OPT, and the announcement by the ICC's Prosecutor, Fatou Bensouda, in 2019, that all the conditions were met for her office to open an investigation into the situation,<sup>69</sup> have further increased the pressure exerted on Palestinian, Israeli, as well as international human rights NGOs by the Israeli Government.<sup>70</sup>

### **Personal and specific campaigns against NGOs and human rights defenders**

Increasingly, campaigns target NGOs and their staff directly by publishing human rights defenders' names, and making them even more vulnerable to attacks.

The most recent illustration was an incident that occurred in August 2020, when NGO Monitor issued a publication entitled, "Al Mezan Center for Human Rights' Ties to the PFLP Terror Group," directly linking Al Mezan Center for Human Rights' board members and researchers, one of whom was in fact deceased, to the Popular Front for the Liberation of Palestinian (PFLP). Al Mezan denounced this report as containing "a collection of factual inaccuracies, misleading allegations and straightforward propaganda designed to harm [their] credibility and to deter [their] donors, including the Dutch government." The Dutch right-wing Freedom Party took the claims of NGO Monitor seriously enough to raise parliamentary questions in the Netherlands, before the Dutch Government ended up dismissing entirely the accusations.<sup>71</sup>

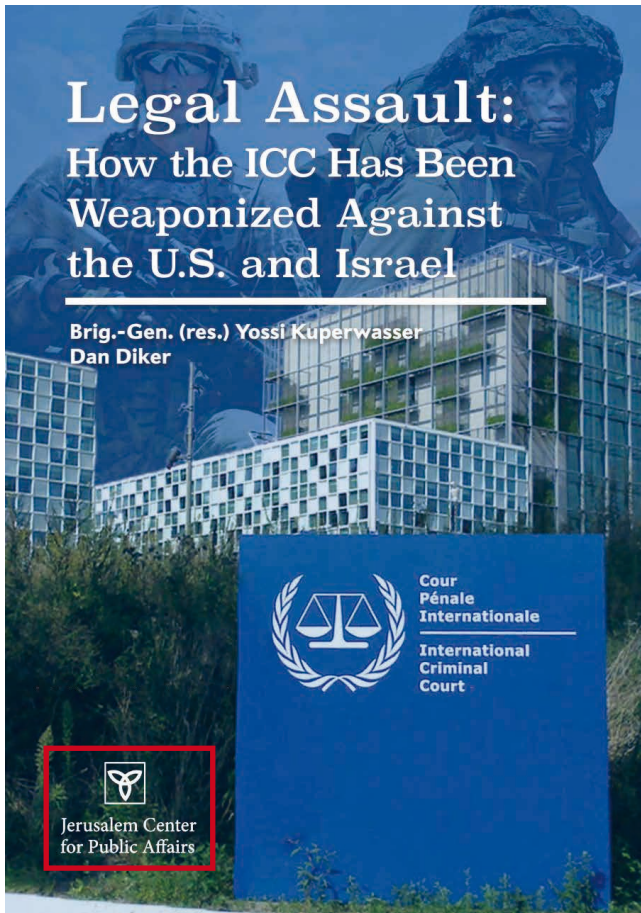
Similarly, the JCPA published, in May 2020, a report entitled *Legal Assault: How the ICC Has Been Weaponized Against the US and Israel*, which was crafted by a former senior officer of Israeli Military Intelligence and the Project Director for the "Program to Counter Political Warfare and BDS" at the JCPA.<sup>72</sup> With this caricatural report, the authors undertook, without further analysis, to expressly name and shame FIDH and its member organisations, the Center for Constitutional Rights (CCR), Al-Haq, Al Mezan, and Al-Dameer, as the axis of evils behind the ICC's efforts to launch investigations in both Afghanistan and the OPT. The report further accused these NGOs of being linked to Hamas and the PFLP, adding that "CCR and FIDH are also deeply involved in other legal aspects of anti-Israel activities, including boycott, sanctions, and divestment (BDS) initiatives [...]."

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69 ICC, "Statement of ICC Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the Situation in Palestine, and seeking a ruling on the scope of the Court's territorial jurisdiction" (December 20, 2019), available at: <https://www.icc-cpi.int/Pages/item.aspx?name=20191220-otp-statement-palestine>.

70 The Observatory, "Israel-Palestine: Al-Haq human rights lawyer based in The Hague receives death threats, as attacks against the organisation escalate" (March 4, 2016), available at: <https://www.fidh.org/en/issues/human-rights-defenders/israel-palestine-al-haq-human-rights-lawyer-based-in-the-hague>.

71 Al Mezan Center for Human Rights, "Press Release: Al Mezan welcomes Dutch government's dismissal of Israeli smear campaign" (October 21, 2020), available at: <http://mezan.org/en/post/23836>.

72 JCPA, "Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel" (May 5, 2020), available at: <https://jcpa.org/legal-assault-how-the-icc-has-been-weaponized-against-the-u-s-and-israel>.



## Legal Assault: How the ICC Has Been Weaponized Against the U.S. and Israel



This study describes how radical NGOs, some of which are affiliated with terror organizations, collaborated in promoting the complaints against the U.S. and Israel at the International Criminal Court (ICC).

It is not only that Al-Haq, PCHR and Al Mezan are members of FIDH, but Al-Haq's director, Shawan Jabarin, is the secretary general of FIDH. Moreover, Raji Sourani, the general director of PCHR, is the former vice president of FIDH. Nada Kiswanson van Hooydonk and Katherine Gallagher, who represented the victims, FIDH and CCR in the case against the US, were also engaged with the Palestinian submission. Kiswanson was the head of Al-Haq's office in The Hague, and Gallagher, who represents CCR in the Afghanistan case, was part of the delegation that submitted the Palestinian NGOs' opinion to the ICC prosecutor.

It should be noted that CCR and FIDH are also deeply involved in other legal aspects of anti-Israel activities, including boycott, sanctions, and divestment (BDS) initiatives, and that the four Palestinian NGOs that filed the complaint to the ICC have close relationships with terror organizations designated by the European Union and the US State Department, especially with the PFLP. As noted above, Shawan Jabarin was convicted of terror activities in the PFLP and imprisoned for three years.<sup>5</sup>

Publication by the Jerusalem Center for Public Affairs names and shames FIDH and its member organisations, the Center for Constitutional Rights (CCR), Al-Haq, Al Mezan, and Al-Dameer, as the axis of evils behind the ICC's efforts to launch investigations in both Afghanistan and the OPT. ©Jerusalem Center for Public Affairs (available at: <https://jcpa.org/legal-assault-how-the-icc-has-been-weaponized-against-the-u-s-and-israel/>)

The report also goes on: "It is not only that Al-Haq, PCHR and Al Mezan are members of FIDH, but Al-Haq's director, **Shawan Jabarin**, is the secretary general of FIDH. Moreover, **Raji Sourani**, the general director of PCHR, is the former vice president of FIDH. **Nada Kiswanson van Hooydonk** and **Katherine Gallagher**, who represented the victims, FIDH and CCR in the case against the US, were also engaged with the Palestinian submission. Kiswanson was the head of Al-Haq's office in The Hague, and Gallagher, who represents CCR in the Afghanistan case, was part of the delegation that submitted the Palestinian NGOs' opinion to the ICC prosecutor."

As a matter of fact, since 2015, several Palestinian human rights organisations have participated in the submission of communications to the ICC Prosecutor's Office, providing information on alleged war crimes and crimes against humanity committed in the OPT, including during the 2014 Gaza war, and on Israel's settlements expansion project in the West Bank, including East Jerusalem, and have since faced a large-scale campaign of harassment.<sup>73</sup> These campaigns

<sup>73</sup> Al Mezan, "Al Mezan Condemns Continued Death Threats to Staff Members and Calls on the International Community to Intervene," (August 11, 2016), available at: <http://www.mezan.org/en/post/21475/Al+Mezan+Condemns+Continued+Death+Threats+to+Staff+Members+and+Calls+on+the+International+Community+to+Intervene>; Update: Attacks Against Al-Haq Continue, (June 4, 2016), available at: <http://www.alhaq.org/advocacy/topics/human-rights-defenders/1050-update-attacks-against-al-haq-continue>.

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have included the hacking of emails, intimidating phone calls to staff, death threats, smear campaigns, and the harassment and provision of false information to donors.

#### **From Naming and Shaming to Death Threats & Real Cyberattacks:**

In February, July, and August 2016, **Nada Kiswanson**, a human rights lawyer who at the time represented Al-Haq in Europe and before the ICC in The Hague, received, along with her family, frequent phone calls, emails, and other messages that explicitly and indirectly threatened her life and security. This followed the submission by Al-Haq, Al-Mezan, Addameer, and the PCHR of communications to the ICC on November 23, 2015 and on February 10, 2016, urging it to open an investigation of violations of international law by the Israeli military. In March 2016, Al-Haq was the target of a series of cyberattacks via emails containing Trojan horse viruses which, if not dealt with expediently, would have corrupted files as well as granted the intruders access to Al-Haq's database. The complexity of these attacks confirms that they could only have been perpetrated by an entity equipped with very sophisticated IT resources.<sup>74</sup>

Israeli private intelligence firms have played a major role in the campaign targeting Palestinian civil society. In October 2017, the Meir Amit Intelligence and Terrorism Information Center published a defamatory article in which **Shawan Jabarin**, Al-Haq's General Director and FIDH's Secretary General, is depicted as a "former member of a terrorist organisation," namely the PFLP. The article further states that "Mr Jabarin wears two hats, one as a terrorist operative and the other as an activist in an organization that presents itself as a human rights organization," and that "Mr Jabarin travels extensively around the world to promote the 'lawfare' and propaganda campaign against Israel." The article, which also mentions Nada Kiswanson, denounces the submission in September 2017 by Al-Haq of a report exposing Israel's war crimes to the ICC Prosecutor. This was not the first time the Meir Amit Intelligence and Terrorism Information Center published defamatory articles targeting Jabarin. In 2013, it published an online piece entitled *Terrorism and human rights: Shawan Jabarin, human rights organisations director and PFLP terrorist activist recently visited France to participate in the anti-Israeli campaign*.<sup>75</sup>

Coincidentally, there have been direct attacks on Al-Haq from the Israeli Ministry of Justice, several Israeli newspapers, and Israeli organisations and institutions both domestically and abroad.

In October of 2015, the Israeli Justice Minister Ayelet Shaked, in meetings with foreign counterparts,<sup>76</sup> attempted to link Al-Haq with terrorism and with the BDS movement, and demanded that European countries cease funding the organization. In an interview with *The Jerusalem Post*,<sup>77</sup> she declared that she does this "with every European minister [she] meet[s]," as "sometimes they have no idea. They think these are human rights organizations and don't realize they are working with BDS." Her list of organisations also included two other Palestinian organisations and six Israeli organisations.

On June 29, 2017, the Permanent Representative of Israel to the UN, Ambassador Danny Danon, on the occasion of a media stake-out in front of the Security Council, linked "Al-Haq

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<sup>74</sup> *Ibid.*

<sup>75</sup> Meir Amit Intelligence and Terrorism Information Center, "Terrorism and human rights: Shawan Jabarin, human rights organisations director and PFLP terrorist activist recently visited France to participate in the anti-Israeli campaign" (February 17, 2013), available at: <https://www.terrorism-info.org.il/en/20478>.

<sup>76</sup> Al-Haq, "Israel Is Silencing Opposition: Who Will Stand Up?" (April 22, 2016), available at: <https://www.alhaq.org/advocacy/6418.html>.

<sup>77</sup> Yonah Jeremy Bob and Lahav Harkov, "Exclusive: Shaked urges Europeans she meets to quit funding pro-BDS groups," *The Jerusalem Post* (October 14, 2015), available at: <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Exclusive-Shaked-gives-European-ministers-lists-of-anti-Israel-NGOs-they-fund-424942>.



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(...), led by Shawan Jabarin" to the "PFLP terrorist organisation." Ambassador Danon went on to falsely characterize Al-Haq and Al Mezan as "supporters of terrorism" and "inciters of violence."<sup>78</sup>

Israeli human rights organisations, and notably anti-occupation organisations, have been facing similar attacks, being occasionally depicted as terrorists<sup>79</sup> and, more generally, as aiding or abetting terrorist activities against Israel.

Israeli human rights defenders are also sometimes accused of being traitors, as was the case for instance of **Hagai El Ad**, Executive Director of B'Tselem, who has been targeted and was threatened after his briefing to the UN Security Council during the open debate on the situation in the Middle East on October 18, 2018. After he spoke, the Permanent Representative of Israel took the floor and said to Hagai El Ad, in Hebrew, "Mr. El Ad, you are a citizen of the State of Israel who is serving our enemies. IDF soldiers protect you and you come here to discredit them. Shame on you. You are a collaborator." This came right after Ambassador Danon's introduction, in which he lectured the members of the Security Council that Mr. El Ad was lucky to live in a strong democracy because, had he defamed his government the way he just did in some other countries, he would have been killed.

In 2015, Im Tirtzu published a report entitled *Foreign Agents Report 2015*, which was followed by a media campaign, in which it labelled 20 so-called "left-wing" Israeli human rights NGOs such as Breaking the Silence, B'Tselem, Yesh Din, and Adalah as foreign agents and enemies of the State, conducting foreign-sponsored activity against Israel and Israeli soldiers.<sup>80</sup> One NGO felt that the language in the report verged on incitement and created a climate of fear among human rights activists, and it was even criticised as overly negative by Prime Minister Netanyahu.

In September 2009, the Goldstone Report on the 2008-2009 Operation Cast Lead in Gaza, which documented allegations of war crimes by Israel and Hamas, triggered a propaganda campaign initiated by Im Tirtzu that aimed at demonising and delegitimising the New Israel Fund (NIF).<sup>81</sup> Im Tirtzu accused NIF of helping, through the various organisations it supports, the UN fact-finding mission on the Gaza war. In February 2010, an aggressive and personal campaign against NIF's President, **Naomi Chazan**, began. For three weeks, Im Tirtzu plastered billboards across Israel with posters featuring cartoon images of her face with a horn coming out of the forehead (a play on the Hebrew word for "fund"), and the caption "Naomi Goldstone-Chazan."<sup>82</sup> It was deemed "savage" by Haaretz.<sup>83</sup> Im Tirtzu campaign went as far as branding Ms. Chazan as an "enemy of the people,"<sup>84</sup> and circulated her personal information on the internet through material designed to promote hatred against her. In the same vein, earlier in summer 2009, Breaking the Silence was deemed as "selectively anti-Israel" by Im Tirtzu and Prime Minister Benjamin Netanyahu.<sup>85</sup> In 2015, Im Tirtzu published a video inciting hatred against four human rights defenders, directors of the four following human rights NGOs: B'Tselem, the Public Committee against Torture in Israel (PCATI), Breaking the Silence, and HaMoked: Center for the Defense of the Individual. The directors

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78 *Ibid.*

79 Ronen Medzini, "Lieberman: PM backed Tibi but not us," *YnetNews.com* (July 17, 2011), available at: [https://www.ynetnews.com/articles/0,7340,L-4096299,00.html?fbclid=IwAR2e6CgY-dgsuixFwjCg32eCtsjCuZMk00k-kZWs-ts-Qw6GooOT\\_71lhX\\_s](https://www.ynetnews.com/articles/0,7340,L-4096299,00.html?fbclid=IwAR2e6CgY-dgsuixFwjCg32eCtsjCuZMk00k-kZWs-ts-Qw6GooOT_71lhX_s).

