

Public Statement

Israel/oPt: Respecting and enabling civil society, human rights defenders and peaceful protests is vital for achieving sustainable ceasefire and just peace

In light of the International Court of Justice (“ICJ”) recent [ruling](#) ordering Israel to prevent and not to commit acts of genocide against the Palestinians in Gaza, and as civilians in Gaza are pushed to a humanitarian catastrophe with the war in Gaza continuing for over 120 days, the UN experts urge all States to effectively enable the rights to freedom of peaceful assembly, of association and of expression and end undue restrictions on these rights, as people around the world express their solidarity toward the victims of the ongoing conflict.

Given the urgency to step up collective efforts to prevent genocidal acts, war crimes and crimes against humanity against Palestinians in Gaza, the full and unobstructed enjoyment of these fundamental freedoms is ever more crucial. These rights enable civil society and protest movements to effectively play their important role in contributing to the global efforts towards reaching a permanent ceasefire and for the pursuit of justice for the atrocities in Gaza.

Enable global rights movements and peaceful protests

It is deeply concerning that since the start of the hostilities on 7 October 2023, some States, especially Western States, have imposed undue restrictions on civil society advocating for the rights of Palestinians, and on peaceful protest movements calling for a ceasefire and the protection of Palestinians’ human rights. We further recall with deep concern that the civic space in the occupied Palestinian territory has been severely curtailed. During the ongoing Israeli military offensive in Gaza, scores of journalists and UN, humanitarian and aid workers have been killed, some in the course of their work, and human rights defenders have been arbitrarily arrested, preventing them from speaking out.

As pro-ceasefire and justice movements and protests have intensified, some countries, especially Western States, have imposed undue restrictions on peaceful protests. States have sought to justify these restrictions by referring to risks related to incitement to hatred and “glorification” or “support of terrorism”, and potential risks to national security or public order. This approach is not only arbitrary, but it also dehumanizes Palestinians by unjustly linking them as a whole to criminal endeavours and terrorism. Moreover, it discredits their legitimate quest for freedom and rights by portraying it as an unlawful undertaking. Some States have also banned and criminalised the use of Palestinian symbols that have been used during protests such as flags, the Palestinian keffiyeh (traditional black and white scarf), and the use of certain slogans such as “from the river to the sea” (which is fully legitimate when it infers the realization of freedom, human rights and dignity of everyone in Israel and the oPt). Concerns related to risks of potential anti-Semitism have also been used as a justification by some States to ban and criminalise peaceful assemblies and expressions in support of Palestinians’ rights. Protesters have been arbitrarily arrested for the use of slogans allegedly for constituting “hate speech” or “anti-Semitism”. These measures create a hostile environment for pro-Palestinian expressions and activists.

It is further concerning that freedom of expression and peaceful assembly is being limited in academic settings where it often takes the form of unjustified expulsions or dismissals, arrests and persecution of academics and students for expressing support for Palestinians’ rights in Gaza. Universities, natural incubators of free thought, must not devolve into havens of obscurantism.

Under international human rights law, States have an obligation to respect and create an enabling environment for the exercise of the rights to freedom of peaceful assembly, of association and of expression of all individuals, without discrimination.

States are reminded that all forms of expression and the means of their dissemination, including political discourse and discussion of human rights, including advocacy urging boycotts, are protected under Article 19 of the International Covenant on Civil and Political Rights (the Covenant). Although States have the obligation to prohibit “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” under Article 20 of the Covenant, they should do so with due respect to the right to freedom of expression. Any restrictions must be precisely defined by law and be necessary and proportionate in pursuit of a legitimate aim. In order for a statement to amount to a criminal offence, it should meet the six-part threshold established by the Rabat Plan of Action,¹ which requires among other criteria, the intent to promote hatred publicly towards the target group and the incitement to discrimination, hostility or violence, and consideration of the likelihood and imminence of violence, hostility or discrimination occurring. Where the threshold is not met, the banning of protests and the criminalisation of protesters violates international law.

Further, restrictions on the right to peaceful assembly may only be imposed in pursuit of a legitimate aim, such as with regards to public order or national security, and when they are necessary in a democratic society, and any restrictions must be proportionate, assessed on a case-by-case basis and evidence-based. Blanket bans or pre-emptive bans on protests or assemblies due to a potential risk that may be posed by some protesters or opportunists do not comply with international norms, as these fail the tests of necessity and proportionality. In the case of isolated acts of violence or speech restricted under Article 20 of the Covenant, which have been reported during some protests, such acts should be dealt with individually, through proportionate, targeted and justified measures taken at the time or subsequently. In particular, assemblies as a whole must not be restricted on this basis but must rather be protected against acts of violence. Symbols and messages can be restricted only if directly and predominantly associated with incitement to discrimination, hostility or violence.

