

Israel's Perpetual "State of Emergency"

Criminalizing Palestinian Civil Society and Political Dissent



Meezaan Organization for Human Rights

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Foreword

There is a remarkable increase in Israeli official and public discriminatory acts against the native Palestinian population. Palestinians with Israeli citizenship are being subjected to oppressive measures and systemic violations of their human rights as the Israeli political map is shifting further right. In recent years, the Israeli parliament (the Knesset) has enacted a wave of racist bills and laws. These policies have targeted the work of civil society organizations and human rights defenders by criminalizing numerous NGOs.

Meezaan Organization for Human Rights has been active for over a decade in advocating for human rights and liberties. The recent increase in human rights violations are alarming. The Israeli legal system and the judiciary provide no guarantees for safeguarding the basic human rights of the Palestinians, as both are largely impacted by extremist political parties that control the Israeli government. The last year has witnessed an escalation: in November 2015, the Israeli government, utilizing a 1945 emergency act, declared twenty Palestinian NGOs and a major religious and socio-political movement in Israel as illegal. These organizations are involved in media, relief work, legal advocacy, and economic development. None of these organizations has violated even a single Israeli law. Meezaan has deemed it necessary to address this particular development in a special report. The current report draws attention to Israel's self-declared "state of emergency," which has been in effect uninterruptedly in Israel since 1948. The "state of emergency" is a pretext used by the Israeli government to violate the human rights of Palestinians. This report details Israel's criminalization of Palestinian civil society, as well as Israel's violation of very basic international legal standards. The report constitutes a call for collaborative work against the abuse of emergency power by governments in general and Israel in particular. We, in Meezaan, hope that you find this report useful for your, or our joint, work in promoting human rights and justice.



Omar Khamaisi, Advocate

Director-General, Meezaan Organization for Human Rights in Nazareth.

In this report...

The report opens with an opening background and contextual note on the Israeli declaration of state of emergency and its request for derogations from international legal standards.

The **first section, Emergency and Colonial Law of the Israeli Legal System**, outlines the relevant emergency laws being integrated within the Israeli legal system and the various practices enabled under the emergency situation, and particularly British colonial emergency regulations from 1945 that became central to Israeli practices within Israel and in the Occupied Palestinian Territories.

In the **second section, Criminalizing Civil Society and Political Dissent**, the report addresses the recent Israeli legal and political campaign against human rights organizations. Within this context, the report discusses in details the Israeli decision from November 2015 to outlaw twenty six Palestinian NGOs and a major religious and socio-political movement (the Islamic Movement), all within Israel. The report presents in some details the history and work of four of the outlawed NGOs and the Islamic Movement.

The **last section, titled The Legality of the Israeli Decisions: Domestic and International Scrutiny**, discusses in brevity the international legal protections to human rights defenders and to the right of freedom of peaceful association and its significance in the fulfillment, and defense, of other human rights. The report calls upon the abolition of the Israeli “state of emergency” and warns against ongoing Israeli attempts to replacing the current emergency laws by regular laws that will apply at all times.

Israel's Perpetual "State of Emergency"

Criminalizing Palestinian Civil Society and Political Dissent

Israel is a State of Emergency, sixty eight years of emergency. Twenty-five years ago, Israel publicly and officially proclaimed its exceptional status, alleging:

Since its establishment, the state of Israel has been the victim of continuous threats and attacks on its very existence as well as on the life and property of its citizens. These have taken the form of threats of war, of actual armed attacks, and campaigns of terrorism resulting in the murder of and injury to human beings. In view of the above, the State of Emergency which was proclaimed in May 1948 has remained in force ever since. This situation constitutes a public emergency within the meaning of article 4 (1) of the Covenant. The Government of Israel has therefore found it necessary, in accordance with the said article 4, to take measures to the extent strictly required by the exigencies of the situation, for the defence of the state and for the protection of life and property, including the exercise of powers of arrest and detention. In so far as any of these measures are inconsistent with article 9 of the Covenant, Israel thereby derogates from its obligations under that provision.

The Israeli Government submitted this notification on 3 October 1991 under Article 4(3) of the *Covenant on Civil and Political*

Rights (ICCPR), specifically in relation to article 9 of the Covenant. Twenty five years have passed since then and Israel continues to be under a state of emergency, derogations continue to take place, and human rights violations have grown since then. Regardless of the political situation in Israel/Palestine and the violence inherent to it, the power given to the Israeli Government under the State of Emergency and the relevant emergency laws has been abused.

The legal standards for derogations from state obligations in situations of emergency are outlined clearly in Article 4 of the *ICCPR* and elaborated upon in General Comment No. 29 of the Committee on Civil and Political Rights.¹ First, it is stated that “the situation must amount to a public emergency which threatens the life of the nation.” Second, any emergency measure “must be of an exceptional and temporary nature,” and must be limited “to the extent strictly required by the exigencies of the situation. This requirement relates to the duration, geographical coverage and material scope of the state of emergency and any measures of derogation resorted to because of the emergency.” While Israel made a notification only in relation to article 9 of the *ICCPR*, the emergency laws in Israel allow the government inter alia, to conduct incommunicado detention, enact house demolitions, declare associations as “unlawful,” order sequestration of private properties, conduct sweeping searches and seizures, ban newspapers and media outlets, conduct deportations, impose curfews, deprive temporary legal representation and more. The emergency laws and practices are an essential part of the Israeli legal system and of the Israeli state of art. In short, normative Israeli law violates international law while hiding under the claims of a state of emergency.

¹ Text of General Comment No. 29 is available at, <http://www1.umn.edu/humanrts/gencomm/hrc29.html>

I. Emergency and Colonial Law of the Israeli Legal System

The first time that the Israeli law required the government to examine its 1948 "state of emergency" was in 1996. The government claimed that the "state of emergency" would be reviewed and extended up to no more than one year. However, the extension of the state of emergency became routine with no substantive scrutiny or intentions to halt it. The Government and Knesset regularly renew and extend the "state of emergency" without proper evaluation of threat to life or public security. Consequently, the state of emergency remains in force until the present.² The first time the state of emergency was legally challenged was in 1999 by the Association for Civil Rights in Israel (ACRI). ACRI filed a petition against the legality of the state of emergency and against the abusive powers given to the executive under this situation. ACRI argued that the security of the nation was not at stake and that a state of emergency is unwarranted. Thirteen years later, during which the state of emergency was consistently extended, the Israeli High Court decided in May 2012 to delete the petition and uphold the existing state of emergency. The Israeli government claimed it intended to replace and amend the emergency laws. In other words, the Israeli government is normalizing the emergency laws by adopting new laws that implement acts currently pursued under the emergency laws.³

With their occupation of Palestine in 1917, the British adopted all Ottoman law in force unless changed or amended by the British authorities. Similarly, Israel passed a law in 1948 proclaiming that all Mandate era

² At first the declaration was made under section 9 of the Law and Administration Ordinance (1948), and then under article 38 to the Basic Law: The Government and subsequent amendments. HCJ 3091/99 The Association for Civil Rights vs 1. The Knesset; 2. The Israeli Government, decision in Hebrew available at, <http://elyon1.court.gov.il/files/99/910/030/t38/99030910.t38.pdf>; see also, submission by Adalah- The Legal Center for Arab Minority Rights in Israel, http://www.adalah.org/uploads/oldfiles/eng/intladvocacy/unhrc_03_emergency.pdf

³ HCJ 3091/99 The Association for Civil Rights vs 1. The Knesset; 2. The Israeli Government, decision in Hebrew available at, <http://elyon1.court.gov.il/files/99/910/030/t38/99030910.t38.pdf>

laws would remain in force subject to state legal modifications.⁴ Thus, some Ottoman and British laws became and remain until the present part of the Israeli legal system. Some Israeli emergency laws are colonial British-enacted laws dating to as early as the 1930s. Other emergency laws were enacted during the 1948 conflict or during the first decade of Israeli statehood. In the last two decades, the Israeli government has been working on amending and changing some of these laws. There are numerous civil and security emergency laws and regulations.⁵ Two laws are critical to Israel's exploitation of the state of emergency: 1) **The Defense (Emergency) Regulations (1945)**;⁶ 2) **The Prevention of Terrorism Ordinance (1948)**.⁷

The 1945 British-enacted Emergency Regulations, commonly known as the security or defense laws, were in fact an evolution of earlier regulations from the 1930s that were initially used by the British Government as a judicial shortcut due to the Arab rebellion in Palestine (1936-1939). The rationale behind the regulations was to deal with an intense armed conflict and/or clashes and to target paramilitary groups that were fighting against the British Government. As part of the Israeli legal system, under these Regulations, the Israeli authorities sealed or demolished thousands of homes and administratively detained tens of thousands of Palestinians. Since 1967, these regulations have been implemented primarily in the Occupied Palestinian Territories (i.e., the West Bank and the Gaza Strip). However, in the last decade, their use within Israel's 1948 borders and against purported Israeli citizens and organizations has intensified.

