



صندوق المدافعين عن حقوق الإنسان
 הקרן למגיני זכויות אדם
 HUMAN RIGHTS DEFENDERS FUND



29.6.2017

Joint Submission – Universal Periodic Review of the State of Israel

**The Closing of Civil Society Space in Israel
 and the effect on Women Human Rights Defenders**

June 2017

UN Human Rights Experts: “Every day, more women identify themselves as Human Rights Defenders and undertake individually and collectively actions in pursuit of justice, equality, peace, and human rights for all.”¹

We, five human rights organizations in Israel are committed to democratic values and the maintenance of an empowered civil society that ensures human dignity, freedom of speech and equality to all. We also recognize that these principles, in turn, are essential to the goals of international peace, security, cooperation and stability.

Yet in Israel today, human rights organizations (HROs) and civil society organizations (CSOs) face growing limitations on their freedom of association and expression, and funding. Human rights defenders – men and women alike – work within an increasingly hostile environment in which their work is routinely de-legitimized by the Israeli government, right-wing organizations, and the Israeli public. Key aspects that clearly show a significant closing of the space include: (I) An Adverse Legal Environment; (II) A Crackdown on Freedom of Expression: Policy and Practice; and (III) Constraints on Participation in Public Life and Funding.²

The damage to Human Rights Defenders involves different elements that are influenced, among other things, by gender distinctions. The reality in which Women Human Rights Defenders (WHRDs) operate and the ways in which the system works to hurt them are unique, and gender and gender structures are used many times to pressure women specifically. Incrimination, arrests, investigations, incarceration, legal proceedings and trials create a complex reality that is different for women to cope with. Many women human rights activists have testified to being verbally, sexually and/or physically harassed by soldiers/police during protests, arrests or investigations, as well as being subjected to humiliating treatment based on gender, sexuality and appearance.

These trends represent a threat not only to the activities and influence of HROs and CSOs in Israel, but also to their very existence. In line with commitments made in the **1998 UN Declaration on Human Rights Defenders**, as well as other UN declarations and EU instruments, the undersigned organizations call on the United Nations and the international community to:

- Monitor the implementation of Israeli legislation (e.g., the “NGO Transparency Law”; the “Anti-Terror Law”, “Expulsion of Members of Knesset Law”, among others) and their effect on HRDs and WHRDs, and take a strong, public position against proposed bills that violate the rights of freedom of expression, opinion, assembly and association. See further details on the legislation below.

¹See: <http://www.un.org/apps/news/story.asp?NewsID=55645#.WDI9vOmgHll>

² See:

http://www.ohchr.org/Documents/AboutUs/CivilSociety/ReportHC/78_HRDN_%20Briefing%202014%20The%20Closing%20Space%20for%20Civil%20Society.pdf



- Urge the Israeli government to repeal all laws/articles that violate these rights, and to cease the further introduction and enactment of legislation aimed at limiting the space of civil society.
- Urge Israeli government officials to actively combat incitement against the work of HRDs and refrain from issuing or supporting threats and/or attacks against HRDs, including WHRDs. Condemn all threats and attacks, including “smear campaigns” by non-state actors, against HRDs and WHRDs, through public statements and demarches, and call for the prompt and thorough investigation of all such cases backed by criminal charges, where appropriate.
- Call on the Israeli government to fully honor and implement the rights and obligations contained in the Declaration on Human Rights Defenders (1998). Ensure that Israeli and Palestinian Human Rights Defenders are able to carry out their legitimate work in a secure and free environment
- Call on the Israeli government to cooperate with all UN bodies who are committed to human rights protection, including the Special Rapporteurs appointed by the UN. Extend an open invitation to the special procedures of the Human Rights Council and allow them to visit the country³.
- Urge Israel to fulfill its commitments, step up its implementation, and withdraw its reservations to the UN Convention on the Elimination of Discrimination Against Women ahead of the 2017 UN CEDAW review of Israel.
- Ensure that funding remains available and is even increased for women’s rights and human rights organizations in Israel, especially those groups fighting against discrimination against Palestinian citizens of Israel (women and men) and the Occupation. Both long-term core support and emergency assistance is needed as these groups and activists increasingly face de-legitimization campaigns, security risks and other obstacles in conducting their human rights work.

BACKGROUND

Three key areas clearly show a significant closing of the space in Israel as follows: (I) An Adverse Legal Environment; (II) A Crackdown on Freedom of Expression in Policy and Practice; and (III) Constraints on Participation in Public Life and Funding. These issues are discussed in detail below.

