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# ISRAEL / OCCUPIED PALESTINIAN TERRITORY

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS  
ANNUAL REPORT 2011

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Generally speaking, in 2010-2011, the work conditions of Israeli defenders remained more favourable than those of the defenders from the Occupied Palestinian Territory (OPT) or from other countries in the region. However, attacks to delegitimise or intimidate NGOs and Israeli human rights defenders intensified, either through media smear campaigns or legislative attempts to restrict their scope of action, particularly following their denunciation of the international crimes committed during the operation “Cast Lead”. In general, Palestinian, Israeli and foreign defenders continued to face numerous obstacles to their freedom of movement. Defenders of the Arab minority in Israel or those who denounced the construction of the separation wall and the forced evictions in the West Bank and Israel, were subjected to judicial harassment. Moreover, several meetings on human rights were banned in the Gaza Strip.

## Political context

One year after the United Nations fact-finding mission on the 2009 military operations in the Gaza Strip (“Goldstone Mission”) concluded that Israeli forces and Palestinian armed groups had committed war crimes or even crimes against humanity<sup>1</sup>, neither the Israeli authorities nor the Hamas Government had conducted exhaustive and independent inquiries in conformity with the international norms on the grave breaches of international law allegedly perpetrated during the operation “Cast Lead”<sup>2</sup>. Furthermore, the Israeli authorities had not conducted an independent

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1/ Crimes committed during operation “Cast Lead”, a large-scale Israeli army offensive in the Gaza Strip from December 27, 2008 to January 19, 2009, in which 1,419 Palestinians were killed and 5,300 others were wounded.

2/ The authorities have neither investigated alleged cases of illegal acts nor examined the alleged responsibility of senior decision-makers. By the end of 2010, only three soldiers had been put on trial, one accused of stealing a credit card and the two others of having used a child as a human shield. The Committee of Independent Experts tasked with evaluating all the judicial as well as any other procedures engaged in with internal jurisdictions, both by the Israeli Government and the Palestinian authorities, in the framework of the follow-up to the Goldstone Report, presented its report to the United Nations Human Rights Council on September 27, 2010. In particular, the report denounced the lack of independence and impartiality in the investigations conducted by the two parties. See Human Rights Council, *Report of the Committee of independent experts in international humanitarian and human rights laws to monitor and assess any domestic legal or other proceedings undertaken by both the Government of Israel and the Palestinian side in light of GA resolution 64/254 including the independence, effectiveness, genuineness of these investigations and their conformity with international standards*, United Nations Document A/HRC/15/50, September 23, 2010.

and impartial inquiry into the military attack launched on May 31, 2010 against a humanitarian flotilla off the coast of the Gaza Strip, which caused the death of nine people<sup>3</sup>.

While a right-wing coalition Government is in power in Israel since early 2009, the climate in which operate those who criticise the Government policy, particularly relating to defence and homeland security, including opposition members, journalists and human rights defenders, became more tense in Israel in 2010–2011. Political parties and other right-wing organisations also increasingly questioned the scope of the freedom of expression, especially by their speech calling for action against those who criticise the policy of Israel<sup>4</sup>. In the OPT, civil society also continued to face difficulties, particularly because of the humanitarian situation in Gaza. The ban on the vast majority of exports and imports has kept Gaza's population in poverty and reliant on humanitarian organisations<sup>5</sup>. In addition, because of restrictions on the movement of people, it has become extremely difficult for Palestinians to leave Gaza, even for medical care<sup>6</sup>.

In the OPT, the rivalry between the Hamas Government in the Gaza Strip and the Palestinian Authority in the West Bank resulted in further human rights violations. As of the end of 2010, according to reports, nearly 400 people suspected of supporting Hamas or Islamic Jihad continued to be held in arbitrary detention in the West Bank by Palestinian security services, while dozens of Fatah members, the party of the Palestinian Authority President, had been arrested by the Hamas security forces<sup>7</sup>. Journalists also continued to bear the brunt of political tensions between

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3/ In June 2010, the Government approved the creation of a commission composed of three Israeli members, backed up by two international observers, tasked with examining the military action against the humanitarian flotilla transporting humanitarian aid to the Gaza Strip, subjected to an Israeli blockade since 2007 in violation of international law. However, the commission is not mandated to hold talks with members of the Israeli who planned and participated in the military raid, with the exception of the chief-of-staff. The commission submitted its preliminary report on January 23, 2011, which asserted that the intervention of the Israeli soldiers was legal and in conformity with international law.

