



actalliance

Protection of Space for Civil Society and Human Rights Defenders

The Case of Israel and Palestine

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Preface

Civil society organisations in the Middle East and across the globe are actively working on a wide range of issues including service delivery, cultural, social and religious activities, human rights support, development and humanitarian response. Through these organizations, the expressions of people's concern for their fellow citizens, for the globe and for a better future are raised.

Many of these organisations speak out and act against the conditions, structures and systems which increase vulnerability, perpetuate poverty, injustice and the destruction of the environment; so does the ACT Alliance.

In the prevailing operating environment, more and more civil society organisations are faced with restrictions and high risks to their operations and staff. This trend is growing globally and it is not uncommon to ACT Alliance members and their partners, not the least in the occupied Palestinian territories and Israel (OPT/I). In this 50th year of occupation, this study reveals that pressure on civil society organisations in the OPT/I is multifaceted and increasing. This report is based on a study that was conducted in 2016, and an updated analysis that was carried out in 2017, and identifies a variety of hindrances to CSO operations in the OPT/I. Both studies confirm that restrictions are experienced differently depending on the geographical context,

type of organisation and the nature of their work; and reveal the associated complex and restrictive legal and policy framework. Among others, these restrictions range from INGO's inability to register, physical threats and harassment and deliberate campaigns to defame and stigmatise them, restrictive financial measures, and of movement resulting from the occupation.

The recommendations contained in this study are targeted towards the EU institutions and EU countries, albeit their applicability to contexts beyond Europe to which we encourage their wide reach to varying institutions globally. The ACT members authoring this study have more proximity to the EU hence the deliberate targeting to such.

It is my hope that the recommendations in this study are heard and steps are taken to protect civil society space. ACT Alliance takes the issue of an enabling environment seriously, demonstrated by prior work on this subject by the ACT Alliance Community of Practice on Human Rights. It is also my hope that this work will continue to grow and ACT members globally who are working in demanding situations will help to catapult it to higher levels and create a formidable network on it, enabling the alliance to continue bringing hope to vulnerable situations and reaching out to people needing our services most.



Rudelmar Bueno de Faria
General Secretary

1 | The context

According to the CIVICUS 2016 State of the Civil Society Report (CIVICUS, 2016), over 100 countries have faced serious restrictions and threats to civic freedoms in 2015—taking the form of, among others, new legislation, legal or administrative action and the persecution of human rights defenders. The Arab world is no exception to this trend, particularly since the onset of the Arab Spring (ibid). This report, based on extensive research carried out in 2015 and 2016 and subsequently updated, seeks to address the situation for civil society organizations (CSOs) in general and human rights organizations and defenders (HRDs) in particular, within the context of Israel and the Occupied Palestinian Territory (I/OPT).

Civil society in both Israel and the OPT is vibrant and dynamic, comprising of active and very diverse CSOs (some thousands in each jurisdiction). CSOs of various levels of institutionalization, from grassroots to internationally connected NGOs work on a wide range of issues including service delivery, cultural, social and religious activities, humanitarian response, and advocacy on international human rights (IHRL) and on international humanitarian law (IHL). One component of the civil society landscape is the (few hundred) international non-governmental organizations (INGOs) engaging in development and humanitarian programming as well as IHL and IHRL advocacy while acting as donors and partners of local CSOs (EU Country Road Map for Engagement with Civil Society, Palestine, 2014).

State-civil society relations in I/OPT are inevitably shaped and influenced by the Israeli-Palestinian conflict and the occupation of the West Bank and Gaza. The rights of Palestinians living under occupation, as well

as the Palestinian citizens of Israel, form the focus of much of the human rights activity undertaken by Israeli and Palestinian CSOs. As acknowledged in the respective EU Country Road Maps for Engagement with Civil Society, 2014-17, there is a growing tendency for both the Palestinian Authority (PA) and the Israeli Government to portray and perceive human rights organizations as a threat. This view was confirmed by the Israeli and Palestinian human rights actors interviewed for this report.

