

Introduction

1. We share the concerns reflected by the Special Rapporteur, on the situation of human rights in the Palestinian Territory occupied since 1967, highlighting the restrictions faced by civil society organisations (CSOs), specifically human rights organisations. Despite Israel's obligations and commitments to international human rights law, CSOs continue to face human rights violations. We propose recommendations that will strengthen civil society, encourage openness, accountability, coexistence and cultural plurality. ICO welcomes Israel's statement that as a democratic country governed by the rule of law, it remains committed to protecting and ensuring human rights¹. However, in light of the concerns highlighted in this written statement and recommendations from the 3rd Cycle which are yet to be implemented, ICO urges Israeli authorities to take further steps to guarantee human rights and fundamental freedoms.
2. Following up the 3rd Cycle: in total the Israeli government received 240 recommendations from other states; and out of these, Israel examined 232 and noted 8². Recommendations highlighted key themes such as guaranteeing the work of human right defenders and the free functioning of civil society from undue restrictions, intimidation, harassment. Moreover, recommendations also highlighted the need to realise freedom of speech and association for all, and the need to implement further measures to promote participation of minorities in public life.
3. ICO welcomes the Israeli government's efforts to ensure human rights. Specifically, ICO welcomes Israel's adoption of the 53 recommendations made by the inter-ministerial team on eliminating all forms of racism in Israeli society. ICO urges Israel to continue the development of a database to document complaints of racism and support the work of the public commission, composed of representatives of civil society and different segments of Israeli society.
4. However, in this statement ICO highlights the main short-comings Israel faces in upholding international human rights law and mechanisms pertinent to civil society actors. ICO is committed to protecting CSOs and seeks to encourage cross-community collaboration between civil society actors. This is because civil society can create and recreate the conditions for validating and realising human rights by 1) providing accountability through publication of injustices, 2) creating linkages between citizenry and the state, 3) increasing knowledge, awareness and willingness to respect human rights, 4) engaging and leading in public debate and dialogue on human rights, 5) creating a safe, public advocacy space and 6) facilitating transparency in governance and lobbying processes³.
5. ICO is concerned the impact of human rights violations faced by civil society actors is shrinking the space for civil society, failing to protect the free functioning of civil society, and failing to guarantee the work of human rights defenders.

¹ See Israel's National Report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/337/42/PDF/G1733742.pdf?OpenElement>

² See Report of the Working Group on the Universal Periodic <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/115/17/PDF/G1811517.pdf?OpenElement>

³ See Oscar Vilhena Vieira and A. Scott Dupree, "Reflections on Civil Society and Human Rights", *SUR* 1 (2004), accessed September 1, 2022, <https://sur.conectas.org/en/reflections-civil-society-human-rights/>

6. **Recommendations 118.29, 118.58, 118.94, 118.95, 118.96, 118.98, 118.99 are not being met.** These recommendations highlight cross-cutting concerns relating to the right to equality and non-discrimination as well as the right to participate in public life and counter-terrorism.

Cross-cutting issues

Fundamental freedoms and the right to participate in public and political life

7. ICO is concerned that state authorities, and politicians continue to single out individuals who are active or work in organisations that have been denounced as “enemies of the state”⁴. Civil society actors share the concern that this label is exploited and placed on organisations that highlight injustices and creates a de facto hostile environment and potentially endangering the safety of civil society actors. For instance, the New Israel Fund (NIF) is referred to by the government as an ‘enemy of the state’⁵. The NIF provides donations to human right defenders in Israel such as Adalah which are stigmatised for being funded by an ‘enemy of the state’ – NIF- and is shunned for advocating for organisations labelled as ‘terrorist organisations’. Adalah’s aims are to ‘promote human rights in Israel in general and the rights of Palestinian minority, citizens of Israel’. Stigmatisation such as being branded an ‘enemy of the state’ deters people from participating in the work of Adalah, minimising the potential impact that they can have.
8. ICO is concerned with reports by Akevot, a centre for documentation, research and promotion of human rights, of continued harassment and intimidation. The organisation uses archived information and history to break down *conflict enhancing myths*. This role is important for peacebuilding efforts which often rely on breaking down existing stereotypes through facilitating discourse and knowledge sharing. ICO is concerned that intimidation risk to reduce access to information, and stifle debate about Israel’s statehood. Akevot implies that withholding such information encourages tensions between Palestine and Israel, tensions which subsequently result in the minimisation of human rights for Palestinian Arabs in Israel through the creation of stigmatisation and stereotyping. Restrictions on fundamental freedoms, such as freedom of expression and freedom of thought risk minimising civil society and hinder the realisation of human rights.