4/ In addition, a survey conducted in January 2011 showed that 52% of Israeli Jews would support restrictions on freedom of expression in the media if the articles tarnish the image of the country, while 64% would accept restrictions in situation of threat against national security.

5/ 80% of Gaza families live with one dollar a day; unemployment stands at 40% ; and four Gaza residents in five rely on humanitarian aid to survive.

6/ In October 2010, there were 99 checkpoints in the West Bank, 62 of them located inside the territory and 37 on the border with Israel. The number of flying checkpoints varies from one moment to the next. The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimated that between April 2009 and March 2010, there were on average 310 flying checkpoints at any one time. See OCHA Report, *Circulation in and Access to the West Bank*, June 2010.

7/ See PCHR Press Releases, July 4 and October 11, 2010.

the two factions<sup>8</sup>. The situation improved slightly with the announcement on April 27, 2011 by representatives of Fatah and Hamas assembled in Cairo that they had agreed to form a transitional government with a view to holding presidential and legislative elections in April 2012.

On April 15, 2010, Hamas carried out its first executions in five years. Those executed were two Fatah men convicted in 2009 by military courts in Gaza of “collaboration” with the Israeli army and “participation in a murder”<sup>9</sup>.

### **Multiplication of smear campaigns and legislative initiatives to restrict or criminalise human rights activities in Israel**

In 2010-2011, several Israeli politicians, including members of the Government and the Parliament, with the support of civil society organisations close to far-right wing such as the NGO Monitor, the Israel Academia Monitor and “Im Tirtzu – The Second Zionist Revolution”, whose main activity is to criticise other NGOs, stepped up their criticism and smear campaigns against human rights NGOs in Israel that had denounced Israeli policy, notably human rights violations committed in the OPT or against Israeli Arabs. Thus, on April 16, 2010, the Israeli far-right nationalist movement “Im Tirtzu” issued a report accusing a dozen human rights organisations, including Adalah, the Legal Centre for Arab Minority in Israel, the Public Committee Against Torture in Israel (PCATI) and the Palestinian Centre for Human Rights in Gaza (PCHR), of initiating or supporting legal actions against Israeli officials for serious violations of international law before foreign courts. Mr. **Hassan Jabareen**, Director General of “Adalah”, was particularly targeted in this report for expressing a legal opinion on the lack of domestic remedies for war victims in Gaza. Im Tirtzu also launched a poster campaign using defamatory slogans against Adalah and the New Israel Fund (NIF), an NGO that finances Israeli NGOs. On January 10, 2011, Israeli Foreign Minister Avigdor Lieberman accused the Union of Arab Community-Based Associations, New Profile, Adalah, Physicians for Human Rights - Israel, the PCATI and other NGOs, of supporting terrorism and trying to weaken the Israeli Defence Forces (IDF) and their efforts to protect the citizens of Israel, in collaboration with the Goldstone Committee<sup>10</sup>. Right-wing groups also conducted a smear campaign against

8/ See PCHR Press Release, November 11, 2010.

9/ These executions were carried out in violation of Palestinian law, which stipulates that death sentences may only be implemented after being ratified by the Palestinian Authority President. See PCHR Press Release, April 15, 2010.

10/ See Adalah.

a number of NGOs that have sought to shed light and bring to justice those responsible for violations of international law committed by the IDF during the operation “Cast Lead”.