This report will argue that unprecedented restrictions are being imposed on certain segments of Israeli and Palestinian civil society. Pressure on the space for civil society within I/OPT is intensifying within the context of an Israeli political climate dominated by government attempts to consolidate a sympathetic electoral base to occupation and a Palestinian political climate marked by a general deterioration in democratic checks and balances resulting from the ever-deepening split between Fatah and Hamas, and within Fatah itself.

The intensifying attempts to hamper the work of human rights organizations in particular is a serious international concern. Israeli and Palestinian human rights NGOs play a crucial role in monitoring and securing accountability for the violations of international humanitarian law and human rights by Israeli and Palestinian groups—violations that must be addressed to achieve both an improvement of the humanitarian situation in the West Bank and Gaza and to achieve the realization of a sustainable and just peace. The silencing of human rights and anti-occupation voices presents the risk of devastating consequences for the fulfilment of Palestinian rights, Israeli democracy and for the prospects of peace.

2 | About this report

In 2015, against the backdrop of an intensified crackdown on human rights and anti-occupation voices and in line with a concern for the global shrinking space for its partners in the global south, a number of members of the ACT Alliance, a coalition of 144 churches and faith-based organisations working together in over 100 countries, commissioned research to examine the dynamics of civil society in the OPT and Israel. The objective of the study by S. Van Drunen, N. Shabana and Y. Drier Shilo, hereafter referred to as the 2016 Study, was to gather evidence and reflect on the current state of civic spaces from a CSO perspective, locally and internationally. The 2016 Study compared the situation to the previous five years.

The 2016 Study examined state policy towards CSOs, laws and regulations (Israeli, PA and Hamas), as well as 'enabling factors' for CSOs such as access to media, policy makers, funding, respect and protection for freedom of speech and the assembly of persons espousing minority or dissenting views. Respondents were asked to comment on any 'disabling factors', such as whether they had been subject to any threats, harassments, defamation or bureaucratic obstacles. The methodology used consisted of a combination of desk research, semi-structured interviews with key resource persons, an electronic survey amongst key activists (both Palestinian and Israeli) and focus group discussions across a wide range of CSOs.

A key finding of the 2016 Study was that while a majority of Israeli CSOs operate in relative freedom, the space is rapidly shrinking for organizations that are working for an end to the occupation, on IHL and IHRL in the occupied Palestinian territory and for the human rights of the Palestinian citizens of Israel. This report focuses on human rights actors, including Human Rights Defenders (HRDs), as a subset of wider civil society who have recognized their role in holding states accountable for their actions (Yavne, 2017).

Building on the findings of the 2016 Study and a series of new semi-structured interviews (SSIs) with key local human rights actors and a number of international faith based actors, the report takes stock of the challenges and effective strategies in response to the shrinking civic space in I/OPT and concludes with a set of recommendations for partners, donors and state actors to consider.

An important limitation that we hope can be addressed in the future is that it has to this point not been possible to include a detailed analysis of the situation of CSOs operating under the Hamas administration thus, there is very little attention paid to Gaza. This is particularly problematic given its already chronic isolation (HRW, 2017) and serious concerns regarding civil society space in the Gaza Strip.

3 | New era, new measures?

“A new era, new measures... It is easy to see a pattern here: an intentional, coordinated, strategic campaign against human rights organisations and individuals”

— SSI, March 2017

The clampdown on civil society, and especially human rights work, has deepened and accelerated since the completion of the original Study in 2016. In the past two years there has been an introduction of unprecedented measures by both Israel and the PA to silence critics. This includes through legislation and through legal action as well as more covert and unpredictable measures.

In our interviews with Palestinian and Israeli civil society actors, a common theme is that respondents felt that the relations between them and the state, particularly the Israeli state but also the PA, have deteriorated. There was consensus that the measures in use by the state are becoming more systematic, insidious and are limiting civil society presence on the ground and thus, the ability to assist communities in need. This perception is borne out by an examination of recent legislative and policy developments in both jurisdictions (see the Key Developments section)—which run against the universally recognized human rights, values and both Israeli and Palestinian human rights obligations.