80 Im Tirtzu, *Foreign Agents Report 2015*, available at: <https://imti.org.il/wp-content/uploads/2016/04/Foreign-Agents-Report.pdf>.

81 NIF is a non-profit organisation established in 1979 in the United States, whose aim is to advance democracy and equality in Israel.

82 Esti Ahronovitz, "Fighting for Israel's Soul," *Haaretz* (July 22, 2011), available at: <https://www.haaretz.com/1.5033122>.

83 *Ibid.*

84 *Ibid.*

85 Isabel Kershner, "Israeli Rights Groups View Themselves as Under Siege," *The New York Times* (April 5, 2010), available at: <https://www.nytimes.com/2010/04/06/world/middleeast/06israel.html>.

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were personally named and framed as "terrorist-supporting traitors."<sup>86</sup>The same month following the release of the video, Im Tirtzu published a new YouTube video attacking **Talia Sasson**, NIF board member and Chair of the International Council, naming and shaming her for funding the human rights organisations Adalah, B'Tselem, Rabbis for Human Rights, ACRI, Breaking the Silence, as well as other humanitarian groups. Talia Sasson is "not one of us" says the video. The NIF is accused of being a "foreign political organisation" funding the legal defence of "terrorists" in the Supreme Court.<sup>87</sup>Prime Minister Netanyahu also launched a personal attack in early April 2018 against NIF. He announced that he had instigated the launching of a parliamentary investigation into the group, which, he claimed, "jeopardizes the security and future of the State of Israel as the country of the Jewish people." He called the NIF a "foreign organisation that receives funding from foreign governments," with the ultimate goal of "erasing the Jewish character of Israel."<sup>88</sup>

### **Other intimidation and harassment measures**

Human rights defenders often face harassment while conducting advocacy within international fora, and are often openly intimidated when visiting international institutions.

During the 40<sup>th</sup> regular session of the UN Human Rights Council in March 2019, two staffers of Al Mezan were harassed and intimidated while participating in a side event, as well as during a private meeting with staff from the Office of the High Commissioner for Human Rights (OHCHR), where employees of NGO Monitor followed and took pictures of the staffers.

In June 2019, intimidation and harassment continued during the 41<sup>st</sup> regular session of the UN Human Rights Council, where staff members of Palestinian rights groups Al-Haq and Al Mezan hosted a side event on climate change vulnerability in the occupied Palestinian territory. Typical acts of harassment and intimidation took place, including lurking around delegates as they were meeting in public spaces at the UN, standing right behind delegates and monitoring their screens while they were using the public computers ahead of the session and the side event, and attending the side event, though without taking the floor. Later NGO Monitor, which holds a special consultative status as a non-government organisation (NGO) with the UN Economic and Social Council (ECOSOC), smeared the work of the Palestinian human rights organisations in a publication in which they wrote of "numerous false accusations made by self-proclaimed human rights non-governmental organizations (NGOs)," referencing as usual the "large portions of their funding from European governments" in a negative way, and claiming "inflammatory and false allegations." The objective of these actions is clearly to intimidate speakers through skewed and misrepresented accounts of speakers' presentations and profiles.<sup>89</sup>

The acts of harassment and intimidation were repeated during the 42<sup>nd</sup> session of the UN Human Rights Council in September-October 2019, including during a private meeting with a State representative. Once again, an employee of NGO Monitor, although it is notoriously known for discrediting members of Palestinian civil society, followed staff of Palestinian human rights organisations, including Al Mezan and Al-Haq, and attempted to take pictures and/or record the human rights defenders, including during at least one meeting. These and

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86 Mira Sucharov, "Im Tirtzu's Pernicious Video Equates Human Rights with Treason," *Haaretz* (December 16, 2015), available at: <https://www.haaretz.com/opinion/premium-im-tirtzu-s-video-equates-human-rights-with-treason-1.5377802>; Chemi Shalev, "Im Tirtzu and the Proto-fascist Plot to Destroy Israeli Democracy," *Haaretz* (December 16, 2015), available at: <https://www.haaretz.com/opinion/premium-the-proto-fascist-plot-to-destroy-israeli-democracy-1.5378187>; Im Tirtzu, "The Foreign Agents - Revealed!," *YouTube* (December 15, 2015), available at: [https://www.youtube.com/watch?v=02u\\_J2C-Lso](https://www.youtube.com/watch?v=02u_J2C-Lso).

87 Im Tirtzu, "The New Israel Fund Against the State of Israel" *YouTube* (April 8, 2018), available at: <https://www.youtube.com/watch?v=wp7KhB7XqpQ>.

88 Noa Landau, "Netanyahu Accuses U.S. Human Rights Group of Foiling Asylum Seeker Deal With Rwanda, Says Will Investigate," *Haaretz* (April 3, 2018), available at: <https://www.haaretz.com/israel-news/premium-pm-accuses-new-israel-fund-of-foiling-asylum-seeker-deal-with-rwanda-1.5975316>.

89 See NGO Monitor, "NGO Monitor Analysis: 41st Session of the UN Human Rights Council," (July 22, 2019), available at: <https://www.ngo-monitor.org/ngo-monitor-analysis-41-session-of-the-un-human-rights-council>.

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past incidents have been reported to the Human Rights Council Branch, UN security, UN Special Procedures, and the OHCHR on multiple occasions.

Furthermore, during a closed-door meeting with members of the Committee on the Elimination of Racial Discrimination (CERD) on December 4, 2019, representatives of Al-Haq, Al Mezan, Adalah, and CIHRS had no choice but to present their core human rights work in the presence of a staff member of NGO Monitor, thereby creating a threatening and intimidating environment for those staff members, with a high likelihood that the information they were presenting in a closed briefing with Committee members would reach the Israeli Government.

Lastly (to date), on October 1, 2020, the Government of Israel interrupted a joint statement being delivered by a representative of civil society groups during Item 9 of the 45<sup>th</sup> regular session of the Human Rights Council through a point of order, and accused NGOs of inappropriate language in contradiction of UN standards, for linking the situation in Israel to a so-called "apartheid regime."<sup>90</sup>

These smear and delegitimization campaigns are carried out in conjunction with numerous human rights violations targeting human rights defenders on the ground. These range from travel bans and restrictions, such as those imposed on a Palestinian staff member of Amnesty International, **Laith Abu Zeyad**,<sup>91</sup> and on **Issam Younis**,<sup>92</sup> Director of Al Mezan and Commissioner General of the Independent Commission of Human Rights, because of their human rights work; to raids of the offices of human rights organisations, such as the raid on Palestinian rights group Addameer Prisoner Support and Human Rights Association in September 2019<sup>93</sup>; to the deportation of Human Rights Watch Israel/Palestine Director **Omar Shakir**, approved by Israel's Supreme Court in November 2019<sup>94</sup>; and to the threatened residency revocation of Palestinian BDS activist **Omar Barghouti** in October 2019 because of his human rights work.<sup>95</sup> In September 2020, moreover, French-Palestinian human rights lawyer **Salah Hammouri** was officially notified of the Israeli Minister of Interior's intention to revoke his Jerusalem residency for so-called "breach of allegiance" to the State of Israel.<sup>96</sup>

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90 Al-Haq, "United Nations: Israel attempts to silence growing condemnation of its apartheid regime" (October 8, 2020), available at: <https://www.alhaq.org/advocacy/17431.html>.

91 Amnesty International, "ISRAEL/ OPT: End cruel travel ban on Amnesty staff member" (March 25, 2020), available at: <https://www.amnesty.org/en/latest/news/2020/03/israel-opt-end-cruel-travel-ban-on-amnesty-staff-member>.

92 Communication to the State of Israel by Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders, and the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 (Ref: AL ISR 12/2019) (August 28, 2019), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24813>.

93 Addameer, "Israeli Occupation Forces Raid Addameer's Office and Steal its Belongings" (September 19, 2019), available at: <http://www.addameer.org/news/israeli-occupation-forces-raid-addameers-office-and-steal-its-belongings>.

94 Human Rights Watch, "Israel: Supreme Court Greenlights Deporting Human Rights Watch Official" (November 5, 2019), available at: <https://www.hrw.org/news/2019/11/05/israel-supreme-court-greenlights-deporting-human-rights-watch-official>.

95 See, notably, Al-Haq, "Omar Barghouti at Imminent Risk of Deportation as Israeli Interior Minister Initiates Proceedings to Punitively Revoke his Residency Status," (November 4, 2019), available at: <http://www.alhaq.org/advocacy/16156.html>.

96 The Observatory for the Protection of Human Rights Defenders, "Israel/OPT: Judicial harassment against Mr. Salah Hamouri" (September 7, 2020), available at: <https://www.fidh.org/en/issues/human-rights-defenders/israel-opt-judicial-harassment-against-mr-salah-hamouri>; Al-Haq, "Human Rights Organisations Send Urgent Appeal to UN Special Procedures on the Imminent Threat of Forcible Transfer of Salah Hammouri" (October 5, 2020), available at: <https://www.alhaq.org/advocacy/17385.html>.



Salah Hamouri, Franco-Palestinian lawyer and field researcher for ADDAMEER (Conscience) Prisoner Support and Human Rights Association, a Palestinian non-governmental organisation that works to support Palestinian political prisoners held in Israeli and Palestinian prisons, gives an interview with AFP at the NGO's offices in the West Bank city of Ramallah on October 1, 2020.  
©ABBAS MOMANI / AFP

Other human rights defenders have been detained and arrested multiple times, and subject to physical attacks by settlers. In Israel, several NGOs reported a troubling rise in public protests and cases of harassment by right-wing groups, pressure on venues to prevent them from holding events, cyberattacks, and even people seeking to infiltrate their organisations as volunteers and staff.

### **C. Shrinking space: Legislative and Administrative Measures**

The campaigns and attacks against civil society organisations and human rights defenders have been reinforced by a series of restrictive legislative and administrative measures adopted to impede these organisations' operations and their access to Israel and the OPT.

While the regulatory framework for NGO registration in Israel and in the OPT has generally been praised as creating an enabling background, legislation and measures recently adopted have created a more restrictive operating environment for NGOs. Indeed, from 2010 onwards, an unprecedented number of bills and laws have been tabled at the Knesset to limit NGO civic space.

This sustained legislative effort to further limit freedom of association and freedom of expression in Israel, and also to restrict monitoring activities and international scrutiny of the political situation and human rights violations in the occupied West Bank, including East Jerusalem, and the occupied Syrian Golan, aim at strengthening domestic support for the Israeli nationalist right wing on the one hand, and at deterring international solidarity with pro-peace and human rights organisations in Israel, OPT, and the occupied Syrian Golan on the other hand.



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## **Administrative and political obstacles linked to the Israeli occupation**

Overlapping jurisdictions in the OPT as a result of the Israeli occupation make it very difficult for local NGOs to operate. The occupied West Bank, including East Jerusalem, is fragmented by Israeli-controlled settlements, outposts, barriers, bypass roads, and the Annexation Wall, and are subjected to a deliberately complex set of laws and regulations. For example, in Area C, which constitutes over 60 percent of the West Bank and might soon be *de jure* annexed by Israel, which already retains exclusive control over law enforcement, Palestinian NGOs are subject to movement restrictions and reporting requests imposed by Israeli occupying authorities. In East Jerusalem, which was illegally *de jure* annexed by Israel in 1980, Palestinian organisations must comply with Israel's Associations Law and register with, and report to, both the Israeli and Palestinian authorities, in order to be considered legal.<sup>97</sup>

In a report<sup>98</sup> published in 2018, the Palestinian NGO Network (PNGO), with which the Observatory delegation met during the mission, recalled that, in the past decade, EU heads of mission in Jerusalem and Ramallah, for example, have repeatedly stated concern about Israel's crack-down on Palestinian political institutions that has had serious negative effects on all spheres of life of Palestinians in East Jerusalem (political, economic, social and cultural), contributing to a growing fragmentation of society at all levels, isolation of local Palestinian communities, and a weakening of collective sense of identity. In this context EU heads of mission have also alerted of Israel's attack on Palestinian civil society organisations that play a vital role in filling the institutional vacuum.

And, as Israel was already moving to fast-forward its full annexation plan, and multiplying the measures to erase the Palestinian presence from Jerusalem, PNGO found that:

"Palestinian CSOs wishing to preserve or obtain Israeli registration in order to safeguard their presence in occupied East Jerusalem have to submit to restrictive conditions that deprive them of status and identity as Palestinian organizations. It is common knowledge, for example, that CSOs should not identify themselves as 'Palestinian' in their applications for non-profit status in order to have a chance for approval with the Israeli registrar. Moreover, for Palestinian NGOs that maintain an office and activities also elsewhere in the occupied West Bank, Israeli registration in Jerusalem comes at the cost of having their organization split into two separate legal and administrative entities: one Palestinian (registered with the Palestinian Authority), the other an 'Israeli' entity in occupied East Jerusalem."

The organisation added that "because of Israeli policies, which have severely undermined the rights of Palestinians to freedom of expression, at least six Palestinian NGOs were forced to close down their Jerusalem offices permanently or temporarily in the period between May 2015 and April 2018."

## **Specific laws against the Boycott, Divestment, and Sanctions (BDS) movement**

Back in 2011, Israel adopted the Law for Prevention of Damage to State of Israel through Boycott, which made it a civil offence to call for a boycott against Israel.<sup>99</sup> This anti-BDS law allows a party to file a civil lawsuit for damages against any individual or organisation that deliberately avoids economic, cultural, or academic ties with another person or body solely because of their affinity with the State of Israel, one of its institutions, or an area under its control, in such a way that may cause economic, cultural, or academic damage. According to this law, the party filing the lawsuit would not have to prove that it sustained actual damages from the call for a boycott. This provision was confirmed by the Supreme Court, which

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<sup>97</sup> *Ibid.*

<sup>98</sup> PNGO, "Attacks on Palestinian Civil Society Organizations in Occupied East Jerusalem: A Matter of Illegal Annexation and of Repression of the Right to Self-determination" (2018).

<sup>99</sup> FIDH, "FIDH supports the right to participate in and call for Boycott, Divestment, and Sanctions" (July 20, 2017), available at: <https://www.fidh.org/en/region/north-africa-middle-east/israel-palestine/fidh-supports-the-right-to-participate-in-and-call-for-boycott#nh16-6>.

rendered a decision on the law in April 2015 that failed to defend freedom of expression.<sup>100</sup> This law clearly fed into the demonisation of NGOs who endorse BDS, or who are deemed to support BDS because of their work with Palestinian or Syrian NGOs; it was soon followed by a similar legislative move in the US where, as of June 2020, 29 states had already enacted legislation that targets boycotts that aim to vindicate Palestinian rights.<sup>101</sup> This law has also led to a “chilling effect,” with the result that organisations regulated by Israeli law, and which do not endorse BDS, are hesitant to denounce certain human rights violations for fear of being accused of BDS activities, and facing costly lawsuits in consequence.



