



Israel's Dismantling of Palestinian Civil Society and Systematic Persecution of the Palestinian People under Arbitrary Counter-Terrorism Measures

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I. Introduction

1. In response to a call for input issued by the United Nations (UN) Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, our organisations prepared the following submission for the benefit of her upcoming global study on the impact of counter-terrorism measures on civil society and civic space. Specifically, the submission highlights Israel's application of the Counter-Terrorism Law (CT Law),¹ and the 1945 Defense (Emergency) Regulations (Emergency Regulations), to persecute and outlaw Palestinian human rights defenders (HRDs) and civil society organisations (CSOs), in maintenance of its apartheid regime – which is inherently a structural element of Zionist settler-colonialism.²

II. Overview of Legislative Framework

2. The CT Law, which was adopted by the Israeli parliament on 15 June 2016, contains an overbroad definition of “terrorist act” and “terrorist organisation”, affording the Israeli government wide discretion to levy its application in a discriminatory manner, contrary to international standards of proportionality and legality. While the CT Law only applies within the Green Line, corresponding legislation in the Occupied Palestinian Territory (OPT) extends its extra-territorial effect. The CT Law repealed certain provisions of the Emergency Regulations, which were implemented during the British Mandate, in the eastern part of occupied Jerusalem and Israel. However, some aspects of the law remain applicable in the OPT, namely Regulation 84(1), which establishes the definition of “unlawful organisations”.³ The Emergency Regulations grant the Israeli military commander discretionary power to designate an organisation as “unlawful”, without prescribed process or evidential requirements.
3. The UN,⁴ and various CSOs across historic Palestine⁵ have acknowledged and noted the potential for arbitrary targeting of Palestinian CSOs and HRDs under the legal framework of the CT Law and Emergency Regulations. The CT Law defines a “terrorist organisation” as any entity that carries out terrorist acts, as well as further organisations that “directly” or “indirectly” assist them, including through the promotion of their activities and financing.⁶ Such organisations may face closure, asset seizure, and staff criminalisation. This is mirrored in the Emergency Regulations, within which “unlawful organisations” face largely the same repercussions. The evidential requirements under either law are minimal, and organisations may be designated as “terrorist” or “unlawful” on the basis of “secret evidence”, which is not necessarily disclosed to the organisation in question. Crucially, there is limited recourse to appeal with a lack of due process pursuant to either legislative framework.

¹ Counter-Terrorism Law 5776-2016.

² Rania Muhareb, et.al, ‘Israeli Apartheid: A Tool of Zionist Settler Colonialism’ (Al-Haq, 2022).

³ Adalah, ‘Israel’s 2016 Counter-Terrorism Law and 1945 Emergency Regulations Regarding the Outlawing of Six Palestinian Human Rights and Civil Society Groups’ (23 November 2021), available at: https://www.adalah.org/uploads/uploads/Adalah_Expert_Opinion_Palestinian6_Nov2021.pdf

⁴ Communication by UN experts to Israel, Ref OL ISR 6/2022 (5 May 2022), at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27237>.

⁵ Adalah, ‘Adalah’s Position Paper: Israel’s Counter Terrorism Law’ (29 November 2021), at: [https://www.adalah.org/uploads/uploads/Adalah's%202021%20Position%20Paper%20on%202016%20Counter-Terrorism%20Law%20\(Updated\)%20EN%20.pdf](https://www.adalah.org/uploads/uploads/Adalah's%202021%20Position%20Paper%20on%202016%20Counter-Terrorism%20Law%20(Updated)%20EN%20.pdf).

⁶ Counter-Terrorism Law 5776-2016, Article 2(a)(2)).

4. The Israeli military court apparatus, which oversees the prosecution of Palestinians in the West Bank for alleged violations of law, consistently disregards principles of international law and human rights standards, notably Articles 78 and 72 of the Fourth Geneva Convention stipulating the right of a defendant to defend him/herself, as well as Article 66 of the Fourth Geneva Convention and the basic standards of fair trial. Further, the Israeli military commander's complete discretion to designate certain Palestinian groups as unlawful without evidential basis contravenes Article II of the Apartheid Convention, which lists "legislative measures and other measures calculated to prevent a racial group... from participation in the political... life... by denying... the right to freedom of opinion and expression, and the right to freedom of peaceful assembly and association", as well as the "[p]ersecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid" as fundamental components of an apartheid regime.