In this context, several draft laws that seek to intimidate and stifle civil society organisations were discussed or adopted by the Knesset. Thus, on February 21, 2011, the Knesset passed a law that aims to restrict funding from abroad for Israeli NGOs<sup>11</sup>. Indeed, the new legislation stipulates that in all their public statements and documents NGOs must state if they receive funds from a foreign political entity. In addition, NGOs must disclose on their website the identity of their donors and the destination of the funds they receive, and submit an annual report to the authorities with information on donations from foreign Governments. Failure to comply with this provision is punishable by fines and imprisonment<sup>12</sup>. On January 5, 2011, the Knesset voted to establish a parliamentary commission to investigate the sources of funding for NGOs accused of carrying out activities designed to prosecute Israeli soldiers and officers abroad and that challenge the legitimacy of the Israeli army, as well as another commission to examine the role of foreign Governments and agencies in the financing of anti-State activities. Furthermore, another draft bill passed by the Knesset on March 7, 2011, sanctions organisations that denounce the Israeli occupation and that call for an end to settlements<sup>13</sup>. In addition, following the publication of the Goldstone Report, several bills were tabled in the Knesset to restrict the activities of civil society organisations, especially those that denounce massive violations of human rights committed by the Israeli State. In April 2010 for example, a group of nineteen Knesset members filed an amendment to the Associations Law aimed at eliminating the possibility to investigate and engage in legal proceedings for human rights violations committed by the State of Israel. The bill, entitled “Amendment - Exceptions to the Registration and the

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11 / The bill was introduced in February 2010 after the organisation in December 2009 by the NGO Monitor, together with the Institute for Zionist Strategies, of a conference in the Knesset called “Foreign Government Funding for NGO Political Activity in Israel”.

12 / This concerns a draft law related to obligations of beneficiaries from aid from foreign political entities to provide information. In its original version, the draft law was more restrictive, ruling that any organisation “seeking to influence public opinion in Israel” would be considered as a “political organisation” rather than a charitable organisation. This would have obliged it to register at the registry for political parties, meaning it would lose the tax exemption status normally afforded to non-profit organisations. See Adalah Press Release, February 11, 2011.

13 / The provisions of this law include heavy fines for Israeli citizens or bodies that instigate or incite boycotts against Israeli organisations, citizens or products, both in Israel and the OPT. This could affect defenders who call for a boycott of Israeli products in protest against the impact of Israeli policies on human rights law and international humanitarian law. See the Association for Civil Rights in Israel (ACRI) Press Release, February 16, 2011.

Activities of an Association”, may prohibit the registration of any NGO or close down any existing NGO if “there are reasonable grounds to conclude that the association is providing information to foreign entities or is involved in legal proceedings abroad against senior Israeli Government officials or IDF officers, for war crimes”. Under this bill, an existing NGO may be dissolved if it is engaged in such activities. As of early 2011, the Government had not yet ruled on this project. In addition, on November 7, 2010, a bill aimed at suppressing activities detrimental to Israel as a Jewish and democratic State was discussed by the Ministerial Committee for Legislation, which decided to refer it to the Minister of Justice for review. This project authorises the registration bodies for associations and companies to close down an association or a company if their objectives and actions are considered to be detrimental to “the State of Israel as a Jewish and democratic State”. As of late April 2011, the draft bill had not yet been returned to the Knesset. In addition, in December 2010, a draft bill designed to punish people who assist illegal immigration was published by the Government. This draft law, which may hamper the activities of NGOs defending the rights of migrants and asylum seekers, had not yet been reviewed by the Knesset by late April 2011<sup>14</sup>.

### **Continued repression of human rights defenders who denounce the construction of the separation wall and forced evictions in the West Bank and Israel**

In 2010-2011, the Israeli authorities continued to sanction defenders who peacefully expressed their opposition to the construction of the separation wall in the West Bank, notably by invoking more frequently Military Order No. 101 of May 27, 1967, which prohibits acts of incitement and hostile propaganda targeting Israel in the West Bank and punishes them by a prison term of up to ten years, against Palestinians who organise demonstrations denouncing the separation wall<sup>15</sup>. Thus, following their release on January 13, 2010 after being placed in administrative detention for several months by the Israeli army, Mr. **Jamal Juma**, Coordinator of the “Stop the Wall” Campaign, and Mr. **Mohammed Othman**, a volunteer for the Stop the Wall Campaign in the West Bank, had to undertake not to leave the West Bank and to report regularly to an Israeli police station, while the passport of the Coordinator of the same campaign, Mr. **Jamal Juma**, seized on the day of his arrest, remained retained by the Israeli authorities

<sup>14</sup>/ See ACRI.

