

**NATIONS UNIES  
HAUT COMMISSARIAT DES NATIONS UNIES  
AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9)  
ISR 7/2011

29 August 2011

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Special Rapporteur on the rights to freedom of peaceful assembly and of association, and Special Rapporteur on the situation of human rights defenders, pursuant to General Assembly resolution 60/251 and to Human Rights Council resolutions 16/4, 15/21 and 16/5.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding **the adoption of the 'Law for Prevention of Damage to the State of Israel through Boycott – 2011' by the Israeli Knesset.**

According to the information received:

It is reported that on 11 July 2011, a new law, called 'Law for Prevention of Damage to the State of Israel through Boycott – 2011', was adopted by the Israeli Knesset, by a majority of 47 to 38 votes.

It is alleged that the law defines calling for a boycott as a 'civil wrong', therefore the law of tort is allegedly applicable. It is further alleged that anyone who knowingly publishes a public call for a boycott against the State of Israel can be sued and fined for damages by their intended target, including cases where no actual damage has been caused to the boycotted party.

It is also alleged that the anti-boycott law prohibits calls for a "boycott of the State of Israel" by any person or any organisation who is in Israel when making such calls, and can be applicable in cases of agreement to participate in a boycott. Furthermore, the definition of "boycott of the state of Israel" is not limited to the state of Israel and its institutions, but also applies to the Israeli settlements in the occupied Palestinian territory.

It is further alleged that Israeli businesses and industries, as well as Israeli subsidiaries of foreign companies, will be penalised by the law if they refuse to trade with settlement businesses.

It is also reported that in case that Israeli individuals and groups, including academic, cultural and scientific institutions, support a boycott, the law allows the Government to revoke tax exemptions and other rights and benefits to those that receive external public funding. This allegedly means that in many cases organisations that are engaged in public campaigning against Israeli settlements, as well as human rights campaigns of different nature, will be affected by the legislation.

It is reported that in February 2011, 53 civil society organisations in Israel signed a letter addressed to the Speaker of the Knesset in protest against the draft law. It is further reported that the 'Law for Prevention of Damage to the State of Israel through Boycott – 2011' is the second law adopted by the Knesset in less than six months that allegedly restricts the activities of the civil society.

Concern is expressed that the 'Law for Prevention of Damage to the State of Israel through Boycott – 2011' may intend to restrict freedoms of expression and association as it targets non-violent public expressions of opposition to Israeli occupation policies and practices, particularly Israeli settlements in the occupied territory. Further concerns are expressed regarding the legal and financial sanctions that could severely curtail the work of civil society organisations, in particular those defending the human rights of Palestinians in the occupied Palestinian territory, by subjecting them to threats of lawsuits and fines, stripping them of their tax-exempt status and forcing them to shut down.

While we do not wish to prejudge the accuracy of these allegations, we would like to appeal to your Excellency's Government to take all necessary steps to ensure the fulfillment of the right to freedom of opinion and expression in accordance with fundamental principles as set forth in article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

We would like to reiterate the principle enunciated in Human Rights Council Resolution 12/16, which calls on States, while noting that article 19, paragraph 3 of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions which are not consistent with paragraph 3 of that article, including on (i) discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including for peace or

democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups.

Similarly, we would like to draw the attention of your Excellency's Government to article 22 of the Covenant, which provides that "1. [e]veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests. 2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others...".

In addition, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice."

We would also like to bring to the attention of your Excellency's Government the following provisions of the Declaration:

- article 5, point b) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to form, join and participate in non-governmental organisations, associations, or groups;

- article 12, paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms, and

- article 13, (b) and (c) which stipulate that everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedom, through peaceful means.

Furthermore, the Special Rapporteur on the situation of human rights defenders, in her report to the General Assembly A/64/226, stated that “[h]uman rights organizations that are independent and whose objectives and activities are not in violation of the International Covenant on Civil and Political Rights should have the right to engage in activities for the benefit of their members and for the public; and should be free to participate in public policy debates, including debates about and criticism of existing or proposed State policies or actions. Any limitations, within these parameters, including lists of permitted and prohibited activities, are incompatible with the right to freedom of association” (para. 122).

It is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide information concerning the legal grounds for adoption of the ‘Law for Prevention of Damage to the State of Israel through Boycott – 2011’, and how the law is compatible with Israel’s obligations under international human rights law to respect and promote freedoms of expression and association, as outlined above.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency’s Government’s response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Frank La Rue  
Special Rapporteur on the promotion and protection of the right to  
freedom of opinion and expression

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Special Rapporteur on the rights to freedom of peaceful assembly and  
of association

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