Equality and non-discrimination

9. ICO also highlights harassment faced by B’Tselem. Local stakeholders share concerns that actions by state authorities are thwarting human rights monitoring by intimidating civil society actors⁶.

⁴ See <https://www.amnesty.org/en/latest/news/2021/10/israel-optdesignation-of-palestinian-civil-society-groups-as-terrorists-a-brazen-attack-on-humanrights/>

⁵ See Katz, H., and Gidron, B. (2022) “Encroachment and Reaction of Civil Society in Non-liberal Democracies: The Case of Israel and the New Israel Fund” *Non-profit Policy Forum*, vol. 13, no. 3, 2022, pp. 229-250. <https://doi.org/10.1515/npf-2020-0043>

⁶ See https://www.btselem.org/press_releases/20190226_un_rapporteurs_letter_regarding_targeting_btselem_personnel

1. Israeli and Palestinian civil society actors, especially human right defenders highlight growing concerns over the close relationship between CSOs engaging in harassment, intimidation, and propaganda and state authorities. ICO is concerned with the aggressive political and media campaigns against human rights organisations, especially those involved in defending the rights of Palestinians living in Israel and the Occupied Palestinian Territory which are targets of such campaigns. Local stakeholders particularly highlighted the damaging campaigns of organisations such as Im Tirtzu whose strategies focus on delegitimising Israeli and Palestinian human-rights individuals and organisations and driving a wedge between them and their funding sources⁷. ICO is concerned that by perpetrating anti-CSO discourse and ‘stigmatisation’, state authorities are undermining the freedom of association and freedom of expression of organisations, failing to protect civil society actors from discrimination and curtailing the realisation of human rights.

Human rights and counter-terrorism

2. ICO shares concerns previously highlighted by JS3 that the 2016 Anti-Terror Law 2016, which contains broad and vague definitions of ‘terrorism’ and ‘terrorist organizations’ are being exploited by the security services and state authorities, against human rights defenders, particularly Palestinians organisations and political activists. The terror law established new criminal offenses such as public expressions of “support” or “empathy” for terror organizations, and significantly increased the maximum sentences for such offenses. Israel’s measures to terminate the work of six prominent civil society organizations engaged in documenting violations of international law and supporting the International Criminal Court investigation of Israeli officials is harming defence of Palestinian rights. ICO highlights concerns on the activities of NGO-Monitor who, as reported by local stakeholders, played a role in information gathering on banned organisations. Upon request of the EU Commission and the US State Department, information provided by the state of Israel to justify the ban was rejected and deemed inapplicable. Reports remained confidential and inaccessible to the public. ICO is concerned that these provisions restrict the freedom of association of CSOs. Indeed, counter-terrorism approaches and laws have increased the scrutiny, powers of arrest and control of governments. Counter-terrorism or extremism is often evoked as a reason to justify foreign funding restrictions, shutting down organisations due to alleged connections to terrorists, or persecuting NGOs under antiterrorism laws⁸.
3. The 2015 case whereby ‘the Israeli government’s Security Cabinet declared the northern branch of the Islamic Movement in Israel an illegal organization, alleging that the Movement has engaged in incitement of violence and racism as part of its “Al-Aqsa is in Danger” campaign’. By labelling the movement in this way, ICO worried that state actions have made important collaborations across the anti-occupation spectrum increasingly difficult and potentially illegal. CSOs in Israel will now have to constantly prove their distance from the outlawed movement. ICO is concerned this signals the shrinking of space for oppositional association and speech, and the continued fracturing of anti-occupation activism in the country⁹.