⁴ The Law and Administration Ordinance (1948)

⁵ For a list of these emergency laws see, submission by Adalah- The Legal Center for Arab Minority Rights in Israel,

http://www.adalah.org/uploads/oldfiles/eng/intladvocacy/unhrc_03_emergency.pdf

⁶ Full text available at, <http://nolegalfrontiers.org/military-orders/mil02?lang=en>

⁷ Full text available at, <http://www.mfa.gov.il/mfa/mfa-archive/1900-1949/pages/prevention%20of%20terrorism%20ordinance%20no%2033%20of%205708-19.aspx>

The 1948 Prevention of Terrorism Ordinance is an Israeli legislation that was also enacted during the 1948 armed conflict. Similar to the 1945 Emergency Regulations, this legislation came to deal with an active situation of hostilities and armed clashes, which the Israelis preferred to label as terrorism. Both the Emergency Regulations and the Prevention of Terrorism ordinance predate the Universal Declaration of Human Rights, are draconian in nature, encompass several unconstitutional components, and are meant to apply temporarily and restrictively to situations of active armed conflict. Israel's application of both sets of regulations contravene the UDHR and have been applied excessively and harshly as a means of further dispossessing Palestinians.

Israel has largely abused the emergency laws, in particular the 1945 Emergency Regulations, as a punitive measure against the Palestinians, and many times as a political tool and power in the hands of the Government. Most notable are home demolitions (Article 119),⁸ administrative detentions and deportations of Palestinians. Home demolitions are conducted by the Israeli authorities against the structures of families of Palestinians who are deemed terrorists by the Israeli authorities. This measure is considered as a deterrence tool to prevent Palestinians from engaging in hostilities against Israel or as described by Israel, "a counter-Terrorism Mechanism." Nonetheless this mechanism was proved by several researchers and journalists as unproductive and unsuccessful, and in 2005 an Israeli military committee reached a similar conclusion. It mentioned that the efficacy of the home demolition policy as a counter-terrorism tool was questionable and legally doubtful. The then Minister of Defense, Shaul Mofaz, decided to stop this measure.

⁸ On house demolitions see reports and information by a number of organizations including, www.alhaq.org; www.icahd.org; on the violation of international legal standards see, <http://alhaq.org/advocacy/topics/population-transfer-and-residency-right/983-punitive-house-demolitions>

Nevertheless, since the summer of 2014, home demolitions as a punitive measure was resumed by the Israeli authorities.⁹

Similarly, administrative detentions and deportations of Palestinians from their regular residence have increased.¹⁰ Originally, administrative detention was authorized under the 1945 Emergency Regulations and then it was amended and regulated under the Emergency Powers Law (Detentions) (1979) (Emergency Law), the Unlawful Combatants Law, alongside a number of military orders. The Minister of Security may order the detention of someone up to six months, renewable indefinitely.¹¹ It is needless to detail in this regard the violations to the rights of innocence, free trial or against restrictions on liberties and freedom that the administrative detention entails.¹² Since 2000, and under the pretext of the global War on Terror, the Israeli government has increased its use of the emergency laws. Further, it is beginning to use these laws in a new method and against new targets. It is now being used against Israeli citizens and against civil society organizations, on which this complaint focuses. The emergency laws have been used widely in recent years against Israeli-registered Palestinian civil society organizations by declaring them as “terrorist” and/or “unlawful” associations.

II. Criminalizing Civil Society and Political Dissent:

In the course of the history of the Palestinian-Israeli conflict and its repercussions, the Palestinians have long suffered human rights violations

⁹ There were some exceptions in East Jerusalem in 2009, see http://www.btselem.org/punitive_demolitions

¹⁰ On deportations and forcible transfer see, http://www.hamoked.org/TopicSearch.aspx?tid=main_10

¹¹ Addameer Prisoner Support and Human Rights Association, Administrative Detention in the Palestinian Occupied Territory: A Legal Analysis Report, available at, <http://www.addameer.org/files/Reports/administrative-detention-analysis-report-final.pdf>

¹² On the illegality and violations of international law see, http://www.hamoked.org/files/2012/1156860_eng.pdf

at the hands of the Israeli authorities. Defined legally and acting practically as a Jewish state, Israel subjugates its approximately 1.5 million Palestinian-Arab citizens within a system of discrimination and exclusion. The legal and political system creates a hierarchical citizenry that privileges Jews over others in Israel. It is in this context of racial, ethnic, and religious discrimination that this report and the violations described within it should be read.¹³

Israeli discriminatory policies against Palestinians have crossed a new and dangerous threshold in the last decade. This necessitates immediate international intervention and condemnation. Discrimination against Palestinians is intensifying within Israeli society and Israeli Jewish religious and political leaders are actively and overtly inciting against the Palestinians. The Israeli government is becoming increasingly fascist, both legitimizing and provoking Israel's atmosphere of bigotry. Specifically, Israel has passed several discriminatory and racist laws.¹⁴ Since 2009, tens of laws and other proposed racist bills have been passed by the Knesset. These laws exacerbate the already-existing discrimination and impoverishment of the Palestinian Arab citizens of Israel.¹⁵

The recent outlawing of several Palestinian civil society organizations was met with Israeli Jewish public support, particularly from Jewish religious and political leaders.¹⁶ Both Israel's ban and the support for it reflect the perilous and volatile situation for Palestinians facing rising

¹³ On the legal status and practices against the Palestinian citizens of Israel see, Ian Lustick, *Arabs in the Jewish State: Israel's Control of A National Minority* (Texas: University of Texas Press, 1908); David Kretzmer, *The Legal Status of the Arabs in Israel* (International Center for Peace in the Middle East, 1987).

¹⁴ On the rising Israeli racism see, *The Palestinian Arab Minority in Israel: From Marginalization to Delegitimization*, available at, <http://212.150.186.121/HraAdmin/UserImages/Files/HRA%20report%20-%20Advocacy.pdf>

¹⁵ See database of discriminatory laws in Israel, <http://www.adalah.org/en/law/index>

¹⁶ On the rising Israeli racism see, *The Palestinian Arab Minority in Israel: From Marginalization to Delegitimization*, available at, <http://212.150.186.121/HraAdmin/UserImages/Files/HRA%20report%20-%20Advocacy.pdf>

racism and discrimination. Israel's outlawing of peaceful Palestinian civil society organizations violates the Universal Declaration of Human Rights and international human rights law. Nevertheless, the Israeli government is looking to suppress any political and moral criticism to its policies, and began targeting civil society organizations in general alongside the Palestinian ones in particular.

