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Shrinking Spaces for Palestinian Civil Society: Delegitimization and Depoliticization

Across the world, civil society is facing serious and deliberate measures restricting their work.[1] This trend is particularly concerning in Palestine, where civil society organizations (CSOs) operate in a settler-colonial context. Because these CSOs play a crucial role in the struggle for self-determination and resisting Israel's colonial rule, in empowering rights-holders, fostering resilience, and exposing colonial policies, Israel has unrelentingly tried to criminalize and 'de-Palestinianize' Palestinian CSOs. Such intensive efforts against their scrutiny demonstrate the importance of preserving a muscular and effective Palestinian civil society.

As the ongoing Nakba enters its 75th year[2], Palestinians continue to endure an expanding array of repressive laws and policies imposed by Israel's colonial-apartheid system and its proxy organizations, as well as by the international donor community and individual states.[3] This submission will analyse the strategies employed to delegitimize CSOs advocating for Palestinian rights; and will address their impact on the independence and political sovereignty of Palestinian civil society.

Palestinian civic space shrunk by Israel's colonial regime

Israel, in its oppression of Palestinian resistance, is no different than other colonial enterprises throughout history. A core feature of colonialism relies on preventing the colonized population from enjoying the same liberties as the colonizers. Calls for freedom and self-determination, or even of the right of a colonized people to exist, are construed by the colonial regime as existential threats. Voices articulating claims to legitimate resistance in the pursuit of self-determination must be delegitimized, silenced, and violently repressed. Israel's attacks on Palestinian civil society should be understood as yet another example of this colonial logic.

Israeli policies to control the population, further colonize Palestinian land, and ultimately ethnically cleanse the Palestinian people, range from collective punishment, arbitrary arrest and detention, suppression of freedom of assembly and expression, to the illegal use of force. These forms of persecution result in the perpetuation and creation of new displacement. They also violate the right to resist colonial domination, including armed and unarmed struggle, protected by international law, and re-affirmed in numerous UN resolutions.[4]

A myriad of legislative programs has been enacted by successive Israeli administrations to further entrench the colonial-apartheid reality, and to quash any and all opposition such as: the Nakba Law, the (Anti) Boycott Law, the Mandatory Disclosure of Foreign Entity Funding Law, the Counter-Terrorism Law, and the Nation-State Law.[5] These discriminatory laws and policies violate the Convention on the Suppression and Punishment of the Crime of Apartheid, which prohibits acts that establish and

maintain racial domination and oppression, “including persecution of organizations and individuals because they oppose apartheid”.[6] Shrinking the space for CSOs and Human Rights Defenders and Organizations, these policies are parts of Israel’s broader agenda to maintain its colonial-apartheid regime, and to forcibly transfer Palestinians out of Palestine.

In addition to direct suppression, Israel also seeks to silence Palestinians through a more pervasive and damaging strategy: lobbying the international donor community to impose unacceptable funding conditions on Palestinian CSOs. CSOs that advocate for Palestinian liberation based on human rights are specifically targeted because they are seen as a threat[7] to Israel’s colonial-apartheid regime.

Shrinking Spaces at the hands of the International Donor Community

Highly restrictive funding conditions imposed on Palestinian CSOs carry far-reaching implications for their work, which is crucial to defend communities threatened by Israeli policies of forcible transfer, colonization, and apartheid. These conditions reflect a combination of Israeli pressure, paternalistic attitudes in philanthropy, and neocolonial policies of foreign governments, including the co-optation of aid programs to criminalize liberation struggles under the pretexts of “security”, the war on terrorism[8] and/or fighting anti-Semitism.

UNRWA, lacking core funding and relying on voluntary contributions, is particularly vulnerable to these so-called counter-terrorism clauses in funding contracts.[9] Direct consequences of Israeli-led campaigns are to delegitimize and undermine the Agency and worsen living conditions for Palestinians refugees, as UNRWA services are underfunded.

Rather than implementing practical measures to hold Israel accountable, the international community supports and facilitates Israel’s suppression of Palestinian resistance. Many European states and the USA have adopted the International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism. Conflating criticism of the Israeli regime with anti-Semitism, this definition aims at silencing any opposition to the Israeli colonial-apartheid system, in a blatant attack on freedom of expression.

The international community also directly censors CSOs’ language, prohibiting them from using terms such as ‘ongoing Nakba,’ ‘colonization,’ ‘colonial-apartheid regime,’ ‘settler-colonialism,’ ‘liberation struggle,’ or ‘right of return’. Despite the former’s accuracy, international donors often demand more "balanced" language, leading to the de-politicization of the Palestinian reality. Donors also restrict CSOs' activities by withholding funding from organizations that endorse the boycott, divestment, and sanctions (BDS) movement - a legitimate form of resistance.

The international donor community additionally mirrors Israeli policies of fragmentation, isolation, and segregation by limiting its support to specific areas and certain Palestinian beneficiaries. Donors avoid funding projects at risk of demolition, effectively condoning Israel’s violations and the coercive environment it creates to push Palestinians out.[10] Finally, Palestinian civil society is forced to assume a security role, due to clauses that impose “vetting and screening procedures”, adding administrative burdens on CSOs.[11]

All these policies, imposed by both Israel and international donors, reinforce the Israeli colonial-apartheid system and confine Palestinian civil society to donors’ interests and expectations.