III. Suppressing Palestinian Civic Space under Arbitrary Outlawing

5. Israel's targeting of Palestinian civic space intensification culminated on 19 October 2021, when the then-Israeli Minister of 'Defense', Benny Gantz, outlawed six leading Palestinian CSOs under Israel's domestic CT Law, without any official notification to the affected organisations.⁷ On 3 November 2021, the Israeli military commander signed a military order that outlaws the six Palestinian CSOs within the West Bank as well.⁸
6. The ramifications of these designations are significant and severe. The implications entail severe legal consequences, including the closure of their organisations' offices, potential property seizure, freezing of assets, funding blockade, and the prohibition of public support for their activities. Moreover, their staff members may face arbitrary arrests, detentions, and criminal sanctions.⁹ Directors and senior staff of the organisations can be sentenced to 25 years of imprisonment.¹⁰ Incontestably, the designations severely obstruct the essential work of the six organisations.
7. Moreover, on 18 August 2022, the Israeli Occupying Forces (IOF) raided Ramallah, forcibly entered, raided and closed the offices of the six outlawed CSOs, in an attempt to quash their work. Private property and documents were seized from three of these organisations by the IOF, while the offices were vandalised, the front doors sealed with

⁷ Al-Haq, 'Palestinian Human Rights NGOs Will Not Be Silenced, and Call on the International Community to Take Concrete Actions to Rescind Barbarous Israeli Designations' (23 October 2021), at:

<https://www.alhaq.org/advocacy/19009.html>; Al-Haq, 'PNGO & PHROC: Israel's Sinister Designation of 6 Leading Palestinian Organizations As "Terror Organizations" is an Attempt to Silence and Control Palestinians' (23 October 2021), at: <https://www.alhaq.org/advocacy/19006.html>; Al-Haq, 'Al-Haq Calls on Third States to Publicly Condemn and Call for the Full Rescinding of Palestinian Human Rights NGOs as "Terrorist Organizations"' (24 October 2021), at: <https://www.alhaq.org/advocacy/19050.html>.

⁸ Al-Haq, 'Alert: Israel Takes Alarming Steps to Enforce its Persecution of Six Palestinian Organisations in the West Bank, International Community Must Intervene' (7 November 2021) at: <https://www.alhaq.org/advocacy/19179.html>.

⁹ Al-Haq, 'Urgent Appeal to the United Nations Special Procedures, Israel's Designation of Six Palestinian Organisations as "Terrorist Organisations", A Legal Analysis of Israel Counter-Terrorism Law (2016)' (30 December 2021), at: https://www.alhaq.org/cached_uploads/download/2021/12/07/soas-memo-1638860121.pdf.

¹⁰ Library of Congress, 'Israel: New Comprehensive Counterterrorism Legislation Adopted' (15 July 2016); Al-Haq, 'The Six Designated Organisations Call for Urgent International Intervention to Revoke the Designations' (21 April 2022), at <https://www.alhaq.org/advocacy/19949.html>.

a welded metal sheet, and a military order declaring the organisation an “unlawful association” was placed on the metal sheet.¹¹