An unofficial campaign of assault and delegitimization of human rights organizations has intensified since 2010; the primary actors are extremist Zionist organizations, which are reinforced by the Israeli Government. Instead of defending civil society organizations against such assaults, Israeli security authorities harass human rights activists and the Israeli legislature restricts the operations of these human rights organizations.¹⁷ Most recently, the Ministry of Justice advanced the "Bill on Foreign Funding of NGOs." The bill divides NGOs into three categories: "(1) those that will be completely banned from receiving foreign government funding, namely NGOs deemed to be "political organizations"; (2) those that are not "political organizations" but do not receive funding from the Israeli government, and which must pay a 45% tax on foreign funding under the legislation; and (3) those that do receive (or have received) funding from the government of Israel, which can continue to receive foreign funding."¹⁸

The bill on "Foreign Funding of NGOs" (hereafter "the FF" bill") is indicative of the political atmosphere for human rights organizations and defenders in Israel/Palestine, and it demonstrates the political aspirations of the Israeli Government to have a free hand to conduct its policies without scrutiny or liability. The FF bill seeks to restrict the operation of

¹⁷ A letter by thirteen human rights organizations addressed to the Israeli president, Knesset speaker, and the Israeli Prime Minister, http://www.hamoked.org/files/2010/112150_eng.pdf

¹⁸ See analysis to the Bill by Adalah at, <http://www.adalah.org/en/law/view/557>; See a translation of the text of the Bill at, <http://www.acri.org.il/en/wp-content/uploads/2011/12/AkounisKirshenbaumhybrid.pdf>

organizations that receive funding from foreign governments, particularly organizations that: ““negate the existence of the State of Israel as a ‘Jewish and democratic State’”; incite racism; support armed struggle against the State of Israel; support the indictment of elected officials or Israeli soldiers in international courts; call for refusal to serve in the Israeli military; and/or support a boycott of the State of Israel or its citizens.”¹⁹ The FF bill further requires that “NGOs’ representatives would have to wear an identity tag stating their name and the name of their NGO whenever they are present in the Knesset (the Israeli parliament).” The FF bill would also require NGOs to include a list of governmental donors in communications with elected and appointed public officials and in reports, as well as a declaration that they are largely funded by foreign sources.²⁰ In fact all organizations state their funding resources and have also to do that in their annual reports to the Israel Registrar of Corporations.

The FF bill is yet another example of an Israeli law that applies only to organizations that are critical of the Israeli discriminatory policies, mainly against Palestinians. . The FF bill imposes an obligation of transparency that does not apply to Israeli settlers’ organizations in the Occupied Palestinian Territories, which “covertly receive millions of Israeli shekels from the Israeli government and Evangelical sources. The bill is also silent concerning associations funded by foreign tycoons who promote political agendas.”²¹ In short, the FF bill has an explicit political agenda of persecuting Palestinians. In the aftermath of international criticism, the Israeli government expressed its intentions to freeze, but not to cancel, the legislative process on the FF bill.²² But this official declaration did not prevent the Israeli government from achieving the

¹⁹ See analysis to the Bill by Adalah at, <http://www.adalah.org/en/law/view/557>; See a translation of the text of the Bill at, <http://www.acri.org.il/en/wp-content/uploads/2011/12/AkounisKirshenbaumhybrid.pdf>

²⁰ See Hamoked- Center for the Defence of the Individual, Press Release, <http://www.hamoked.org/Document.aspx?dID=Updates1609>

²¹ See Hamoked- Center for the Defence of the Individual, Press Release, <http://www.hamoked.org/Document.aspx?dID=Updates1609>

²² See analysis to the Bill by Adalah at, <http://www.adalah.org/en/law/view/557>

objectives of the FF bill: closing and outlawing numerous Palestinian civil society organizations.

Closure of Human Rights Organizations:

This report focuses in particular on the Israeli governmental decision from November 2015 that outlawed a central religious and socio-political movement in Israel, namely the Islamic Movement, together with twenty other non-governmental organizations. After this decision and until the writing of these lines, six additional organizations followed. The Israeli Government declared several associations “unlawful” based on the 1945 Emergency Regulations. In the interest of brevity, this report discusses in detail only the following four illustrative organizations, namely: 1) *Iqra’ (Read): The Association for Advancing Higher Education in the Arab Community*; 2) *The Negev/Naqab Association for the Human and the Land*; and 3) *E’mar Center for Economic Development and Empowerment*; 4) *Alquds (Jerusalem) Foundation for Development*. *Alquds Foundation* is discussed in order to provide a wider context to the Israeli use of the pretext of emergency law and to highlight the gravity of the November decision. *Alquds Foundation* is one of many other organizations outlawed and forced to close by the Israeli Government in October 2011.²³

Up until 2000, Israel had declared only 55 organizations to be “terrorist” and/or “unlawful.” Between 2001 and 2015, Israel declared 321 organizations to be unlawful/terrorist; this number included organizations that were declared as terrorists by other states and international organizations.²⁴ Reflecting increased Israeli policies (and Israeli public acceptance) of

²³ For example, on 29/12/2014 the Minister of Security declared that *al-Fajr for Art and Media* was an “unlawful organization.” *Al-Fajr* operated in Um al-Fahem town in Israel on media and art related activities; *Muslimat* (Female Muslims) for al-Aqsa Mosque; and “Ruwad al-Aqasa Mosque,” and other charity organizations declared as “unlawful.”

²⁴ List of organizations available at the official website of the Israeli Ministry of Defense: http://www.mod.gov.il/Defence-and-Security/Fighting_terrorism/Pages/default.aspx (in Hebrew)

discrimination and harassment against Palestinian Arab citizens of Israel in the last two decades, the Israeli government has exploited emergency legislation to criminalize social and political activity that is fully peaceful. Israel's exploitation of these emergency laws has reached absurdity: on 15 November 2015, the Israeli government outlawed twenty civil society organizations; Israel simultaneously ordered the forfeiture of their movable and immovable properties (see *Appendix I* for a translation of the order). In its decision, the Israeli Government relied on regulation 84(2)(b) of the 1945 Emergency Regulations. These organizations serve approximately half a million Palestinians, who are already oppressed by Israel's discriminatory policies and human rights violations.

From the table below, we can see the nature of the NGOs, the scope of their operation, the diverse public that they have targeted, and the types of services they have provided. The NGOs conducted advocacy, media, relief, legal and professional support and counseling, documentation and other services. The organizations, throughout their operation years, they have suffered from outlawing, criminalization, closing down, or the threat thereof, impedance of the activity of members of organizations and associations through a wide range of practices including detention, deportation, prosecution, threat of prosecution, travel bans, sequestration of properties and funds, and more, based on false claims of emergency laws. In addition to this list, the report covers in more details the cases of four organizations.

Table 1, NGOs outlawed by the Israeli authorities between November 2015 and February 2016, on the basis of the 1945 emergency laws.

Organization	Description
1. Iqra' (Read): The Association for Advancing Education in the Arab Community	Iqra' is a university students' body that was founded in 1995 to support the educational and social life of the Palestinian students in Israel, by organizing training courses and social events and by providing scholarships. Iqra' serves about 10,000 students.
2. The Islamic Organization Kofr-Kana	The organization administers a number of kindergartens, an elementary and high school (total 1,500 student), and other social services in Qana of the Galilee (Kofr-Kanna).
3. Al-Ighatha Al-Insaniya (The Humanitarian Relief Fund)	Established in 2003, the Fund supports mainly orphans and people in need through charity donations. The Fund supports 23,000 orphans in addition to hundreds of other families.
4. H'iraa' Association for Memorizing the Quran	H'iraa' works among 10,000 elementary and high school students to help them memorize the Quran and provides educational support to them.
5. The Negev Association for the Human and the Land	Founded in 2001, it provides support and assistance to the 70,000 residents of 45 "illegal" unrecognized villages who lack all basic social services and infrastructure.
6. Qpress	Media agency focusing mainly on Jerusalem and Al-Aqsa mosque, covering and documenting the everyday life of Jerusalemites and the hardships they face under the occupation.
7. Yafa Organization for Charity	Founded in 2001, the organization works among the community of Jaffa by providing health and educational support projects, assisting 150 orphans and other people in need.