Palestinian Civil Society’s Independence and Sovereignty Under Attack

These unacceptable funding conditions have caused a significant division within Palestinian civil society, hindering CSOs from fulfilling their essential roles of documenting and exposing Israeli violations, supporting the Palestinian people’s rights to self-determination and to resisting Israel’s colonial domination.

Conditional funding clauses have forced organizations that reject them to lay off employees and close programs. Donors prioritize funding organizations that accept political conditions, regardless of their effectiveness or relevance, contradicting their obligations and self-espoused principles of neutrality, partnership, and a human rights-based approach.[12] If maintained, these conditions will create a depoliticized, donor-oriented civil society, incapable of addressing Israel's ongoing colonial actions, and unfit to vindicate Palestinian rights.

Conclusion and Recommendations:

Protecting fundamental freedoms from manipulative funding frameworks requires adequate civil society participation and consideration of the impacts of such frameworks on civic space. The lack of an effective dialogue regarding conditional funding has greatly affected the partnership between the Palestinian civil society and international partners.

If not exposed and combated, Israel's strategy to equate opposition to its colonial-apartheid regime with anti-Semitism will lead to the introduction of a new clause in funding agreements, one that acknowledges the IHRA definition. Endorsing Israel's framing will have a devastating impact on the legitimate fight against anti-Semitism, on human rights work in general, and on Palestinian rights defenders in particular.

Accordingly, BADIL calls on:

- The Council and other UN institutions to take a principled stance against attacks on Palestinian CSOs, and to promote an understanding of the specific colonial environment in which they operate.
- The Council and its Member-States to counteract the shrinking spaces for civil society and refrain from imposing conditional funding policies, in order to protect a sustainable and effective civil society.
- The international donor community to recognize that political funding conditions threaten their strategic relationship with the Palestinian people and civil society, and contradict their obligations to respect and enforce international law without discrimination.

ENDNOTES:

1 Civicus, 'In Numbers' (*Civicus*, 7 December 2021) <https://findings2021.monitor.civicus.org/in-numbers.html>

2 See BADIL, '75 years of the Ongoing Nakba, 75 years of Ongoing Resistance' (*BADIL*, 14 May 2023) <https://www.badil.org/press-releases/13926.html>

3 For the preemptive ban of all Nakba demonstrations in Berlin, Germany this year, see European Legal Support Center, 'No to the Nakba Demo Bans, End Germany's Criminalisation of Palestinian Existence' (*ELSC*, 19 May 2023).

4 See 'Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights' (1974) UNGA A/RES/3246 (XXIX); UNGA A/RES/33/24 (1978); UNGA Resolution A/RES/36/9 (1981).

5 BADIL's Magazine, *Al Majdal*, 'Shrinking Spaces in Palestine: An Israeli Colonial Strategy to Depoliticize Palestinian Civil Society' p.3 (2022) 60 https://www.badil.org/cached_uploads/view/2022/08/26/al-majdal60-1661506113.pdf

6 International Convention on the Suppression and Punishment of the Crime of Apartheid (30 November 1973) A/RES/3068(XXVIII), art 2 (f)

7 See Israeli Minister B. Smotrich on Human Rights Organizations being an existential threat: Noa Shpigel, 'Israel Must Deal With Human Rights Orgs as an Existential Threat, Netanyahu Ally Says' (*Haaretz*, 21 November 2022) <https://www.haaretz.com/israel-news/2022-11-21/ty-article/.premium/israel-must-deal-with-human-rights-orgs-as-an-existential-threat-far-right-mk-says/00000184-99a8-dc14-a99e-b9ebb5930000>

8 BADIL, 'Call for inputs: Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space' (2023) https://www.badil.org/cached_uploads/view/2023/03/15/badil-report-to-sr-on-counter-terrorism-and-hr-28feb2023-1678887134.pdf

9 See BADIL, *USA-UNRWA Framework Agreement: Assistance or Securitization?* (Working Paper No. 29, BADIL 2022) https://badil.org/cached_uploads/view/2022/02/21/wp-29-unrwa-eng-1645448404.pdf

10 Between 2001 and 2016, Israel demolished 65 million euros worth of EU-aid money (See Euro-Med Monitor, 'Squandered Aid: Israel's Repetitive Destruction of EU-funded Projects in Palestine' (2016) http://euromedmonitor.org/uploads/reports/SquanderedAid_En.pdf

11 See BADIL 'European Union Conditional Funding: Its Illegality and Political Implications' (2020) https://www.badil.org/cached_uploads/view/2021/04/20/europeanunionconditionalfunding-positionpaper-april2020-1618905422.pdf

12 See 'BADIL's Written Submission to the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly (2022) https://www.badil.org/cached_uploads/view/2022/02/23/written-submission-badil-sr-feb2022-1645613684.pdf