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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by BADIL Resource Center for Palestinian Residency and Refugee Rights, a non- governmental organization in special consultative status

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

[23 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



Israel's Suppression of Palestinian Civil Society

Shrinking spaces for Palestinian Civil Society Organizations (CSOs), particularly Human Rights Organizations (HROs) and Human Rights Defenders (HRDs), has a dual approach in that it is being directly implemented by Israel and discursively imposed by the international donor community by means of political conditional funding. It is unquestionable that the latter is a direct consequence of the Israeli-Zionist strategy to suppress, silence and destroy Palestinian civil society, functioning as one of the many strategies that Israel executes in order to delegitimize the Palestinian people's inalienable rights, including the right to self-determination.

The Israeli legislative initiatives to systematically shrink the space for Palestinian civil society are by no means new. Since its creation in 1948, Israel has continuously renewed its "state of emergency". This stipulation, particularly in reference to national security, is commonly invoked by Israel to justify its violation of Palestinian human rights and silencing of Palestinian civil society, thus constituting a violation of Israel's obligation under Article 4 and 22 of the ICCPR. The Human Rights Committee has made clear that conditions allowing the derogation of these articles must be "of an exceptional and temporary nature," thereby invalidating Israel's state of emergency as grounds for derogation.¹

Israel continues to codify an increasing number of laws and orders to suppress Palestinian civil society. Examples of these laws include the Nakba Law of 2011 which grants the Israeli Minister of Finance the power to deny public funding to any institution for simply mentioning the Nakba,² thus targeting CSOs that are almost exclusively Palestinian and pushes a false narrative to erase the Nakba from Palestinian collective memory. Similarly, the Boycott Law of 2011 prohibits the public promotion of the Palestinian Boycott, Divestment and Sanctions (BDS) movement.³ The law thereby permits the finance minister to revoke tax exemptions and financial benefits from organizations that support the BDS movement and allows lawsuits to be filed against them. This decision was upheld by the Israeli High Court of Justice in 2015 on the basis that a call for boycott "does not serve democracy," despite the justices admitting that the law "indeed infringes on freedom of expression."⁴

Israel's Mandatory Disclosure of Foreign Entity Funding Law of 2016 obligates CSOs that receive more than 50 percent of their funding from "foreign political entities" to declare this fact in all released documents and all public communications.⁵ This law is inherently discriminatory against organizations that defend the human rights of Palestinians as they are largely dependent on foreign funding, whereas Zionist-Israeli Government-Organized NGOs (GONGOs) are funded almost entirely through private donations and are thus unaffected by the law's provisions.

The especially concerning Counter-Terrorism Law of 2016 vaguely and arbitrarily expands the definition of "terrorist activity" to include "public expression of support for or sympathy with terrorist organizations," which may include any organization that engages in legal activity in accordance with the law.⁶ This gives Israel wide discretion to determine who is engaging in "terrorist activity" based on "secret evidence," and defendants are deprived of their right to legal recourse. The most recent enforcement of this law is the Israeli Defense Minister's decision to arbitrarily declare six prominent Palestinian CSOs as "terrorist organizations."

The Entry into Israel Law of 2017 grants the Minister of Interior the ability to deny any entry visa to any foreign national who has publicly called for a boycott against Israel.⁷ Pursuant to this oppressive law, Israel's Ministry of Strategic Affairs published a list of twenty organizations that support the BDS movement and declared that any members of these organizations would be denied entry into the country.

In a recent reiteration of Israel's policies of ethno-racial supremacy, the Israeli Supreme Court upheld Israel's 2018 Nation-State Law in July 2021,⁸ a law which declares Israel as the "national state of the Jewish people."⁹ The law identifies the establishment of settlements as a national goal and establishes Palestinians with Israeli citizenship as second-class citizens, thereby making it increasingly difficult for CSOs to campaign against settlements and to protect the rights of Palestinians.

Israel's discriminatory laws and policies towards Palestinian civil society are not merely reflective of a lack of respect for the rights of Palestinian civil society enshrined in International Conventions; these policies are constituent of the wider and protracted Israeli strategy to facilitate the ethnic cleansing and forced population transfer of the Palestinian people.

Israel and its proxy Zionist GONGOs strategically employ a protracted and institutionalized campaign to criminalize, delegitimize, and isolate Palestinian CSOs with the ultimate purpose of sustaining its colonial apartheid system. In criminalizing and delegitimizing the Palestinian CSOs that are dedicated to exposing Israel's crimes and providing protection to Palestinian victims, Israeli policies and practices is effectively creating a coercive environment in which the Palestinian people are isolated, deprived of any protection, and forced into silence.