8. On 21 August 2022, the General Directors of Al-Haq and DCI-P, Shawan Jabarin and Khaled Quzmar, respectively, were summoned by the IOF for interrogation at the Ofer military base. Mr. Jabarin was threatened by the caller with repercussions, including a personal price, such as imprisonment, interrogations and other measures, if Al-Haq continues to work.¹² As for Mr. Quzmar, he was seen being escorted into Shin Bet premises where he was detained without legal representation and released after two hours in custody.
9. These organisations are being targeted for promoting a critical narrative and mobilise action concerning issues spanning from the Israeli occupation, annexation, apartheid and colonisation of Palestinian lands; business and settlement activities; environmental and natural resources; political prisoners, and refugees. Moreover, these organisations work relentlessly to uphold Palestinian human rights and support their struggle for freedom, justice and their right to self-determination. They provide indispensable services that ensure the steadfastness of Palestinians in the face of Israeli oppression, and work towards achieving accountability and putting an end to Israel’s impunity for its crimes against humanity and war crimes committed, including through the International Criminal Court (ICC).
10. The extra-territorial applicability of the CT Law was designed, and has facilitated, Israel’s arbitrary detention of multiple Palestinian HRDs, citing their alleged membership in “unlawful organisations”. There are comprehensive examples of this, notably the cases of retired lawyer and HRD, Bashir Kahiri,¹³ or Palestinian Legislative Council member, Khalida Jarrar.¹⁴ Palestinian HRDs are consistently targeted through arbitrary measures, including through the use of Pegasus spyware;¹⁵ forcible deportation – both tactics were recently used to target HRD and lawyer Salah

¹¹ Al-Haq, ‘Al-Haq’s Urgent Appeal to UN Special Procedures; Protect Human Rights Directors, Mr. Shawan Jabarin and Mr. Khaled Quzmar, Threatened with Arrest and Imprisonment’ (21 August 2022), at: <https://www.alhaq.org/advocacy/20471.html>; Al-Haq, ‘The Raid on Al-Haq’s Offices: 18 August 2022’ (16 September 2022), at: <https://www.alhaq.org/monitoring-documentation/20580.html>.

¹² Al-Haq, ‘Al-Haq’s Urgent Appeal to UN Special Procedures; Protect Human Rights Directors, Mr. Shawan Jabarin and Mr. Khaled Quzmar, Threatened with Arrest and Imprisonment’, (21 August 2022), at: <https://www.alhaq.org/advocacy/20471.html>.

¹³ Retired human rights lawyer Bashir Kahiri became the oldest administrative detainee when he was arrested for a fifth time by the IOF, under a list of charges including his membership of an “unlawful organisation”. The military court ordered Mr. Kahiri’s release on bail due to his old age, health and the outdated nature of the charges against him. After several extensions to his detention by the military prosecutor, Mr. Kahiri was eventually administratively detained for six months, initially with no charge or trial, before the order was maintained on the basis of Mr. Kahiri’s membership of an “unlawful organisation”. See, PNGO, ‘The Arbitrary Arrest and Detention of Palestinian Lawyer Bashir Khairi: Israeli Occupation Leverage Individual Palestinian Human Rights Defenders to Escalate Systematic Harassment Campaign Against Palestinian Civil Society’ (16 September 2021), at: <https://www.pngo.net/wp-content/uploads/2022/01/Urgent-Appeal-on-the-Arbitrary-Arrest-and-Detention-of-Palestinian-Lawyer-Bashir-Khairi.pdf>.

¹⁴ Addameer, ‘PLC Member Khalida Jarrar Released After Two Years in Israeli Occupation Prison and Two Months After Her Daughter’s Death’ (26 September 2021), at: <https://www.addameer.org/news/4512>.

¹⁵ Amnesty, ‘Pegasus Project: Massive Data Leak Reveals Israeli NSO Group’s Spyware Used to Target Activists, Journalists, and Political Leaders Globally’ (18 July 2021), at: <https://www.amnesty.org.uk/press-releases/pegasus-project-massive-data-leak-reveals-israeli-nso-groups-spyware-used-target>.

