



# **State of Israel**

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## 1. (A) Introduction

- 1.1 CIVICUS: World Alliance for Citizen Participation is an international movement with members in more than 100 countries worldwide. Established in 1993, CIVICUS nurtures the foundation, growth and protection of citizen action throughout the world, especially in areas where participatory democracy and citizen's freedom of association are threatened.
- 1.2 In this document, CIVICUS outlines urgent concerns related to the environment in which civil society activists and human rights defenders operate in Israel and the Occupied Territories, and discusses threats faced in the exercise of the freedoms of expression, association and assembly.
- 1.3 CIVICUS is greatly concerned by the unwarranted use of excessive and sometimes fatal force to disperse nonviolent demonstrations, and the ongoing persecution of civil society activists engaged in the organisation and promotion of nonviolent protests in the Occupied Territories.
- 1.4 CIVICUS is also deeply alarmed by recent legislative and extra-legal measures taken by the Israeli Government that drastically curb the freedom of expression and independence of the media.
  - In section B, CIVICUS highlights concerns regarding the freedom of assembly.
  - In section C, CIVICUS highlights concerns relating to the freedom of expression.
  - In section D, CIVICUS highlights concerns involving harassment and arbitrary detention of human rights defenders.
  - In section E, CIVICUS highlights concerns related to the freedom of association and restrictions on civil society activities.
  - In section F, CIVICUS makes a number of recommendations to address the concerns listed.

## 2. (B) Concerns regarding freedom of assembly

- 2.1 While the State of Israel does not have a formal, written Constitution, freedom of assembly is regarded as a "fundamental right" by the Israeli Government and has been duly reaffirmed and upheld by the judiciary. Furthermore, Article 21 of the International Covenant on Civil and Political Rights (ICCPR), to which Israel is party, guarantees the freedom of peaceful assembly. Israel's international human rights obligations are applicable in territories under its effective control, as well as during armed conflict.
- 2.2 However, between 2009 and 2012, these rights were severely undermined by a combination of legislative and extra-legal measures taken by the Israeli Government, further imperilling freedom of assembly. Israeli Defence Forces (IDF) routinely used disproportionate, excessive and sometimes lethal force to disperse demonstrations in both the Occupied Territories and neighbouring states. Furthermore, on several occasions, Palestinian civil society activists were subject to arbitrary arrest and detention for organising or participating in nonviolent protests in the occupied territories.
- 2.3 In May 2011, thousands of Palestinians in the Occupied Palestinian Territories and neighbouring countries held demonstrations along Israeli borders and checkpoints to commemorate *Nakba* (catastrophe), the Palestinian term for the dispossession of Palestinians following Israel's founding. In several instances, IDF used unwarranted and excessive force, including firing live ammunition, rubber-coated metal bullets, artillery shells and tear gas to disperse the protests. At the Israeli border at Maroun al-

Ras in Lebanon, 10 people were reportedly killed and at least 112 injured when thousands of Palestinian refugees and Lebanese activists marched towards the border.

- 2.4 Since December 2009, the Popular Committee for Opposition to the Fence and the Settlements has organised weekly protests in the village of a-Nabi Saleh, Ramallah District, in contestation of the seizure of their land by settlers. Since the movement's inception, Israeli security forces have routinely attempted to interrupt the demonstrations. However, on 13 May 2011, Israeli security forces reportedly used particularly violent means to disperse the weekly demonstration, making use of tear gas, stun grenades and pepper-gas spray, as well as physically abusing demonstrators.
- 2.5 Several Palestinian activists have been subject to arbitrary detention directly following their involvement in the organisation of nonviolent demonstrations against the policies of the Israeli Government. The Israeli Government continues to exploit the archaic Military Order 101 to criminalise political expression and activities, including the organisation of and participation in protests in the West Bank, despite its blatant contravention of the right to peaceful assembly. The Order decrees that any assembly that could be "interpreted as political," held in either a public or private forum, requires a permit. According to the Order's provisions, an assembly is defined as a gathering of 10 people or more. Any breach of the order is punishable by 10 years' imprisonment or a fine.
- 2.6 Abdallah Abu Rahme, an advocate of nonviolent protests against Israel's confiscation of land from the West Bank village of Bil'in, was convicted in August 2010 on charges of organising and participating in illegal demonstrations and inciting protesters to damage the separation barrier, throwing stones at Israeli soldiers, and participating in violent protests. In November, the appeals court increased Rahme's sentence to 16 months.
- 2.7 On 29 May 2012, an Israeli Military Court sentenced Bassem Tamimi, a Palestinian activist, to 13 months in prison for leading illegal demonstrations. The Ofer Military Court, in the West Bank, ruled that from January to November 2010 Tamimi had participated in protests in violation of Military Order No. 101.