I. AN ADVERSE LEGAL ENVIRONMENT

During the past two years, the Israeli Knesset has continued to enact discriminatory and anti-democratic laws restricting freedom of expression, opinion, assembly and association, many with a disparate and negative impact on Israeli HRDs, especially those who protest against the occupation and Palestinian citizens of Israel, as well as Palestinian residents of the Occupied Territories, including East Jerusalem.⁴

Major new pieces of legislation in 2016 focus on counter-terror/national security, the most sweeping of which is the **Anti-Terror Law (2016)**. This law substantially expands the scope of the Israeli penal law by incorporating severe provisions of the British Mandatory Defense Emergency Regulations 1945. The law contains broad and vague definitions of ‘terrorism’ and ‘terrorist organizations’, which

³ Recommendation 136.51 of the 2nd Cycle UPR of Israel

⁴ See Adalah’s Discriminatory Laws Database: <https://www.adalah.org/en/content/view/7771> & ACRI’s Knesset Roundup: <http://www.acri.org.il/en/tag/knesset-roundup/>



may be exploited by the security services and state authorities, particularly against Palestinians in Israel and/or against political activists. In light of the draconian provisions of the law, and its possible great impact on stifling protest, human rights organizations will be closely monitoring its implementation on the ground over the coming months.

A new law that limits the operation and financing of human rights organizations is the **NGO Foreign Funding Transparency Law (2016)**. This law requires NGOs registered in Israel that receive more than 50% of their annual budget from *foreign governments* (not private sources) to declare their sources of funding in all publications, including letters to government and public officials, and in reports to the registrar of Non-Profit Associations. As 25 of the 27 organizations that currently receive more than half their budget from foreign governments, including the EU and EU member states, are human rights NGOs, it is clear that the law targeted these groups, including the Coalition of Women for Peace (CWP) a signatory of this submission to the UPR. A major campaign against the NGO Law led to some of its most egregious provisions being cut from the originally-tabled bill⁵. However, in June 2017, Israeli media reported that Israeli Prime Minister Benjamin Netanyahu declared⁶ that he intends to advance further legislation in the Knesset that would impose a complete ban on foreign government funding to non-governmental organizations in Israel.

A new, draconian restriction on the political participation rights of Palestinian citizens of Israel is the **Expulsion of Members of Knesset Law (MKs) (2016)**. This law allows a majority of 90 MKs to oust a serving MK for the full period of the Knesset's remaining term on the grounds of incitement to racism and/or support for armed struggle of an enemy state or a terrorist organization against Israel. The law would allow the Israeli Jewish majority in the Knesset to oust elected Arab MKs and political lists on the basis of purely political/ideological considerations, and presents a grave danger to the principle of separation of powers and the most basic civil rights in a democratic society: the right to vote and the right to be elected. While the law is against the representation of all Arab MKs, a particular target of the law is MK Haneen Zoabi, one of two Palestinian women citizens of Israel, serving in the Knesset, a member of the Tajammu'/Balad political party and the Joint List.

Previously enacted laws with a "chilling effect" on freedom of speech include the **Anti-Boycott Law (2011)**, which makes the public promotion of boycott by Israeli citizens and organizations against Israeli institutions and illegal settlements in the West Bank a "civil wrong" or an actionable tort. It enables parties targeted by boycott to sue those who call for boycott. In 2012, a diverse group of HR organizations and political movements unsuccessfully petitioned the Supreme Court against the Law, arguing that it violated the constitutional rights of freedom of expression, dignity and equality.⁷ One of the petitioning organizations was the Coalition of Women for Peace (CWP), which used to promote an economic boycott as a legitimate, non-violent means to end the Occupation before the enactment of the law. The law has yet to be applied in practice and no law-suit has been filed to this

⁵ See, "MEPS send an open letter on Israeli Government NGO bill," 8 February 2016: http://www.juliewardmep.eu/meps_send_an_open_letter_on_israeli_government_ngo_bill; Itamar Eichner, Moran Azulay, "EU slams NGOs bill: 'Reminiscent of totalitarian regimes'," *Ynet News*, 27 December 2015: <http://www.ynetnews.com/articles/0,7340,L-4744712,00.html>; Barak Ravid, "German MPs Implore Netanyahu to Bury NGO 'Transparency' Bill," *Haaretz*, 3 December 2015: <http://www.haaretz.com/israel-news/.premium-1.689735?date=1449134456871>.