These actors lobby governments to pass laws and develop policies to suppress domestic and international organizations. Specific examples of these lobbying attempts to the European Union (EU) for example, are revealed in the Terrorists in Suits¹⁰ and the Money Trail¹¹ reports, in which Israel and its proxy GONGOs attempted to associate several Palestinian CSOs and activists with Palestinian political parties that are designated by the EU and the United States of America as terrorist groups. While supporting BDS, a recognized legitimate form of non-armed resistance aiming to bring an end to Israeli impunity through economic and social pressure, is not a crime in and of itself, these reports described BDS as a banned organization and promoted this accusation as a fact in an attempt to undermine the reputation and credibility of organizations advocating for Palestinian rights and subsequently condemn the financial support provided by the EU to such organizations.

The implicit acquiescence of the EU specifically, its member states and the international donor community generally has buttressed this Israeli strategy to undermine Palestinian CSOs. The latest escalation towards Palestinian CSOs cannot be separated from all the policies aimed at obliterating the inalienable rights of the Palestinian people, whereas all this is occurring in the context of heightening the Israeli colonial repression and institutionalization of segregation, fragmentation and isolation.¹²

Within this context, the international donor community's policies play a role in hindering and delegitimizing the work of the Palestinian civil society through political conditional funding, including preventing the promotion and defense of the Palestinian right of return, which is considered a violation of the Palestinian people's right to freely determine their political course of action and demand their legitimate rights.

This in return, leads to the categorization of HROs according to what Israel and the international donor community deem appropriate for the Palestinian people. Accordingly, unwanted organizations that advocate for the rights of Palestinians are liquidated, which leads to silencing the voices opposing these policies and creating a neutral, donor-oriented, non-confrontational and depoliticized civil society.

Therefore, BADIL calls on:

- The UNHRC and member states to take a principled stance against the systematic attacks on Palestinian civil society, and promote a prosperous, sustainable civil society by understanding the nature and environment in which Palestinian civil society works.
- The UN member states and the international donor community to recognize the impact of their counter-terrorism restrictions in inspiring other constraints under the auspices of counter-terrorism.
- The UNHRC and member states to press on Israel to rescind the designation of Palestinian organizations as "terrorist" entities, which in turn violate the freedoms of opinion and expression, and freedom of association, and amount to acts of apartheid prosecutable under article 7(2)(h) of the Rome Statute.
- The Special Rapporteur to investigate the issue of shrinking spaces and denounce Israel's ongoing refusal to cooperate with the Special Rapporteur and the United Nations as a whole, and to call on States and the UN to provide their utmost support and facilitation for all independent investigatory bodies and mechanisms.

- 1 UN Human Rights Committee, General Comment 29: States of Emergency (Article 4), CCPR/C/21/Rev.1/Add.11, 31 August 2001, para. 2
- 2 Knesset, “Budget Foundations Law (Amendment No. 40)”, 5771-2011, 22 March 2011
- 3 Knesset, “Law Preventing Harm to the State of Israel by Means of Boycott”, 5771-2011, 11 July 2011.
- 4 Avneri v. Knesset. HCJ 5239/11, paras. 21 & 30 (2015).
- 5 Knesset, “Duty of Disclosure [for a Body] Supported by a Foreign Political Entity (Amendment) Law”, 5776-2016, 11 July 2016.
- 6 Knesset, “Combatting Terrorism Law”, 5776-2016, 15 June 2016.
- 7 Knesset, “Entry into Israel (Amendment No. 28) Law”, 5777-2017, 6 March 2017.
- 8 Hassoun v. Knesset. HCJ 5555/18 (2021).
- 9 Knesset, “Basic Law: Israel - The Nation State of the Jewish People”, 19 July 2018.
- 10 Terrorists in Suits: The Ties Between NGOs Promoting BDS and Terrorist Organization, prepared by the Israeli Ministry of Strategic Affairs and Public Diplomacy, 2019.
- 11 The Money Trail: The Millions Given by EU Institutions to NGOs with Ties to Terror and Boycotts against Israel, prepared by the Israeli Ministry of Strategic Affairs and Public Diplomacy, 2018.
- 12 See BADIL, “Forced Population Transfer: The Case of Palestine – Segregation, Fragmentation and Isolation”, February 2020, available at: https://badil.org/cached_uploads/view/2021/04/19/wp23-sfi-1618823935.pdf