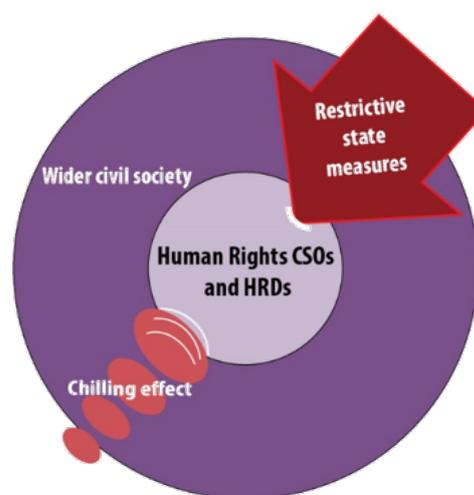


Figure 1:

Targeting the few to send a message to the many

In Israel, the pro-occupation and pro-settlement policies of the current Likud-led coalition government, underpinned by an intensifying crack down on those that critique policies in the occupied territories, have created a political environment in which restrictive legal measures, such as the NGO Transparency Law, have been passed into actual law.¹

¹ <http://www.acri.org.il/en/2016/07/12/acris-response-to-the-passing-of-the-ngo-law/>

Certain contextual developments seem to have triggered increasing pressure to civil society. This includes the decision of the Palestinian leadership to pursue an ‘international diplomacy track’, particularly after seeking the recognition of Palestinian statehood in 2012, as well as apparent growing support, both locally and internationally, for the Boycott, Divestment and Sanctions movement (BDS). Following

the 2014 Operation Protective Edge in Gaza organizations documenting IHL violations committed during that war, particularly those who have submitted evidence to the ICC, have experienced unprecedented harassment (Al Haq, 2015; Al Mezan 2016). Israeli CSOs vocalizing criticism of Israeli military actions were publicly vilified and labelled ‘unpatriotic’ by the authorities and in wider public discourse (ACRI, 2014).

“There is a new level of individual attacks... some are very informal so it is difficult to know who is behind them”

—Palestinian civil society actor, March 2017

Legislative and administrative methods have been put in place to counter local and international calls for diplomatic sanctions or consumer boycotts against Israel and/or the illegal settlements. In April 2015, the Israeli High Court ruled against a petition to invalidate the so-called anti-boycott law passed by the Knesset in 2011, thus, making it possible to file a civil lawsuit against an individual or an organization calling publicly for a boycott of Israel or the settlements.² In June 2015 a special ‘anti-BDS’ task force was activated by the Israeli Ministry of Strategic

Affairs. The unit started work with ten new staff and a budget of around US\$25m (INSS, 2015). Early 2017, the Knesset amended the Entry to Israel law³ restricting entry to Israel for individuals and organizations allegedly promoting/calling for a boycott of Israel or the settlements.⁴ In March 2017, the announcement by the Israeli Minister of Interior of a database to monitor all BDS supporters holding Israeli citizenship caused intense discussions and distress about new “monitoring of thoughts and actions” among human rights defenders.⁵

2 <http://www.acri.org.il/en/2015/04/16/hcj-boycott-law/>

3 The law reads “No visa and residency permit of any type will be given to a person who is not an Israeli citizen or does not have a permit for permanent residency in the State of Israel if he, [or] the organization or entity for which he works, has knowingly issued a public call to impose a boycott on the State of Israel, as defined in the Preventing Harm to the State of Israel through Boycott Law, 5771-2011, or has committed to participate in such a boycott.” <http://www.acri.org.il/en/2017/05/23/clarifications-to-the-entry-to-israel-law/>

4 The mode of implementation of the law is yet to be seen. However, December 2016, before the amendments, the first person to be denied an entry visa based on BDS allegations was the Assistant General Secretary from the World Council of Churches (WCC) in Geneva. The WCC deny the allegations of support for BDS. Justifying the decision, Israeli ministers cited the ‘pro-Palestinian activities’ of the WCC, including its Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI) under which 1,500 international volunteers have come to I/OPT since 2002.

5 <http://www.haaretz.com/israel-news/1.778516>

In what appears to be unprecedented judicial harassment, the Israeli organization of former soldiers, Breaking the Silence, was challenged to reveal the identity of their anonymous testifiers. While the case was settled ‘amicably’ in court, the precedent is alarming.⁶

Human rights defenders also report cyber-attacks, hacking, and defamatory e-mails, for example, alleging corruption within their organizations. In relation to its accountability advocacy work, Palestinian human rights organizations; Al Haq and Al Mezan have been subjected to well-publicized covert harassment, including anonymous death threats against their staff.⁷

“The new reality? It is another front of the struggle: a more orchestrated, organized strategy targeting human rights defenders. It will just get worse ... because they get better and better and more professional each time.”

