

**Transcript of the side event parallel to the 49th session of the Human Rights Council –
“Protecting Palestinian Human Rights Defenders and Civil Society Organizations:
Israel’s Baseless Designation of the 6.”**

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I’d like to express my sincere thanks to our hosts, particularly to Al-Haq, for convening this vital important opportunity to discuss the ongoing challenges that are faced by six Palestinian human rights and civil society organisations who have been designated as terrorist organisations by Israel. As you may know, as soon as that designation was issued, a number of special procedure bodies, nine of them, including Mary Lawlor, who is also speaking at today’s event, issued a press release condemning what we saw as a frontal attack on Palestinians and Palestinians’ human rights movements and on human rights everywhere. In December, my mandate joined nine other special procedure mechanisms in sending a communication to the government of Israel regarding the allegation of planting Pegasus Spyware in at least six devices belonging to Palestinian HRDs and non-profit organisations’ staff members as soon as those designations had occurred. In January 2022, my mandate and six other special procedure mechanisms sent a letter to the Ministry of Foreign Affairs of the Netherlands regarding the Dutch government’s decision to end long standing funding to the Union of Agricultural Work Committees, one of these six designated NGOs, despite having found that there was no evidence whatsoever of their organisational ties with the Popular Front for the Liberation of Palestine.

For my remarks today I want to offer two observations. The first is that we can’t address these designations without understanding their broader contextualisation within the broader misuse of counterterrorism measures to crack down on civic space, both by Israel and by other likeminded states, and second, that the designation must be rescinded as well as addressing the underlying counterterrorism regulatory framework; both of these things require urgent review.

So let me situate the designations within this national, broader national, and global context. I want to start by saying that counterterrorism measures never ever land in a neutral universe. There is always a complex, pre-existing structural setting that has to be set when we try to calibrate the response to those kinds of measures. As part of my mandate over the last five years I’ve seen first-hand how the stigmatisation of civil society has been the defining consequence of the post-911 security paradigm. In short, the legitimacy of countering terrorism through the global counterterrorism architecture has enabled some governments, including Israel, to rebrand civil society as terrorists or enemies of the state with a de facto collusion of bodies responsible, including international bodies, for the oversight of these frameworks.

At another important side event last week here in Geneva, hosted by the Cairo Institute for Human Rights Studies, I explained how my mandate has increasingly seen the misuse of counterterrorism measures right across the MENA region and well beyond it. What we’re seeing is these measures are used to crack down, to seek in many ways to obliterate civil society organisations, democracy advocates, religious minorities, cultural workers, journalists, humanitarians, and anyone who dares to criticise the state in some context. Since the mandate, the mandate that I hold, since its inception in 2005, my team and I have tracked that over 66% of all relevant communications sent to governments in the years between 2005 and 2018

involved the misuse of a counterterrorism measure against a civil society actor. So what we see in that is the most fundamental and precious of rights; the right to express, to assemble, to participate in public affairs, to practise your own religion, have all been under ferocious and unrelenting attack and all of that has accelerated through the Covid-19 pandemic.

Israel's wholesale designation epitomises this trend of counterterrorism misuse against civil society but in a way, to a striking and more serious degree than we have seen elsewhere. At bottom, these measures, these designations, are an attempt at civic death and of course we have to situate these measures in the context of these six designations falling within the broader context of the belligerent occupation of the Occupied Palestinian Territories and the incredible work undertaken by these organisations in the most difficult of circumstances to serve the Palestinian civil population, particularly women and children. We have an over 50-year belligerent occupation and in this regard, addressing the misuse of counterterrorism measures in the context of belligerent occupation remains a priority for special procedures and my own mandate in particular.

The designations are not isolated. They follow years upon years of alleged arbitrary detention and direct targeting of Palestinian human rights defenders and civil society. They also follow the International Criminal Courts continued investigation into atrocity crimes committed in the Occupied Palestinian Territories as well as the Committee on the Elimination of Racial Discriminations' previous finding that several laws discriminate against Palestinians in the Occupied Palestinian Territories and they follow the alleged discovery of Pegasus Spyware being used against these very same groups that are designated, and of course, all of that is connected.

So in the meantime, let's be clear, counterterrorism legislation must be designated for specific and restricted purposes. It cannot and should not be used as a pretext to crack down on the legitimate and protected activities of civil society organisations under international law, including human rights and humanitarian law. Allowing anything else, allowing that to proceed would not only be unlawful but fundamentally it makes all of us less free, less safe, and less secure because if we don't have a vibrant civil society environment, if we don't protect, elevate, support civil society we simply never tackle the conditions conducive to the production of violent conflict and terrorism. In particular, my mandate has warned consistently about the misapplication of counterterrorism financing measures, like asset seizure, that disproportionately curtail and cripple civil society actors and are often, as in this case, absent any meaningful due process, processes, or independent oversight and are in plain violation of the rights to freedom of association and expression. My mandate has also consistently argued and underscored the importance of ensuring that any government surveillance that's undertaken is necessary, proportionate, and non-discriminatory and treats every single individual with dignity and respect. We are also clear that any penalties that are taken to address civil society have to be proportionate to the offence found and implemented in full compliance with well settled, non-arguable due process and fair trial guarantees under international law, including most particularly and most importantly in this case, the right to access and refute evidence against them. This requirement, all of these requirements apply, even where we are in administrative, criminal or civil proceedings. The nature of the proceedings is irrelevant to the requirement of the due process rights that are required in that context.

So let me close and refocus us by thinking about the designation of these six particular organisations. As my mandate and other special procedure mechanisms have underlined, the external investigation of the Dutch government has found, contrary to the allegations advanced

against the Union of Agricultural Work Committees by the Israeli government, which are importantly secret, so the evidence of the government is rooted in secrecy, entirely obscured to review, but that investigation found no evidence of financial flaws and no organisational unity with the PFLP.

So in that context let me make three recommendations. The first is to the Israeli government, plain and simple. My mandate calls for the immediate revocation of the designation of the six organisations and a comprehensive, independent review of the human rights compliance of the underlying regulatory framework and the related powers that enabled the surveillance on these groups and individuals. Second, to the Dutch government and to any other donor that has suspended funding, we make a plea, please review and reconsider your decision to ensure proportionality, necessity, legality and non-discrimination, in line with your obligations under international law. And third, to the entire international community including all member states, international agencies, and other agencies, you must continue to support Palestinian civil society organisation loudly, consistently, and unflinchingly. Member states of the Human Rights Council in particular have a deep obligation, an entrusted duty to ensure the importance of this unimpeded delivery of humanitarian assistance in human rights activities when they convene under Item 7 in the coming weeks. Stated solidarity with Palestinian human rights organisations is not enough. We need to act to protect and support them and it is in these difficult times that when these organisations and the individuals who work for them are showing such incredible courage, as they have shown for the entirety of the occupation, in promoting and protecting the human rights of every Palestinian citizen, that the international community and the Human Rights Council has to stand with them. Thank you.

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