### **3. (B) Concerns regarding freedom of expression**

- 3.1 Article 21 of the ICCPR guarantees the freedom of expression and opinion. Nonetheless, in 2011, the Knesset adopted a spate of legislation severely curtailing the exercise of the right to freedom of expression. The laws, including the Boycott Prohibition Law and the Budget Foundations Law, impose stringent economic sanctions on individuals and institutions that speak out against injustices in the Occupied Territories. The legislation, which severely restricts freedom of expression, has created a chilling effect among independent media in Israel and the Occupied Territories. Furthermore, in 2011 several Palestinian journalists were reportedly arrested and detained in an apparent attempt to censor independent reporting on the critical human rights situation in the Occupied Territories.
- 3.2 Under the Boycott Prohibition Law, adopted on 11 July 2011, it is a civil offence to call for a cultural, economic or academic boycott of Israel, one of its institutions or the goods it produces. The law incorporates a broad definition of boycott, including "undertakings not to purchase products or services produced or provided in the state of Israel, in any of its institutions or in an area under its control." The law also imposes strict penalties for organising or participating in a boycott. Principally, the law permits those targeted by boycotts to sue individuals or groups calling for a boycott for damages. The law further provides the government with a potent tool to restrict the activities of organisations by

withdrawing the tax-exempt status of organisations that call for boycotts and makes public institutions which promote boycotts ineligible for crucial forms of public funding.

- 3.3 The adoption of the Budget Foundations Law on 22 March 2011 has sent a strong message to organisations and institutions that there are various topics that the government has defined as off-limits. Among other things, the law allows the Minister of Finance to cut state funding to public institutions, including schools and other local bodies, which organise any activities commemorating “the day of the establishment of the state as a day of mourning” or which aim to deny the “the existence of Israel as a Jewish and democratic state.” Particularly, the law punishes cultural, academic or other institutions that commemorate the *Nakba*. The ambiguity of the law could result in the penalisation of institutions that organise activities where *Nakba* is mentioned or where the validity of Israel as a democratic state is questioned.
- 3.4 Utilising vague provisions of Military Order 1651 and the 2005 Internment of Unlawful Combatants Law, which allow the Israeli military to hold prisoners indefinitely on secret information without charging them or allowing them to stand trial, the Israeli Government has escalated its campaign to silence independent media and dissent in the Occupied Territories. Among other prominent journalists jailed in 2011, Samer Allawi, a Palestinian who heads Al Jazeera’s office in Afghanistan, was detained on 9 August 2011 as he tried to leave the West Bank. A Military judge repeatedly extended Allawi’s detention and denied him access to his lawyer for 12 days. Walid Khaled, the editor of the Gaza-based newspaper *Filisteen* was also arrested by Israeli troops in May 2011 in Salfit, West Bank. Khaled is currently being held in administrative detention. In addition, Nawaf Al-Amer, programme director for the satellite station Al-Quds, was arrested in June last year at his home southwest of Nablus, West Bank. His administrative detention was renewed in January 2012.

#### **4. (C) Concerns involving harassment and arbitrary detention of human rights defenders**

- 4.1 The ICCPR guarantees the freedoms of expression, association and assembly. Nonetheless, arrest and detention and other acts of intimidation against human rights defenders continued unabated in Israel and the Occupied Territories. It is a matter of deep concern that human rights defenders engaged in legitimate activity by highlighting concerns, whether at home or at the UN, are being subjected to reprisals by state officials. A number of members of civil society organisations and individual activists exposing human rights violations committed by the Israeli Government and security forces have been arrested and detained to prevent them from continuing their work.
- 4.2 Palestinian human rights defenders are routinely detained for indefinite periods of time as administrative detainees pursuant to Chapter I, Article B of Military Order 1651. Orders for arrest can be issued if there are “reasonable grounds” to presume that an individual presents a risk to “the security of the area” or to “public security.” The directive is frequently used to arrest, detain and silence legitimate Palestinian human rights defenders who are critical of Israeli Government policy or attempt to mobilise members of the Palestinian community to combat oppressive government action. As of June 2012, there were reportedly more than 300 Palestinians currently being held without charge or trial under administrative detention orders.
- 4.3 Mohammad Srour, a member of the Popular Committee in Bi’lin, was arrested in July 2009 by the Israeli army while returning from Geneva, where he had appeared before the United Nations Fact-Finding Mission on the Gaza Conflict. Srour was taken to Ofer prison for interrogation and was released on bail three days later.