Israeli left wing activists hold signs as they demonstrate against the suggested “boycott law”, in front of the Justice ministry in east Jerusalem on July 10, 2011. ©AHMAD GHARABLI / AFP

### First resort to the anti-BDS Law in the occupied Syrian Golan

During its field mission, the Observatory delegation visited the NGO Al-Marsad, in the occupied Syrian Golan, to document similar practices against Syrian human rights defenders, who are also defending the rights of people whose land was annexed by Israel in 1981.

Subsequently, in January 2019, the NGO Al-Marsad, the only human rights organisation operating in the occupied Syrian Golan, published a legal report on its investigation into Energix, an Israeli energy company planning to build a massive windfarm on Syrian agricultural land adjacent to three of the remaining Syrian villages in the Golan. In response, individuals associated with Energix launched a campaign to smear Al-Marsad, its employees, and those involved with the organisation. The purpose of this smear campaign was to force Al-Marsad to stop its human rights activities and close.

<sup>100</sup> Jonathan Lis, “Israel Passes Law Banning Calls for Boycott,” *Haaretz* (July 11, 2011), available at: <https://www.haaretz.com/1.5026309>.

<sup>101</sup> See: [Palestinelegal.org](http://Palestinelegal.org) and [righttoboycott.org](http://righttoboycott.org).

When this strategy did not stop Al-Marsad from disseminating its legal report and hosting community meetings about the project, in June 2019 Energix filed a lawsuit against Al-Marsad based on Israel's controversial "Anti-Boycott Act" or anti-BDS Law, which was seeking damages amounting to Al-Marsad's entire annual budget. Al-Marsad had the unfortunate honour of being the first organisation under Israeli control to be prosecuted under this law. In the meantime, Energix's local supporters maintained an intensive slanderous campaign against Al-Marsad, which intensified during the spring and summer 2020 and became increasingly more serious. Death threats, and threats to damage property, have targeted Al-Marsad employees and other local activists opposed to the windfarm. In addition, Energix took advantage of the spring 2020 Covid-19 lockdown in the Golan to develop sites for the windfarm. While Syrian residents were confined at home, Energix representatives - accompanied by Israeli police - were visiting project sites to demarcate plots and erect signs. Despite the sanitary restrictions, Syrians who ventured to film Energix and Israeli police visits were subsequently harassed and questioned by the police. On December 7, 2020, purportedly to protect Energix's employees, Israeli police, and several hundred special forces officers entered Syrian agricultural land - without permission - and closed the main agricultural road for three days. This prevented close to a thousand Syrian farmers from accessing their land. The protests that ensued were met by tear gas and rubber bullets, which resulted in dozens of injuries.

Energix's lawsuit against Al-Marsad was ongoing as of February 2021. The initial hearing in the case was held in a Nazareth court on February 12, 2020. The judge set the next hearing for June 30, 2020. However, the proceedings are still postponed at the time of the publication of this report due to the Covid-19 pandemic, and upon the lawyers' requests for time to respond to requests for information.

Given the gravity of the situation in the Golan, three UN Special Rapporteurs, including the Special Rapporteur for the Situation of Human Rights Defenders, wrote to the Israeli Government and Energix in early 2020 to outline their concerns about the windfarm and the campaign against Al-Marsad.<sup>102</sup> Israel provided a response to the joint appeal, denying all the allegations.<sup>103</sup> After writing to the EU twice in December 2019 and May 2020 to update it regarding the situation of the windfarm and the lawsuit against Al-Marsad, and to call for the EU's support for protecting human rights defenders in the region, a representative of the EU mission in Tel Aviv was briefed and requested to be kept informed of any developments.

### Revision of the Entry Law

In March 2017, Israel revised its Entry Law to deny entry visas or residency to foreign nationals if they or the organisations they belong to publicly expressed support for boycotts against the State of Israel, or against Israeli settlements in the occupied West Bank. It was feared that the revised law would have a particularly severe impact on Palestinian citizens of Israel and Palestinians from the occupied West Bank.<sup>104</sup> The application of the law made headline news in October 2018 when Palestinian-American student **Lara al Qassem**, who had been granted a visa to study at Hebron University, was refused entry into Israel at Tel Aviv's Ben Gurion International Airport, and subsequently held for two weeks for appealing

102 UN Communication (January 20, 2020), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25009>.

103 Answer by Israel to the Special Rapporteurs' joint appeal (March 20, 2020), available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=35203>.

104 Adalah, "Is a new Israeli law about to ban BDS supporters from entering the country?" (February 20, 2017), available at: <https://www.adalah.org/en/content/view/9043>; ACRI, "Knesset Restricts Entry to Israel for Boycott Supporters" (March 7, 2017), available at: <https://www.english.acri.org.il/single-post/49>.



her deportation order. As a student at the University of Florida, al Qassem had held the position of president of a local chapter of Students for Justice in Palestine, which promotes boycotts, divestment, and sanctions against Israel as a way to battle the occupation. The Israeli Minister of Strategic Affairs publicly proposed a compromise to allow her into the country if she apologised and renounced her support for BDS.<sup>105</sup> Finally, the Supreme Court ruled in her favour and overturned her ban from the country.



TEL AVIV, ISRAEL - OCTOBER 17: 22-year-old U.S. citizen Lara Alqasem appears in court in Tel Aviv, Israel on October 17, 2018. ©Mostafa Alkharouf / ANADOLU AGENCY / Anadolu Agency via AFP

The Israeli authorities, in contravention of their international obligations under the ICCPR and other relevant human rights instruments ratified by Israel, have made extensive use of this legislative arsenal to muzzle freedom of movement, freedom of expression, and freedom of association, and to crack down on international solidarity with the Palestinian people under occupation, and with Israeli human rights and pro-peace groups.

In November 2017, Israel refused to grant visitor visas to seven officials scheduled to be part of a delegation made up of European Members of Parliament, national lawmakers, and French mayors, for calling for a boycott of Israel.<sup>106</sup> In January 2018, the Ministry of Strategic Affairs published a blacklist of 20 international organisations actively involved in the BDS campaign that would be denied entry to Israel.<sup>107</sup> In April 2018, **Patrice Leclerc**, mayor of Gennevilliers (France), was detained for several hours at the crossing between Jordan and the occupied West Bank, before being denied entry. Israeli officials claimed that Leclerc was

105 Nada Elia, "Lara Alqasem's case is a public relations disaster for Israel," *Middle East Eye* (October 13, 2018), available at: <https://www.middleeasteye.net/opinion/lara-alqasems-case-public-relations-disaster-israel>.

106 Ilan Lior, Jonathan Lis, and Josh Breiner, "Israel Denies Entry to European Officials Over 'Support for Israel Boycott'," *Haaretz* (November 14, 2017), available at: <https://www.haaretz.com/israel-news/israel-denies-entry-to-european-officials-over-support-for-israel-boycott-1.5465170>.

107 Ruth Eglash, "20 groups that advocate boycotting Israel will now be denied entry," *The Washington Post* (January 7, 2018), available at: [https://www.washingtonpost.com/news/worldviews/wp/2018/01/07/18-groups-that-advocate-boycotting-israel-will-now-be-denied-entry/?utm\\_term=.752b712c576b](https://www.washingtonpost.com/news/worldviews/wp/2018/01/07/18-groups-that-advocate-boycotting-israel-will-now-be-denied-entry/?utm_term=.752b712c576b).

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excluded after being identified by the MSA as a support of the BDS campaign.<sup>108</sup> Through a written declaration, French Foreign Minister Jean Yves Le Drian requested that elected officials be permitted to enter Israel and the OPT.<sup>109</sup> In August 2019, a planned visit to Israel by US Congressional Representatives **Ilhan Omar** and **Rashida Tlaib** caused a stir after then-President Trump called on Twitter for Israel to deny them entry, which it did.<sup>110</sup> The two Muslim-American women had planned to visit refugee camps and checkpoints, and to meet with "people who lost their lands and had their homes demolished." While they were eventually allowed to enter on humanitarian grounds, the visit was ultimately cancelled.<sup>111</sup> In another case, **Vincent Warren**, Executive Director of the Center for Constitutional Rights (CCR), and **Katherine Franke**, chair of CCR's board, who were leading a delegation of American human rights defenders visiting the OPT, were detained at Ben Gurion Airport on April 29, 2018 for 14 hours and interrogated, then denied entry into Israel and deported. Warren and Franke were questioned about their "political association" with human rights groups that have been critical of Israel's human rights record.<sup>112</sup> On July 20, 2018, two researchers of the Dutch research centre SOMO were denied access into Israel at Ben Gurion Airport. The stated reason for the denial of entry was their alleged BDS activism.<sup>113</sup> A significant new development took place in May 2018, when for the first time the Israeli authorities directly targeted an international human rights organisation operating on their territory, by revoking the work permit of **Omar Shakir**, Human Rights Watch's Israel and Palestine Director, and ordering him to leave Israel within 14 days because of his "alleged support of boycott against Israel."<sup>114</sup> In a statement, Human Rights Watch highlighted that, "Neither Human Rights Watch nor Shakir as its representative has ever called for a boycott of Israel. Human Rights Watch has urged businesses to stop operating in illegal settlements as part of their global duty to avoid complicity in human rights abuses - just as it calls on businesses to comply with this duty in many other countries. A district court in April, and then the Israeli Supreme Court, found that this position constitutes 'grounds for deportation' under an expansive reading of the 2017 law."<sup>115</sup> According to the organisation, the effective deportation of their staff on November 25, 2019, after a long judicial battle, reflects the Israeli authorities' "intensifying assault on human rights."<sup>116</sup> In September and October 2019, the Israeli authorities continued its aggression against international NGOs by denying **Laith Abu Zeyad**, Amnesty International's campaigner for Israel and Palestine, a permit to enter occupied East Jerusalem and then banning him from traveling abroad for "security reasons" - "apparently as a punitive measure against the organisation's human rights work," according to Amnesty.<sup>117</sup> As a Palestinian from the occupied West Bank, Abu Zeyad must obtain an Israeli-issued permit to enter parts of the occupied West Bank under Israeli control, including East Jerusalem, and Israel itself. Yet Palestinians applying for permits face what B'Tselem describes as an "arbitrary, entirely non-transparent bureaucratic system." Most can travel abroad only by land, via Jordan, through the Israeli-controlled Allenby Crossing. On May

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108 Middle East Monitor, "France asks Israel to stop denying entry to elected officials" (April 18, 2018), available at: <https://www.middleeastmonitor.com/20180418-france-asks-israel-to-stop-denying-entry-to-elected-officials>.

109 France Diplomatie, "Israel Q&A – Extrait du point de presse" (April 17, 2018), available at: <https://www.diplomatie.gouv.fr/fr/dossiers-pays/israel-territoires-palestiniens/processus-de-paix/evenements/article/israel-q-r-extrait-du-point-de-presse-17-04-18>.

110 Emma Green, "Trump Has Enabled Israel's Antidemocratic Tendencies at Every Turn," *The Atlantic* (August 15, 2019), available at: <https://www.theatlantic.com/politics/archive/2019/08/israel-bans-omar-tlaib/596167>.

111 Omri Nahmias, Menachem Shlomo, "Ilhan Omar, Rashida Tlaib hint at cutting aid to Israel after entry denied," *The Jerusalem Post* (August 20, 2019), available at: <https://www.jpost.com/American-Politics/Omar-and-Tlaib-Wont-let-Netanyahu-Trump-hide-cruel-reality-of-occupation-599122>.

112 CCR, "Center for Constitutional Rights Executive Director and Board Chair Both Denied Entry into Israel" (May 1, 2018), available at: <https://ccrjustice.org/home/press-center/press-releases/center-constitutional-rights-executive-director-and-board-chair>.

113 The Centre for Research on Multinational Corporations, "Two SOMO researchers denied entry into Israel on arbitrary grounds," (July 21, 2018), available at: <https://www.somo.nl/two-somo-researchers-denied-entry-israel-arbitrary-grounds>.

114 Human Rights Watch, "Israel Orders Human Rights Watch Official Deported" (May 8, 2018), available at: <https://www.hrw.org/news/2018/05/08/israel-orders-human-rights-watch-official-deported>.

115 Human Rights Watch, "Israel Expels Human Rights Watch Director Today" (November 25, 2019), available at: <https://www.hrw.org/news/2019/11/25/israel-expels-human-rights-watch-director-today>.

116 *Ibid.*

117 See: <https://www.amnesty.org/en/latest/news/2019/10/israel-opt-amnesty-staff-member-faces-punitive-travel-ban-for-human-rights-work>.

31, 2020, the Jerusalem District Court hearing into the petition to lift the punitive travel ban imposed on Abu Zeyad indicated that the judge had accepted the Israeli Security Agency's position based on its "secret information," thus denying Amnesty's campaigner the possibility to challenge the travel ban and defend his basic rights.<sup>118</sup> In October 2020, the Israeli Government was reported to refuse to grant or renew visas to employees of the UN Office of the High Commissioner for Human Rights (OHCHR), after having already made nine out of the staff of twelve leave the country.<sup>119</sup>

### **Counter-terrorism and Covid-19 measures weaponized against human rights NGOs and defenders**

Over the past years, the Government of Israel has continually abused the legitimate fight against terrorism to drastically reduce civic space and silence critical voices.

The attacks of September 11, 2001 in the United States created a universal shift in the handling of terrorism by all States. Then, from 2009, a series of events swiftly changed the political landscape in Israel and the OPT: the 23-day Israeli military offensive against the Gaza Strip in December 2008-January 2009; the election of Benjamin Netanyahu as Prime Minister, several months later; and the release in September 2009 of the Goldstone Report,<sup>120</sup> which accused both the Israeli forces and the *de facto* Government of Hamas in Gaza of war crimes and possible crimes against humanity, recommended that each side openly investigate its own conduct, and proposed to refer the situation to the ICC if they failed to do so. This new context led to a rightward shift in Israeli politics, and made it even more difficult for Palestinian and Israeli civil society to operate, since it "provided the backdrop for a far more intense and deliberate assault on progressive groups and opinions in the country," according to Naomi Chazan.<sup>121</sup> At the same time, divisions between Hamas in Gaza and the PA in the West Bank, alongside Hamas' rise in popularity after the Israeli military offensives in Gaza in 2009 and 2014, led to declining confidence in the PA as the representative of the Palestinian people in both the West Bank and the Gaza Strip. In turn, 2015 became a landmark year regionally, with the announcement of an ICC investigation following the 2014 offensive in Gaza (called Operation Protective Edge) - but also internationally, in terms of strengthening the fight against terrorism, after a wave of terrorist attacks in Europe and the United States. Multiple governments around the world, including Israel, took this opportunity to fuel hostility towards human rights groups. Allegedly to fight terrorism, the State of Israel has been judicially harassing human rights defenders, restricting NGOs' access to funding, including from foreign sources, controlling and limiting associations' activities, criminalizing their expression, opinions, and activities, and limiting the freedom to peacefully demonstrate or rally - all at a much higher pace than previously.