Hammouri;¹⁶ travel bans;¹⁷ and smear campaigns – both from the Israeli Ministry of Strategic Affairs and proxy organisations,¹⁸ which escalated following CSO engagement with the ICC. This submission highlights specific examples of Palestinian HRDs who have been arbitrarily detained pursuant to “counter-terrorism” measures for their crucial work in association with Palestinian CSOs.

i. The Case of Shatha Odeh and the Health Work Committees

11. On 22 January 2020, an Israeli military order prescribed Health Work Committees (HWC), a leading Palestinian CSO that promotes health services for hundreds of thousands of Palestinians, as an “unlawful organisation” under the Emergency Regulations.¹⁹ As an Occupying Power, Israel’s designation of HWC, an instrumental organisation in providing healthcare to Palestinians for whom access to such services is limited due to the ongoing occupation and associated roadblocks and checkpoints, is in direct contravention to its obligation to protect their right to health.
12. On 7 July 2021, the IOF violently arrested Shatha Odeh, 62, who serves as the Director of HWC and acting Chairwoman of PNGO, a coalition of 142 Palestinian CSOs.²⁰ Ms. Odeh was prosecuted on five charges, relating to her leadership within HWC, the transfer of funds, and infractions alleging fraudulent activities.²¹ Critically, some of the charges reference the 1960 Jordanian Penal Code, a concerning expansion of subject-matter jurisdiction by Israel.
13. Ms. Odeh was imprisoned for 16 months, having had her detention extended on three occasions by Ofer military court. Each hearings lasted less than 15 minutes and was conducted in Hebrew, a language Ms. Odeh does not understand.²² While incarcerated, Ms. Odeh suffered deliberate medical neglect by the Israeli Prison Service (IPS), in violation of Article 25 of the Universal Declaration of Human Rights and Article 12 of the International Covenant on Economic, Social and Cultural Rights. Furthermore, Ms. Odeh was subject to degrading treatment, including being denied underclothing and a change of clothes for two weeks prior to her third trial, and shackled by her hands and

¹⁶ Amnesty, ‘Israel/OPT: A perfect storm of apartheid policies led to Salah Hammouri’s deportation (21 December 2022), at: <https://www.amnesty.org/en/latest/news/2022/12/israel-opt-a-perfect-storm-of-apartheid-policies-led-to-salah-hammouris-deportation/>.

¹⁷ Al-Haq, ‘PHROC Condemns Israeli Imposed Movement Restrictions and Travel Ban against Amnesty International Staff Laith Abu Zeyad’ (6 November 2019), at: <http://www.alhaq.org/advocacy/16170.html>

¹⁸ Al-Haq, ‘Joint Submission to the UN Secretary-General on Intimidation and Reprisals for Cooperation with the UN’ (15 April 2021), at: <https://www.alhaq.org/advocacy/19913.html> and Al-Haq, ‘Joint Submission to the UN Secretary-General on Intimidation and Reprisals for Cooperation with the UN in the Field of Human Rights’ (16 April 2022), at: https://www.alhaq.org/cached_uploads/download/2022/04/16/submission-to-the-un-secretary-general-on-intimidation-and-reprisals-1650118540.pdf

¹⁹ Al-Haq, ‘Israel’s Attack on the Palestinian Health Work Committees is Part of its Systematic Targeting of Palestinian Civil Society’ (19 June 2021), at: <https://www.alhaq.org/advocacy/18527.html>.

²⁰ IOF raided and stormed the house of Ms. Odeh for her arrest, despite possessing no arrest warrant or confiscation order. They deployed gas grenades during her arrest. See, Addameer, ‘Israeli Occupation Release Mrs. Shatha Odeh After Nearly a Year’ (3 June 2022), at: <https://www.addameer.org/news/4807>.

²¹ Addameer, ‘Urgent Appeal to the United Nations Special Procedures: Arbitrary Detention and Harassment of Human Rights Defender Shatha Odeh’ (12 August 2021), at: <https://www.addameer.org/sites/default/files/Urgent%20Appeal%20on%20the%20Arbitrary%20Detention%20and%20Harassment%20of%20Human%20Rights%20Defender%20Shatha%20Odeh%2012.08.pdf>

