

# Submission for Global Study on the Impact of Counter-Terrorism Measures on Civil Society and Civic Space: Palestine

## Cairo Institute for Human Rights Studies

### Israel's Escalating Attacks against Palestinian Civil Society to Maintain the Regime of Apartheid

Since 1948, Israel has established and maintained an apartheid regime over the Palestinian people as a whole, on both sides of the Green Line, and with refugees and exiles abroad denied the right to return to their homes, lands, and properties. Through a plethora of laws, policies, and practices designed to segregate, fragment, isolate, and oppress Palestinians, Israel continues to entrench apartheid and escalate its violations targeting the Palestinian people.

In recent years, there has been mounting global recognition that Israel is committing the crime of apartheid, a crime against humanity. In 2019, the Committee on the Elimination of Racial Discrimination (CERD) found in its Concluding Observations<sup>1</sup> that Israel's policies on both sides of the Green Line violate article 3 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD),<sup>2</sup> which establishes states' obligations to combat apartheid.<sup>3</sup>

In June 2020, 47 UN special procedures mandates warned in a joint statement that Israel's illegal annexation of more land in the West Bank would "crystallize an already unjust reality: two peoples living in the same space, ruled by the same state, but with profoundly unequal rights. This is a vision of a 21st century apartheid."<sup>4</sup> Later in March 2022, the former UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Michael Lynk, submitted his final report to the UN Human Rights Council (HRC) recognizing that Israel is committing the crime of apartheid in the occupied Palestinian territory (oPt) and urged the international community to adopt the findings of Palestinian, Israeli, and international organizations that "apartheid is being practiced by Israel in the [oPt] and beyond."<sup>5</sup>

Over the last few years, there has also been an increase in the number of UN member states led by the missions of South Africa and Namibia that have recognized and condemned Israel's

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<sup>1</sup> Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined seventeenth to nineteenth reports of Israel*, 27 January 2020, CERD/C/ISR/CO/17-19, available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fISR%2fCO%2f17-19&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fISR%2fCO%2f17-19&Lang=en).

<sup>2</sup> *International Convention on the Elimination of All Forms of Racial Discrimination* (adopted 7 March 1966, entry into force 4 January 1969) 660 UNTS 195.

<sup>3</sup> Cairo Institute for Human Rights Studies, "Human rights organizations welcome Concluding Observations of the UN Committee on the Elimination of Racial Discrimination on racial segregation and apartheid on both sides of the Green Line," 20 December 2019, available at: <https://cihrs.org/human-rights-organisations-welcome-concluding-observations-of-the-un-committee-on-the-elimination-of-racial-discrimination-on-racial-segregation-and-apartheid-on-both-sides-of-the-green-line/?lang=en>.

<sup>4</sup> OHCHR, "Israeli Annexation of Parts of the Palestinian West Bank Would Break International Law – UN Experts Call on the International Community to Ensure Accountability" (June 16, 2020) <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25960&LangID=E>>.

<sup>5</sup> Human Rights Council, Report of the Special Rapporteur on the situation of Human Rights in the Palestinian territories occupied since 1967, 21 March 2022, UN Doc A/HRC/49/87, para 42.

apartheid policies at the HRC.<sup>6</sup> This represents only a sampling of the significant developments around the recognition of Israel's commission of the crime of apartheid.

A core element of the crime of apartheid is the intention of maintaining the regime.<sup>7</sup> One way in which Israel achieves this is by silencing opposition to its widespread and systematic human rights violations, war crimes, and crimes against humanity committed against the Palestinian people. In order to do so, the Israeli authorities and affiliated groups have pursued a campaign of intimidation, harassment and delegitimization of civil society organizations and human rights defenders (HRDs) calling for justice and accountability.

This has been achieved through character assassinations, defamation, branding Palestinians HRDs as "terrorists," and directly attacking human rights organizations and their funding in order to prevent the continuation of their human rights and accountability work, including through the International Criminal Court and UN mechanisms.<sup>8</sup> This is also included weaponizing so-called counterterrorism legislation and policies to attack, intimidate, and silence Palestinian civil society and HRDs.