8. Al-Takaful (" <i>Social Solidarity</i> ") Foundation	Founded in 1997, the foundation focuses on religious institutions and on the support of the personnel who work in these institutions, such as Imams and preachers.
9. E'mar Center for Economic Development and Empowerment, and 10. Izdiharuna for supporting small businesses	Founded in 2008, E'mar Center focuses on the economic equality and development of the Palestinian minority in Israel, through a number of projects that relate to marketing, investment, import and export, as well as by providing loans and support to small businesses through its special Fund (Izdiharuna), and its forum of businessmen.
11. Al-Risala, Publishing and Media	Al-Risala focuses on media and publication affairs that relate to the religious and socio-political affairs of the Palestinian communities in Israel. Al-Risala issues, since 1989, the newspaper <i>Sawt Al-haq Wal-Huriya</i> (The Voice of Right and Freedom), administers a news website, and publishes the bi-weekly family magazine <i>Ishraqa</i> (7,000 copies).
12. The Bayariq of the Haram al-Sharif	Al-Bayariq is a campaign to facilitate the worship opportunities of Palestinian citizens of Israel in Al-Aqsa mosque by providing transportation services to Jerusalem.
13. Al-Masra Fund	Al-Masra is a charity fund that supports civil society institutions in educational, cultural and social fields in Israel.
14. Al-Aqsa Institute	Al-Aqsa Institute focuses its operation around the affairs of Al-Aqsa mosque by monitoring any violations related to access to the mosque and renovating abandoned Christian and Muslim religious sites and cemeteries.
15. Nour Center for Islamic Research and Studies	A research center that touched upon historical, geographical, and social dimensions related to the

	Palestinians in Israel, as well as on documenting and studying the sites of the Islamic endowments.
16. Ribat al-Quds	An organization that focused its operation in Jerusalem by supporting families in need, social and educational projects, and the work of other civil society organizations.
17. Al-Israa' for Social Development. 18. Al-Isra' Fund for Relief & Development 19. Al-Isra' Organization	Al-Israa' group is concerned with raising funds and supporting projects and civil society institutions that work on socio-economic, political, and religious issues.
20. Al-Balagh Media Center	Al-Balagh worked on editing and preparing documentaries based on its research and study center; its work addressed questions related to the socio-economic affairs of the Palestinians.
21. Yusuf al-Siddeq	Provided legal support and representation for Palestinian prisoners specially those under administrative arrest, and worked to improve prisoners' conditions through legal as well as public action.
22. Al-Sadaqah Al-Jariyah (" <i>The Flowing Charity</i> ")	A charity organization that collected donations for some of the organizations in this list. It had over 10,000 subscribers who donated on monthly basis, and it used to contribute about \$3 M annually in philanthropic spending and public interest projects.
23. Zahrat al-Karmil (" <i>Flower of the Karmil</i> ")	A charity organization which sought to improve the conditions of the underprivileged Arab citizens in the mixed (Arab and Jewish) towns like Yaffa, Haifa, and others. Its work included charity work, and support of education and civil activism.

I. *Iqra'* (Read): The Association for Advancing Higher Education in the Arab Community

Iqra' is a university students' body that was founded in 1995 to promote higher education among the Palestinian Arab citizens in Israel. *Iqra'* supports high school students in choosing the proper field of study and organizes training courses for the various university admission exams. *Iqra'* also accompanies these students during their studies in their universities and colleges by organizing socio-political and education events. These activities make up an essential part of student life. *Iqra'* used also to provide scholarships to students in need. *Iqra'* used to serve approximately 10,000 university students every year.



Students at the Tehcnion institute of Technology attending one of Eqraa's orientation events for new students.

Shocked by the Israeli decision to criminalize *Iqra'* and its activities, membership, or affiliation with it, it decided to oppose the Minister of Security's decision despite the lack of any serious judicial scrutiny. According to the Emergency Regulations, any person or individual who sees himself affected by the decision may write to the Minister of Security, the same body who issued the original decision, within 30 days to request that the decision be canceled. In their formal legal request, *Iqra'* explained that all their activities abide by Israeli law and are mainly for educational purposes. They inquired if any *Iqra'* activities or affiliated individuals have breached any criminal or civil law, and if so asked that those perpetrators be prosecuted. *Iqra'* also requested the intelligence information that was used to ban the organization, as it is usually the case in such decisions. As expected, their reasonable and legal request was denied. The Israeli government provided this vague response and unconvincing explanation of their decision:

Per your request, below is a paraphrasing of the intelligence information that could be released together with the reasons for declaring your organization as an unlawful association.

According to the information in our hands, *Iqra'* Organization for Advancing Education in the Arab Sector (hereafter: "the organization"), was founded in the late 1990s by activists of the Islamic Movement and with the involvement of its leaders, in order to organize student-based educational activities by the Movement. The Islamic Movement sees the organization as a platform to recruit people to its cadre.

Further, we have information that the organization received funding from other organizations that belong to the Islamic Movement.

As this response shows, the Israeli government has provided absolutely no evidence to substantiate their outlawing of *Iqra'*. The Israeli government outlawed *Iqra'* based on nothing more than the Muslim identity of some

of its members and their support for the Islamic Movement, a social-religious and political body in Israel (see below). This is explicit and illegal discrimination based on religion and ethnicity that constitutes a violation of the right to education and peaceful socio-political participation.

II. The Negev/Naqab Association for the Human and the Land

The Naqab Association was founded in 2001, with the main objective of ameliorating the socio-political tragedy of the Palestinian Arab Bedouin citizens of the Naqab. About 100,000 residents of this community live in 45 so-called unrecognized villages in the Naqab, without any basic services of roads, sanitation, running water or electricity, or educational and social services. In addition to denying them basic civil services, Israeli law subjects all constructions in these villages to demolition.

Some of these villages predate the creation of the State of Israel in 1948, while others were displaced and transferred by Israeli authorities to the sites of these villages. Palestinian Arab Bedouin citizens were dispossessed of their original lands and placed on new sites without any legal status. Under these horrendous conditions, the Naqab Association works to support the targeted communities through various infra-structural projects, socio-educational activities, legal counseling and representation, reconstruction of demolished houses and the renovation of others, student scholarships, building worship centers, installing solar panels for power production, the construction of safe bridges over streams and flood trails, and the building and renovation of school buildings.



Volunteers of Al-Naqab Association extending drinking water pipeline to one of the unrecognized villages in the Negev

As with all the organizations recently outlawed by Israel, the Naqab Association is dedicated to remedying some outcomes of Israel's longstanding racist policies against its own Palestinian Arab citizens. The Naqab Association was deemed unlawful by the Israeli government despite the fact that it has been active for fifteen years with no major changes that would necessitate its criminalization. Again, the major allegation is that some of its members are Muslims, supporters of the Islamic Movement, and political activists who oppose the Israeli policies against the Naqab Bedouin citizens.

III. *E'mar* Center for Economic Development and Empowerment,

Founded in 2008, *E'mar* deals with poverty and economic impoverishment among the Palestinian communities in Israel. *E'mar* strives to develop a local and independent economy that would support the socioeconomic strength of the Palestinian community in Israel, a community that was made fully dependent on the Israeli economy. Following the Israeli confiscation of two thirds of their lands since 1948, the Palestinians in Israel were forcefully proletarianized with no economic basis or infrastructure. At the same time, the Israeli government as a matter of policy sought not to develop a productive economy for the Palestinian community, instead it was hoping to have a sufficient manpower and consuming society.²⁵ *E'mar* was a pioneering and unique of its kind in Israel, which was undertaking a wide range of activities.



