



Mission permanente d'Israël
auprès de l'Office des Nations Unies
et des Organisations Internationales à Genève

משלחת ישראל
ליד משרד האומות המאוחדות
והארגונים הבינלאומיים בג'נבה

Ms. Beatriz Balbin
Chief
Special Procedures Branch
OHCHR
Palais des Nations
1211 Geneva 10

Geneva, 11 October 2019

To the attention of Mr. David Kaye, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr. Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association, and Mr. Michel Forst, Special Rapporteur on the situation of human rights defenders.

Please find herewith attached a communication submitted by Israel relating to the communication sent to the Permanent Mission of Israel, dated 7 October 2019 (Reference: AL ISR 13/2019).

Yours sincerely,

Aviva Raz Shechter
Ambassador
Permanent Representative



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The Permanent Mission of Israel to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and wishes to refer to the joint communication transmitted to it by Special Procedures on 7 October 2019 (Reference: AL ISR 13/2019). Regardless of the substantive response of Israel to the alleged accusation brought in this communication, Israel is profoundly disappointed once again from the context of the communication.

While the communication does not neglect to mention that "in August this year, a number of special procedures' mandate holders expressed concerns regarding smear campaigns and threats directed against a number of human rights organizations..." it comfortably, yet miserably, fails to mention the detailed and lengthy response provided by the State of Israel to the unfounded accusations brought against it in that communication.

Moreover, the present communication, which is based on the previous allegations made in August in complete disregard of Israel's response, determines that there is "a growing campaign to intimidate, restrict and ultimately silence HRD and other civil society organizations".

We are deeply dismayed that while the Special Rapporteurs claim they "do not wish to prejudge the accuracy of the allegations", they add that they "may publicly express their concerns in the near future" since in their view "the information....is sufficiently reliable".

It seems that the Special Rapporteurs have already made their mind about the allegations brought before them. Therefore, it is unclear why they even bother to contact the representatives of the State at all. The question is even more relevant as it seems that the State's responses are being completely ignored and not taken into consideration.

In our view, if Special Procedures intend to act in good faith, they cannot exempt themselves from awaiting the State's reaction and making sure it is taken into account, simply by informing the State about their intention to make their allegations public.

Regarding the Addameer organization, the subject of the communication, Israel wishes to draw the attention of the Special Rapporteurs to the crucial information published in the Jerusalem Post¹ according to which, an accountant employed by Addameer, is also the alleged leader of the Popular Front for the Liberation of Palestine (PFLP) terrorist cell

responsible for murdering 17 year-old Israeli Rina Shnerb, as well as for injuring her father and brother in August 2019.

Since the Special Rapporteurs seem to easily rely on information from NGOs, one would expect that this extremely relevant, and readily available open-source information, should have received the same consideration and should have been included in the communication. It definitely seems that such information should have made the Special Rapporteurs rethink their far reaching conclusions on the so-called "campaign" Israel is leading against NGOs in Israel.

For your convenience we are attaching as an annex to this communication Israel's response with regards to allegations of actions against NGOs. As Israel has expressly written in its reply, while NGOs should be allowed to operate freely, they are certainly not exempt or immune from criticism and should be subject to requirements of transparency and oversight. There is no place to confuse insistence on transparency and good governance, with the spurious claims presented by this communication.

The State of Israel remains willing to engage and cooperate with special mandate holders insofar as their mandate is balanced and objective, and as long as they act in impartiality. However, this is made difficult when the context of the communications brought before the State is partial and ignores the State's replies.

Finally, any communication co-signed with the holder of the inherently biased mandate on the "human rights in the Palestinian territories", cannot pretend to be impartial. This mandate, the only perpetual mandate of the Human Rights Council which is never up for renewal, is partial in its very essence, as it was set up exclusively to condemn one side, Israel, under the fundamentally discriminatory "Item 7" of the agenda of the HRC. We would therefore advise any special rapporteur wishing to foster a genuine engagement with Israel, to refrain from signing joint communications with the holder of this mandate, which is not recognized by Israel.

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July 31st, 2019

Government of Israel's Response to Joint Appeal

Ref: AL ISR 8/2019

Following your communication of May 31, 2019 (Reference AL ISR 8/2019) regarding "State publications which appear to stigmatize civil society organizations for their engagement with international bodies, including the UN in the field of human rights, and the broader harassment of civil society organizations," we would offer the following comments:

Regarding alleged attacks on civil society organizations operating in Israel and the Palestinian Territories, we reject these claims. Israel enjoys a rich, dynamic and vibrant civil society, and the role of NGOs is fundamental in the fabric of its democracy. As indicated during Israel's 2017 Universal Periodic Review, it maintains a dialogue with civil society organizations, and it facilitated a series of round tables to facilitate free discourse between civil society, academia and government representatives on core human rights issues. These sessions offered a unique platform for free discourse among civil society, academia and government representatives on core civil rights issues related, *inter alia*, to LGBT rights, Israelis of Ethiopian descent, the local Bedouin population, women's rights, rights of persons with disabilities, and social and economic rights in the periphery. Generally, as part of the commitment and relevance of civil society, discussions with its representatives are organized before presentations to the human rights treaty bodies, to enable discussion of State periodic reports that are submitted to committees on an ongoing basis, and to encourage civil society organizations to comment on the State's draft reports.