In 2016, the Israeli Knesset approved the sweeping Combatting Terrorism Law 5776-2016,<sup>9</sup> which provides Israeli authorities with new tools to suppress Palestinians and incorporates severe provisions of the Emergency Regulations from the British Mandate into Israeli criminal law.<sup>10</sup> This law is designed to criminalize legitimate political and human rights activities by Palestinians on both sides of the Green Line.<sup>11</sup> It also provides for the extensive use of secret evidence, lowers evidentiary requirements, limits detainees' access to judicial review, creates new criminal offenses for any public expression of support or sympathy for a "terrorist group," and increases maximum sentences for individuals convicted of "security" offenses.

The offices of Palestinian human rights organizations have been raided and their equipment confiscated at the hands of the Israeli occupying forces (IOF) over the years, as part of what Amnesty International has referred to as "the Israeli authorities' clear determination to crush peaceful activism and silence NGOs" and to curtail vital human rights work.<sup>12</sup> Over the last year,

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<sup>6</sup> CIHRS, "United Nations: In response to Unprecedented Recognition of Israel's Apartheid Regime, States Must Take Concrete Steps to End this unjust reality" 17 June 2020 at <https://cihrs.org/united-nations-in-response-to-unprecedented-recognition-of-israels-apartheid-regime-states-must-take-concrete-steps-to-end-this-unjust-reality/?lang=en>; CIHRS, "Palestine: Civil Society Welcomes Mounting Recognition of Israeli Apartheid at UN HRC" 5 November 2020 at <https://cihrs.org/palestine-civil-society-welcomes-mounting-recognition-of-israeli-apartheid-at-un-hrc/?lang=en>; CIHRS, "United Nations: Israel attempts to silence growing condemnation of its apartheid regime" 8 October 2020 at <https://cihrs.org/united-nations-israel-attempts-to-silence-growing-condemnation-of-its-apartheid-regime/?lang=en>.

<sup>7</sup> Rome Statute, Article 7(2)(h), Apartheid Convention, Article II.

<sup>8</sup> See, for example, Al-Haq, "Al-Haq submits a joint urgent appeal to the United Nations Special Procedures on the ongoing Israeli smear campaign against Al-Haq," (24 August 2019), at: <http://www.alhaq.org/advocacy/14857.html>. See also Al-Haq, "Israeli Ministry of Strategic Affairs Campaign of Institutionalized Harassment Continues with the Alleged Closure of Palestinian NGOs' Financial Accounts," 19 June 2019, at: <http://www.alhaq.org/advocacy/6039.html>.

<sup>9</sup> Adalah, "Unofficial Translation of The Counter-Terrorism Law," available at: <https://www.adalah.org/uploads/uploads/TheCounterTerrorismLaw2016.pdf>.

<sup>10</sup> Adalah, "Israel's new Anti-Terror Law violates Arab citizens' human rights," 19 June 2016, available at: <https://www.adalah.org/en/content/view/8834>.

<sup>11</sup> Adalah, "'Anti-Terror' (Counter-Terrorism) Law, 2016, available at: <https://www.adalah.org/en/law/view/598>.

<sup>12</sup> Amnesty International, "Israel ramps up assault on civil society with chilling raid on Palestinian NGO Addameer," (19 September 2019), at: <https://www.amnesty.org/en/latest/news/2019/09/israel-ramps-up-assault-on-civil-society-with-chilling-raid-on-palestinian-ngo-addameer/>.

Israel has continued to escalate its attacks on Palestinian organizations using the 2016 Combatting Terrorism Law.