Similarly, at a time of extreme tension in the region, the Covid-19 pandemic outbreak that reached the area in spring 2020 has added a new global threat to civil society organisations and human rights defenders in Israel, the OPT, and the Golan, since emergency measures and new abuses of power under the guise of responding to the crisis may further limit fundamental freedoms, including the rights to freedom of association and expression. At the very beginning of the spread of Covid-19, UN experts had already urged States to avoid overreach when using security measures in their response to the coronavirus outbreak, and reminded them that emergency powers should not be used to quash dissent.<sup>122</sup> Yet among the numerous measures taken by Israeli authorities, some could undermine the work of human

118 See: <https://www.amnesty.org/en/latest/news/2020/05/israelopt-court-to-rubber-stamp-travel-ban-on-amnesty-campaigner-a-bitter-blow-for-justice-and-human-rights>.

119 Al-Haq, "Israel's Refusal to Grant/Renew Visas to the UN OHCHR Highlights the Urgent Need to End Israel's Impunity" (October 19, 2020), available at: <https://www.alhaq.org/advocacy/17456.html>.

120 The Report of the UN Fact-Finding Mission on the Gaza Conflict, mandated by the Human Rights Council, and released on September 25, 2009, was immediately rejected fully by Israel and partially by Hamas; available at: <https://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf>.

121 *Israel in the World, Legitimacy and Exceptionalism*, edited by Emanuel Adler, p.74.

122 See UNOHCHR, "COVID-19: States should not abuse emergency measures to suppress human rights – UN experts" (March 16, 2020).

rights organisations and the freedom of human rights defenders, under the guise of protecting health. Among the measures taken, some are extremely alarming, such as the shutdown of Israeli courts, the attempt to suspend the Knesset, and the order to secretly track citizens using their mobile phone data.<sup>123</sup> Concerning the latter, new regulations from March 2020 allow the police to track the mobile phones of Covid-19 patients or of those suspected of being infected, without first seeking a court order. Although officially limited to the fight against the virus, this measure might, in the future, make the activity of human rights defenders more challenging, and increase the likelihood of continued monitoring of their movements and work. In a letter dated April 4, 2020, the Association for Civil Rights in Israel (ACRI) wrote to the Knesset to express its opposition to the proposed amendment, arguing that it radically and disproportionately infringed on human rights.<sup>124</sup> While many jurisdictions were shut down, companies continued to visit sites for development projects despite the restrictive measures, which demonstrates the double standard applied by the authorities. The Palestinian authorities also used the pandemic to restrict freedoms. In March 2020, Mahmoud Abbas issued a presidential decree declaring a state of emergency in all Palestinian territories, and a law governing the state of emergency, both of which limit freedom of expression by criminalising and sanctioning the publication of news or information, including on social media, relating to the handling of the crisis, if it is not based on official sources.<sup>125</sup>

## **D. NGOs' Access to Funding: Alarming and Widespread Restrictions**

### **Obstacles faced by human rights NGOs in Israel, the OPT, and the occupied Syrian Golan to access funding**

The already-precarious situation of human rights NGOs in Israel, the OPT, and the occupied Syrian Golan is exacerbated by their deteriorating funding situation. Their dependence on foreign funding has hit these organisations particularly hard in recent years, for two main reasons.

Firstly, foreign aid to Palestinian and Israeli civil society has declined since the so-called "Arab Spring" in 2011, as donors have tended to concentrate their effort on the new prospects in neighbouring countries. Furthermore, competition for remaining funds has intensified, as US and European funders have diverted funding to other areas such as addressing domestic issues, the international refugee crisis, and the humanitarian crisis in Syria. The Ford Foundation, which had been a major funder of NGOs in Israel and the OPT, decided to reorder its priorities in the region starting in 2011,<sup>126</sup> and shifted its focus from human rights projects to development projects. Palestinian NGOs note that they have the added difficulty of having to compete with the PA, as well as international NGOs, for foreign assistance funding. Many of the NGOs interviewed reported significant reductions in funding, ranging from 15 to 40%, over the past few years, and have had to cut back on staff and rely on volunteer labour as a result. Additionally, there is a broad consensus that the Covid-19 crisis will contribute to a reduction in funding, since donors are more likely to finance humanitarian assistance during this period.

Secondly, as we will discuss in more detail below, the dependence of human rights organisations on European funding, in particular, has made it advantageous for the Israeli Government and right-wing groups to put pressure on European officials and politicians to delegitimise the

123 "Critics in Israel say Netanyahu using coronavirus as pretext for massive power grab," *Los Angeles Times* (March 18, 2020).

124 ACRI, "Letter to Members of Knesset re: Legislative Amendment–Use of Communications Data by the Police to Enforce Isolation Orders" (April 16, 2020), available at: [https://01368b10-57e4-4138-acc3-01373134d221.usr-files.com/ugd/01368b\\_3cdd63eab9af4cb7b5735a28f52bef86.pdf](https://01368b10-57e4-4138-acc3-01373134d221.usr-files.com/ugd/01368b_3cdd63eab9af4cb7b5735a28f52bef86.pdf).

125 See: [https://www.wattan.net/ar/news/305336.html?fbclid=IwAR2z\\_M5aByIKrfwV7z-2dOqLFZGEIXW39Y-W2CSQ6bZrwLRYsapqOmTteTFI](https://www.wattan.net/ar/news/305336.html?fbclid=IwAR2z_M5aByIKrfwV7z-2dOqLFZGEIXW39Y-W2CSQ6bZrwLRYsapqOmTteTFI).

126 Nathan Guttman, "Ford Foundation, Big Funder of Israeli NGOs Pulling Out," *The Forward* (April 6, 2011), available at: <https://forward.com/news/136816/ford-foundation-big-funder-of-israeli-ngos-pulling>.



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work of NGOs. In doing so, the Israeli Government and anti-human rights groups have been conducting an offensive campaign by which, outside of Israel, they put pressure on European funders to stop supporting Palestinian human rights NGOs based on accusations of their alleged support to terrorism, and, inside Israel, they portray those receiving funding from these same donors as "traitors" and "foreign agents" acting against the interests of Israel.

### **Legislation to restrict human rights NGOs' access to funding**

Despite the overarching legal framework being consistent with the rights guaranteed by the international human rights instruments ratified by Israel (see above), and despite the fact that the State of Israel has long considered the provisions of the UN Declaration on Human Rights Defenders to be in accordance with Israeli practice, a significant number of legislative restrictions on human rights NGOs' access to funding have been adopted over the last decade.

#### **Transparency Requirements for Parties Supported by Foreign State Entities Bill**

The original bill, referred to as the "Transparency Law" or the "NGO Law," was a Government bill seeking to impose a series of obligations on NGOs that receive the majority of their funding from "foreign government entities," which are defined in the bill as encompassing foreign countries, the European Union, the United Nations, government foundations, etc. This definition contradicts the distinction made by the UN Special Rapporteur on the Rights to Freedoms of Peaceful Assembly and of Association between domestic, foreign, and international funding in a 2013 report, and which placed UN funds in the latter category. Among other things, the bill sought to obligate NGOs to which the bill applies to state and/or declare this foreign-funded status in any publication and during any discussion attended by public representatives or elected representatives, and for representatives of NGOs to wear identification tags and so forth.<sup>127</sup> While the identification tag component was dropped early on, the adopted law does require "groups to declare they are reliant on foreign funding in all dealings with officials, and on TV, newspapers, billboards and online."<sup>128</sup>

The requirements of this bill by and large mirror those of the Russian "Law on Foreign Agents," a law enacted in 2012 according to which NGOs receiving funding from abroad and who engage in so-called "political activities" must label all of their internal and external publications with the words "foreign agent."

The bill was approved on July 11, 2016. In early June of 2017, Prime Minister Netanyahu stepped up his battle with foreign-funded NGOs, saying at a meeting of coalition leaders that the law passed the year before was not strong enough, and that there was a need to beef it up in order to completely prohibit donations from foreign governments to NGOs.<sup>129</sup> Minister Yariv Levin (Likud) was asked to prepare proposals for advancing this idea. However, to this day, a new bill has yet to be presented. In ACRI's view, "the bill was improper, anti-democratic, and undermined basic rights. The purpose was not to increase transparency but to enable the political persecution and stigmatization of specific organizations."

NGOs affected by this law, i.e. most of the human rights organisations in Israel, occupied East Jerusalem, and the occupied Syrian Golan, are concerned that this will delegitimise their monitoring and advocacy work within Israel, the OPT, and abroad, as they have to

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<sup>127</sup> *Ibid.*

<sup>128</sup> Peter Beaumont, "Israel passes law to force NGOs to reveal foreign funding," *The Guardian* (July 12, 2016), available at: <https://www.theguardian.com/world/2016/jul/12/israel-passes-law-to-force-ngos-to-reveal-foreign-funding>.

<sup>129</sup> Herb Keinon, "'Israel is a stable democratic state and not a banana republic' says CEO of right wing NGO Im Tirtzu," *The Jerusalem Post* (June 11, 2017), available at: <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Netanyahu-wants-to-bar-foreign-government-money-to-NGOs-496546>.



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identify themselves in any communication as recipients of foreign funding.<sup>130</sup> The labelling implies that such NGOs are not independent, and allows them to be seen as foreign agents, if not traitors and enemies of the State of Israel. This is another element of the campaign of vilification against human rights organisations. Furthermore, according to ACRI and other NGOs that we met during the mission, the bill was not necessary since existing legislation already required NGOs to act in a transparent manner, particularly if they receive funding from foreign countries. Rather, the law was tailor-made to target the most "controversial" NGOs. According to testimony during a hearing of the Knesset Foreign Affairs and Defence Committee on November 16, 2020, about settler violence, a representative of the human rights organisation Yesh Din<sup>131</sup> was required by the chair of the committee to declare that Yesh Din is financed by foreign entities, before given permission to speak. This came after an intervention from Betzalmo - also considered a GONGO - whose representative also attended the hearing, along with an "emergency discussion" on the issue of "intervention and financing of foreign countries," initiated by far-right Knesset Members and attended by Gerald Steinberg, Head of NGO Monitor. While included in the "NGO Law," this requirement seemed to have never been enforced prior to this episode.

Moreover, there are other laws that aim at restricting human rights NGOs' access to funding:

Under the 2011 Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity ("Foreign Government Funding Law"), NGOs are required to publish, on the Ministry of Justice's website, quarterly reports stating any funding received from foreign governments or publicly-funded foreign donors.<sup>132</sup>

The "Nakba Law" (Amendment No. 40 to the Budgets Foundations Law): Passed in 2011, the "Nakba Law" authorises the Finance Minister to reduce State funding or support to an institution if it holds an activity that rejects the existence of Israel as a "Jewish and democratic state" or commemorates "Israel's Independence Day or the day on which the state was established as a day of mourning." Palestinians traditionally mark Israel's official Independence Day as a national day of mourning and organise commemorative events. According to Adalah, in addition to restricting access to funding, "the law violates their rights, and restricts their freedom to express their opinion, and will cause substantial harm to cultural and educational institutions and further entrench discrimination."

The National Service Law: This 2017 law integrates amendments that seek to prevent organisations that receive over 50 percent of their funding from a foreign entity from receiving national (civilian) service volunteers.<sup>133</sup> The bill was passed on its second and third readings on March 22, 2017.<sup>134</sup> The final version of the bill separates the possibility of receiving a position for a national service volunteer from the possibility of receiving government funding for the position. It was decided that organisations that provide care for individuals will be able to receive a national service position, provided that they act for the population in Israel or for Israeli residents, in the fields of education, health, welfare, or in encouraging and absorbing Jewish immigration. Organisations that are active in general for the population in Israel in the fields of culture, the environment, road safety, and internal security will also be able to receive positions for volunteers. The ramification is that organisations that are active solely on behalf of Palestinian residents of the OPT will not be eligible for national

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130 ACRI, "ACRI's response to the passing of the NGO law" (July 12, 2016), available at: <https://www.acri.org.il/en/2016/07/12/acris-response-to-the-passing-of-the-ngo-law>.

131 Yesh Din is a non-profit organisation registered in Israel, established in 2005, that works to protect the human rights of Palestinians living under Israeli armed forces' occupation. See: <https://www.yesh-din.org/en/about-us>.

132 For more in-depth discussion, see Amal Jamal, "The Rise of 'Bad Civil Society' in Israel," *SWP Comment* (January 2018), available at: <https://www.swp-berlin.org/en/publication/israel-the-rise-of-bad-civil-society>.

133 The National Service program serves as a substitute for young Israelis (usually high-school graduates) for the Military Service. See: <http://www.ivolunteer.org.il/Eng/Index.asp?ArticleID=113&CategoryID=131>.

134 See: <https://law.acri.org.il/en/wp-content/uploads/2018/10/Overview-of-Anti-Democratic-Legislation-October-2018.pdf>.

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service positions.<sup>135</sup> According to Israeli media outlets *The Yeshiva World*<sup>136</sup> and *The Jerusalem Post*,<sup>137</sup> Im Tirzu published a report, calling out organisations such as B'Tselem and PCATI for being entitled to national volunteer positions, which convinced a Member of Knesset to put forward the amendments with the objective of "put(ting) an end to an absurd reality in which organizations that receive the majority of their funding from foreign governments exploit the benefits provided by the Israeli taxpayer for their own harmful agenda."

### **Other unsuccessful legislative attempts to restrict NGOs' access to funding**

Other bills aiming at hampering NGOs' access to funding, including foreign funding, were drafted but not adopted:

In 2011, the Bill on Income of Public Institutions Receiving Donations from Foreign State Entity ("Foreign Funding of NGOs Bill"), calling for a complete ban on foreign government funding for NGOs that seek to undermine the Israeli State and the Israeli armed forces (e.g., rejecting the existence of Israel as a Jewish and democratic state, inciting racism, supporting the armed struggle of an enemy state, etc.), was proposed and then shelved indefinitely after intense domestic and international criticism and advocacy.<sup>138</sup>

The "Loyalty in Culture" Law also intended to punish dissent in Israel. This was a continuation of the "Nakba Law," that would have allowed ministers to strip Government funding from institutions that express political positions contrary to those of the political majority. The vaguely-worded "political positions" expression left considerable room for interpretation to include criticism over Israel's human rights record. But this bill failed to pass in November 2018, thanks to a large mobilisation among Israeli citizens, and after ACRI actively advocated against it within the Knesset.

The Bill on tax exemption for contributions to non-profit organisations (clause 46a): This bill denies the tax exemption under section 46A of the Income Tax Ordinance to organizations that "act against the State of Israel." This is defined in the bill as organisations that promote a boycott or accuse Israel overseas of war crimes. Thereby the bill seeks to determine what is damaging to the State and what is not, and accordingly to grant or deny tax exemption on a selective basis, according to political opinions. The bill was passed at its Preliminary Reading on March 8, 2017,<sup>139</sup> but did not advance further and seems to no longer be of concern.

