



# General Assembly

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## Human Rights Council

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Agenda item 9

**Racism, racial discrimination, xenophobia and related  
forms of intolerance, follow-up and implementation  
of the Durban Declaration and Programme of Action**

### **Joint written statement\* submitted by Al-Haq, Law in the Service of Man, Al Mezan Centre for Human Rights, non- governmental organizations in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[7 February 2022]

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\* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



## **Israel's Escalated Efforts to Silence Opposition to its Apartheid**

Since 1948, Israel, has suppressed all efforts of resistance and opposition to its settler colonialism and apartheid, including through excessive use of force, arbitrary detention, torture and other ill-treatment, collective punishment, and systematic persecution of Palestinian civil society organisations (CSOs), and human rights defenders (HRDs). One element of the crime apartheid is the 'persecution of organizations and persons, by depriving them of fundamental rights and freedoms, because they oppose apartheid.'<sup>1</sup> Israel's method of achieving this include death threats, arbitrary detention, travel bans, residency revocation, deportation, and Government-led smear campaigns.

### **Israel's Fear of Criticism Reaches New Levels – Outlawing Palestinian CSOs**

In an unprecedented move, on 19 October 2021, the Israeli 'Defense' Minister designated six leading CSOs as 'terrorist organizations' under Israel's Anti-Terrorism Law of 2016. The designation was followed by the issuance of military orders, outlawing the organizations in the occupied Palestinian territory (oPt), in complete disregard of statements of condemnation from UN member states, bodies and experts, organizations, and politicians from around the world.<sup>2</sup>

The designations, which place the organizations, their staff, and their supporters in danger of criminal charges, and subject their assets to confiscation, are based on the illegal application of Israel's domestic law to the oPt, 'secret' evidence, and the deep encroaching of military orders into the heart of Palestinian civil society.<sup>3</sup> Days prior to the designation, an investigation was spurred by Al-Haq, which later revealed that five Palestinian HRDs, including from the six CSOs, had their devices infiltrated by the Pegasus spyware of the Israeli NSO Group.<sup>4</sup>

The latest designation to outlaw CSOs altogether, should be seen within decades of failed systematic smear campaigns intended to delegitimize, repress, and drain the resources of CSOs and undermine the will of HRDs,<sup>5</sup> especially given recent developments attributed to their work, including the recent opening of an International Criminal Court investigation into the Situation in the State of Palestine, the establishment of the Commission of Inquiry (CoI) in May 2021 to look into the root causes of Israel's systematic discrimination on both sides of the Green Line, and mounting recognition of Israeli policies of apartheid.

### **Anti-Zionism is not Anti-Semitism**

Another tactic Israel has been increasingly exploiting to silence opposition is branding HRDs and CSOs opposing its apartheid as anti-Semitic. The latest example is the Israeli Foreign Ministry accusation of Amnesty International's 2022 report: "Israel's apartheid against Palestinians: a cruel system of domination and a crime against humanity" as anti-Semitism.<sup>6</sup>

In January 2022, UN experts alarmingly stated that 'Zionism, the self-determination movement of the Jewish people' cannot be regarded as racist, and encouraged the adoption of the International Holocaust Remembrance Alliance (IHRA) definition of anti-Semitism, which lists criticism of Israel, and claiming its existence a racist endeavor, as manifestations of anti-Semitism.<sup>7</sup>

The experts' statement is problematic on so many levels. Assuming that 'Zionism [is] the self-determination of the Jewish people' conflates between Zionism and Judaism, 'in assuming that all Jews are Zionists, and that Israel in its current reality embodies the self-determination of all Jews.'<sup>8</sup> Such assumption is opposed by many Jews. Jewish Voice for Peace stated: 'Zionism that took hold and stands today is a settler-colonial movement, establishing an apartheid state where Jews have more rights than others.'<sup>9</sup>

No right to self-determination should suppress another people's right to self-determination. The UN Special Committee on Palestine in 1947 acknowledged that the right of the

Palestinian people to self-determination was violated during British mandate time ‘because of the intention to make possible the creation of the Jewish National Home.’<sup>10</sup>

Claiming Zionism is not racist, is a major shift from the UN General Assembly’s resolution in 1975 which recognized Zionism as a form of racism and racial discrimination,<sup>11</sup> and was revoked due to political pressure. The Zionist movement pursued settler colonialism, with its inherently racist ideology, and the elimination of the Palestinian people as foundational prerequisites, to establish an exclusionary Jewish state.<sup>12</sup> The Zionist project culminated with the destruction of 531 Palestinian villages, and forced displacement of 80 percent of the Palestinian people during the Nakba.<sup>13</sup> The newly established Israeli state on 77 percent of Mandate Palestine was the culmination of the Zionist movement.

Recognizing ‘Zionism as self-determination of the Jewish people’ is not only a dangerous disregard of the movement’s colonial and racist ideological foundations, its implementation in practice that displaced the majority Palestinian people, but also overlooks that the Israeli violations are a continuation of the Zionist movement.

Upon its establishment, Israel transferred the Zionist ideology into laws, and policies to ensure the ongoing erasure of the Palestinian people. As it currently exists, Israel continues to deny millions of Palestinian refugees their right to return, displace and dispossess, fragment and dominate the Palestinian people as a whole, denying them their right to self-determination, and maintaining its institutionalised racial domination and oppression.