⁷ See Im Tirtuzu (2022) ‘Know the anti-Israel Israeli Professor,’ Im Tirtuzu <<https://knowbdsinIsrael.com/>>

⁸ See Herbert, S. (2015). *Restricting space for civil society. (GSDRC Helpdesk Research Report 1266)*. Birmingham, UK: GSDRC, University of Birmingham. <<https://gsdrc.org/publications/restricting-space-for-civil-society/>>

⁹ See Shitrit, L. (2016) ‘The Israeli Government and Civil Society Organizations’ *Aljazeera Centre for Studies* <<https://studies.aljazeera.net/en/reports/2016/02/201621791234701755.html>>

4. ICO urges Israel to take further action to realise all citizens rights to equality and non-discrimination by:
 - a. Revoking its designations of CSOs in line with their commitments and obligations to protect human rights defenders and civic space.
 - b. Guarantee the freedom of expression and thought of CSOs and introduce sanctions to combat discrimination among civil society actors and between state and civil society regardless of religious, national or ethnic origin.
 - c. To expand equality and non-discrimination training to political representatives in the aim to reduce public stigmatisation campaigns against civil society actors and encourage pluralism.

5. **Recommendations 118.54, 118.56, 118.91, 118.93, 118.95 and 118.100 are not being met.** These recommendations highlight concerns over the legislative framework intended to protect equality and the free-functioning of CSOs.

Equality and the right to participate in public life.

6. ICO is concerned by the lack of reform to the legislative and regulatory framework concerning CSOs. ICO observes a huge nominal gap' between funding provided to Jewish led organisations and Arab led organisations with Jewish organisations receiving much more'. Legislation such as the 'Nakba law which defunds institutions or organizations that commemorate the Palestinian Nakba' highlight the barriers to participate in civil society faced by Palestinians Arab CSOs. Additionally, The Budget Foundations Law of 2011 blocks funding to NGOs denying the Jewish character of Israel. Furthermore, funding can be revoked from institutions who reject Israel's character as a Jewish state or mark the country's Independence Day as a day of mourning.' Such organisations are therefore under pressure to find alternative sources of funding.

7. ICO is concerned that the current legislative framework hinders the free-functioning of CSOs who are denied government funding and raise foreign sources of funding. Laws on duties of disclosure of NGOs funded by a foreign state entity were passed by the Knesset in July 2016, and apply additional reporting and disclosure requirements on Israeli NGOs receiving more than 50% of their funding from foreign public sources. This legislative requirement puts pressure on such organisations to report not once a year but every quarter¹⁰. The same disclosure requirements are not demanded of organisations who raise funding domestically. The Israeli religious and cultural convention of anonymous donations leads to a discrepancy between the requirements of disclosure of organisations that are able to raise funds domestically and those who are better able to raise funds internationally. ICO is concerned that these unequal standards place a disproportionate burden on Palestinian-led organisations and human rights defenders, restricting their ability to operate; as well as leading to a lack of transparency in CSO financing.

8. ICO is concerned about laws which limit civil society organisation's ability to register for tax exemption. The Israeli state creates two statutory categories for CSOs 'associations

¹⁰ See *EU Commission (2016) 'Israel - Update of the Roadmap for EU engagement with Civil Society' Public Group on Civil Society, Capacity4dev*
 <<https://europa.eu/capacity4dev/file/32305/download?token=8szyvzbk>>

and foundations for tax exemptions - yet, the process of ‘incorporation’ (amongst other requirements) necessitates the advancement of a ‘public aim,’ and annual reports to the Tax Authorities. Additionally, the Corporations Authority additionally conducts periodic checks of the registered associations and issues ‘certificates of proper management.’ Decision making on these matters resides in a committee of the Knesset. ICO is concerned this decision-making process is open to politicisation. Reports from local organisations suggest that the decision-making process is predicated upon vague legislative frameworks at times exploited to prevent the functioning of human right organisations by labelling them as “subversive organisations.” This is equally worrying given the Penal Law of 5737-1977 and the Defence [Emergency] Regulations 1945¹¹ which ‘aim to prevent the establishment and operation of subversive organisations. Organisations that violate these regulations incur extremely harsh penalties, such as the seizure and confiscation of their financial assets¹¹.