Other bills have been tabled but not yet discussed, including: a bill seeking to revoke the exemption from the payment of municipal taxes from non-profit organisations which receive funding from foreign countries; and a bill seeking to deny NGOs funded by foreign state entities the exemption from the levy on applications to state bodies, in accordance with the Freedom of Information Law, and also to establish that they will be required to pay a double levy.

Furthermore, in October 2017, a proposition emanating from a Member of Knesset that was intended to establish a commission of inquiry to examine donations made by foreign government entities to NGOs. Such a commission would have enabled the authorities to prosecute and to stage "show trials" of organisations who promote an agenda that is different

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135 *Ibid.*

136 "Knesset Passes Law Ending National Service In Foreign Government Funded NGOs Working Against The State," *The Yeshiva World* (March 23, 2017), available at: <https://www.theyeshivaworld.com/news/israel-news/1242387/knesset-passes-law-ending-national-service-in-foreign-government-funded-ngos-working-against-the-state.html>.

137 Udi Shaham, "Knesset passes law forbidding national service in left-wing NGOs," *The Jerusalem Post* (March 22, 2017), available at: <https://www.jpost.com/Israel-News/Knesset-passes-law-forbidding-natl-service-in-foreign-funded-NGOs-484916>.

138 ICNL, "Appendix D: Reform Success Stories" (2014), available at: [http://www.icnl.org/research/resources/foreignfund/Appendix%20D%20\(Success%20Stories\).pdf](http://www.icnl.org/research/resources/foreignfund/Appendix%20D%20(Success%20Stories).pdf).

139 See: <https://law.acri.org.il/en/wp-content/uploads/2018/10/Overview-of-Anti-Democratic-Legislation-October-2018.pdf>.

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from that of the Government. Concerns were expressed that the proposal was intended to intimidate donors and organisations that are not acceptable to the Government. This proposal has not yet materialised, but is part of the campaign of delegitimization and intimidation of human rights NGOs and their donors.

An initiative to prohibit donations from specific donors (known as "the Soros Law," named after the billionaire and philanthropist George Soros, the founder of Open Society Foundations, a major donor among NGOs in the region): in November 2017, Member of Knesset for the Likud Party Miki Makhluf Zohar announced during a debate in the House Committee that he intended to advance legislation that would prohibit the transfer of donations from donors listed in the "black list" established by the Ministry of Strategic Affairs; this legislation would have attempted to spearhead the struggle against initiatives supporting the boycotting of Israel. The list mentioned organisations and individuals supporting the BDS movement and other activities intended to criticise Israeli policy.<sup>140</sup> This legislation seems only to have been promoted in the media, and apparently was never introduced.

### **Lobbying to defund NGOs**

Along with smear campaigns conducted at the national level, and often echoed in the US, the Government of Israel, together with the above-mentioned right-wing affiliates, has engaged in intense lobbying activities towards European statesmen and politicians, urging them to stop funding NGOs engaged in "unpatriotic" activities that seek to undermine the Israeli armed forces and the State of Israel.

From 2013 onwards, NGO Monitor developed a rather successful strategy of "naming and shaming," that led several United Kingdom and US funders to discontinue donations to NIF, and subsequently launched a more concerted lobbying campaign in 2015-16 with its "Domino Strategy" to lobby parliaments in the Netherlands, Denmark, Switzerland, Norway, Germany, Finland, and the EU Parliament to review their funding for "anti-Israeli" NGOs.<sup>141</sup> In its 2017 report, NGO Monitor celebrated major advances in raising awareness and attitudes among Europe parliamentarians about NGOs being used as "vehicles for incitement and justification of terror."<sup>142</sup>

Acknowledging the systematic and ongoing smear campaigns carried out by the Israeli occupying authorities, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, noted with particular concern, in his report in March 2019, "the harmful practices employed by political leadership and State authorities in Israel to silence human rights defenders' criticism of certain government policies. This includes verbal attacks, disinformation campaigns and de-legitimization efforts, as well as targeting of civil society funding sources ... Those accused included respected European and Palestinian organizations such as Al-Haq, the Palestinian Centre for Human Rights and Al-Mezan."<sup>143</sup>

For instance, in 2015, several European donors that funded Al-Haq received false letters sent by an alleged official of the PA, claiming that Al-Haq was being investigated by the consulting firm Ernst & Young for "financial irregularities, corruption, fraud and misuse of donations and 37 funds." Later on, the firm and the PA confirmed that these allegations were false and unfounded in a series of official letters addressed to Al-Haq in November 2015.<sup>144</sup>

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140 See: <https://law.acri.org.il/en/wp-content/uploads/2018/10/Overview-of-Anti-Democratic-Legislation-October-2018.pdf>.

141 Amal Jamal, "The Rise of "Bad Civil Society" in Israel. Nationalist Civil Society Organizations and the Politics of Delegitimization," *Schiftung Wissenschaft und Politik* (January 2018), available at: <https://www.swp-berlin.org/en/publication/israel-the-rise-of-bad-civil-society>.

142 NGO Monitor Annual Report 2017, available at: [https://www.ngo-monitor.org/pdf/annual\\_report2017.pdf](https://www.ngo-monitor.org/pdf/annual_report2017.pdf).

143 A/HRC/40/73, "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967" (March 15, 2019).

144 The Observatory, "Ongoing smear campaign against Al-Haq staff members Mr. Shawan Jabarin and Ms. Nada Kiswanson" (November 10, 2017), available at: <https://www.fidh.org/en/issues/human-rights-defenders/israel-occupied-palestinian-territory-ongoing-smear-campaign-against#nh6-1>.

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In July 2017, Irish officials reported to Al-Haq, while in Ramallah, that Prime Minister Netanyahu had specifically mentioned Al-Haq to the Irish Foreign Minister, asking him not to fund the organisation. On other instances, Israeli leaders are reported to have approached Theresa May<sup>145</sup> and Angela Merkel<sup>146</sup> with the express intent of achieving the defunding of B'Tselem and Breaking the Silence.

Prime Minister Netanyahu has repeatedly called on European government officials to halt their funding of Palestinian human rights organisation Al-Haq, which stands accused of engaging in BDS activities or "lawfare" against the State of Israel, as for instance during a meeting with the Danish Foreign Minister in May 2017, which led Denmark to reconsider its funding of Palestinian NGOs,<sup>147</sup> and in January 2018 in a meeting with the Norwegian Foreign Minister.<sup>148</sup>

Similarly, at a meeting of coalition leaders in June 2017, Prime Minister Netanyahu said he had succeeded shortly before in convincing Norway to withdraw funds it had sent, an apparent reference to Norway's decision to withdraw its funds from the Women's Affairs Technical Committee (WATC) after it inaugurated a Palestinian youth centre for women in the West Bank named after Dalal Mughrabi, a Palestinian woman who led the 1978 Coastal Road attack that killed Israeli civilians.<sup>149</sup> Netanyahu's comments came just two weeks after he told Likud Members of the Knesset of his new policy to boycott foreign leaders who meet with so-called "far-left" NGOs. In April 2017, he cancelled a meeting with German Foreign Minister Sigmar Gabriel after the German diplomat insisted on going through with a meeting with the NGOs Breaking the Silence and B'Tselem.<sup>150</sup>

In March 2019, a few local supporters of Energix's project in the Syrian Golan sent a slanderous letter to Al-Marsad's largest funder, lodging personal attacks against Al-Marsad's employees and claiming that Al-Marsad mismanaged its finances. A subsequent independent forensic audit established that the allegations against Al-Marsad were completely unfounded. However, this audit cost Al-Marsad 18,000 EUR and created a significant gap in the budget of the organisation.

On June 10, 2019, Israel's Ministry of Strategic Affairs claimed to have succeeded in efforts to convince banks in Europe and the United States to close 30 financial accounts associated with Palestinian NGOs, allegedly including those of Al-Haq.<sup>151</sup> Despite the sweeping claims made by the Ministry of Strategic Affairs, Al-Haq as an organisation does not hold credit card accounts. As such, there was never an account opened that could be closed.<sup>152</sup>

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145 "'Stop funding Breaking the Silence,' PM asks UK's May," *The Times of Israel* (February 6, 2017), available at: <https://www.timesofisrael.com/stop-funding-breaking-the-silence-pm-asks-uks-may>.

146 David Brennan, "Netanyahu Government Pressured Germany to Defund Israeli Media, Rights Groups: Report," *Newsweek* (July 12, 2018), available at: <https://www.newsweek.com/netanyahu-government-pressured-germany-defund-israeli-media-rights-groups-1249409>.

147 PHROC and PNGO, "Position Paper on the Ongoing Campaign to Silence, Delegitimize, and De-fund Palestinian Civil Society Organizations and Human Rights Defenders" (March 26, 2018), available at: <http://www.pngo.net/position-paper-on-the-ongoing-campaign-to-silence-delegitimize-and-de-fund-palestinian-civil-society-organizations-and-human-rights-defenders>.

148 PHROC and PNGO, "Position Paper on the Ongoing Campaign to Silence, Delegitimize, and De-fund Palestinian Civil Society Organizations and Human Rights Defenders" (March 26, 2018), available at: <http://www.pngo.net/position-paper-on-the-ongoing-campaign-to-silence-delegitimize-and-de-fund-palestinian-civil-society-organizations-and-human-rights-defenders>; Herb Keinon, Greer Fay Cashman, "Netanyahu, Norwegian FM at odds over Palestinian NGO," *The Jerusalem Post* (January 7, 2018), available at: <http://www.jpost.com/Arab-Israeli-Conflict/Netanyahu-Norwegian-FM-at-odds-over-Palestinian-NGO-533054>; Middle East Monitor, "Netanyahu thanks Denmark for cutting aid to Palestinian NGOs" (December 25, 2017), available at: <https://www.middleeastmonitor.com/20171225-netanyahu-thanks-denmark-for-cutting-aid-to-palestinian-ngos>.

149 Herb Keinon, "Netanyahu wants to bar foreign government money to NGOs," *The Jerusalem Post* (June 11, 2017), available at: <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/Netanyahu-wants-to-bar-foreign-government-money-to-NGOs-496546>.

150 *Ibid*.

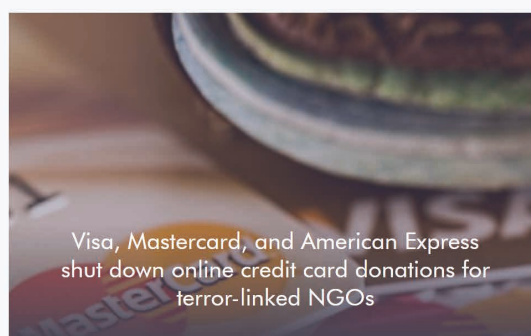
151 Maayan Jaffe-Hoffman, "30 Financial Accounts Associated With BDS-Promoting NGOs Shut Down," *The Jerusalem Post* (June 11, 2019), available at: <https://www.jpost.com/Israel-News/Report-30-financial-accounts-associated-with-BDS-promoting-NGOs-close-592073>.

152 Al-Haq, "Israeli Ministry of Strategic Affairs Campaign of Institutionalised Harassment Continues with the Alleged Closure of Palestinian NGOs' Financial Accounts" (June 19, 2019), available at: <http://www.alhaq.org/advocacy/6039.html>.



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## Achievements



NGO Monitor's website « accomplishment » section boasts of its successes in its effort to defund Human Rights Organisations ©NGO Monitor

### **The negative impact on access to funding for human rights organisations and human rights defenders**

A number of European Union officials based in the OPT that were consulted during the mission confirmed that NGO Monitor's advocacy campaign in Europe had the intended effect of increasing pressure on European donors. While, during interviews, all donors stated that they would continue to support civil society organisations at the same budgetary level, the impact of the "anti-human rights NGO" sentiment on access to funding should not be underestimated.

Foreign support is critical to the ability of many human rights NGOs in Israel, the OPT, and the occupied Syrian Golan to play an effective role in monitoring human rights violations, and particularly the human costs of the occupation and settlements. Yet the accumulated weight of the smear campaigns, as well as legislative and administrative measures, are having a clear detrimental effect, notably on Palestinian NGOs' ability to seek, receive, and use funding, and to implement their projects.

"Because of NGO Monitor campaigns, we've been getting ridiculous requests from foreign governments, especially the European Union, about accusations and we get very specific questions from our usual donors. This has stressed out the system," said a member of an organisation interviewed during the mission. "Donors, especially EU Member-States, are nervous about having to justify these projects in Europe," they continued.

Indeed, the smear campaigns conducted abroad by Israeli Government-affiliated groups and by the Government itself, have resulted in a greater selectivity on the part of donors regarding their beneficiaries and grantees - for instance by avoiding those involved with, supportive of, or even seen as supportive of BDS, or by avoiding those doing litigation - and in requests for more regular and stringent reporting procedures, imposing increasingly prescriptive calls for



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proposals, or being more intrusive about NGOs' priorities, and how their projects are being implemented.

Israeli Government-affiliated groups have relentlessly targeted organisations and individuals they seek to bar from receiving European funding, for their alleged ties with political groups. But even though the EU rejects the BDS campaign's attempts to isolate Israel, and is opposed to any boycott of Israel, it has responded unequivocally that it "stands firm in protecting freedom of expression and freedom of association in line with the Charter of Fundamental Rights of the European Union."<sup>153</sup> The chilling effect resulting from these smear campaigns has had an impact on even the most committed donors and Palestinian civil society organisations, by requiring from them near-constant defence of development aid in various forums, and extraordinary administrative measures unlike those required in other regions. In this way, Israeli Government-affiliated groups have positioned themselves as oversight mechanisms for all funding to the OPT and Israel, and have had success in shifting the discourse at the expense of the work of human rights defenders. Furthermore, some donors have explicitly requested that funding not be used for work on submissions to or advocacy around the International Criminal Court, despite it being a legitimate, legal, and appropriate venue for accountability.

NGOs both in the OPT and Israel also face extra administrative hurdles when receiving or transferring funds overseas. Indeed, several NGOs have reported that they had been asked by their banks to provide numerous documents in order to receive funds, including from their usual donors. Documents requested have included grant agreements, registration certificates of the donor, email exchanges, separate bank accounts, etc.

"A few years ago, our donors were partners, sharing our values and ideas. Now, many of them are so worried about administrative issues that we've lost this sense of partnership," according to another NGO the delegation met.

NGOs in the OPT also report needing approval from Palestinian authorities in order to transfer funds from their bank accounts to the accounts of their employees, partners, and projects located outside the West Bank, including East Jerusalem, Gaza, and overseas. Some argue that the "PA is the largest NGO in the region," and see this administrative burden as a way for the PA to sideline some of the potential grantees since the terrain is so competitive, and since the PA itself is contending for funding. Usually, the PA funds derive from different mechanisms, but its level of funding can also vary from time to time based on the context.

Some of these effects, combined with extended delays in receiving funding, undercut NGOs' ability to seek and receive funding. Several NGOs interviewed in the course of the mission noted that they had lost core funders, mostly European, over the last few years, either because of heightened sensitivity to human rights work in the region, NGO Monitor reports, or changes in the priorities of funders. In some cases, the loss of funding resulted in the need to slash budgets and lay off a number of staff. During the 2018 Observatory mission, delegates were told that some NGOs reported not being able to cover more than one-quarter of their budget for that year. Recently, one Israeli NGO did not have its funding renewed by a European donor because of concerns over the NGO's Palestinian partner. One NGO relied on a well-known Israeli funder as a fiscal sponsor to receive funds from smaller European foundations and donors, but lost that ability when the sponsor withdrew its support due to the NGO's support of boycotts.