²² *Ibid.*

feet when transferred from interrogation in Hasharon Detention Center to Ofer Military Camp.²³

ii. *The Case of Khitam Sa'afin and the Union of Palestinian Women's Committees*

14. On 2 November 2020, Khitam Sa'afin, who was then serving as the President of Union of Palestinian Women's Committees (UPWC), was arrested and placed under administrative detention – a practice whereby detainees can be held indefinitely without charge or trial on the basis of “secret information”.²⁴ Ms. Sa'afin was detained for eight months under administrative detention.
15. Despite repeated requests by Ms. Sa'afin's counsel for disclosure of the “secret information” that formed the basis for her detention, such information was not provided. Upon negotiation, the military prosecutor agreed to amend the charges against Ms. Sa'afin's. These charges included her association with the Popular Front for the Liberation of Palestine (PFLP), which is considered an “unlawful organisation” under Israeli military orders, her participation in social and public activities related to the PFLP, and her position as the President of UPWC, even though her arrest occurred before UPWC deemed and designated as “unlawful”. On 13 February 2022, Ms. Sa'afin was sentenced to 16 months of imprisonment and a fine of NIS 1,500.

IV. Systematic Persecution of Palestinians Convicted with Broadly Defined “Terrorist Acts”

16. The CT Law defines a “terrorist act” as one which “constitutes an offense, or a threat to carry out such an act” and meets specific criteria related to the motive, intention, and harm caused. Per the aforementioned Law, the motive must be “political, religious, nationalistic or ideological”, the intention includes “provoking fear or panic among the public”, whereas the harm is inflicted on persons, the public or property. UN experts and bodies have expressed concerns that the offense as defined in the CT Law differs from internationally recognized standards, and may be “used to oppress and criminalise legitimate political or humanitarian acts”.²⁵ Furthermore, it was highlighted that the CT Law lacks the “specificity and clarity as required under the principle of legality”, rendering it “vulnerable to arbitrary and discriminatory enforcement”,²⁶ diverging from internationally recognised best practices of proportionality.²⁷
17. Pursuant to a 2018 amendment, the CT Law may be applied retrospectively, with an Israeli parole committee permitted to determine that the crime for which an individual was convicted constitutes a “terror act”. Those deemed to have committed a “terror act” are subject to specific punitive measures, rendering them ineligible for early release or the customary potential one-third reduction in sentence. This manufactures a two-tier system of imprisonment by which Palestinians – as those most likely to be deemed to

²³ It should be noted that Ms. Odeh was held in Damon Prison, located inside the Green Line, in contravention of Article 76 of the Fourth Geneva Convention.

²⁴ Addameer, ‘Administrative Detention as a Tool of Oppression and Domination’ (5 October 2022), at: <https://www.addameer.org/sites/default/files/publications/Administrative%20Detention%20as%20a%20Tool%20of%20Oppression%20and%20Domination.pdf>.

²⁵ Communication by UN experts to Israel, Ref OL ISR 6/2022 (5 May 2022), at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=27237>.

²⁶ *Ibid.*

²⁷ UNGA, ‘RES 69/182’ (18 December 2014) UN Doc A/RES/69/182.

have committed “terror acts” – are subject to more punitive sentencing conditions, violating international fair trial standards through which defendants are subject to blanket standards as opposed to being judged on the merits of their case. The practice of arbitrarily detaining Palestinians on aggressively punitive terms falls within Article II of the Apartheid Convention, which labels the denial of a racial group the right to life and liberty by means including arbitrary arrest and illegal imprisonment a component of apartheid. Further, once detained, Palestinian prisoners are consistently subjected to torture or cruel, inhuman or degrading treatment.