⁶ See, Chaim Levinson, "Netanyahu seeks to clamp down on human rights groups and bar funding from foreign states," *Haaretz*, 11 June 2017: <http://www.haaretz.com/israel-news/1.795078>

⁷ The Israeli Supreme Court rejected most parts of a petition filed by Adalah and ACRI on behalf of leading HR organizations and political movements against the Anti-Boycott Law in 2012. See H CJ 2072/12, *The Coalition of Women for Peace, et al. v. The Minister of Finance, et al.* (decision delivered 15 April 2015).



day. This may imply that the law was primarily intended to create a “chilling effect” against HRDs in Israel, arguably successfully) to intimidate them from speaking out in a way that would associate them with a call for boycott.

Further, the **Nakba Law (2011)** authorizes the Finance Minister to cut state funding or support to an institution if it holds an activity that rejects the existence of Israel as a “Jewish and democratic state” or commemorates “Israel’s Independence Day or the day on which the state was established a day of mourning.” In 2012, the Israeli Supreme Court (SCT) ruled that the case was premature, as the law had not yet been used against any specific institution, and that, “The questions that this law raise will only become clear with its implementation.”⁸ The SCT’s ruling ignores the chilling effect that the mere existence of the law has particularly on Palestinian Arab citizens of the state and Arab organizations in Israel, for whom the Nakba is a central element of national identity, personal and collective history, and culture.

As these laws illustrate, civil society space in Israel is under serious threat: for HR organizations; HRDs, including parliamentarians who are members of the Arab national minority in Israel; and for political activists opposed to discriminatory governmental policies and the Occupation. Furthermore, Israel does not yet allowed special procedures mandates of the UN to visit the country or the OPT and to report on human rights issues.

II. CRACKDOWN ON FREEDOM OF EXPRESSION: POLICY AND PRACTICE

As is their right in a proclaimed democratic state that upholds the rule of law, protestors regularly take to the streets throughout Israel and to social media platforms such as Facebook and Twitter to voice their dissent against government policies that harm human rights. Because women and girls often lack representation at the decision-making levels, public protests on the street and online are important tools at their disposal to ensure their representation and their opinions are declared.

However, these political protestors are paying an increasingly high price for their human rights activism. A series of law enforcement policies and practices are being pursued by the state that breach the fundamental rights to freedom of expression and assembly, as well as the due process rights of detained protestors. In the ongoing crackdown on protest, the authorities are being supported by a compliant justice system and State Attorney.⁹

Recent demonstrations have included protests regarding: anti-corruption, equality and recognition of the Bedouin community and opposition to the evacuation of unrecognized communities in the Naqab/Negev, police brutality against Palestinian citizens of Israel, and the Occupation.

The most serious illegal practices used by the police to suppress protests in Israel, based on the testimonies of protestors and detainees, include: dispersing the demonstrations illegally and arresting protestors; refusing to give authorization for protests, claiming threats to public order; declaring in advance that assemblies are illegal; imposing restrictive conditions, to prevent demonstrations; summoning protestors for talks’ with the GSS/police; making illegal preventive arrests; using excessive force and brutality against demonstrators; misusing criminal charges to

⁸ HCJ 3429/11, *Alumni Association of the Arab Orthodox School in Haifa et al. v. The Minister of Finance and the Knesset* (decision delivered 5 January 2012).

⁹See Adalah report, “Silencing the Opposition,” August 2015: <https://www.adalah.org/uploads/Adalah-Report-Silencing-the-Opposition-11-Aug-2015.pdf>



deter demonstrators; and failing to abide by special procedures that apply to children including conducting arrests and investigations during the late hours of the night, preventing children from meeting with a lawyer, and preventing parents from being present with their children during the investigation, as required by law.¹⁰

A significant number of women protestors¹¹, who have reported being subjected to some of these arbitrary and illegal practices during demonstrations and/or after arrest face additional oppressive tactics, including: being touched inappropriately in sensitive places; being subjected to gender-specific insults and sexual slurs; unsolicited comments on their appearance; direct orders to remove clothing, particularly headdresses; improper bodily searches; sexual harassment and assaults in the investigation room when women protestors are held in a closed room with male officers; and being denied access to toilet facilities, showers, and hygiene supplies.¹² In the case of Palestinian women citizens of Israel, several incidents have been recorded of police officers arresting the fathers of teenage female demonstrators in an attempt to pressure the young women to give up their protest activities.¹³ Due to these illegal practices and policies, combined with various legal restrictions now in place, the Human Rights Defenders Fund saw decrease in protest activities during 2016.