9. ICO urges Israel to take further steps to investigate legislative framework pertaining to civil society and ensure equality and non-discrimination for all by:
 - a. Introducing an independent cross-community oversight on the effect of legislative frameworks on all communities, especially minority communities.
 - b. Introducing disclosure reforms to the current legislative framework to increase transparency of fundraising and lobbying by CSOs, private organisations and individuals as well as interest groups.
 - c. Publishing outcomes of ‘invited spaces’ and formal dialogue with CSOs, and introducing periodic accountability checks to assess if human rights commitments have been realised.
 - d. Increase public funding towards mechanisms responsible for ensuring compatibility between Israel domestic legislation and international human rights law
10. **Recommendation 118.27 is not being met.** This recommendation highlights concerns over steps taken by Israel to reduce divisions between Israeli Jews and Palestinian Arabs and promote peace and reconciliation.
11. ICO is concerned that state actions are encouraging CSOs to publicly denounce actions of organisations it has labelled as subversive, which is working to silence the voices of those represented by such organisations and fuelling division within civil society. These actions risk creating a polarising dynamic within civil society where ‘radical peace and human rights groups further invigorated their struggle against occupation, further radicalising right-wing politics and organisations’ that can heighten tension, increase the possibility of violence and work directly against peace and reconciliation.
12. ICO urges Israel to take further steps to promote reconciliation between Israeli Jews and Palestinian Arabs by:
 - a. Sponsoring dialogue among civil society actors.
 - b. Provide funding for cross-community CSOs projects, which CSOs would only be eligible to apply for if they submit a joint proposal under a shared agenda

¹¹ See Corella, B. Noon, R. (2013) ‘Mapping study of Civil Society Organisations in Israel,’ EU Commission
<https://wiki.sheatufim.org.il/w/uploads/sheatufim/1/13/Mapping_study_of_Civil_Society_Organisations_in_Israel_%28December_2013%29.pdf>

- c. Encouraging respect for human rights as set out in international human rights law within civil society.

13. **Recommendation 118.32, 118.33, 118.47, 118.48, 118.49 risk not being met.** ICO welcomes Israel's continued efforts to ensure equal treatment for all persons within its territory and compatibility between domestic legislation and international human rights commitments. However, ICO is concerned by reports of human rights violations faced by civil society actors.

Therefore, ICO calls on the Working Group of the UPR to recommend that the Government of Israel:

- work towards legislative reforms on laws which hinder the freedom of civil society actors and disproportionately affect Palestinian Arab CSOs and Israeli and Palestinian human rights defenders.
- analyse how bodies which deal with the registration, funding and review of CSOs activities treat organisations regardless of race, ethnicity, political affiliation and address discriminatory practices
- remove decision making processes on CSOs from the political sphere by establishing an independent body outside of the Knesset.
- introduce transparent cross-community committees that act as an oversight mechanism on the decision-making process affecting CSOs.
- introduce legislation to increase transparency of engagements between civil society and state authorities and publicise recommendations.
- strengthen public institutions and civil society by means of allocating the necessary financial and human resources.

Final Remarks

14. ICO welcomes Israel's efforts to protect its commitments and obligations under international human rights law. However, as is outlined in this statement, significant recommendations have yet to be implemented by the Israeli Government.
15. ICO calls on the Working Group of the UPR to recommend that the Government of Israel will take the necessary steps to realise these recommendations and to ratify the remaining UN human rights treaties and the optional protocols.
16. ICO wishes to stress the increasing global and democratic backsliding in freedoms afforded to civil society, this "democratic deficit" leads to 'the erosion of civic engagement, reflected in a decline in political involvement, civic tendencies and citizenship skills, trust in government, and social capital'¹².

¹² *Nabatchi 2010 in Katz, Gidron 2022.*

17. While this written statement has addressed issues facing CSOs that are pertinent to the Palestinian minority, ICO is concerned this democratic deficit will disproportionately impact all minority groups across Israel, who depend on civil society to provide key services, engage in advocacy, hold state authorities accountable and act a vehicle for civic engagement.