—Israeli civil society actor, 2017

By their nature, covert actions are extremely difficult to trace and attribute. What is clear however, is that the responsible authorities have not carried out serious, independent and impartial investigations into the allegations of illegal surveillance and

death threats. Neither have they condemned such actions or acted to protect organizations and human rights defenders, as required by international declarations on Human Rights Defenders and the role of states to provide protection.⁸

“Human rights is a curse word here. Human rights organisations are considered security threats, agents, life threats, they get called terrorists by the government officials...”

—Israeli civil society actor, 2017

Worryingly, the attacks against human rights defenders which their proponents portray as a necessary measure against ‘de-legitimization’ of Israel, has been widely justified through mainstream Israeli

media and in statements by high level politicians and members of government.⁹ It is underpinned by diplomatic attempts by key Ministers to convince European governments to stop supporting certain

6 <https://www.theguardian.com/world/2016/may/18/israel-action-threatens-rights-group-free-speech-breaking-silence-soliers>

7 <http://www.alhaq.org/advocacy/topics/human-rights-defenders/1026-al-haq-under-attack-staff-members-life-threatened>

8 <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>

9 <https://www.haaretz.com/israel-news/1.748609>

human rights organizations. Since January 2017 alone, Prime Minister Netanyahu has personally lobbied among others; the Belgian Prime Minister, the British Prime Minister, the German Foreign Minister and the Danish Foreign Minister and Prime Minister, to either cease funding or to refuse to meet with peace groups such as Breaking the Silence and B'Tselem.¹⁰

Human rights actors further report that government-aligned organizations that discredit the work of Palestinian and Israeli human rights organizations have gained significant political and media influence both locally and abroad, contributing to the mounting pressure.

Within Israel, the consequences of this strategy are already evident. The concerted defamation campaign against Israeli human rights organizations and others who speak out against the occupation, including artists and intellectuals, by branding them as 'traitors', has succeeded in fostering a very hostile environment for action to address IHL and IHRL violations.

The Palestinian Authority has also been cracking down on non-violent protests and arresting activists and human rights defenders that are critical of its policies.

Palestinian NGOs report that civil society staff and other individual activists have been arrested for making critical posts on Facebook and other social media and for

distributing (anti-PA) leaflets. Reporters covering peaceful protests have been harassed, TV stations closed down, their equipment confiscated etc. An interview with a prominent Palestinian human rights actor (March 2017) confirms an increase in the detentions of lawyers, journalists, activists and students. Even the arts and culture sector has been targeted when it is seen to propagate criticism of the establishment (ICHR, 2107).

In late 2017, the situation further deteriorated. In June 2017, the PA shut down and banned 22 news websites. In July 2017, a new Cyber Crime Law was adopted by President Mahmoud Abbas by presidential decree, imposing tight controls on media freedom and violating fundamental rights to freedom of expression. The September 2017 arrest of human rights defender Issa Amro and the prosecution's accusations of crimes under the newly adopted law heralds a very worrying trend.¹¹

Although this wave started right after the split between Fatah and Hamas in 2007, unjustified restrictions by the PA have become more intense in the wake of the deterioration of the relations between the two factions and within Fatah itself. This poses serious questions as to the significance of Palestine's ratification of 19 international conventions and core human rights treaties in 2014 and furthers the criticism of the PA for its lack of accountability.

10 <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Exclusive-Shaked-gives-European-ministers-lists-of-anti-Israel-NGOs-they-fund-424942> + <https://www.haaretz.com/israel-news/premium-1.770050> + <https://www.haaretz.com/wwwMobileSite/israel-news/1.792817>

11 <https://www.amnesty.org/en/press-releases/2017/09/palestinian-human-rights-activist-charged-under-repressive-new-cybercrimes-law/>

4 | CSO “disenabling” measures in evidence

Both the ACT Alliance 2016 Study and our recent research have sought to identify the main obstacles to the work of civil society as perceived by the sector itself. As already described, civil society actors, particularly human rights organizations, perceive that there has been a hardening of positions and an increased use—both by the PA and Israel—of measures aiming to undermine civil society’s ability to hold their

authorities to account. Additionally, in the case of the Israeli state, respondents have identified actions which reduce the ability of international civil society to respond to local human rights violations.