E'aar's conference for supporting new startups and young entrepreneurs in Nazareth, 2014

²⁵ See annual equality reports by Sikkuy: The Association for the Advancement of Civic Equality at, http://www.sikkuy.org.il/publication_cat/equality-index/?lang=en; on the Israeli policy see, Ian Lustick, *Arabs in the Jewish State: Israel's Control of A National Minority* (Texas: University of Texas Press, 1908);

E'mar organized a number of economic training to businessmen and women, and several economic development projects. It researched and addressed questions of production, consumption, labor, entrepreneurship, and investment as they pertain to the Palestinian Arab communities in Israel. *E'mar*, provided information on export and import, held economic fairs, published a magazine on the local economy, and provided loans with no interest to small businesses. *E'mar's* activities focused in particular on young men and women, and on housekeepers, for example, loans were provided to investors between 21 and 35 years old.

Whereas *E'mar's* activities should be blessed and receive the financial and political support of the Israeli government, especially for it has not violated any Israeli law, *E'mar* was declared by the Israeli Government as unlawful association on 19 November 2015.

IV. Alquds Foundation for Development

Alquds Foundation for Development (“the Foundation”) is a nonprofit organization that was established in 2008 to serve public and social objectives in East Jerusalem. Since its establishment, the organization has provided social, legal, and planning services to the residents of East Jerusalem who suffer from grave breaches of their rights by the Israeli authorities.²⁶ The Foundation was not outlawed in the blanket decision to outlaw the twenty organizations, but had a little different experience as to its outlawing time and process. The Foundation was outlawed in 2011/2012, but this escalation since then led to the November/2015 decision to outlaw the twenty organizations.

²⁶ On the situation of human rights and repeated violations in East Jerusalem, see <http://www.btselem.org/topic/jerusalem>



Inauguration by Al-Quds Foundation of a new sports arena and playground for the Palestinian residents of Silwan, Jerusalem

The Foundation, which consists of a general director and six staff members, focused its activity on three main areas: housing, humanitarian assistance, and legal services. To deal with the City of Jerusalem's systematic refusal to give Palestinian residents building permits, the Foundation sought to legalize illegal constructions through renovations and preparation of zoning plans. The Foundation assists people in need, primarily by providing food to low-income residents of East Jerusalem. The Foundation provides legal advocacy to low-income East Jerusalem residents dealing with the myriad forms of discrimination by Israeli authorities and courts.

On 23 October 2011, the Israeli police raided the offices of the Foundation in Jerusalem. They arrested one of its workers and took all its computers, electronic storage devices, some files, and other material, and left the offices. Two days later, they raided the offices again with an order

signed by the Israeli Police Commissioner; they ordered the shutting down of the Foundation under the pretext that it served a terrorist organization. The closure order was issued originally for a month, but then was extended for a year until 24 October 2012.²⁷

The main allegation against the Foundation was that one of its employees was suspected to be a Hamas member and, therefore, to be a security offense. After his arrest, the Foundation fired the suspected employee. However, no allegations were made by Israel against any of the Foundation's other workers and board members, or against its activities.

On 15 February 2012, the Foundation filed a petition to the Israeli High Court against the banning. During the court proceeding, the State admitted that the order outlawing the Foundation was void. Since the Foundation's main office was located in the West Bank, the power to shut down the organization was in the hands of the Israeli Military Commander and not the Police Commissioner. The original decision was cancelled on 13 March 2012, but a new ban was issued two days later by the Military Commander on 15 March 2012. In other words, the Israeli courts orchestrated an extension of the ban to outlaw the Foundation without providing any evidence of wrongdoing on the part of the organization.

A number of other orders were issued by the Israeli authorities against the Foundation, including the closure of its branch offices in Jerusalem based on a decision of the Police Commissioner dated 19 June 2014. Whereas all decisions until then ordered the closure of the offices, the Foundation's operation was not outlawed per se. Only on 6 November 2014 did the Israeli Minister of Security declare the Foundation to be an "unlawful organization."

²⁷ Alongside the authority given to the Minister of Security to declare that particular associations are "terrorist" or "unlawful," the Emergency Regulations authorize the Police Commissioner to close the offices of such organizations and associations. The properties of such organizations are subject to sequestration.

The Foundation has repeatedly corresponded with Israeli authorities against their allegations of any possible ties with Hamas. Israel has not provided any evidence to legitimate the decision, consistently making vague reference to "intelligence information." The Foundation has been denied access to all relevant intelligence material, and all judicial attempts to cancel the decision have failed. The Foundation's attempts to challenge the ban are ongoing, but unlikely to be fruitful given the oppressive and discriminatory nature of the Israeli legal system.

V. The Islamic Movement (Northern Branch)

It is essential here to discuss and present the curriculum vita of the Islamic Movement. Like the twenty and more organizations, the Islamic Movement was also banned, though it was not a human rights NGO. Nevertheless, all organizations were outlawed according to the Israeli Government for their support or sympathy with the Islamic Movement. It was enough that some of the members were sympathizer of the Movement, or that their activities were partly religious activities. The Islamic Movement was originally established in the 1970s in Israel; in 1996, it split into two separate branches that came to be known as the Southern and Northern branches of the Islamic Movement. The recent Israeli ban targeted the Northern branch of the Islamic Movement (hereafter, "the Movement").²⁸ The Movement was founded to serve the religious and socio-economic needs of the Palestinian Arab citizens of Israel. It focuses on communal development through religious and cultural activities, socio-economic relief and support, political participation, and empowerment of Palestinian communities. Since its foundation, the Movement has operated in Israel, the West Bank, and the Gaza Strip.

²⁸ See, <https://www.middleeastmonitor.com/articles/middle-east/23074-the-islamic-movement-within-israel>



A meeting with hundreds of the orphans supported by the Relief Fund

Together with other political parties and associations, the Movement is a key political organization in the Israeli political scene. Up until 2015, the Movement had functioned within the already-narrow margins of the Israeli legal and political systems that systematically discriminate against Palestinians in and out of Israel. Due to their political opposition and religious difference vis-à-vis the Israeli government, the Movement and its leaders were subjected to repeated persecution in the last two decades. The Movement has not violated any Israeli laws related to conducting illegal activities, incitement to racism or violence, or any other security breaches. Because *all* activities of the Islamic Movement respect Israeli civil and criminal laws, the Israeli government is exploiting colonial British emergency laws in order to prohibit organizations that could not be limited by Israeli law.

Recently, several Israeli political leaders have orchestrated an incitement campaign against the Palestinian Arab citizens of Israel and particularly against the Movement and its leaders. Israeli religious and political leaders exploit the instability and violence in both Israel and the region in order to demonize all Arabs and all Muslims. This anti-Muslim propaganda is deeply dangerous, as the precedent of anti-Semitism in Europe demonstrates, and it is now being used to outlaw the Movement.

The Movement has been operating for several decades, representing the interests of both Muslims and Christians, and gaining widespread support and solidarity. According to a survey conducted by a Haifa University professor, 57% of the Arab citizens of Israel stated that the Movement represents their interests, while 42% see themselves as members or supporters of the Movement.²⁹ Israel's outlawing of the Movement is a direct attack on Palestinian political activity, on the status of Palestinian Arab citizens, and on Muslim worship.

In order to obtain international legitimacy for its illegal acts, Israel has disseminated unfounded allegations against the Movement. Contrary to the slander and libel of the Israeli government, the Movement is not a paramilitary group and does not call for the use of violence. Indeed, if the Movement had either engaged in paramilitary training or incited violence, then it would have been tried in an Israeli court for violating Israeli law. The fact that the Movement has not violated any Israeli laws is precisely why the colonial British emergency laws are being used to prohibit its activities. The Israeli government abuses anti-Muslim and anti-Arab sentiments (particularly in the West) in order to delegitimize the Movement and the twenty organizations. It is not a coincidence that Israel issued the ban only three days after the tragic November bombings in Paris. The Movement, of course, has no relationship to the individuals or groups who carried out the Paris bombings and neither they nor any other Muslim group is responsible for apologizing for the event. Still, the Movement

²⁹ Sami Smooaha, Arab-Jewish Relations in Israel, available in Hebrew at, <https://www.idi.org.il/media/2519505/Lo%20Shovrim.pdf>

publically demonstrated its condemnation of the Paris bombings in a press release and its leaders scheduled a condolence visit to the French embassy in Tel-Aviv.