<sup>15</sup>/ This order provides for a maximum sentence of ten years for persons accused of violating the law. See B'Tselem Report, *The right to demonstrate in the Occupied Territories*, July, 2010.

as of the end of April 2011, under Military Order No. 101<sup>16</sup>. Moreover, on January 11, 2010, Israel's Military Court of Appeal in Ofer extended the prison sentence imposed at trial against Mr. **Abdallah Abu Rahma**, a teacher and Coordinator of the Bil'in Popular Committee Against the Wall and Settlements, to sixteen months for "incitement to violence and participation in an unauthorised meeting"<sup>17</sup>. After being sentenced to twelve months' imprisonment by the Military Court on October 11, 2010, Mr. **Abu Rahma** was to have been released on November 18, 2010, but military prosecutors appealed against that release date and he was finally freed on March 14, 2011<sup>18</sup>. Mr. **Mohammad Khatib**, a member of the same committee and Secretary of the Bil'in village council, remained the target of reprisals in 2010. On August 4, 2010, he was prevented by the Israeli authorities from travelling to Jordan from where he was to fly to Europe in order to meet with international organisations to denounce the separation wall barrier, under Military Order No. 101. In addition, following his indictment in August 2009 for "inciting violence", his trial had not yet taken place as of the end of April 2011.

From January to December 2010, the Israeli police arrested more than 120 people who were protesting peacefully against the forced evictions of Palestinian citizens by the Israeli authorities, especially in the Palestinian neighbourhood of Sheikh Jarrah in East Jerusalem<sup>19</sup>. For example, on January 15, 2010, seventeen people, including Mr. **Hagai el-Ad**, Executive Director of the Association for Civil Rights in Israel (ACRI), were arrested at one of these gatherings. Those arrested were released without charge on January 16, 2010, by decision of the Court of Jerusalem, which ruled that the demonstrations were legal and required no prior administrative authorisation. On January 22, a week after that Court decision, 22 other demonstrators were arrested before being released without charge by the Israeli authorities.

### **Restrictions on freedom of movement aiming at hampering the activities of NGOs and human rights defenders in Israel and the West Bank**

Obstacles to freedom of movement continued to hamper the work of local and foreign defenders of human rights, preventing them from

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16 / Mr. Mohammed Othman was arrested on September 22, 2009 by Israeli soldiers on his return from Norway where he had met various Palestinian groups and Palestinian Government members to discuss the issue of the West Bank separation wall. Mr. Jamal Juma' was arrested on December 16, following a series of protest rallies against the construction of the separation wall.

17 / Mr. Abu Rahma was arrested by Israeli soldiers on the night of December 9 to 10, 2009 because of his participation in a peaceful rally against the separation wall in the village of Bil'in.

18 / See ACRI Press Release, March 14, 2011.

19 / See B'Tselem.

moving around in the framework of their activities. The almost total closure of the Gaza Strip, and the system of checkpoints, fixed or flying, the separation wall and the permit system in the West Bank constitute obstacles that prevent human right defenders from leaving the West Bank or the Gaza Strip, or travelling between them. These restrictions also prevented Palestinian and Israeli defenders from having contact and working together. However, in March 2010, the Israeli Interior Ministry waived application of a regulatory measure that had severely restricted work permits issued in the OPT to staff of international NGOs. Indeed, since the autumn of 2009, the Interior Ministry had stopped issuing work permits to foreign nationals working in most international NGOs, granting them only tourist visas that do not authorise them to work in the OPT, including East Jerusalem. Between 140 and 150 NGOs working among the Palestinian population were affected by this measure, which threatened to put an end to their activities.