Perhaps the most publicised change in the funding landscape in Israel and the OPT came in summer 2017, with the disbandment of the Human Rights and International Humanitarian Law Secretariat, a donor consortium made up of four major European government donors in Israel and the OPT: Denmark, the Netherlands, Sweden, and Switzerland. The Secretariat

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<sup>153</sup> European Parliament, Parliamentary Questions, "Answer given by Vice-President Mogherini on behalf of the Commission" (September 15, 2016), available at: [https://www.europarl.europa.eu/doceo/document/E-8-2016-005122-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-8-2016-005122-ASW_EN.html).

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primarily worked with and supported Palestinian and Israeli human rights civil society organisations active in the OPT, "within the general parameters and context of ending the Israeli occupation of the OPT, and establishing an independent, democratic Palestinian state in which human rights are respected." Since 2003, the Secretariat had been an important source of core funding - funding applied essentially to the overhead and administrative costs of an organisation - for many of the larger human rights NGOs in the OPT and Israel. For its 2013-17 grant cycle, it disbursed around 13 million USD, of which around 80% was core funding.

The disbandment of the Secretariat began after an incident in June 2017 involving one of the Secretariat's OPT grantees, the WATC. This polemic was set off by a report by NGO Monitor in September 2017 claiming to analyse the Secretariat's management and funding.<sup>154</sup> The WATC had been involved in a joint initiative involving the PA, UN Women, and the Norwegian Government, to open a youth centre for women, which it was later decided would be named after Dalal Mughrabi, a Palestinian woman who led the 1978 Coastal Road attack that killed Israeli civilians.

Shortly afterwards, Israeli Prime Minister Netanyahu called on the Norwegian Government to stop funding WATC, which it did, although Norway stated of its own accord its disagreement with the naming of the centre. NGO Monitor took credit for their advocacy on the WATC case, and claimed to have played a major role in bringing an end to the Secretariat.<sup>155</sup> The Norwegian Government decision was then followed by a similar decision by the Danish Government to freeze their funding. Soon after, the Dutch and Swiss members of the Secretariat announced they would do the same. While Secretariat funds were not used to fund the youth centre, the WATC incident and the forceful response from three of the Secretariat donors shows the heightened sensitivity regarding alleged links between NGOs and terrorism.

While the Secretariat is no longer functioning, and its future is uncertain, all four donor States stated that they remained committed to supporting the work of human rights NGOs in the OPT and Israel, and that they had no plans to reduce funding levels. As of 2019, the members of the former Secretariat had shifted to bilateral funding mechanisms. One of the Secretariat's main funders finalized core funding contracts with Israeli and Palestinian human rights organizations in 2019, while others have shifted to project-based funding. While the funding income has not been cut off, it is understood that project-based funding is more restrictive for organisations whose long-term strategies and stability are hindered in the absence of unrestricted core financing.

Other effects, such as the growing uncertainty of funding streams, and administrative requests from funders, undermine the ability of NGOs to use funding effectively, because they cannot make long-term plans, and have to allocate more of their resources and time to administrative and reporting tasks.

The following challenges came up frequently in our interviews with NGOs in both the OPT and Israel:

- Funders are moving away from more stable, long-term core funding, and towards project funding. The latter allows funders more control over how the funds are spent, but imposes greater administrative burdens in terms of project management, monitoring, and evaluation, and requires filing narrative and financial reports and audits.
- Funders have become much more risk-averse and sensitive to anything that could raise the political sensitivity of the projects and NGOs they fund. They are engaging in more

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<sup>154</sup> NGO Monitor, "Abusing Public Funds to Perpetuate Conflict" (October 30, 2017), available at: <https://www.ngo-monitor.org/reports/human-rights-international-humanitarian-law-secretariat>.

<sup>155</sup> NGO Monitor, "NGO Monitor Applauds Danish and Norwegian to Stop Funding to Divisive NGOs" (January 16, 2018), available at: <https://www.ngo-monitor.org/ngo-monitor-applauds-danish-norwegian-stop-funding-divisive-ngos>.

self-censorship, and reviewing the wording of proposals and reports more carefully. They sometimes ask NGOs to remove references to BDS, along with terms such as colonization, apartheid, forcible transfers, etc.<sup>156</sup>

- NGO grantees report a substantial increase in requests from funders for more detailed budgets, more work and financial reports, and additional audits, on top of their annual organisational audits. These administrative burdens are coming at the same time as NGOs are having to answer questions their funders are getting from their offices and politicians back in Europe, and investing more time and resources to cope with the threats stemming from the smear campaigns initiated by Israeli nationalist groups and politicians. While NGOs understand and welcome the need for transparency and accountability, many report that they are now spending much more of their time and staff resources on these administrative matters - and on defending themselves against attacks - and have fewer resources to devote to doing their essential operational work to improve the human rights situation.

While the effects described have been reported by almost all the human rights NGOs and human rights defenders interviewed, it should be emphasised that those in the OPT are in a more vulnerable position, since they tend to rely more on foreign aid and overseas development aid than their Israeli counterparts.

## E. Additional Strains Stemming from the Palestinian Governance and Legislative Frameworks

Palestinian NGOs also face pressure from the PA. Several factors seem to account for this. First of all, Palestinian NGOs' criticism of the Palestinian leadership's human rights track record has sparked legislative and administrative efforts aimed at silencing detractors who are seen as threatening a fragile political entity. Second, another element is undoubtedly at play: as the representative of a State which struggles to exist both internationally and economically, the PA can find itself in competition with NGOs when applying for financial support from international institutions, leading it to push back against its "competitors."

According to the PCHR, "the Palestinian Government adopts practices to control [CSOs] and put their independence to death, especially after the Palestinian division that stirred further repression of freedoms and civic work. The Palestinian Authority (PA)'s policies against CSOs resulted in increasing challenges through a series of legislations and procedures that affect their work and threaten their existence and independence."<sup>157</sup>

For instance, in July 2017 a new Law on Electronic Crimes (also referred to as the Cybercrime Law, Law no. (16)) was adopted by Presidential Decree.<sup>158</sup> This law imposes fines and jail terms for those who distribute online news and information that "would endanger the integrity of the Palestinian state, the public order or the internal or external security of the State."<sup>159</sup> The approval of the law came shortly after PA officials ordered internet service providers in the West Bank to block 29 websites, many of them affiliated with Hamas and Fatah factions opposed to President Mahmoud Abbas.<sup>160</sup> The law is currently one of the main concerns for Palestinian

156 For instance, in 2017, the French Platform for Palestine was censored by one of its funders, who vetoed the publication of a document on popular misconceptions of BDS.

157 PCHR, "Shrinking Space: Government Restrictions on Non-Profit Companies Funding in Light of International Standards" (August 2019), available at: <https://www.pchrgaza.org/en/?p=12794>.

158 See: <https://drive.google.com/file/d/0B0FQQOVEFe9mYm56bWRGT3VkZEE/view>.

159 Chiara Ayad, "Policing the Digital Sphere: The Impact of Palestine's Cybercrime Legislation," *Arab Reform Initiative* (October 2018), available at: <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=r-ja&uact=8&ved=2ahUKEwisyrWT1YvfAhXO34UKHfoiAUAQFjACegQICBAC&url=https%3A%2F%2Fwww.arab-reform.net%2Ffile%2F2410%2Fdownload%3Ftoken%3DO4Yb8rqi&usg=AOvVaw0Xte-a42oxqDn-WHLDNqox6>.

160 See Human Rights Watch 2017 report: <https://www.hrw.org/world-report/2018/country-chapters/israel/palestine>.

human rights organisations as concerns harassment by the PA, but also by Hamas. Since its adoption, the law has been used on several occasions to detain and prosecute journalists and human rights defenders. Just weeks after the law's formal introduction, five journalists were arrested for writing Facebook posts critical of the PA.<sup>161</sup> In September 2017, PA security forces detained human rights defender **Issa Amro**, coordinator of the NGO Youth Against Settlements, for calling out security forces on social media over the arrest of a radio journalist critical of President Mahmoud Abbas.<sup>162</sup> During his detention, he was interrogated about his sources of funding, funders, and partners. He was released on bail six days later<sup>163</sup> after being charged with sectarian incitement, threatening State security, and creating websites, in accordance with Article 20 of the Cybercrime Act.<sup>164</sup> Issa Amro is also facing a military trial by Israel, where he faces 18 charges, ranging from "insulting an Israeli soldier" to "assault."<sup>165</sup>

UPDATE: On January 6, 2021, an Israeli judge at the Ofer Military Court convicted Issa Amro on six counts, including "participating in a rally without a permit," "obstructing a soldier," and "assault." One count of obstruction relates to a non-violent sit-in protest in 2012 calling to re-open the old Hebron municipality building. One count of "assault" by "shoving someone" relates to a previously closed case from 2010, where Issa Amro asserts that he was the one assaulted.<sup>166</sup>

In 2017, several meetings between civil society representatives and governmental bodies were held to discuss a possible amendment to the law. These discussions, as well as campaigns launched by activists, journalists and lawyers, compelled the government to issue a new law, Law No. 10 (of 2018),<sup>167</sup> which still contravenes international standards and puts at risk those critical of the PA and other factions on social media.<sup>168</sup>

While the Palestinian 2000 Law on Associations is generally considered an enabling law, a number of recent decrees issued by the PA have drawn criticism for contradicting the law and creating a more challenging operating space for Palestinian NGOs,<sup>169</sup> for instance by giving the Minister of Interior the power to review all licensing certificates, and requiring that associations refer to security agencies for the completion of registration procedures. In addition, and despite the 2000 Law, some groups have not been able to register to this day, such as the Hebron-based organisation Youth Against Settlement (YAS), an action group which "seeks to end the building and expanding of illegal Israeli settlements through non-violent popular struggle and civil resistance."<sup>170</sup> YAS Co-founder and Coordinator Issa Amro explained that the PA had engaged in a heavy campaign to delegitimise and discredit some civil society organisations, including his own. In an attempt to silence YAS, the PA refused to register the group as an association on two occasions, in 2016 and 2017. At the moment, the organisation does not hold any legal status, and is facing difficulties in receiving funding.

161 7 amleh, "Cybercrime law as a weapon against expression" (November 16, 2017), available at: <http://7amleh.org/2017/11/16/cybercrime-laws-as-a-weapon-against-expression>.

162 "Palestinian Authority arrests activist over Facebook post," *Middle East Eye* (September 5, 2017), available at: <https://www.middleeasteye.net/news/palestinian-authority-arrests-activist-over-facebook-post-1362138628>.

163 "Activist Issa Amr released from PA prison," *PNN* (September 10, 2017), available at: <http://english.pnn.ps/2017/09/10/activist-issa-amr-released-from-pa-prison>.

164 Article 20 of the Electronic Crimes Law states that, "If any news exposing the safety of the State is put at risk, the publisher shall be punished by imprisonment for a period not less than one year and a fine of between 1,000 and 5,000 JD."

165 Frontline Defenders, "Military trial for Issa Amro and Farid Al-Atrash continues," available at: <https://www.frontlinedefenders.org/en/case/military-trial-issa-amro-and-farid-al-atrash-continues-0>.

166 The Observatory, "Israel/OPT: Sentencing of Issa Amro" (Feb 15, 2021), available at: <https://www.fidh.org/en/issues/human-rights-defenders/israel-opt-sentencing-of-issa-amro>.

167 7 Amleh, "Has the Palestinian Cybercrime law really been amended?" (June 4, 2018), available at: <https://7amleh.org/2018/06/04/has-the-palestinian-cybercrime-law-really-been-amended>.

168 *Ibid.*

169 See ICNL, "Civic Freedom Monitor: Palestine" (last updated April 20, 2018), available at: <http://www.icnl.org/research/monitor/palestine.html>.

170 See Youth Against Settlements webpage: <https://hyas.ps/about-us>.

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Regarding the legal regulation of access to funds and resources under the Palestinian authorities, non-profit "companies" in the West Bank and the Gaza Strip are subject to two main provisions: Article (4) of the Law by Decree No. (6) of 2008 on the amendment of the Companies Law of 1964, applicable in the West Bank, and Article (23) of the Companies Law of 1929, applicable in the Gaza Strip.

In 2010, the Palestinian cabinet issued Decree No. (3)/2010 on non-profit companies, expressly criticised by prominent human rights organisations for violating the right to freedom of association, as the decree states that non-profit companies must be approved by the Registrar of Companies, and includes restrictions on the freedom to conduct activities, and the possibility to dissolve non-profit companies for arbitrary reasons.<sup>171</sup> According to PCHR: "Instead of retreating and reorganizing non-profit companies in consistency with Palestine's international obligations relating to the right to association, the Palestinian cabinet issued other decrees to deepen these restrictions," such as :

- Decree No. 7 of 2015 concerning non-profit companies, which subjected non-profit companies to the Anti-Corruption Law No. 1 of 2005.
- Decree No. (8)/2015 amending non-profit companies Law No. 3/2010, which amended Article (11) concerning the power of non-profit companies to obtain financing, and added a new paragraph stipulating that companies must, "obtain a prior approval from the Palestinian cabinet to receive grants, donations, and funding, and NPCs must provide reasons for the funding."
- Decree No. (15/9/17/M.W/ R. H)/2016) of April 21, 2016 to regulate the essential procedures for the non-profit companies to be able to accept donations, grants, and funding.

The latter decree divided the approval process into seven stages:

- the company shall file an application for the prior approval to receive a grant;
- the application shall be examined by the Companies Controller, who then shall refer it to the Minister of National Economy with his opinion;
- the Cabinet Shall examine the application before reviewing it in the Cabinet meeting;
- the Secretariat of the Cabinet shall provide the Ministry of Economy with the decision;
- the Companies Controller shall provide the Monetary Authority with the Cabinet's decision; and
- the Palestinian Monetary Authority shall notify the Palestinian Banks.<sup>172</sup> According to some of our interviewees, the Council can refer the non-profit company's request to security departments in the Ministry of Interior for feedback. Some NGOs noted that the entire process for review and approval was clearly discriminatory in some instances: while it can take up to two to three months for some, it can take much longer for others, and involve meetings with security authorities, a measure that creates major practical hurdles for NGOs headquartered in Gaza.

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<sup>171</sup> PCHR, "Shrinking Space: Government Restrictions on Non-Profit Companies Funding in Light of International Standards" (August 2019), available at: <https://www.pchrgaza.org/en/?p=12794>.

<sup>172</sup> *Ibid.*



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### III. Fighting Back: The Response from Civil Society and Partners

Most Palestinian and Israeli NGOs have started to analyse and discuss the need to have a joint strategy to counterattack and deconstruct slandering narratives and other discrediting discourses contributing to the closing space of civil society.