Facebook arrests

In addition to stifling street protests, the Israeli police continue to make “Facebook arrests” of Palestinian men and women for alleged instances of incitement to violence or racism made in social media posts, photographs and videos. These arrests and subsequent criminal charges are discriminatory, overwhelmingly targeting Palestinians: Jewish Israelis are almost never charged for their inflammatory speech on social media networks. According to Israeli police statistics 81% of arrests for incitement-related charges made in 2015 were of Palestinians citizens, and 82% in 2016.¹⁴ Around 400 “Facebook” arrests” have been made over the last two years, the vast majority against Palestinians, many of whom were engaging in legitimate political debates, including a client of Adalah who was arrested after he posted about his opposition to Israel’s recruitment of Christian Arab citizens to the Israeli army.¹⁵ This kind of surveillance/arrest unlawfully restricts the freedom of expression of Palestinians and in general hinders the exercise of their civil and political rights. Its discriminatory nature is clear from the fact that 70% of the 175,000 recorded posts in Israel that specifically incited to violence on social networks between June 2015 and May 2016 were actually made by right-wing Israeli Jews against Arabs and left-wing Jews.¹⁶

HRDs have also been called for interrogations by Israeli authorities due to their involvement on social media, and specifically for publishing calls for protests on social media. This, together with the phenomenon of Facebook arrests, are contributing to an environment of fear for HRDs to speak out and use social media.

¹⁰ See HRDF report “Disturbing the peace”, 2015: <http://hrdf.org.il/wp-content/uploads/Distrubing%20the%20Peace%20-%20HRDF.compressed.pdf>

¹¹ See: This is what Happend – Testimonials of WHRDs (Coalition for Women For Peace, 2016) : <http://hrdf.org.il/wp-content/uploads/2017/02/This-is-what-happened-CWP-REPORT-November-2016.pdf>

¹² Presentation of HRDF director to Kvinna till Kvinna partners’ meeting, November 2016.

¹³ See Adalah, Protect the Protest: Palestinian Child Detainees Speak out:

<https://www.youtube.com/watch?v=PdtAxSQyZ4o>

¹⁴ See: <https://www.adalah.org/en/content/view/8948>

¹⁵ See: <https://www.adalah.org/en/content/view/8275>

¹⁶ <https://www.adalah.org/en/content/view/8948>



III. CONSTRAINTS ON PARTICIPATION IN PUBLIC LIFE AND FUNDING

Over the past few years, HR organizations in general, including women's rights groups and WHRDs, have come under vitriolic attacks for their work, and particularly for raising human rights violations against Palestinians in international forums. Smear campaigns aimed at undermining and delegitimizing the role of women's rights and HR organizations in Israel target organizations and individuals alike, in an attempt to discredit them locally and internationally, distance them from decision-making processes, and pose a real threat to their operations by targeting their donors at a time of global financial insecurity and significant cuts in the resources available to them.

Workers of HR organizations are facing growing risk of arrests and indictments against them, and are further at risk of libel suits (SLAPPs) which are costly to defend and detract from their resources. Most organizations are not equipped to legally defend themselves or their workers. Nor can keep fighting off the disinformation and 'trolling', without exhausting resources that are otherwise used to promote their respective missions in defense of Human Rights. New trends in the persecution of HRDs and HR organizations include: threatening and/or shutting down public institutions that host HRDs or showcase their work, and cracking down on defenders of freedom of expression, as described below.

Attacks by right-wing organizations

Right-wing groups claim that HR NGO engagement with international human rights mechanisms, including the UN, is by definition a form of de-legitimization of Israel by "foreign agents" or "traitors". Their politically-motivated attacks against HR NGOs, many of which are personal in nature, mean that human rights defense increasingly comes with a high degree of personal risk, particularly for women. Right-wing organizations involved in smear campaigns against HR NGOs include the NGO Monitor, Im Tirtzu, the Institute for Zionist Strategies, Ad Kan, and Reservists on Duty, among others.

One of the first major smear campaigns was launched in 2010 by Im Tirtzu and NGO Monitor and consisted of a vilifying and personal attack on former MK Naomi Chazan of the New Israel Fund (NIF), a funder of HR and social change NGOs in Israel. The attack was launched in response to the cooperation of some HR organizations that receive NIF funding with the independent UN Fact-Finding (Goldstone) Mission on the Gaza Conflict of 2009. It included a nationwide billboard and newspaper campaign that depicted Ms. Chazan with a horn on her forehead in a dangerous show of demonization.¹⁷

From 2015 till today, Im Tirtzu ran a widely publicized smear campaign in which it described human rights groups as "foreign agents"¹⁸. The group launched the campaign amid a wave of violence from mid-September 2015. In one incendiary video, the faces of four leading Israeli HRDs, including a WHRD from the HaMoked: Center for the Defence of the Individual, appear with the following