In the West Bank, on March 28, 2010, Mr. **Shawan Jabarin**, Director General of the Palestinian NGO “Al-Haq”, was prevented from leaving the OPT to travel to Cairo to attend a regional conference on the protection of human rights organised by the Cairo Centre for Human Rights<sup>20</sup>. Similarly, Mr. Jamal Juma’ is subject to a travel ban that prevented him from participating in multiple meetings on human rights to which he was invited, including the World Social Forum held in Porto Alegre in January 2010, or a conference on Palestine organised on February 27 and 28, 2010 by the School of Oriental and African Studies, University of London<sup>21</sup>.

In Israel, in 2010-2011, Mr. **Mordechai Vanunu**, an Israeli anti-nuclear activist, remained subjected to an administrative order preventing him from leaving the country and talking to foreign journalists<sup>22</sup>. Furthermore, on May 11, 2010, the Israeli Court of Justice sentenced him to three months in prison for having had contact with a foreigner. On May 23, 2010, he was sent to Ayalon prison in central Israel, where he was placed in solitary confinement. He was released on August 8, 2010.

20 / Since his appointment as Director General of Al-Haq in 2006, Mr. Jabarin has been subjected to a travel ban issued by the Israeli military authorities who claim that they are in possession of “secret evidence” proving that Mr. Jabarin is an “active member of a terrorist organisation”.

21 / See above.

22 / Since the release of Mr. Mordechai Vanunu in 2004, the Israeli authorities have placed him under police surveillance in application of a military order that is renewed every six months. The order also prohibits him from having any contact with foreigners and from leaving the country or having any communication with foreign embassies. All requests submitted by his lawyers to the Supreme Court of Justice to lift these restrictions have been turned down.

## Obstacles to freedom of peaceful assembly in the Gaza Strip

In 2010-2011, the freedom of peaceful assembly deteriorated considerably in the Gaza Strip. Palestinian Law No. 12 of 1998 stipulates that public meetings and public gatherings must be notified with at least 48 hours notice to the Director of the police or the Governor. No permission is therefore required. However, on May 24, 2010, three public meetings organised by NGOs were banned on the grounds that they were not authorised. Thus, the Hamas Internal Security Agency prevented the Palestinian Independent Commission on Human Rights from organising a workshop in a hotel in Gaza to present its annual report on human rights. Similarly, the police broke up a public meeting on the same day by the Palestinian NGOs Network (PNGO) in a camp for children, set up in western Gaza by the United Nations Relief and Works Agency for the Palestinian Refugees, to protest against the attack on the camp by unknown assailants on May 23, 2010. PNGO, which had notified the Palestinian authorities about the organisation of this meeting, was informed of their refusal on the day of the gathering. Finally, on May 24, 2010, Palestinian police forces banned a public meeting that the General Union of Palestinian Women (GUPW) planned to hold in a hotel in the northern part of the Gaza Strip to commemorate the 62<sup>nd</sup> anniversary of the Nakba. The police accused the GUPW of not having the necessary authorisation, although GUPW members had in fact obtained prior permission from the Government authorities in the Gaza Strip to organise the event. Several peaceful demonstrations organised in the Gaza Strip were also repressed by the police. For example, on March 15, 2011, thousands of Palestinians gathered peacefully in Al-Katib square in Gaza to demand an end to political fragmentation between the West Bank and Gaza Strip. The demonstrators were first attacked by men in civilian clothes and then by members of security forces who insulted and beat them with sticks. Women and journalists were also violently attacked by security forces<sup>23</sup>.

## Harassment of defenders of the Arab minority in Israel

In 2010-2011, defenders who denounced the restrictions of political freedoms of Arab citizens in Israel were subjected to reprisals by the authorities. For example, on May 6, 2010, members of the Israeli Security Agency (ISA), accompanied by police officers, arrested Mr. **Ameer Makhoul**, Director General of Ittijah and Chairman of the Popular Committee for the Defence of Political Freedoms, as part of the High Follow-up Committee for the Arab Citizens of Israel. During



his arrest, his house was searched and his personal documents as well as his telephone, computer and camera were confiscated. The arrest came shortly after the Israeli Interior Minister had issued a two-month travel ban against him, on April 21. Mr. Makhoul was held incommunicado for twelve days, during which he was allegedly subjected to torture and ill-treatment to extract confessions, without access to legal counsel. On January 30, 2011, the Haifa District Court sentenced him to nine years in prison with an additional suspended sentence to one year of prison for “conspiracy to support the enemy”, “aggravated espionage”, and “contact with a foreign agent”<sup>24</sup>. As of late April 2011, he was detained in Gilboa prison in southern Israel.