The IHRA definition, condemned by more than 40 Jewish groups, is worded in a way as to ‘intentionally equate legitimate criticisms of Israel and advocacy for Palestinian rights with antisemitism, as a means to suppress the former.’<sup>14</sup> Palestinians have always opposed all forms of racism and xenophobia, including antisemitism, and emphasized that their opposition seek to dismantle ongoing Israeli colonization, crime of apartheid, and occupation, in pursuit of their right to self-determination and right to return, justice and freedom. Rightful resistance to anti-Semitism should not stop legitimate criticism of Israel or Zionism, compromise the narrative and struggle of the Palestinian people, or erode calls for accountability for Israel policies of apartheid.

## **Efforts to Thwart Accountability Measures at the UN**

Despite mounting recognition of Israel’s imposition of apartheid against the Palestinian people by States, 47 UN Special Procedures, the UN CERD, and international organisations, CSOs are prevented from using the term ‘apartheid regime’ at the UN Human Rights Council when describing discriminatory policies and practices of UN Member States, under the pretext that it is incompatible with UN standards when directly referring to UN Member States. The term ‘apartheid regime’ is a legal term, as defined under the Rome Statute,<sup>15</sup> and CSOs should be allowed to use it when highlighting inhumane acts of institutionalized racial domination and oppression. Censoring language in such a way hampers calls for accountability over the crime of apartheid. Refraining from calling the situation as is contributes to its maintenance and trumps efforts to bring it to an end.

Moreover, efforts to thwart accountability measures of Israeli crimes include the budgetary cuts of the ongoing CoI on Palestine after the fifth committee of the UNGA’s approval of the 2022 budget.<sup>16</sup> This will affect administrative and investigative positions, limit the commission’s capacity to conduct high level investigations, and weaken its mandate. Full funding is necessary for evidence collection, thorough, independent, and efficient investigations.

## **Recommendations:**

We call on Member States of the Council to:

- Recognize Israel’s policies to silence opposition including against Palestinian CSOs as part of its apartheid;

- Call on Israel, to immediately cease its systematic policies and practices aimed at silencing Palestinian CSOs and HRDs, in breach of their right to freedom of expression, privacy, and association, and to urgently rescind the designations, which amount to acts of apartheid;
- Publish a bulletin to banks and financial institutions, putting them on notice to dismiss as inapplicable, Israel's designation, and call on the European Union and States to remove 'terrorism' clauses as internal conditions placed on donor funding of Palestinian CSOs;
- Call on UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to examine the compatibility of the Anti-Terror Law of 2016 with international law;
- Call for an independent investigation into Pegasus-NSO Group's operations within Palestine, in order to identify the scope of its surveillance activities against Palestinian HRDs, and their ties to the Israeli government;
- Refrain from adopting the IHRA definition, and ensure that anti-Semitism accusations are not a means to silence opposition;
- Cease censoring CSOs language regarding the use of the term 'apartheid regime'; and
- Call on the reinstatement of the full and transparent budget for the CoI.

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1. Article II(f), the Apartheid Convention (1974).
  2. See Statements from the International Community, <https://palcivilsociety.com/resources>.
  3. Article 43, The Hague Regulations (1907).
  4. Articles 17, 19, ICCPR (1966).
  5. Al-Haq, 'Designated Shrinking Space' (1 November 2020) <https://www.alhaq.org/advocacy/19143.html>.
  6. AP, 'Israel calls on Amnesty not to release apartheid report' (31 January 2022) <https://apnews.com/article/middle-east-israel-race-and-ethnicity-racial-injustice-amnesty-international-b6c9b3d5ec8bfcc0f87344ad90b9056>.
  7. OHCHR, 'Combating all forms of antisemitism must remain global priority to challenge rising hatred' (26 January 2022) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=28063&LangID=E>.
  8. The Guardian, 'Palestinian rights and the IHRA definition of antisemitism' (29 Nov 2020) <https://www.theguardian.com/news/2020/nov/29/palestinian-rights-and-the-ihra-definition-of-antisemitism>.
  9. JVP, 'Our Approach to Zionism' <https://jewishvoiceforpeace.org/zionism/>.
  10. UNSCOP, 'Report to the General Assembly,' (3 September 1947) UN Doc A/364, para 176.
  11. NGA, A/RES/3379 (XXX) Elimination of all forms of racial discrimination (1975).
  12. Fayeze Sayegh, 'Zionist Colonialism in Palestine (1965)' *Settler Colonial Studies* 2, no. 1 (2012)
  13. Ilan Pappé, *The Ethnic Cleansing of Palestine* (Oneworld, 2007) xiii.
  14. JVP, '40+ Jewish Groups Worldwide Oppose Equating Antisemitism with Criticism of Israel' (17 July 2018) <https://jewishvoiceforpeace.org/2018/07/first-ever-40-jewish-groups-worldwide-oppose-equating-antisemitism-with-criticism-of-israel/>.
  15. Article 7(2)(h), the Rome Statute of the ICC.
  16. UNGA, A/C.5/76/L.17 (23 December 2021).