On 19 October 2021, Israel's Defense Minister, using powers granted by the Counter-Terrorism Law, designated six leading Palestinian civil society organizations as "terrorist organizations," including Addameer Prisoner Support and Human Rights Association (Addameer), Al-Haq Law in the Service of Man (Al-Haq), Bisan Center for Research and Development, Defence for Children International-Palestine (DCI-Palestine), the Union of Agricultural Work Committees (UAWC), and the Union of Palestinian Women's Committees (UPWC).<sup>13</sup> Subsequently on 3 November 2021, Israel's Military Commander-in-Chief issued a military order extending the terrorist designations, thereby operationalizing Israel's domestic law in the occupied West Bank and effectively outlawing the six Palestinian organizations.<sup>14</sup>

In the early morning of 18 August 2022, the Israeli occupying forces (IOF) raided the offices of the six designated organizations and the Health Work Committees (HWC).<sup>15</sup> In addition to confiscating documents and equipment, damaging property, and welding shut the doors of the offices, the IOF left behind military orders ordering the closure of the offices under article 319 of the Emergency Regulations of 1945.<sup>16</sup> The organizations and their employees remain at an additional risk of closure of bank accounts, as well as travel bans and other movement restrictions.

On 21 August 2022, Shawan Jabarin, the director of Al-Haq, received a threatening phone call from an individual claiming to be from the Israeli Security Service (Shabak) summoning him for interrogation at the Ofer military base in the occupied West Bank.<sup>17</sup> That same day, Khaled Quzmar, the director of DCI-Palestine, was summoned for interrogation at the Ofer military base where he was escorted onto the premises. Mr. Quzmar was not allowed to have his legal counsel accompany him during the interrogation, and he was later released.<sup>18</sup> Both Jabarin and Quzmar as well as the directors and staff of the other targeted organizations remain at risk of imminent arbitrary detention, prosecution on secret evidence, the appropriation of their assets and more for carrying out their work.

Israel's arbitrary designation and subsequent closure of these organizations poses an existential threat to their funding and their ability to continue their critical work documenting violations, seeking accountability, and providing critical services to the Palestinian people. The actions of the Israeli authorities send a clear message that "anyone who dares to speak out about Israeli human rights violations in Israel and the Occupied Palestinian Territories risks coming under attack."<sup>19</sup>

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<sup>13</sup> NPR, "Israel designates 6 Palestinian human rights groups as terrorist organizations," 23 October 2021, available at: <https://www.npr.org/2021/10/23/1048690050/israel-palestinian-human-right-groups>.

<sup>14</sup> Haaretz, "Two Weeks On, Israeli Army Extends Palestinian NGO Terror Designation to West Bank," 7 November 2021, available at: <https://www.haaretz.com/israel-news/.premium-two-weeks-on-israeli-army-extends-palestinian-ngo-terror-designation-to-west-bank-1.10361491>.

<sup>15</sup> Al Haq, "Alert: Israeli Occupying Forces Raid, Damage and Close Offices of Al-Haq and other Designated Organizations, International Community Must Intervene," 18 August 2022 at: <https://www.alhaq.org/advocacy/20442.html>.

<sup>16</sup> Ibid.

<sup>17</sup> Al Haq, "Al-Haq's Urgent Appeal to UN Special Procedures; Protect Human Rights Directors, Mr. Shawan Jabarin and Mr. Khaled Quzmar, Threatened with Arrest and Imprisonment," 21 August 2022 at <https://www.alhaq.org/advocacy/20471.html>.

<sup>18</sup> Ibid.

<sup>19</sup> Amnesty International, (19 September 2019), *op. cit.*

## The Targeting of Palestinian HRDs

As part of its campaign to silence opposition to apartheid, Israel uses a variety of policies to harass, intimidate, and silence Palestinian HRDs. The below cases provide key examples of this practice and how Israel uses punitive residency revocation and administrative detention to target Palestinian HRDs, including those that work for the organizations that have been designated.