By inciting hatred against Muslims and Arabs, the Israeli government criminalized a peaceful socio-political organization that has existed for decades and has not violated any laws. Israel's underlying motivation is to disenfranchise Palestinian political resistance and opposition.

III. The Legality of the Israeli Decisions: Domestic and International Scrutiny

These recent bans target peaceful civil society organizations dedicated to protecting and promoting human rights. By outlawing these organizations, Israel is silencing political dissent and opposition. All of the organizations outlawed by Israel in November 2015 were previously recognized by the Israeli government as civil society organizations, registered with the Israeli Official Registrar of Companies. All of the outlawed organizations abided with Israeli laws and their respective internal charters. The board members of all these organization are Palestinian Arab citizens of Israel, with no criminal records. All funding and fiscal activities of the organizations are transparent, administered in Israeli banks, and reported in accordance with the Israeli tax authorities.

It is important to note that due to the nature of these decisions, there is extremely limited ability to subject them to judicial scrutiny and to offer a fair trial under such emergency laws. First, the decisions are usually based on intelligence information that is kept confidential and the concerned organizations are unable to review or to respond to any of the allegations. Second, the law itself limits this ability in terms of the burden of proof and evidentiary weight. For example, according to article 8 of the *Prevention of Terrorism Ordinance*, “If the Government, by notice in the Official Gazette, declares that a particular body of persons is a terrorist

organization, the notice shall serve, in any legal proceeding, as proof that that body of persons is a terrorist organization, unless the contrary is proven.”

Neither the Foundation, nor *Iqra'*, nor any other Palestinian civil society organization have been successful in challenging the Israeli state orders through the Israeli legal system. Many organizations have stopped seeking any judicial redress within the Israeli legal system because they effectively have no chance of even limited success. The decision to outlaw these organizations was not subjected to a fair trial or judicial scrutiny; instead, Israeli authorities misapplied laws that were originally intended by the British legislator to apply to situations of emergency and armed conflict. The colonial British emergency laws were intended to outlaw military and paramilitary groups, not peaceful civil society organizations.

The legal standards for derogations from state obligations in situations of emergency are outlined clearly in Article 4 of the *ICCPR* and General Comment No. 29 of the Committee on Civil and Political Rights.³⁰ Any emergency measure “must be of an exceptional and temporary nature,” and must be limited “to the extent strictly required by the exigencies of the situation. This requirement relates to the duration, geographical coverage and material scope of the state of emergency and any measures of derogation resorted to because of the emergency.” Contrary to international law, Israel has declared itself under a perpetual State of Emergency for the past 68 years.

Israeli policies and practices are contrary to and in violation of a number of international legal obligation well-enshrined in hard and soft law. The Israeli decisions gravely violate the right to freedom of association, as it is outlined in article 22 of the *ICCPR*. Freedom of religion and peaceful association are basic human rights. Further, the right is important for its interconnection with the fulfilment of other rights. As

³⁰ Text of General Comment No. 29 is available at, <http://www1.umn.edu/humanrts/gencomm/hrc29.html>

stated in 2010 Human Rights Council Resolution 15/21 that “*Recogniz[ed]* the importance of the rights to freedom of peaceful assembly and of association to the full enjoyment of civil and political rights, and economic, social and cultural rights.” It particularly addressed situations of political dissent and religious minorities like in our case. The resolution also states:

“*Recogniz[ed]* further that exercising the rights to freedom of peaceful assembly and of association free of restrictions, subject only to the limitations permitted by international law, in particular international human rights law, is indispensable to the full enjoyment of these rights, particularly where individuals may espouse minority or dissenting religious or political beliefs.”³¹

The basic right of freedom of assembly and peaceful association, and the essential role of these rights in a healthy society, good governance, and their importance in protecting and promoting human rights were repeatedly reaffirmed and their importance established in additional resolutions as well as by the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association. In addition to requiring states to facilitate the activity of civil society organizations, the Human Rights Council recognized:

“*Recogniz[ed]* the importance of the freedoms of peaceful assembly and of association, as well as the importance of civil society, to good governance, including through transparency and accountability, which is indispensable for building peaceful, prosperous and democratic societies.”³²

Israel’s outlawing of the Movement and other organizations is both a violation of the freedom of religion and an explicit form of religious

³¹ See Human Rights Council (HRC) 15/21, 2010, available at, <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>

³² See HRC resolutions 21/6 and 24/5, 2012 and 2013, respectively, available at, <http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/SRFreedomAssemblyAssociationIndex.aspx>

discrimination. Israel incites anti-Muslim sentiments and justifies unlawful practices by exploiting anti-Muslim prejudice. Further, it clears the way for further Israeli violations without being checked, observed, criticized, or brought to justice.

All the outlawed organizations emphatically reject Israel's allegations because they have been acting lawfully. Israel's decision to outlaw these organizations reflects ongoing persecution of and discrimination against the native Palestinian population. In particular, the outlawing of Muslim organizations is an explicit and unlawful form of discrimination against Muslims. If Israel had any evidence of wrongdoing, it could open investigations and pursue criminal prosecutions. But because Israeli authorities had no substantive legal claims against these organizations, the state resorted to "emergency laws"—an outdated and illegitimate British colonial law—for the political subjugation of its Palestinian minority.

The official Israeli list of "terrorist" and "unlawful" organizations reflects an erroneous, misleading, and fundamentally discriminatory policy of associating all Muslims with terrorism. (For example, *al-Qaeda* is listed alongside the *Jerusalem Foundation for Development*, thereby equating a violent organization with a civil society organization.) The recent banning of these organizations is yet another example of Israeli exploitation of "security concerns," for political gains. Israel has both political and financial motivations to incite paranoia about both local and global security concerns. Israel seeks to legitimize its ongoing and illegal acts of occupation, land confiscation, detention of Palestinian political prisoners without legal recourse, extrajudicial killings of Palestinians, and home demolitions under the pretext of "security concerns." As global opinion has increasingly turned towards recognizing and criticizing Israeli policies, the rhetorical claim of security concerns is one of Israel's few remaining tactics. The claim of combating terrorism is systematically used to challenge any form of Palestinian resistance to Israeli oppression. Moreover, the Israeli weapons and security sector is a multi-billion dollar

industry that profits from marketing Israel as a state capable of combating terrorism, at the expense of its Palestinian citizens.

The recent outlawing of these organizations represents a further escalation against the Palestinians and civil society at large. Israeli discriminatory policies against Palestinians have crossed a new and dangerous threshold that necessitates international intervention and condemnation. The Israeli Government is looking to eliminate any political and ideological dissent and to restrict the operation of human rights defenders. The (mis)use of emergency laws are the main platform for implementing such repressive measures. While the Israeli government is claiming to have an inter-ministerial body that is working on cancelling the State of Emergency, it is not working on cancelling the emergency laws. Instead, as stated clearly by the government, it is working to replace these emergency laws by regular laws. As most of the tens of emergency laws are applicable only when there is an officially-declared state of emergency, the government is seeking to replace them with laws that will be always applicable regardless of the state of emergency. Thus, it is seeking to normalize and legalize these emergency laws and the violations associated with them.