¹⁷See: <http://www.jonathan-cook.net/2010-02-22/israels-new-attack-on-freedom-of-speech/>;
<http://www.timesofisrael.com/rebranded-new-israel-fund-adapts-right-wing-tools/>

¹⁸ ImTirtzu, "Foreign Agents Report: Activity by Foreign Agent Organizations in Israel Against Israel and Israel Defense Forces Soldiers – 2015," 2015: <https://imti.org.il/wp-content/uploads/2016/01/Foreign-Agents-Report-2.pdf>. See also: http://www.nytimes.com/2015/12/16/world/middleeast/group-calls-israelis-foreign-agents-for-work-on-behalf-of-palestinians.html?_r=0



slogan superimposed over them: “While we fight terror, they fight us.”¹⁹ This kind of incitement against HRDs puts not only their work but also their personal safety at risk.

NGO Monitor is among the most vocal opponents of HR NGOs. The group electively campaigns against HR NGOs, and directly targets their donors abroad. The Coalition of Women for Peace (CWP), Mossawa and Adalah are particular targets of the NGO Monitor, and which have been accused of "promoting global campaigns to de-legitimize Israel" and engaging in "anti-Israel propaganda" abroad.²⁰

NGO Monitor, while portraying itself as a neutral watch dog, in fact issues biased reports revealing that it has a clear political agenda that supports the continuation of the Israeli occupation and is far from being a balanced observer.²¹ For example, NGO Monitor consistently overlooks organizations that support West Bank settlers and other right-wing groups, while it operates to aggressively silence any criticism of Israeli policies and to harm the work of HROs advocating internationally against human rights violations in Israel and the OPT.

While the claimed “objectivity” of the NGO Monitor has been successfully refuted to some extent, it continues to attempt to act as a constraining factor. NGO Monitor routinely targets the EU and EU Member State governments by actively lobbying governments and parliaments of EU member states to cease funding human rights and women’s rights organizations.

In the context of this rising incitement against their work, WHRDs and women’s rights organizations have reported an escalation in violence targeted against them. Women protestors are attacked and prosecuted, and fear to express their opinion due to potential implications on their family, their workplace and others. Much hostility and suspicion is expressed in person-to-person relations: against Palestinian women who are wearing veils or against people speaking Arabic; on buses and in shopping malls and hospitals; and in places of employment, particularly in times of increased violence.²²

Attacks by senior government ministers

The vocal, vicious and personal nature of this series of attacks on HR NGOs, HRDs and WHRDs, is due in significant part to the enabling environment that the Israeli government and the Knesset have created. Senior members of the government, including Prime Minister Binyamin Netanyahu, have themselves launched similar attacks. In October 2016, Netanyahu attacked leading Israeli HR organization B’Tselem and its executive director Hagai El-Ad for allegedly joining the “chorus of slander” against Israel following a speech made by El-Ad before the UN Security Council during which he called for international intervention to end the Israeli Occupation.²³ Netanyahu called the

¹⁹https://www.youtube.com/watch?v=02u_J2C-Lso

²⁰See for example: http://www.ngo-monitor.org/reports/who_profits_from_the_bds_campaign_review_of_coalition_of_women_for_peace/

²¹ To illustrate its work, some of the campaigns hosted on the homepage the NGO Monitor’s website are: NGOs 101: The Basics on NGOs, Funding and Delegitimation; Boycott, Divestment and Sanctions (BDS); Lawfare, International Law and Human Rights; and The Central Role of European Governments in NGO Funding. See <http://www.ngo-monitor.org>.

²²See Nabila Espanioly, “The Shrinking Space: Challenges faced by civil society organizations,” Al Tufula Pedagogical & Multipurpose Women's Center, 2016

²³See: <http://www.haaretz.com/israel-news/1.747653>



organization “shoddy and unhinged”.²⁴ Since 2015, Netanyahu and other senior government ministers have also publicly called on European states to stop their funding of Israeli NGO “Breaking the Silence” and specifically attacked its director, Ms. Yuli Novak. Government incitement was often followed by public smear campaigns, which included physical threats against Ms. Novak and inappropriate remarks of personal and homophobic nature.

SIGNING ORGANIZATIONS:

- Human Rights Defenders Fund
- Adalah – The Legal Center for Arab Minority Rights in Israel
- Al Tufula Pedagogical & Multipurpose Women's Center
- Coalition of Women for Peace
- The Association: Women Against Violence

²⁴ <http://www.timesofisrael.com/netanyahu-blasts-shoddy-unhinged-btselem-over-un-critique/>