- In order to denounce accusations they are facing, some Palestinian NGOs have published position papers, statements, and articles, such as the joint report published in March 2018 by PNGO and PHROC, two Palestinian networks of human rights NGOs, entitled *Position Paper on the Ongoing Campaign to Silence, Delegitimize, and De-fund Palestinian Civil Society Organizations and Human Rights Defenders*.<sup>173</sup> The position paper examines the shrinking space for Palestinian civil society over the past few years, revealing the nature of the attacks and the actors involved. It also makes recommendations to the international community and particularly to the EU, calling on Member States to condemn and reject smear campaigns against Palestinian civil society organisations, among others. In addition, PNGO has published a series of articles in online blogs and newspapers to reveal the tactics used by NGO Monitor and the State of Israel to silence Palestinian voices at the international level, especially in EU circles, and to counter their narrative. An article on the topic was published by PNGO in July 2018 in the *EU Observer*, and described the sophisticated disinformation campaign that targeted editors of *EP Today* (a news magazine for the European Parliament), and which prevented them from publishing a PNGO op-ed.<sup>174</sup> Enhancing the presence of Palestinian voices in the media has proven to be quite effective, although many Palestinian organisations have expressed their need to be savvier about using media to do advocacy.

Several Palestinian NGOs have also recognised the need to be more proactive and transparent about publicising their work on their websites, and not just in their published annual reports, as a way to pre-emptively address false accusations or distortions of facts made by organisations like NGO Monitor. Many organisations have mentioned the need to publicize reliable data on their websites, for example their board members and bylaws.

- Most of the Israeli and Palestinian organisations believe that the most efficient way to fight back against slanderous attacks and disinformation is by building the confidence of donors, saying that donors should stop listening to NGO Monitor and other pro-Government groups, and instead have more faith and confidence in their grantees and partners. The French Agency for Development (*Agence française de développement* - AFD) office in Jerusalem reported that in 2018 they regularly received phone calls from unknown individuals inquiring about projects they are funding in Israel and the OPT. The AFD recently decided to stop answering NGO Monitor queries, and refers all queries to their website for more information.

However, as most Palestinian NGOs receive funding for tailored projects, instead of core funding that provides flexibility in the design of activities, they have generally found it difficult to assign budget lines for travel to Europe and elsewhere to meet with donors. Some donors like the Irish Trócaire have included budget lines in their programs for NGOs to conduct yearly advocacy trips to Ireland, so their grantees can meet with legislators, Government representatives, and other relevant stakeholders. The Human Rights and International Humanitarian Law Secretariat, before its dismantling, had a component in its contract

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<sup>173</sup> PHROC and PNGO, "Position Paper on the Ongoing Campaign to Silence, Delegitimize, and De-fund Palestinian Civil Society Organizations and Human Rights Defenders" (March 26, 2018), available at: <http://www.pngo.net/position-paper-on-the-ongoing-campaign-to-silence-delegitimize-and-de-fund-palestinian-civil-society-organizations-and-human-rights-defenders>.

<sup>174</sup> Issam Aruri, "How Israel silences Palestine in EU circles," *EU Observer* (July 17, 2018), available at: <https://euobserver.com/opinion/142249>.

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called the "policy dialogue," for civil society to dialogue with Members of Parliament, but it was never implemented. Yet the Trócaire experience has not been the norm for most donor organisations, even though Palestinian civil society organisations have expressed the need to strengthen their relationship with their overseas funders and partners.

Moreover, some donors appear to be more attentive to listening to Israeli civil society organisations than Palestinian organisations, which are already in a more precarious position. It is therefore all the more important that the international community ensure that Palestinian voices are heard and given an equal space for expression, especially at the international and State level. Partnership and trust need to be enhanced between donors and Palestinian grantees, while donors need to take a stronger stand in favour of human rights, and be able themselves to counterattack the accusations civil society faces as a result of the support they receive to carry out their legitimate activities.

Israeli organisations have also been proactive in countering attacks and smear campaign narratives. Many organisations have responded to comments made by NGO Monitor and other pro-Government groups, and sent the responses directly to their donors as a way to forestall questions from the donors. Many have received frequent questions about their activities and operations from donors, individuals, and political figures, and have had to spend considerable amounts of time responding to all questions. They are also getting more media inquiries asking about their funding. One organisation suggested creating a set of FAQs that could help donors directly respond to queries about NGO Monitor and others reports.

NGOs have also denounced the tactics used by the Israeli pro-Government organisations. For instance, in September 2018, the Policy Working Group, a group of "Israeli academics, journalists, political activists and former diplomats who advocate for peace between Israel and the OPT based on the two-State solution," published a critical analysis of NGO Monitor entitled *NGO Monitor: Shrinking Space; Defaming human rights organisations that criticize the Israeli occupation*.<sup>175</sup> The report denounces NGO Monitor's aim to exacerbate the shrinking space for Israeli and Palestinian human rights NGOs. It also reveals the ties between members of NGO Monitor and the Israeli Government, notably the Ministry of Strategic Affairs. The report concludes and argues that "NGO Monitor is a government-affiliated organisation that selectively targets human rights organisations, relies almost entirely on funding from donors in the US, shirks the transparency it demands of others and disseminates misleading and biased information, which it presents as factual in-depth research."<sup>176</sup>

However, quickly adapting to the reality, a new trend has emerged by which publications formerly published by Israeli Government-affiliated groups are now published by the MSA as official Government "research," and are then seen and referred to as credible and legitimate information by organisations such as NGO Monitor, and independent Zionist Jewish media outlets and international groups.

- More recently, Palestinian and Israeli NGOs have explored litigation as a possible means to fight back against the disinformation, slanderous attacks, and smear campaigns they are facing. One precursor was an NGO based in Bethlehem, the Applied Research Institute-Jerusalem (ARIJ), which in 2006 filed a defamation lawsuit against NGO Monitor. At the time, NGO Monitor claimed that ARIJ - whose purpose is to "promote applied research, technology transfers, sustainable development, and the self-reliance of the Palestinian people through greater control over their natural resources" - "justified violence, rather than contributing to internal norms of good governance and civil society."<sup>177</sup> Ironically, the Israeli court required proof that ARIJ was not a "terrorist organisation" in order to rule

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<sup>175</sup> Policy Working Group, "NGO Monitor: Shrinking Space, Defaming human rights organisations that criticize the Israeli occupation," (September 2018), available at: [http://policyworkinggroup.org.il/report\\_en.pdf](http://policyworkinggroup.org.il/report_en.pdf).

<sup>176</sup> *Ibid.*

<sup>177</sup> NGO Monitor, "Correction to NGO Monitors 20 October 2005 report on Swiss Agency for Development and Cooperation (SDC)" (February 13, 2007), available at: [https://www.ngo-monitor.org/reports/correction\\_to\\_ngo\\_monitor\\_s\\_october\\_report\\_on\\_swiss\\_agency\\_for\\_development\\_and\\_cooperation\\_sdc](https://www.ngo-monitor.org/reports/correction_to_ngo_monitor_s_october_report_on_swiss_agency_for_development_and_cooperation_sdc).

in favour of a defamation case. In February 2007, however, the court ruled against NGO Monitor. Professor Gerald Steinberg, Executive Director of NGO Monitor, was ordered to remove all information about ARIJ on its website, and to issue an apology to ARIJ. But while NGO Monitor published a "Correction to NGO Monitors October 20, 2005 report on Swiss Agency for Development and Cooperation (SDC)" on February 13, 2007,<sup>178</sup> attacks by NGO Monitor against ARIJ did not stop. NGO Monitor's website still has a page dedicated to ARIJ, accusing it of being "among the leaders of the political warfare against Israel" and of participating in "discriminatory campaigns."<sup>179</sup> Funding of ARIJ has since dropped dramatically.

The screenshot shows the NGO Monitor website interface. At the top, there is a navigation bar with the NGO Monitor logo and the tagline "Making NGOs Accountable". A search bar and "Advanced Search" link are present. Language options (En, De, Fr) and social media icons are also visible. Below the navigation bar, the page title is "Applied Research Institute Jerusalem (ARIJ)" with a sub-header "March 01, 2020". The "Profile" section lists the country/territory as Israel, the website as http://www.arij.org/, and the founding year as 1990. It includes a quote from ARIJ: "A non-profit organization dedicated to promoting sustainable development in the occupied Palestinian territories and the self-reliance of the Palestinian people through greater control over their natural resources." The "Funding" section contains several bullet points detailing income, expenses, and various funding sources including the European Union, CARE International, and the UN. A "Contents" sidebar on the right lists links to Profile, Funding, Activities, POICA, BDS Activities, "Apartheid" rhetoric, Partners, and 2015-2018 Funding to ARIJ. A "Topics in this NGO" sidebar lists tags for BDS, BDS in the Pews, Kairos Palestine, UN BDS Blacklist, and UN Human Rights Council (HRC).

Screenshot of NGO Monitor website's page about the Applied Research Institute Jerusalem (ARIJ), taken on March 1, 2020. Despite the 2007 ruling against NGO Monitor, the organisation has not removed any information about ARIJ.

Source : NGO Monitor website available at : [https://www.ngo-monitor.org/ngos/applied\\_research\\_institute\\_jerusalem\\_arij/](https://www.ngo-monitor.org/ngos/applied_research_institute_jerusalem_arij/)

At the same time, many Palestinian and Israeli NGOs believe that litigation is an interesting avenue for seeking accountability for the attacks they face, but that it will be time-consuming and expensive. Unfortunately, it is also often seen as ineffective, as Palestinians do not believe they can obtain justice from an Israeli court. They denounce the Israeli judicial system as being complicit in the implementation of unlawful policies and practices which are in violation of international law, and that further ensure the continued impunity of Israeli officials involved in violating the rights of Palestinians.

- Advocacy through international mechanisms is also an avenue available to human rights organisations and defenders under attack. For instance, in August 2019,<sup>180</sup> Al-Haq solicited

<sup>178</sup> *Ibid.*

<sup>179</sup> NGO Monitor, "Applied Research Institute Jerusalem (ARIJ)," available at: [https://www.ngo-monitor.org/ngos/applied\\_research\\_institute\\_jerusalem\\_arij](https://www.ngo-monitor.org/ngos/applied_research_institute_jerusalem_arij).

<sup>180</sup> Al-Haq, "Al-Haq submits a joint urgent appeal to the United Nations Special Procedures on the ongoing Israeli smear campaign against Al-Haq" (August 24, 2019), available at: <https://www.alhaq.org/advocacy/14857.html>.

the UN Special Procedures to denounce the continued harassment against members of its organisation, including death threats against its General Director Shawan Jabarin. In October 2020, Al-Haq sent a submission to the UN Special Rapporteur on the Situation of Human Rights Defenders, in response to a call for input issued by the Special Rapporteur ahead of her upcoming report on the killings of human rights defenders, which was presented at the 46th regular session of the Human Rights Council in March 2021. The submission focused on cases in which the Israeli occupying authorities, and Government-affiliated organisations, have targeted Al-Haq and its staff members, including through conducting an organized and systematic smear campaign, incitement to racial hatred, hate speech, and death threats.<sup>181</sup>

- In May 2020, the Cairo Institute for Human Rights Studies (CIHRS), Al-Haq, and Al Mezan submitted a joint submission to the annual report of the UN Secretary General on "cooperation with the United Nations, its representatives and mechanisms in the field of human rights," in order to denounce the harassment and intimidation representatives had been subjected to during advocacy meetings in Geneva.

Following these submissions from civil society, the Special Procedures sent communications to the State of Israel in May and in August 2019, requesting explanations for the acts of intimidation and harassment, and the shrinking space for civil society. In a departure from its normal practice, the State of Israel has responded to some of the requests.

Likewise, some Israeli NGOs are looking into strengthening their international advocacy, though they recognise that donors are generally not keen to fund such initiatives. For instance, Yesh Din said that they have received money to conduct research, documentation, and advocacy at the national level, but less so at the international level. Gisha<sup>182</sup> have had some projects that include international advocacy activities, and which are mostly supported by international organisations, rather than by foreign government entities. Many Israeli NGOs have discussed the opportunity to conduct joint advocacy efforts in Europe, to present themselves as a unified civil society voice calling for an end to the occupation and the ongoing violation of Palestinian rights. As a result, many Israeli organisations have already started touring Europe, meeting with Members of Parliament in various countries. Some organisations are also considering recruiting a full-time staff to work in Europe.

- Some NGOs have been successful at diversifying their funding, but note that finding new funding sources from private foundations or through crowdfunding requires time and resources to build up the infrastructure, as well as a willingness by the leadership to move in that direction. For some Israeli NGOs, such as NIF, B'Tselem, and Breaking the Silence, the smear campaigns and attacks have had the unintended effect of increasing individual support and donations. Since the attacks started against them, they have indeed been receiving considerable amounts of new donations from private donors inside Israel, who are alarmed by the attacks against Israeli civic and democratic space.

Crowdfunding platforms, however, remain mostly unavailable to Palestinian NGOs since almost every single platform - such as GoFundMe, PayPal, Venmo, etc. - excludes Palestinian bank accounts. This yet again creates a serious obstacle for Palestinians, and Palestinian NGOs in particular.<sup>183</sup>

181 Al-Haq, "Israel's Ongoing and Systematic Smear Campaign against Al-Haq and its Staff Members" (October 22, 2020), available at: <https://www.alhaq.org/advocacy/17466.html>.

182 Gisha is an Israeli not-for-profit organization, founded in 2005, whose goal is to protect the freedom of movement of Palestinians, especially Gaza residents. See: <https://gisha.org/about/about-gisha>.

183 Ubai Alaboudi, "Palestine & PayPal: Towards Financial Equality," *Tamleh – Arab Center for the Advancement of Social Media* (December 2018), available at: <https://7amleh.org/wp-content/uploads/2018/12/Palestine-PayPal-English.pdf>.