Below we set out the greatest challenges affecting civil society operating in each jurisdiction.

4.1 | In the OPT

In the OPT, the existing legal framework for CSOs, under the NGO Law of 2000, which falls under the supervision of the Palestinian Ministry of Interior, has been increasingly undermined by the issuing of restrictive Presidential decrees. A 2015 decree by the Council of Ministers of the government of national consensus, prevents NGOs registered as not-for-profits from accessing grants without prior approval by the Cabinet.¹² Additionally, Palestinian CSOs face the double burden of the occupation and the unjustified restrictions imposed under Israeli law. In the 2016 study, focus group participants were unanimous in identifying the Israeli occupation as the key obstacle for Palestinian civil society. The study further confirmed a distinct downward trend in the ability of CSOs to operate freely over the past five years, highlighting a decreased support and tolerance from both the Israeli and Palestinian authorities. Below we outline some key restriction and its impact on the affected NGOs.

The most significant barriers for Palestinian CSOs imposed by the State of Israel include:

1. **Restrictions on freedom of movement and assembly** are a daily barrier to their work. CSOs based in East Jerusalem are reliant on Israeli permits for West Bank staff, which can be arbitrarily cancelled. CSO staff experience different kinds of harassment at checkpoints. In Areas B and C Israeli Military Order 101 (issued in 1967) effectively prohibits free association and assembly, in clear violation of the basic tenets of international human rights law.
2. **Physical threats and harassment.** Palestinian CSOs suffer from a range of coercive measures applied by the Israeli authorities, such as breaking into their offices, confiscating files and computers, and destroying databases. At the individual level, Palestinian civil society actors have been targeted for their

¹² <http://www.icnl.org/research/monitor/palestine.html>

human rights activities (Yavne, 2017). A notable example is Issa Amro, the prominent Palestinian Human Rights Defender currently on trial for alleged offences related to his peaceful activism against Israel's illegal settlements in Hebron.¹³

3. **Defamation and stigmatization of human rights CSOs.** The targeting of human rights organizations to undermine their legitimacy, reduce their public support and limit donor funding is intensifying. There are now multiple examples of Israeli Prime Minister Netanyahu and other Ministers approaching foreign governments and calling on them to stop their financial support for specific Palestinian

and Israeli human rights and anti-occupation organizations.¹⁴ Israeli private organizations have gained increased access to, and influence on, political and media debate in Europe, disseminating inaccurate and/or misleading information about human rights organizations while successfully diverting attention away from IHL and IHL violations these CSOs work to address. Our research also uncovered a significant uptake among European NGOs of deceptive, non-traceable e-mails, that contain seemingly credible allegations about a number of leading Palestinian human rights NGOs. These e-mails seem only aimed at disrupting European NGOs' grant-making vis-à-vis the targeted organizations.

“The paperwork, the bad press, whatever, will it get them to think twice about what they [foreign donors] get involved in.”

—Palestinian civil society actor

4. **The complex and restrictive legal and policy framework resulting from the occupation.** Palestinian CSOs are obliged to comply with Israeli law when based in East Jerusalem as a result of its illegal annexation into Israel in 1980, as well as the relevant law for any other locations (e.g. Egyptian law in Gaza). This means that a Palestinian CSO with branches in, for example, both

the West Bank and East Jerusalem, must have two different registrations, licenses, sets of accounts and auditors. Additionally, Palestinian CSOs based in East Jerusalem face restrictions on building and licensing, limiting their ability to expand or improve the working conditions for staff, whilst having to comply with Israeli regulations, such as the (costly) Jerusalem municipal tax.