**4.4** Ameer Makhoul, who has been Director of Ittijah: Union of Arab Community-Based Associations since it was established in 1995 and served as Chair of the Public Committee for the Defence of Political Freedoms of Arab Citizens in Israel, was arrested by Israeli General Security Services (GSS) at his home in Haifa, in alleged pursuance of an arrest order dated 23 April 2010, on 6 May 2010. According to reports, Mr Makhoul was detained incommunicado for twelve days, after which Mr Makhoul's lawyers found him exhausted due to being subjected to intensive around-the-clock interrogations. According to Provision 45 of the Israel Prisons Ordinance, clients and lawyers should not be separated, conversations should not be recorded or monitored and it should be possible to exchange relevant legal documents. However all of these due process rights have been denied to Mr Makhoul. Mr Makhoul has since been sentenced to 10 years in prison and remains in custody today.

## **5. (D) Restrictions on freedom of association and impediments to civil society activities**

**5.1** Article 22 of the ICCPR guarantees the freedom of association. However, the adoption of the Foreign Funding law (2011) and the tabling of several bills placing severe and disabling restrictions on non-governmental organisations that utilise foreign funds represent a steep escalation of the government's campaign to silence civil society groups critical of the government.

**5.2** Adopted by the Knesset on 2 March 2011, the Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, also known as the Foreign Funding Law, mandates that NGOs submit quarterly reports to the Registrar of Associations on all funding received from foreign governments and other foreign entities. While the avowed intent of the law is to augment transparency, these discriminatory requirements are redundant and contrast sharply with the guidelines for organisations that do not receive international funding. The Foreign Funding Law not only targets organisations that receive foreign funding but also establishes a dangerous precedent wherein civil society organisations are governed by separate legal frameworks based on the nationality of their donors.

**5.3** Additionally, two separate bills, the Proposed Bill for the amendment of the Income Tax Order and the proposed Amutot [Non Profit Society] Law, were drawn up in 2011, and, if passed, would have a devastating impact on civil society. The Income Tax Order would deprive NGOs that receive foreign funding of the legal right to be exempted from income tax and would further set a discriminatory taxation rate of 45% on income from foreign government donations. In addition, the Amutot Law proposes to restrict donations to "political non-profit societies" from governments and international bodies to 20,000 NIS (US\$5,000) annually and would forbid the registration of NGOs if "there are reasonable grounds to conclude that the association is providing information to foreign entities." If adopted, the laws would create severe and insurmountable impediments to the legitimate work of recognised NGOs and drastically curtail the activities of civil society organisations as a whole. Although the bills were not passed, the very fact that they were drawn up helped chill civil society activities.

## **6. (E) Recommendations to the Government of Israel**

**6.1** CIVICUS calls on the Government of Israel to create an enabling environment for civil society to operate in accordance with the rights enshrined in the ICCPR and the UN Declaration on Human Rights Defenders. At a minimum, the following conditions should be guaranteed, both in law and practice, consistent with international human rights standards: freedom of association, freedom of expression, the right to operate free from unwarranted

state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect.

#### **6.2 Regarding the use of force to quell protests and restriction on freedom of assembly**

- Security forces in charge of crowd control should be equipped with non-lethal weapons and provided training across the board on 'humane means of crowd control' as well as on the UN Basic Principles on the Use of Force and Firearms.
- Every case of injury caused to protestors by security forces should be subjected to a mandatory and transparent investigation by an independent commission.
- The use of live ammunition on peaceful protesters should be immediately stopped.
- Military Order 101, which puts severe limitations on freedom of assembly in the West Bank, should be immediately repealed.

#### **6.3 Regarding legislative restrictions on the freedom of expression**

- The Boycott Prohibition Law and Budget Foundations Law should be immediately repealed to ensure that freedom of expression is duly respected.
- All prisoners of conscience detained for exercising their freedom of opinion and expression should be unconditionally and immediately released and their sentences should be reviewed to prevent further harassment.

#### **6.4 Regarding the arbitrary detention of activists and journalists**

- All due process guarantees in accordance with Article 14 of the ICCPR should be ensured to all detained persons.
- The whereabouts of those who arrested and currently in locations not known to members of their families should be revealed.
- The Military Order 1651 and the 2005 Internment of Unlawful Combatants Law must be repealed and replaced with a legal framework that duly respects the due process for people living in Israel and the Occupied Territories.
- The practice of using military courts to prosecute civilians should be immediately discontinued. Files of civilians who have been sentenced by military courts in the course of the protests should be thoroughly reviewed, the sentencing investigated and cases referred to civilian courts.

#### **6.5 Regarding restrictions on the freedom of association**

- The Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, also known as the Foreign Funding Law, should be repealed or suitably amended to ensure that restrictions on the freedom of association are removed.
- Proposals to adopt the Bill for the amendment of the Income Tax Order and the proposed Amutot Law should be permanently abandoned.

## **6.6 Regarding Access to UN Special Procedures and Mandate Holders**

- A standing invitation should be extended to the UN Special Procedures, particularly to the Special Rapporteur on Human Rights Defenders, Special Rapporteur on Freedom of Expression and Special Rapporteur on Freedom of Peaceful Assembly and Association.