By creating the precarious status of “permanent residents” for Palestinians in occupied East Jerusalem, Israel has created a situation whereby entry into and residency in Jerusalem is a revocable privilege as opposed to a right. Residency revocation is the most common and direct tool used to transfer protected Palestinians from occupied East Jerusalem.<sup>20</sup> Over the years, Israel has gradually expanded the criteria for the revocation of residency rights, including more recently on punitive grounds. Approximately 14,500 Palestinians have had their permanent residency revoked.<sup>21</sup>

On 7 March 2018, the Israeli Knesset passed an amendment to the Entry into Israel Law that authorizes the Minister of Interior to revoke the permanent residency of Palestinian residents of Jerusalem deemed to have “breached allegiance” to the Israeli state.<sup>22</sup> Israel uses residency revocation as a tool to forcibly transfer Palestinians from occupied East Jerusalem in order to reduce and eliminate their presence in the city and alter the demography.<sup>23</sup>

Salah Hammouri, 36, is a Palestinian- French Jerusalemite lawyer, member of the Addameer Prisoner Support and Human Rights association, and a former political prisoner. He was first arrested at the age of 16 and has since then been facing continuous judicial and administrative harassment by the Israeli occupation authorities, including six periods of imprisonment and arbitrary arrests, several travel bans, exorbitant bail and fines, house arrests, separation from his family, as well as surveillance and spyware attacks.

On 18 October 2021, the Israeli Minister of Interior decided to revoke Hammouri’s permanent residency status in Jerusalem based on “breach of allegiance to the State of Israel.”<sup>24</sup> The initiation of his residency revocation under Amendment No. 30 to the Entry into Israel Law of 1952 entails profound violations of international law and puts him at imminent risk of forced deportation.<sup>25</sup> It directly breaches Article 45 of the Hague Regulations and Article 68(3) of the Geneva Convention (GCIV), with the resulting forcible transfer violating Article 49 of the GCIV, amounting to a grave breach of the Geneva Conventions, the war crime of forced population transfer, and crimes against humanity of displacement<sup>26</sup> and apartheid.<sup>27</sup>

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<sup>20</sup> Al-Haq, *Residency Revocation: Israel’s Forcible Transfer of Palestinians from Jerusalem* (3 July 2017), at: <https://al-shabaka.org/releases/residency-revocation-israels-forcible-transfer-palestinians-jerusalem/>.

<sup>21</sup> Ibid.

<sup>22</sup> Knesset, Knesset Passes Legislation Authorizing Interior Minister to Revoke Permanent Residency Status over Involvement in Terrorism, 7 March 2018, available at: [http://knesset.gov.il/spokesman/eng/PR\\_eng.asp?PRID=13803](http://knesset.gov.il/spokesman/eng/PR_eng.asp?PRID=13803)

<sup>23</sup> Al-Haq, *Residency Revocation: Israel’s Forcible Transfer of Palestinians from Jerusalem* (3 July 2017), at: <https://al-shabaka.org/releases/residency-revocation-israels-forcible-transfer-palestinians-jerusalem/>.

<sup>24</sup> Addameer, “Israeli Minister of Interior to Officially Revoke Permanent Residency of Lawyer Salah Hammouri,” 18 October 2021 at: <https://www.addameer.org/news/4531>.

<sup>25</sup> Al-Haq, “Punitive Residency Revocation: The Most Recent Tool of Forcible Transfer”, 17 March 2022. Available at: Punitive Residency Revocation: the Most Recent Tool of Forcible Transfer (alhaq.org)

<sup>26</sup> Article 7(1)(d), Rome Statute of the International Criminal Court.

<sup>27</sup> Article 7(2)(h), Rome Statute of the International Criminal Court.

Salah Hammouri's case shows the Israeli authorities' widespread and systematic practice of illegal population transfer and demographic manipulation, as manifested through laws, policies, and practices, to maintain their institutionalized system of racial domination and oppression over the Palestinian people. Furthermore, the case represents the intensification of Israel's systematic silencing campaign targeting civil society organizations and individual human rights defenders to maintain its apartheid over the Palestinian people.