Appendix I

Translation of the Order of the Israeli Minister of Security declaring the Islamic Movement and dozen other organizations as "Unlawful Associations" and ordering the forfeiture of their movable and immovable properties (this order included 17 organizations. Three other organizations were outlawed in another order on 26 November 2015: 1) *Eimar* for Economic Development; 2) The Relief Association for the Support of Orphans; and 3) *Izdiharuna* for Economic Growth)

Forfeiture Order

The Defense (Emergency) Regulations 1945

Upon my power under regulation 84(2)(b) of the Defense (Emergency) Regulations 1945, I order the forfeiture of all the properties of an assembly of members, or institutions or association that is called the "Islamic Movement" that its central active members are Raid Salah Mahajnih, Kamal Hussein Khatib, Abd al-Rahim Tawfiq Khalil, Yousif Orsan Awadih, Adil Mohamad Wishahi, Hikmat Fahim Na'amnih, Suleiman Ahmad Ighbariya, Usamah Hussein al-Uqbi, Yousif Shaher Abu Jamia' and others, this order includes also the advisory council, the executive committee, and every body, office, institution, fund, company, association, council, organization or members' center of this movement that was declared by the Minister of Security as unlawful association. This includes the associations that belong to this movement as they are listed in the table below, including the moveable and/or immovable properties of all kinds and/or savings and/or funds and/or shares and/or registered rights under its name or its committees, including money in possession, custody or control of banks in Israel and/or exist and/or will be in the possession of any other person/body and registered under the name and/or ought to be payable to the association, I order their transfer to the Minister of Security, I also order the land registrar of the Ministry of Justice and/or the Israel Land Administration and any other mortgaging company to freeze all properties that belong to the association and to ban the execution of any transactions

in these properties that are detailed in appendix A', I also order the mortgages' registrar to register a mortgage in favor of the State of Israel over all of these properties, and I order the Transportation Authority to register a sequestration order and ban any transaction on the vehicles detailed in appendix B. I declare my intention to confiscate these properties to the Government of the State of Israel for the reasons outlined above. I hereby authorize Israel's Police and the staff of the Confiscation Unit of the General Custodian in the Ministry of Justice of the State of Israel to act and fulfill this order based on the power delegated in regulations 84(2)(d) and 84(2)(t) of the Defense (Emergency) Regulations, 1945.

Below are the associations that belong to this association:

1. Al-Israa' for Social Development.
2. Al-Isra' Fund for Relief and Development
3. Al-Isra' Organization
4. The National Islamic Association (al-Rabita)
5. Nour Center for Islamic Research and Studies
6. Al-Bayariq Institute
7. The Bayariq of the Haram al-Sharif
8. Ribat al-Quds
9. The Islamic Organization Kofr-Kana
10. Iqra' (Read) Association for Advancing Higher Education in the Arab Community
11. Al-Aqsa Institute

12. H'iraa' Association for Memorizing the Quran
13. Al-Balagh Media Center
14. Al-Risala, Publishing and Media
15. The Negev Association for the Human and the Land
16. The Human Solidarity
17. Yafa Organization for Charity³³

Anyone who sees himself affected by this order or wants to object to the forfeiture, may submit his objection in writing to the legal adviser of the Security Institution within 14 days from the date this order came to his attention.

15 November 2015

Signature
Moshe (Bogi) Ya'lon
(Minister of Security)

³³ Three more organizations E'mar, Izdiharuna, and the Relief Fund were added to the list a week after the order, see appendix I. Furthermore, 3 more organizations were outlawed on February 12, 2016. These were: Zahrat Al-Karmil, Yusuf Al-Siddeq, and Al-Sadaqah Al-Jariyah.

Appendix II

**An English translation of an article that was published in Arabic, by
Meezaan's director general, Adv. Omar Khamaisi**

Criminalizing the Arab Struggle for Civil Rights: Israel's Banning of the Islamic Movement

Advocate Omar Khamaisi

For more than seventeen years, subsequent Israeli governments have been contemplating how to deal with the Islamic movement. Led by Sheikh Ra'ed Salah and operates within armistice Israel. From the first 1998 Netanyahu government to those of Sharon and Olmert and again with the most recent Netanyahu government, they all were looking for strategic and legal ways to outlaw the Islamic Movement. As it looks, the Israeli authorities had already taken a decision regarding the movement but it remained a question of timing of its implementation, and via which legal means.

Preparatory Steps

Acting under the pretext of grave security conditions and a delicate state of emergency, the Israeli media began to demonize the Islamic Movement and its leadership, casting them as extremists and terror supporters by inciting to violence. It was known to all that the Movement had no any direct or indirect connection with terrorism or extremism, nevertheless such charges continued to appear and be voiced against the Movement. They were setting the stage to legitimizing the outlawing of the Movement.

It must be pointed out that during the last *Intifada*, which sparked in October 2015, the Israeli government accused the Hamas, the Palestinian Authority, and the Islamic Movement for inciting the

Palestinians while knowing fully that this *Intifada* was spontaneous popular uprising led by the Palestinian youth and masse with no involvement or directions of any Palestinian movement or body. The Israeli media accepted and adopted the government argument, and thus prepared the ground for the Israeli leadership to upscale its decision against the Palestinians in Israel in general and against the Islamic Movement in particular. The Israeli Government banned one of the major political movements inside Israel under the cloak of the law.

Implementation

It was on 15 November, 2015, during a brief weekly meeting of the Israeli cabinet, that Moshe Yalon, the Israeli Minister of Security, was authorized to sign an order banning the Islamic Movement as an unlawful organization under the 1945 Emergency Regulations. These Regulations were originally enacted by the British mandatory government in Palestine and has been extended annually by successive Israeli governments. The Regulations are draconian legal tool that has been used mainly to serve political and ideological objectives. The most distinctive feature of this law is that it empowers the government authorities to take any drastic, arbitrary and coercive action against any native or non-native person who lives in lands which are under Israeli sovereignty.

In the order of the Israeli Minister of Security it was stated that, **“As required to maintain state security, public safety and order , I hereby declare the assembly of persons named as “The Islamic Movement” and its central activists: Raed Salah Mahajinah, Kamal Husain Khateeb, etc., and all bodies, offices, institutions, associations, funds, companies, organizations, assemblies, liaison points or centers that belong to said Movement by whatever name, is a banned organization according to the Emergency Regulations.**

In the following day, 16 November, 2015, the contingents of Israeli police, security forces and the intelligence service raided the offices of the Islamic Movement and confiscated documents, computers, information

devices and hanged the banning order on the doors of the offices. These forces had also invited leaders of the Movement for interrogation.

To the banning order, the Minister of Security listed about twenty civil society organizations that he considered belonging to the Movement, though they were registered and operated as independent bodies. The security agencies raided the offices of these organizations, confiscated their belongings and seized their bank accounts. It must be emphasized here that all these civil society bodies and societies are independent legal entities in respect of their management, membership, budgets and their decisions. Following the decision, their civil activities became criminalized.

On 19 November, 2015, the Minister of Security signed yet another order adding three more civil society organizations to the list of banned organizations on the pretext that they were linked with the Islamic Movement. Subsequently they seized all their properties and accounts including those of a relief organization at Nasirah (Nazareth) city, which assists 23,000 Palestinian orphans and forfeited 1.5 million Shekel- an amount that was collected from donations to cover a kidney and liver transplant of a Palestinian girl. Another consequence of this ban was the cutting off of any aid or donations to several funds and thus precluding the activity of few other organizations that used to receive donations from these funds. It must be emphasized that all these charitable bodies are legally registered with the Israeli Corporations Authority and they pay all the requisite taxes and charges and all of them have sound management in accordance with the law.