Facilitating and protecting peaceful protests is particularly critical in times of crises. Protests that denounce the Hamas attack and call for the release of hostages, the end of Israel’s military offensive in Gaza, accountability for the alleged crimes committed by Israel in Gaza, or addressing the root causes of the conflict, should not lead to arrest, sanction, or reprisals. All protesters should be protected also from threats and violence by counter-protesters or members of the public, which have been increasingly observed.

Furthermore, States and relevant academic institutions should respect academic freedoms, and ensure that students and teaching staff can freely associate, assemble and express their views with regards to the war in Gaza and the Israeli occupation of Palestine. Employees in the public and private sectors should also not face reprisals, such as disciplinary measures or loss of employment, for speaking out.

The undue restrictions imposed by States on peaceful protests and civil society working to protect human rights and humanitarian law in the context of the Gaza war are contrary to States’ obligation under international law to prevent atrocity crimes, such as genocide, war crimes, crimes against humanity and apartheid.

Support and ensure the right to access to resources of civil society and human rights defenders

¹ A/HRC/22/17/Add.4, appendix

The UN experts call on Western countries and donors to urgently reverse their recent decisions to suspend or restrict the funding to several Palestinian and Israeli human rights and civil society organisations, due to unsubstantiated allegations related to diverting funding to or otherwise support of “terrorist entities”. Many of the affected organisations have been active in documenting and denouncing human right violations in the occupied Palestinian territory for several years. These measures, specifically targeting human rights organizations working on Palestinian rights are contrary to the principle of non-discrimination, and violate the right of associations to seek, receive and use financial resources, which is integral to the exercise of the right to freedom of association.² These decisions have a hugely disproportionate impact. They further contribute to increased stigmatisation of Palestinian civil society, who have been targeted continuously with smear campaigns, and amplify the chilling effect on rights activists, especially from Palestinian and Jewish communities, and those calling for a just peace. They also contribute to the collective punishment of Palestinian civilians.

Given the urgency and gravity of the humanitarian needs and atrocities, States should maintain and substantially increase not cut their support for human rights defenders and civil society organisations working on the occupied Palestinian territory – most of which provide support to women and children. This is also crucial for the implementation of the ICJ’s provisional measures such as ensuring provision of humanitarian aid, and preservation of evidence for which civil society presence on the ground is urgently needed.

Any regulations related to countering the financing of terrorism should fully comply with a risk-based approach and should be carefully tailored, necessary, and proportionate to empirically identified, differentiated and current risk.³ Such measures should not negatively impact on the access to resources and ability to operate of human rights, humanitarian or local peace building and mediation civil society organisations, including women’s organizations. Their application must also be subject to effective remedies before an independent and impartial court affording a fair hearing.

As we stress that inclusive and meaningful collaboration with civil society, human rights defenders, including women’s rights defenders, and protest movements is vital to end the cycle of violence and impunity in Israel and the occupied Palestinian territory, and to achieve a sustainable and just peace, dismantling apartheid and ensuring justice and accountability, we call on the international community and States to ensure that:

- Individuals and groups can freely exercise, without discrimination, their rights to peaceful assembly, of association and of expression in the context of the Gaza war, and the wider context in Israel/occupied Palestinian territory.
- Civil society and activists advocating for respect of Palestinians’ rights, including the right to self-determination, for boycotts, divestment and sanctions, international criminal accountability, and an end to the alleged crimes of apartheid and genocide against Palestinians, are not subjected to intimidation and criminalisation.
- Civil society organizations, human rights defenders and academics, working on Palestinian rights can exercise the ability to seek, receive and use financial resources, including foreign funding; and that counter-terrorism laws, including financing laws, are not applied in a manner contrary to international standards.
- Legislation and policy measures designed to counter anti-Semitism or terrorism are not used to suppress fundamental freedoms or to restrict civil society’s access to resources and/or criminalize them for their legitimate work.

² See A/HRC/50/23

³ See the General principles and guidelines on ensuring the right of civil society organizations to have access to resources, issued by the UN Special Rapporteur on freedom of peaceful assembly and association, A/HRC/53/38/Add.4

- All persons arbitrarily detained, including by Israel, for the exercise of their rights to freedom of peaceful assembly, of association and of freedom of expression in the context in Israel/occupied Palestinian territory are immediately and unconditionally released.
- Pressure is exerted on the parties to the conflict to take all precautionary measures to prevent attacks and harm against civil society actors, human rights defenders, and aid and humanitarian workers, so they can conduct their important work.
- The freedom of movement of human rights defenders, members of civil society, media workers and journalists is protected, so they can document, report and advocate for accountability for human rights violations in Israel and the occupied Palestinian territory, including the war in Gaza.
- Investigations and prosecutions are undertaken, including through universal jurisdiction and support to ICC investigations on current and past serious violations of international law against protesters, civil society and human rights defenders in Gaza and the West Bank, including East Jerusalem.
- Support the investigations of the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, and support the implementation of their specific recommendations to protect civil society actors, including human rights defenders, journalists and women human rights defenders, so they are able to conduct their activities safely, freely and without harassment or retribution.

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