i. The Case of Ahmad Manasra

18. In 2015, Ahmad Manasra, a Palestinian Jerusalemite, was arrested by the Israeli authorities when he was 13 years old, while he was in Pisgat Ze’ev colonial settlement, illegally established on the land of the eastern part of occupied Jerusalem, after his cousin was shot dead for allegedly planning to stab an Israeli colonial settler. Ahmad’s case gained global traction following widely circulated pictures and videos showing him being harassed while severely injured at the scene,²⁸ and being harshly interrogated by the IOF,²⁹ in contravention of international fair trial standards. Despite acknowledgment that he did not participate in the alleged attempted attack, Ahmad was detained until he reached the legal age of conviction and sentenced to 12 years in prison for attempted murder under the CT Law. His sentence was later reduced to 9.5 years on appeal.
19. While imprisoned, Ahmad developed severe mental health problems, including schizophrenia, psychosis, and severe depression. Since November 2021, he has been held in solitary confinement, during which he was hospitalised three times with near-fatal risk to his health. After each hospitalisation, he was returned to solitary confinement. UN experts have called for Ahmad’s release, noting that his confinement constitutes torture.³⁰ An application for his early release following his completion of two-thirds of his sentence was denied, with the parole committee retroactively determining that his conviction was for a “terror act” under the CT Law, despite the law not being in effect at the time of his conviction.³¹ A further application for release on urgent medical grounds was denied on 1 September 2022. Moreover, on 1 January 2023, the Israeli Supreme Court rejected a motion from Ahmad’s legal representatives seeking permission to appeal the decision from Be’er Sheva District Court to deny his early release. The Supreme Court further refused a judicial review of the broader unconstitutionality of the retrospective application of the CT Law on procedural grounds.³² Ahmad remains held in solitary confinement, an order which was renewed on 1 December 2022 based on “secret information.”

²⁸ Middle East Eye, ‘Shocking video shows Israeli interrogation of Palestinian 13-year-old’ (11 November 2015), at: <https://www.middleeasteye.net/news/shocking-video-shows-israeli-interrogation-palestinian-13-year-old>.

²⁹ *Ibid.*

³⁰ OHCHR, ‘UN Experts Urge Israel to Free Ahmad Manasra’ (14 July 2022), at: <https://www.ohchr.org/en/press-releases/2022/07/un-experts-urge-israel-free-ahmad-manasra>.

³¹ Adalah, ‘Adalah to Israeli Supreme Court: Cancel Counter-Terrorism Law Provision Blocking Release of Ahmad Manasra’ (3 October 2022), at: <https://www.adalah.org/en/content/view/10709>.

³² *Ibid.*; The Supreme Court judgement is available at: https://www.adalah.org/uploads/uploads/Manasra_SCT_Decision_01012023.pdf.

20. Ahmad's case exemplifies how the CT Law enables the imposition arbitrarily and punitive measures against Palestinian defendants resulting in a detention system that violates their human rights, within the context of a settler-colonial apartheid regime. Ahmad's detention as a child violates Israel's obligations under the Convention on the Rights of the Child, through which a child's deprivation of liberty ought to be for the "shortest possible time" with "regular opportunities to permit early release from custody".³³ Further, the infliction of "serious bodily or mental harm, by the infringement of their freedom or dignity" and subjection to "torture or to cruel, inhuman or degrading treatment or punishment" are key constituents of apartheid, such measures being not only evident in the case of Ahmad Manasra, but consistently across Palestinians arbitrarily detained by Israel.³⁴

V. Recommendations

21. In light of the above, we offer the following recommendations:

- i. Recognise and acknowledge that the root causes of Israel's systematic violations and crimes against the Palestinian people as a whole are Zionist settler-colonialism and the ensuing apartheid regime;
- ii. Call on Israel to repeal the CT Law, effectively used to institutionalise the persecution of HRDs and entrench its colonial domination over the Palestinian people and their lands and further denounce the application of the CN Law to CSOs in the OPT as an overreaching of Israel's domestic law to the OPT; and
- iii. Call on Israel to immediately cease its systematic and ongoing policies and practices aimed at intimidating, smearing, and silencing Palestinian CSOs and HRDs – and thereby, ultimately maintain its settler-colonial apartheid regime – including through arbitrary detention, torture, and other ill-treatment, institutionalised hate speech and incitement, residency revocation, deportations, and other forms of coercive or punitive measures, including recent designations.

³³ CRC, 'General comment No. 24 (2019) on children's rights in the child justice system' (18 September 2019).

³⁴ International Convention on the Suppression and Punishment of the Crime of Apartheid (adopted 30 November 1973, entry into force 18 July 1976) 1015 UNTS 243 (hereinafter 'Apartheid Convention'), Article II.