Israel utilizes administrative detention in a widespread and systematic manner as a key tool to intimidate, silence, and deny Palestinian HRDs their liberty, forming a key part of Israel's efforts to control and prevent the Palestinian people from challenging apartheid. Through administrative detention, the IOF can hold Palestinian prisoners indefinitely based upon secret information neither the detainee nor their lawyer has access to without charge or trial.<sup>28</sup> Administrative detention orders can be extended by the military courts for a maximum period of six months and can be renewed an unlimited number of times.<sup>29</sup>

On 7 March 2022, the IOF arrested Salah Hammouri during a dawn raid on his home in Kufr Aqab, north of Jerusalem. Three days later—on 10 March 2022—the Israeli military commander issued an administrative detention order against Salah for three months.<sup>30</sup> Since then, the administrative detention order has been renewed twice.

On 5 September 2022, Ofer military court confirmed the renewal order for an additional three months to end on 4 December 2022.<sup>31</sup> Salah's administrative detention, without charge or trial, is based on "secret information" and is still subject to indefinite renewal. As of 28 September 2022, Hammouri has been on hunger strike in protest of his imprisonment along with 29 other Palestinians held in Israeli administrative detention centers.<sup>32</sup>

The case of Salah Hammouri clearly illustrates how Israel criminalizes human rights defenders that challenge Israel's entrenched regime of apartheid, work towards accountability and justice, and provide needed services to the Palestinian people. It also shows an escalating policy of criminalizing fundamental Palestinian human rights and services through allegations of terrorist links and represents a dangerous encroachment of the jurisdiction of the Israeli military judicial system over the oPt.

### **Recommendations:**

- Israel should revoke immediately the terrorist designations of the six Palestinian organizations and reverse the military orders outlawing the seven organizations and closing their offices in the West Bank.

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<sup>28</sup> Addameer, "Administrative Detainees," at [https://www.addameer.org/the\\_prisoners/administrative\\_detainees](https://www.addameer.org/the_prisoners/administrative_detainees).

<sup>29</sup> Ibid.

<sup>30</sup> On 10 March 2022, the Israeli military commander issued a four-month administrative detention order, however, later on 13 March 2020, Salah's legal counsel was notified that the administrative detention order was faultily dated and corrected the duration of the order to three months instead of four months.

<sup>31</sup> Al Jazeera, "Israel extends detention of Palestinian French rights lawyer," 5 September 2022, at <https://www.aljazeera.com/news/2022/9/5/israel-extends-detention-of-palestinian-french-rights-lawyer>.

<sup>32</sup> The Guardian, "Human rights lawyer in Israeli prison goes on hunger strike," 28 September 2022, at: <https://www.theguardian.com/world/2022/sep/28/human-rights-lawyer-salah-hamouri-in-israeli-prison-goes-on-hunger-strike>.

- Israel should repeal the Combatting Terrorism Law 5776-2016 as it does not meet basic human rights standards and is being used to silence and repress freedom of expression and association.
- Israel should put an end to the systematic and ongoing practice of targeting Palestinian civil society organizations and intimidating Palestinian HRDs contrary to international law and as inhumane acts of apartheid.
- Israel should cease any and all practices and policies intended to intimidate and silence human rights defenders, in violation of their right to freedom of expression, including through arbitrary detention, torture and other ill-treatment, institutionalized hate speech and incitement, residency revocation, deportations, and other coercive or punitive measures.
- Third States to continue their support and increase funding, including core funding to the six organizations, and engage with financial institutions in their home States to ensure the transfer of funds to the six organizations.
- Third States should pressure Israel to immediately reverse the military order designating the six organizations as unlawful associations, and the military order commanding the closure of the organizations' premises and criminalizing the work of the six organizations and their staff.
- Third States should take concrete measures, such as trade restrictions and arms embargoes, to ensure that Israel is held internationally responsible for its ongoing systematic inhumane acts of apartheid, including the persecution of Palestinian human rights defenders.
- The international community should recognize the terrorist designations of Palestinian civil society as acts of persecution and apartheid and ensure its prosecution as an international crime.