### **Urgent Interventions issued by The Observatory from January 2010 to April 2011**

| <b>Name</b>                                    | <b>Violations / Follow-up</b>                                                     | <b>Reference</b>                     | <b>Date of Issuance</b> |
|------------------------------------------------|-----------------------------------------------------------------------------------|--------------------------------------|-------------------------|
| <b>Messrs. Jamal Juma' and Mohammad Othman</b> | Arbitrary detention                                                               | Urgent Appeal ISR 002/1209/OBS 198.1 | January 7, 2010         |
|                                                | Release                                                                           | Press Release                        | January 15, 2010        |
| <b>Mr. Jamal Juma'</b>                         | Obstacles to freedom of movement                                                  | Press Release                        | May 28, 2010            |
| <b>Mr. Hagai El-Ad</b>                         | Obstacles to freedom of peaceful assembly                                         | Press Release                        | January 22, 2010        |
|                                                | Obstacles to the freedom of association                                           | Urgent Appeal ISR 001/0210/OBS 013   | February 1, 2010        |
|                                                | Cancellation of a measure detrimental to the activities of human rights defenders | Urgent Appeal ISR 001/0210/OBS 013.1 | March 11, 2010          |
|                                                | Obstacles to freedom of association                                               | Joint Open Letter to the authorities | March 10, 2010          |
| <b>Mr. Shawan Jabarin</b>                      | Obstacles to the freedom of movement                                              | Urgent Appeal ISR 001/0607/OBS 069.3 | April 12, 2010          |

24 / After having denied accusations against him for several months, on October 27, 2010, Mr. Makhoul accepted a plea bargain, pleading guilty to “conspiring to support an enemy,” “aggravated espionage” and “contact with a foreign agent”. In return, the prosecution dropped the charges for “assisting the enemy in wartime”, the most serious offence, punishable by a life sentence.

| Name                                                                                                                                                                                                                                                                                                                                                                     | Violations / Follow-up                                  | Reference                          | Date of Issuance |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|------------------------------------|------------------|
| Mr. Hassan Jabareen / Adalah, Public Committee Against Torture in Israel (PCATI), Palestinian Centre for Human Rights in Gaza (PCHR), Gisha, Bimkom, Physicians for Human Rights - Israel, HaMoked, B'Tselem, Association for Civil Rights in Israel (ACRI), Yesh Din, Machsom Watch, Social TV, Zochrot, Coalition of Women for Peace (CWP) and Rabbis for Human Rights | Defamation campaign                                     | Press Release                      | April 27, 2010   |
|                                                                                                                                                                                                                                                                                                                                                                          | Obstacles to freedom of association                     | Joint Press Release                | May 3, 2010      |
| Mr. Ameer Makhoul                                                                                                                                                                                                                                                                                                                                                        | Arbitrary arrest / Obstacles to the freedom of movement | Urgent Appeal ISR 002/0510/OBS 058 | May 10, 2010     |
|                                                                                                                                                                                                                                                                                                                                                                          | Secret detention                                        | Press Release                      | May 12, 2010     |
|                                                                                                                                                                                                                                                                                                                                                                          | Arbitrary detention / Ill-treatment                     | Joint Press Release                | May 19, 2010     |
|                                                                                                                                                                                                                                                                                                                                                                          |                                                         | Press Release                      | June 4, 2010     |
| Palestinian NGOs Network (PNGO), Palestinian Independent Commission on Human Rights (PICHR) and General Union of Palestinian Women (GUPW)                                                                                                                                                                                                                                | Obstacles to freedom of peaceful assembly               | Urgent Appeal PAL 001/0510/OBS 068 | May 28, 2010     |
|                                                                                                                                                                                                                                                                                                                                                                          | Obstacles to freedom of association                     | Open Letter to the authorities     | January 13, 2011 |