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## IV. Recommendations

In light of the situation described in this report, the Observatory for the Protection of Human Rights Defenders makes the following recommendations aimed at strengthening the protection of human rights defenders and ensuring an environment conducive for human rights activities in Israel and the Occupied Palestinian Territory (OPT) and the Occupied Syrian Golan (OSG):

### **To the State of Israel and, where relevant, to the State of Palestine:**

- 1) To guarantee in all circumstances the physical integrity and psychological well-being of all human rights defenders in Israel and the OPT and OSG;
- 2) To create and guarantee, in law and in practice, an enabling environment for the enjoyment of the fundamental rights to freedom of association, to freedom of opinion and expression, to freedom of peaceful assembly, and to freedom of movement, in accordance with the International Covenant on Civil and Political Rights as well as the UN Declaration on Human Rights Defenders;
- 3) To ensure that any restriction on fundamental freedoms and civic space complies with international human rights norms and standards, in particular in line with the strict test of necessity and proportionality in a democratic society, bearing in mind the principle of non-discrimination, and that a detailed and timely written explanation for the imposition of any restriction is provided, and that restrictive policies and decisions and sanctions against individuals and organisations can be subject to an independent, impartial and prompt judicial review, without discrimination;
  - a) To that end, to review restrictive laws and regulations to ensure their compliance with international human rights norms and standards, including legislations that prohibits or which applies sanctions against NGOs merely on the grounds that they receive funding from abroad. Such laws include: the Law for Prevention of Damage to State of Israel through Boycott (2011), the Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity (2011), the Amendment No. 40 to the Budgets Foundations Law (2011), the Transparency Requirements for Parties Supported by Foreign State Entities Bill (2016), the National Service Law (2017), and the revised Entry Law (2017);
  - b) To respect all components of the right to access funding, notably by abolishing all restrictions on foreign sources of funding imposed under the pretext of combating "foreign interference" and defending "national interests"; and to publicly support the right of human rights defenders and NGOs to:
    - solicit and receive resources from institutional or individual donors, States and multilateral agencies without the requirement to obtain prior governmental authorisation, and under equitable conditions;
    - manage their resources and activities independently without interference from the authorities;
- 4) To ensure that sanctions for the non-respect of restrictions complying with international human rights norms and standards are proportionate and not set at a level that would deter individuals from exercising their rights to freedom of association, freedom of opinion and expression, freedom of peaceful assembly, and freedom of movement;



- .....
- 5) To ensure that those who violate and/or abuse the rights of individuals to freedoms of association, opinion and expression and of peaceful assembly are held fully accountable by an independent and democratic oversight body and by the courts of law;
  - 6) To publicly recognise the legitimate and important role human rights defenders play in society, and adopt and implement a legislation on the recognition and protection of human rights defenders, in accordance with international human rights standards and instruments, including the UN Declaration on Human Rights Defenders;
  - 7) To cooperate with, and allow access to the country to experts and representatives from UN human rights monitoring mechanisms and Special Procedures, including, but not limited to, the UN Special Rapporteur on the Situation of Human Rights Defenders, the UN Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, and the UN Office of the High Commissioner for Human Rights;
  - 8) To ratify the Optional Protocol to the Convention Against Torture and the Convention for the Protection of All Persons from Enforced Disappearance and the ICC Rome Statute;

*On attacks and defamation against human rights defenders and NGOs:*

- 9) To refrain from engaging in, or supporting, all forms of attacks, harassment, intimidation, smear campaigns, including defamation such as terrorism and anti-Semitism labelling, unfounded criticism and reprisals, in accordance with Israel's international human rights obligations;
- 10) To conduct thorough, prompt, effective, and impartial investigations into all allegations of threats, harassment, attacks, and other human rights violations against human rights defenders, in order to identify all those responsible regardless of their status, hold them accountable, and ensure that those whose rights have been violated enjoy the right to an effective remedy;

**To private and State donors:**

- 11) To maintain, increase and facilitate financial support -planned or ongoing- for NGOs that are victims of smear campaigns orchestrated by the Government of Israel and affiliated groups, as well as by the Palestinian authorities in some instances – notably in order to prevent a further funding gap and obstacles for Israeli, Palestinian and Syrian human rights defenders and NGOs promoting and protecting the rights of Palestinians;
- 12) To ensure that the laws or other provisions against terrorism, including concepts such as “material support”, are not invoked unduly in relation to financial support for NGOs working perfectly legally and pursuing goals consistent with the Universal Declaration of Human Rights;
- 13) To respect the autonomy of NGOs in relation to their programme priorities and give preference to core financial support rather than project-based funding;
- 14) To allocate more funding or include a budget line dedicated to international advocacy travels to donors' headquarters so their beneficiaries can meet with constituencies, government representatives and other relevant stakeholders;
- 15) To refrain from onerous and intrusive grant submission requirements, applications, and reporting processes;
- 16) To commit to organisational capacity building of Palestinian and Syrian NGOs;

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- 17) To act in a responsible manner and show solidarity with its grantees in response to allegations provided by the Ministry of Strategic Affairs and government-affiliated organisations, which smear human rights defenders who denounce Israel's international human rights law and international humanitarian law violations;

**To the European Union, its Members States and non-EU States that have Human Rights Defenders Guidelines:**

- 18) To systematically and publicly condemn human rights violations and all forms of attacks, harassment, intimidation, smear campaigns, including defamation such as terrorism and anti-Semitism labelling, unfounded criticism and reprisals, in accordance with its international human rights obligations and the EU and States' respective guidelines on human rights defenders;
- 19) To publicly reaffirm the importance of supporting civil society and human rights defenders, including financially;
- 20) To advocate for a safe and enabling environment for human rights defenders and NGOs in Israel and the OPT and the OSG to carry out their work; to that end, to use all diplomatic channels to urge Israeli authorities to:
- (a) immediately cease targeting civil society and human rights defenders for their peaceful and legitimate human rights work, including on groundless anti-Semitism or terrorism accusations,
  - (b) respect all components of the right to access funding – the right to solicit, receive and utilise funding – and take a public stance on the right of human rights defenders and NGOs to benefit from support and international networks,
  - (c) respect the fundamental right to freedom of association, as guaranteed in particular under Article 22 of the ICCPR, without limitation or discrimination based on the identity of members or the nature of the rights defended, and
  - (d) review restrictive laws and regulations to ensure their compliance with international human rights standards, including legislations that prohibits or which applies sanctions against NGOs merely on the grounds that they receive funding from abroad.
- 21) For diplomatic representations, to effectively support local NGOs facing difficulties in accessing funding, including from abroad. European Union Delegations, in particular, should provide practical support to local organisations in order to ensure that human rights defenders can access resources, including financial, from abroad, as stated in the EU Guidelines on Human Rights Defenders.
- 22) To publicly reaffirm the right of individuals and entities to participate in and call for boycott, divestment, and sanction (BDS) measures to protests against the Israeli governments' international human rights law and international humanitarian law violations, and respect and uphold related rights to freedoms of expression, opinion, association, peaceful assembly and of movement;
- 23) To commit to continue sustainably funding programmes for civil society with robust democracy, human rights, and rule of law components; ensure these programmes are made accessible to local organisations working in remote areas with limited resources, as well as to organisations that support the BDS movement or the right for individuals to call for BDS measures;
- 24) To issue internal guidance notes for EU officials, including those posted in EU Delegations and other diplomatic representatives, to help them identify false information spread by Israeli pro-governmental groups such as NGO Monitor, Im Tirtzu, or UN Watch (amongst others).

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**To UN human rights bodies and mechanisms:**

- 25) To call on the Israeli government to refrain from engaging in, or supporting, all forms of attacks, harassment, intimidation, smear campaigns, including defamation such as terrorism and anti-semitism labelling, unfounded criticism and reprisals, in accordance with its international human rights obligations;
- 26) To the Human Rights Committee: during its upcoming review of Israel's obligations under the ICCPR, to address and provide recommendations addressing the attacks, harassment and smear campaigns against NGOs and human rights defenders, including with regards to the issue of NGOs access to funding;
- 27) To the Special Rapporteur on the Situation of Human Rights Defenders, the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory Occupied since 1967:
- (a) to renew the invitation request to Israel in order to visit the country as soon as possible, and
  - (b) to use the standing invitation extended to their mandate by the State of Palestine and visit the occupied West Bank.

**To all UN Member States, including members of the UN Human Rights Council:**

- 28) To condemn publicly and bilaterally all forms of attacks, harassment, intimidation, smear campaigns, including defamation such as terrorism and anti-Semitism labelling, unfounded criticism and reprisals, in accordance with its international human rights obligations;
- (a) To condemn the use of terrorism labelling and charges to justify the criminalisation and restrictions of legitimate human rights activities, and urge Israel to respect its obligations under international law to respect fundamental rights and freedoms while countering terrorism;
  - (b) To condemn publicly and bilaterally acts of reprisals against human rights defenders cooperating with UN fora and UN mechanisms, including but not limited to the Special Rapporteur on the Situation of Human Rights in the Palestinian Territory Occupied since 1967;
- 29) To denounce and challenge restrictions on fundamental freedoms and civic space in Israel and the OPT, and align with international human rights norms and standards, in particular in line with the strict test of necessity and proportionality in a democratic society, bearing in mind the principle of non-discrimination, and that a detailed and timely written explanation for the imposition of any restriction is provided, and that restrictive policies and decisions and sanctions against individuals and organisations can be subject to an independent, impartial and prompt judicial review, without discrimination;
- 30) To put an end to active and passive support of Israel international human rights law and international humanitarian law violations, and to take effective collective and bilateral measures to ensure accountability for human rights violations committed in relations with Israel's international human rights law and international humanitarian law violations;

.....  
31) To refrain from abstention vote and publicly support initiatives presented at the Human Rights Council that promote accountability for human rights violations committed in relations with Israel's international human rights law and international humanitarian law violations;

(a) Notably, to enable the work of the OHCHR, via all adequate means, in fulfilling its mandate of annually updating the database of all business enterprises involved in Israeli settlement activities;

32) To seize the next UN Human Rights Council's Universal Periodic Review (UPR) of Israel in 2023 to highlight the human rights violations committed by the Israeli authorities against civil society and human rights defenders and recommendations brought up in this report.

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## **ANNEX - LIST OF ORGANISATIONS INTERVIEWED DURING THE MISSION**

**During its mission, the delegation met with several European, EU, and UN representatives as well as with representatives of the following 30 NGOs:**

### **International Organisation**

- 1 Oxfam

### **OPT**

- 1 Al-Haq
- 2 The Independent Commission for Human Rights (ICHR)
- 3 Palestinian Human Rights Organizations Council (PHROC)
- 4 Addameer – Prisoner Support and Human Rights Association
- 5 The Palestinian BDS National Committee (BNC)
- 6 Defence For Children International – Palestine section
- 7 Jerusalem Center for Legal Aid and Human Rights
- 8 Palestinian Non-governmental Organizations network (PNGO)
- 9 Ramallah Center for Human Rights Studies
- 10 Badil Resource Center for Palestinian Residency and Refugee Rights
- 11 Issa Amro – Youths Against Settlements (YAS)
- 12 Lajee Center
- 13 Applied Research Institute of Jerusalem (ARIJ)

### **Israel**

- 1 Human Rights Defenders Fund
- 2 B'Tselem
- 3 Rabbis for Human Rights
- 4 New Israel Fund
- 5 Adalah
- 6 Kav LaOved
- 7 Coalition of Women for Peace
- 8 Breaking the Silence
- 9 Gisha
- 10 Yesh Din
- 11 Public Committee Against Torture (PCATI)
- 12 Zokhrot (by phone)
- 13 +972 Magazine

### **Occupied Syrian Golan**

- 1 Al-Marsad – Arab Human Rights Centre in Golan Heights

### **France**

- 1 AFPS
- 2 Plateforme Palestine



[https://target-locked-obs-defenders.org/IMG/pdf/obs\\_palestine2021ang-1.pdf](https://target-locked-obs-defenders.org/IMG/pdf/obs_palestine2021ang-1.pdf) .....

### **Establishing the facts**

#### Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1,500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### **Supporting civil society**

#### Training and exchanges

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### **Mobilising the international community**

#### Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them.

FIDH also takes part in the development of international legal instruments.

### **Informing and reporting**

#### Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

17 passage de la Main-d'Or - 75011 Paris - France

Tél. : + 33 1 43 55 25 18 / Fax : + 33 1 43 55 18 80 / [www.fidh.org](http://www.fidh.org)



**Created in 1985, the World Organisation Against Torture (OMCT) works for, with and through an international coalition of over 200 non-governmental organisations - the SOS-Torture Network - fighting torture, summary executions, enforced disappearances, arbitrary detentions, and all other cruel, inhuman and degrading treatment or punishment in the world and fighting for the protection of human rights defenders.**

### **Assisting and supporting victims**

OMCT supports victims of torture to obtain justice and reparation, including rehabilitation. This support takes the form of legal, medical and social emergency assistance, submitting complaints to regional and international human rights mechanisms and urgent interventions. OMCT pays particular attention to certain categories of victims, such as women and children.

### **Preventing torture and fighting against impunity**

Together with its local partners, OMCT advocates for the effective implementation, on the ground, of international standards against torture. OMCT is also working for the optimal use of international human rights mechanisms, in particular the United Nations Committee Against Torture, so that it can become more effective.

### **Protecting human rights defenders**

Often those who defend human rights and fight against torture are threatened. That is why OMCT places their protection at the heart of its mission, through alerts, activities of prevention, advocacy and awareness-raising as well as direct support.

### **Accompanying and strengthening organisations in the field**

OMCT provides its members with the tools and services that enable them to carry out their work and strengthen their capacity and effectiveness in the fight against torture. OMCT presence in Tunisia is part of its commitment to supporting civil society in the process of transition to the rule of law and respect for the absolute prohibition of torture.

8 rue du Vieux-Billard - PO Box 21 - CH-1211 Geneva 8 - Switzerland

Tel: +41 22 809 49 39 / Fax: +41 22 809 49 29 / [www.omct.org](http://www.omct.org)



## Activities of the Observatory

The Observatory is an action programme based on the belief that strengthened co-operation and solidarity among human rights defenders and their organisations will contribute to break the isolation they are faced with. It is also based on the absolute necessity to establish a systematic response from NGOs and the international community to the repression of which defenders are victims.

With this aim, the Observatory seeks to establish:

- A mechanism of systematic alert of the international community on cases of harassment and repression of defenders of human rights and fundamental freedoms, particularly when they require urgent intervention;
- The observation of judicial proceedings, and whenever necessary, direct legal assistance;
- International missions of investigation and solidarity;
- A personalised assistance as concrete as possible, including material support, with the aim of ensuring the security of the defenders victims of serious violations;
- The preparation, publication and world-wide dissemination of reports on violations of the rights and freedoms of individuals or organisations working for human rights around the world;
- Sustained action with the United Nations and more particularly the Special Rapporteur on Human Rights Defenders, and when necessary with geographic and thematic Special Rapporteurs and Working Groups;
- Sustained lobbying with various regional and international intergovernmental institutions, especially the Organisation of American States (OAS), the African Union (AU), the European Union (EU), the Organisation for Security and Co-operation in Europe (OSCE), the Council of Europe, the International Organisation of the Francophonie (OIF), the Commonwealth, the League of Arab States, the Association of Southeast Asian Nations (ASEAN) and the International Labour Organisation (ILO).

The Observatory's activities are based on consultation and co-operation with national, regional, and international non-governmental organisations.

With efficiency as its primary objective, the Observatory has adopted flexible criteria to examine the admissibility of cases that are communicated to it, based on the "operational definition" of human rights defenders adopted by FIDH and OMCT: "Each person victim or at risk of being the victim of reprisals, harassment or violations, due to his or her commitment, exercised individually or in association with others, in conformity with international instruments of protection of human rights, to the promotion and realisation of the rights recognised by the Universal Declaration of Human Rights and guaranteed by the different international instruments".

**To ensure its activities of alert and mobilisation, the Observatory has established a system of communication devoted to defenders in danger. This system, called Emergency Line, can be reached through:**

E-mail: [Appeals@fidh-omct.org](mailto:Appeals@fidh-omct.org)

FIDH Tel: + 33 1 43 55 25 18 Fax: + 33 1 43 55 18 80

OMCT Tel: + 41 22 809 49 39 Fax: + 41 22 809 49 29