About 40,000 NGOs are registered in Israel, according to the "Registrar of Associations" (<https://www.gov.il/en/departments/general/about-associations>), about half of which are active (nearly 20,000). These NGOs cover a wide range of subjects, from health to poverty, from free speech to freedom of association, and are a fundamental asset, which strengthen and shape discussion and society as a whole.

Civil society is also active in the West Bank, characterized by a variety of NGOs who are active in a wide range of activities. Entry of humanitarian assistance to the Palestinian territories is facilitated by COGAT, the Coordinator of Government Activities in the Territories, which seeks to promote humanitarian projects with NGOs, as well as government and private sector partners, for the benefit of the Palestinian population. The International Organizations Department of COGAT is in continuous contact with more than 100 organizations and different consulates, and works with these bodies to realize various projects in infrastructure, construction, welfare, education and culture. For further details on their projects, refer to <http://www.cogat.mod.gov.il>

As the Ministry of Labor, Social Affairs and Social Services (MOLSA) indicates, international NGOs make significant efforts to assist the civilian Palestinian population, which does not receive sufficient services from the Palestinian Authority (PA) in terms of protecting their human rights. These organizations provide social services which should have been provided by the PA, and they improve, each one in its own manner, the quality of life of the Palestinian population. Over 150 international civil society organizations are officially registered with MOLSA, and COGAT estimates that at least 300 additional such NGOs are working in the Palestinian territories.

Generally, Israel provides privileges and benefits to registered international NGOs based in Israel, including, for example: Israeli work permits for a period of up to five years without fees, (representing a significant in-kind contribution to their work), free passage between the West Bank and Israel, ability to enter and work in Gaza, passage to Israel for the Palestinian employees of these organizations living in the West Bank. Attempts to conduct joint humanitarian work with the Palestinians, initiated by MOLSA, together with COGAT, with the assistance of UN bodies, have been made many times, with no success – unfortunately, due to a lack of cooperation from the Palestinian side.

Regarding alleged stigmatization of civil society organizations, as indicated here, Israel facilitates the work of NGOs and they play an important role in Israeli society. However, this does not mean that they are immune from criticism.

BDS (Boycott Divest and Sanctions) organizations often hide behind human rights claims. In fact, these organizations cynically promote boycotts and delegitimizing actions against Israel, under the guise of human rights. Israel, like any other country, has the right and obligation to protect its citizens, residents and institutions from potential harm.

As mentioned in your communication, Israel's Ministry of Strategic Affairs revealed direct links between BDS-promoting NGOs and designated terrorist organizations. The report, "Terrorists in Suits" (3/2/19),¹ provides over 100 examples of the connections between designated terrorist organizations (including Hamas and the Popular Front for the Liberation of Palestine) to leading boycott organizations. The report also shows that 30 former and current terrorists are currently functioning as boycott activists around the world. The report presents the method of operation of inserting terror activists into civil society organizations, with a purpose of whitewashing their activities, fundraising, and gaining legitimacy. It is worth noting that the report is based on open source, publicly available information.

Under the guise of promoting human rights, BDS activists promote boycotts and the delegitimization of Israel, in clear contradiction to the stated policy of the European Union and other European countries. The "Money Trail" report by the Ministry of Strategic Affairs² provides EU and other European countries with information regarding the funds which have been allocated to organizations that promote boycotts and the delegitimization of Israel, in some cases the funds arrive at organizations with ties to terror. These reports enable the funders to ensure that their financial contributions are being used for their intended purpose.

In fact, several countries have already announced that they will re-examine the transfer of funds and some have decreased their funding to NGOs, on the understanding that their funds may be supporting undesirable goals. In addition, the European Court of Auditors (ECA), the financial oversight body of the EU, published a report in December 2018 – "Transparency of EU funds implemented by NGOs: more effort needed," which indicates a concern with the transparency of the EU.³ The ECA stated that the Council of Europe does not have enough detailed information about the manner in which funds are transferred to organizations. In addition, the ECA report states that higher transparency and clarity is required regarding the purpose of the funds transferred by the EU to NGOs. In other words, the report reveals a serious concern regarding the misuse of funds by organizations that are supported by the EU, for purposes for which they were not explicitly designed.

Regarding claims of intimidation during the HRC March 2019 session, these are unfounded accusations hidden behind the veil of anonymity. We cannot respond or refute claims made

¹ <https://4il.org.il/wp-content/uploads/2019/02/MSA-Terrorists-In-Suits-English-1.pdf>

² <https://4il.org.il/wp-content/uploads/2019/01/The-Money-Trail-2nd-Edition-January-2019.pdf>

³ <https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=%7B6D0671EA-A945-4A29-8197-245B3C05BD81%7D>

against an Israeli NGO whose identity is unknown. We would request that communications not include any information which is not subject to verification. In our view, including anonymous accusations in this communication undermines its credibility, and is not constructive to an open and productive dialogue.