The Legal Paradox

The measures taken by the Israeli government and its cabinet and legal advisers have been taken after they focused on allegations of inciting to violence and supporting the sit-ins at Al-Aqsa Mosque leveled against the Islamic Movement. These bodies have been banned because they opposed the Jewish intruders in the sanctuary. Similarly it was alleged that the

Islamic Movement obtained its money from sources which financed Hamas. Here a simple question that arises is: If the members or leaders of the Islamic Movement have violated the law or committed the alleged offences then they should have been tried before the court of law individually for their alleged violations of law. How is it that whole organizations are being held responsible for actions of the individuals and being penalized collectively? Here we are forced to declare openly that none of the activities or engagements of the Islamic Movement were of illegal or criminal nature warranting a ban on it. This has gone against the expectations of Israeli governments who for decades wished to implicate the leadership of the Movement in criminal offences for which they could put them in prison for long years. On the contrary, the Israeli authorities had no recourse but to resort to the Law of Emergency Law and to ban it arbitrarily and unilaterally. It is well known that proceedings under the emergency regulations are beyond the purview of the judiciary from the very beginning. Although the law permits the affected parties to appeal before the authorities who have acted under emergency law and thereafter to go in appeal to the supreme court of the land. Yet it is a fact that all proceedings are carried on secretly and on the basis of evidence and reasons which are known only to the security agency Shabak , the prosecutor-general and the judges. The appellant knows nothing of them.

Past Experiences of the Emergency Law

The experiences of the past reveal that there can be not a single case in which the Supreme Court has upheld the viewpoint of the appellant. Invariably the judicial authority has accepted the pleadings of the executive authority and upheld the legality and legitimacy of the executive actions maintaining a system of apartheid. The question is: Of what law are they speaking? The Emergency Law of 1945!!! The law which had been used by the British Occupation during World War II to suppress the Palestinian movement against the British mandatory rule and against Zionist colonization of Palestine.

It is noteworthy that all Israeli judges invariably deliver judgments favoring their government. The Israeli parliament, the Knesset, too has invariably closed its eyes to the need for abrogating or amending this law because it is contrary to the principles of international law and international conventions, or its application is contrary to the tenets of democracy. In the end, judgments are delivered in accordance with law and no challenge against its constitutionality is accepted. The Israeli judiciary is an accomplice in this criminal law. The Palestinian nation is paying a dear price of this law in the form of the atrocities committed by Jewish settlers in the Jewish settlements constructed in the West Bank.

To give some indicative, though not an exhaustive account of Israeli atrocities we may mention: Detention without any grounds or trial; house-arrests; compulsory stay in a demarcated area [like in the Red India Reservations or Bantustans of the Apartheid era]; prohibition of entry into demarcated areas; forcible deportations; banning of associations and societies; prohibition of emigration; and confiscation of Palestinian properties. As mentioned above, all such actions are unilateral administrative actions. The law has placed no limits on them. Nor there are any qualms about the recurrence of such proceedings.

Thus we arrive at the real reason behind the banning of the Islamic Movement and more than twenty charitable institutions and societies. It is a distinct political decision having a number of other dimensions—religious and national. All this is aimed at tearing the social fabric of the Arab Palestinian society. It strikes at Islamic activities and welfare projects being run by the Islamic Movement and a strike against the access of the Muslims to the Al-Quds—the Hoy Aqsa Mosque.

Strikes against the Islamic Movement and civil activism

It is more than 20 years that the Israeli government has been inflicting a number of assaults against the project of the Islamic Movement for empowering the Arab society within the Interior of 1948 and improving its social, economic, political, educational, and even health conditions.

Briefly, it endeavors to create popular platforms and NGO's for the service of the Arab society, which has been marginalized by Israeli government. It tries to make these frameworks and organizations build up a national identity with its political, social, economic, educational and cultural dimensions within the Palestinian Interior. It aimed at achieving a sort of internal self-rule within the Interior.

The Israeli establishment has woken up to the enormity of this project. It sees in it a threat to its peace and sovereignty (after it realized that it is not a slogan but a project, which is being launched in the field). It became more pressing when the Movement experienced an internal split over the question of participation in the Knesset election of 1996. One group had then vehemently opposed participation in such election refusing to become a constituent of the Israeli establishment, as it would be contrary to the Palestinian aspiration to build a monolithic society with its own representative body and independence.

The first strike was the closure of the Islamic Relief Foundation in Nazareth in 1996, which was supporting the families of orphans from the West Bank and Gaza Strip. Later in 2003 two associations which worked in relief were closed down and their funds and properties confiscated. Dozens of the Islamic Movement's members were arrested and the Movement's leader Sheikh Raed Salah and 4 other key persons in the Movement's relief and civil associations were sentenced to three years in prison.

In the last 15 years, the Israeli police to submitted six separate indictments against Sheikh Raed Salah, head of the Islamic movement, including more than 10 diverse violations all on the backgrounds of his political stances. The security system also arrested his first deputy, Sheikh Kamal Khatib during his campaigning at Al-Aqsa mosque, and physically assaulted his second deputy Sheikh Hussam Abu Leil. Other leaders of the Movement had indictments filed against them including Dr. Suleiman Aghbarieh and Sheikh Ali Abu Sheikha, for their role in the protests

against the demolition of the historical Mughrabi gate in 2006 in the city of Jerusalem.

The Israeli police had also called for interrogation dozens of local Movement figures, against whom orders were issued banning them from leaving the country, or entering the city of Jerusalem and its outskirts, as well as orders banning their entry to al-Aqsa mosque. Hundreds of young people supporters or sympathizers with the Movement were interrogated by the Israeli intelligence in the aim of intimidating and discouraging them from participating in events and activities by the Movement. Attempts were made to lure and recruit others for collaborating with the Israeli security system and for gathering inside information on the Movement and its members and leaders.

The Israeli government has over the last twenty years shut down 27 civil foundations and civil society institutions for their affiliation with the Islamic Movement, and banned more than four national-wide endeavors and frameworks that aimed at supporting and raising awareness towards Jerusalem and Al-Aqsa mosque. Furthermore, more than 50 Arab and Muslim international associations and civil societies active in Arab, Muslim, or European countries were banned (illegalizing any communication with them), merely for the part they played in support of the Palestinian cause with its various dimensions.

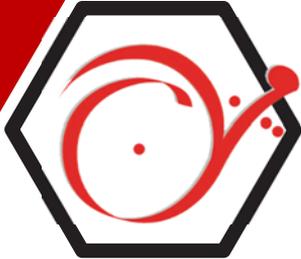
In conclusion, these measures came within the Israeli government's attempts to push deeper into the criminalization of Arab civil and political action by means of political persecution of the leaders of the Palestinian community, which took shape in the ban of the Islamic Movement. Additionally, the ban of twenty civil society institutions is yet another attempt to criminalize the activism for basic civil rights by the Arab public in all aspects, whether relief, education, culture, media, economy and development, religion, and others.

The objective of these escalations (accompanied by unprecedented incitement and provocation by the Israeli media against Arabs, Muslims,

and Palestinians) is to restrict and criminalize all forms of political struggle for rights and terrorize the political leaders and activists and illegalize their interaction with the community. This proves beyond any doubt that Israel is an apartheid state and it is still very far from being a democratic state.

Meezaan Organization for Human Rights

Established in 2005, Meezaan Organization for Human Rights (MOHR) works towards defending and promoting the civil, political, social, economic, and cultural rights human rights of Palestinians, both Palestinian citizens of Israel and Palestinians in the West Bank and the Gaza Strip. Working for equality and justice, MOHR utilizes a number of strategies and actions, including:



1. Litigation before the Israeli judiciary and other forms of legal intervention before various governmental bodies and state authorities.
2. Investigation and documentation of gross human rights violations.
3. Publication of thematic reports and a periodic newsletter, which includes analysis of particular and timely-relevant human rights issues.
4. Undertaking international and regional advocacy actions.
5. Providing legal consultation and services to NGOs and individual activists, particularly those suffering from political persecution.
6. Disseminating human rights law knowledge, and promoting a culture of human rights, respect, and dignity, through the organization of conferences, lectures for the public, and lectures in high schools.
7. Training for human rights lawyers.

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