Regarding the legislative background and current environment, in a general manner, we would emphasize that Israel respects the rule of law, and complies with its obligations under international law. It is worth noting that each law, which is drafted by the Knesset (the Israeli Parliament), may be subject to judicial review by the Supreme Court, which examines and balances between conflicting values. In this vein, the Government respects and implements the decisions of the Supreme Court. Israel provides further information on a regular basis to all the human rights treaty bodies to which it is signatory it is a party to, as part of its commitment to the periodic review process. We refer you to these reports, publicly available on the UN system website, for further information.

The legislation mentioned in the report - *Law for Prevention of Damage to the State of Israel through Boycotts*, was adopted by the Israeli Parliament, and is an expression of Israel's sovereignty and democratic parliamentary process. This Law determines *inter alia* that anyone who publishes a public call for imposing a boycott on the State of Israel may be committing a civil tort if, according to the call's content and circumstances of the publication, there is a reasonable possibility that the call will result in a boycott, and the perpetrator is aware of such a possibility.

The Law is intended to protect Israeli citizens from damage caused by organized boycotts and to guarantee that public financial sources will not be used to support activities that may harm Israeli citizens.

Several petitions were filed against this law, and on April 15, 2015, the High Court of Justice, in an extended panel of nine judges, rejected the petitions claims concerning most of the Law's sections, which permit the Minister of Finance to enforce administrative sanctions against anyone who publishes a call for imposing a boycott on the State of Israel, or on anyone who is committed to participating in such a boycott. However, the court ruled that one Section of the Law is void. This provision allowed a Court to inflict exemplary compensation, regardless of any damage, on anyone who maliciously calls for imposing a boycott on the State of Israel.

With reference to the “2016 Transparency Law,” known in Israel as - *Disclosure Requirements Concerning Beneficiaries of Donations by a Foreign Political Entity Law (Amendment-Increasing the Transparency of Donations from a Foreign Political Entity to Beneficiaries whose Primary Funding is from Contributions by a Foreign Political Entity)* 5775-2015, it should be noted that the Law does not impose restrictions on civil society organizations’ ability to raise funds in support of their activities. Rather, it aims to enhance transparency with respect to nonprofit organizations and charitable companies whose primary source of financing stems from foreign political entities, in light of concerns over potential interference of by foreign governments and entities.

Furthermore, as mentioned above, the new legislation **does not place any limits on the funding of NGOs, does not discriminate between NGOs** on the basis of ideology or political orientation, **does not place any limit on the activity of NGOs**, or impose any restrictions on their freedom of association, and **does not impose any additional financial obligations or sanctions** to NGOs.

With reference to the *Bill for the Entry into Israel Law (Amendment no. 28)* and in regard to alleged denials, restrictions on work permits and visas for "human rights defenders" (p. 5), we wish to clarify that consistent with internationally accepted norms, all states have the right to regulate the entry of foreign nationals into their territory, including by placing conditions on such entry, such as on working permits, and do so in practice. Israel is no exception in this regard. Accordingly, shortly after the establishment of the State, *The Entry into Israel Law* 5712-19 was adopted. This law granted the Minister of Interior the authority to approve, deny or condition the entry of any person into Israel, subject solely to the Minister’s discretion and in accordance with specified procedures. In March 2017, the Knesset adopted Amendment no. 28 to *The Entry into Israel Law*, 5777-2017. The amendment provides that a foreigner will not be granted permission to enter Israel or a visa of any kind, if they have publically called for the boycotting of Israel, or have committed to participate in a boycott against Israel.

It is important to clarify that the State of Israel has a long and well-established tradition of respecting freedom of speech. One should also recognize the principled distinction between legitimate criticism of the policies of the Government of Israel, which can serve to further debate and discussion, and someone who is actively engaged in measures which seek to cause direct harm to the State of Israel and its economy, and are intended to stifle the free and open exchange of ideas.

Regarding this law, it is being implemented in a proportional manner, according to public criteria, only towards organizations and individuals who **actively** and **continuously** promote boycotts. It should be emphasized that the mere fact that an NGO does not agree with the policies of the government, or actively criticizes said policies, is not sufficient to deny entrance to Israel. In fact, only 16 individuals have been denied entry to Israel as a result of this law.

In conclusion, Israel as a democratic country governed by the rule of law, remains committed to protecting and ensuring human rights. The dialogue with civil society organizations and the significant presence and contribution of these bodies to the fabric of civil society are a hallmark of Israel's democracy. Human rights organizations in Israel and elsewhere are not immune from criticism and should be subject to requirements of transparency and oversight. There is no place to confuse insistence on transparency and good governance, with the spurious claims presented by this communication.