¹³ See <https://www.amnesty.org/en/latest/news/2016/11/israel-opt-drop-baseless-charges-against-palestinian-human-rights-defender/>

¹⁴ See for example: <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Exclusive-Shaked-gives-European-ministers-lists-of-anti-Israel-NGOs-they-fund-424942> and <https://www.haaretz.com/israel-news/1.792817>

5. **INGOs' ability to register and operate from East Jerusalem.** For years, INGOs have reported problems in securing their registration under Israeli law. Delays and the freezing of the issuance of recommendation letters by the Israeli Ministry of Labor and Social Affairs needed for INGO workers to get a working visa has been a recurrent problem, limiting humanitarian access and risking the harming of operations.¹⁵ Since late 2016, INGOs already registered in Israel have faced similar difficulties in the securing of the renewal of work permits for international staff, with potentially serious consequences for their capacity to operate and fulfil their mandates. The international staff of INGOs are further affected by the Israeli state's control of movement within I/OPT.

The most significant barriers for Palestinian CSOs, within the control of the PA, include:

Recent years have also witnessed a tangible lessening of respect on the part of the PA for civil and political rights, such as the freedom of expression and of peaceful assembly. This slide into undemocratic practices has been exacerbated by internal political divisions since the Fatah-Hamas split. In the West Bank, President Abbas is no longer answerable to the Legislative Council in his law making. The growing crackdown on internal dissent has been critiqued by Palestinian and international human rights organizations and civil society coalitions as incompatible with the State of Palestine's human rights obligations on, for example, freedom of expression. (HRW, 2016). The situation of "no culture of dialogue between

the PA and CSOs" noted by the 2016 Study has not changed. The following are the most significant barriers:

1. **The right to freedom of expression.** Various human rights organizations and Journalists Unions have shared concerns over the freedom of the press and the ability of media outlets to function due to restrictions imposed by the PA in the OPT and Hamas in Gaza. As described above, arrests and harassment of civil society staff, individual activists and journalists, as well as the closure of TV stations and webpages, is becoming more frequent. An interview with a prominent Palestinian human rights actor (March 2017) confirms an increase in the detentions of lawyers, journalists, activists and students. Even the arts and culture sector has been targeted when it is seen to propagate criticism of the establishment (ICHR, 2107). In late 2017, the PA shut down and banned 29 news websites. A new Cyber Crime Law adopted by President Mahmoud Abbas by presidential decree imposes tight controls on media freedom and violates the fundamental right to freedom of expression.¹⁶
2. **The right to freedom of assembly.** In 2016, Palestinian HRDs considered the right to freedom of assembly to be significantly restricted by the PA whenever protests or meetings were called as direct result of their policies. The survey shows an alarming downward trend: almost all (92%) respondents considered that organizing peaceful protests has become more

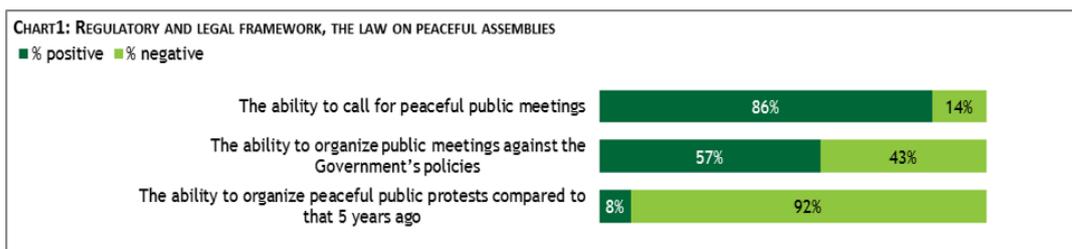
¹⁵ http://www.timesofisrael.com/aid-workers-israel-not-granting-work-visas-for-new-employees/?fb_comment_id=1383866468400317_1383957295057901#f274c50a00ea232

¹⁶ <https://www.amnesty.org/en/press-releases/2017/09/palestinian-human-rights-activist-charged-under-repressive-new-cybercrimes-law/>

difficult compared to five years ago. (see Chart 1 below).

The PA also insists that all demonstrations should be coordinated with the Palestinian security forces in advance ‘for security reasons’. In several

well-publicized cases, the organizers were arrested or the events were reported to the Israeli authorities as part of the ‘security coordination’ measures agreed in the Oslo Accords (AOHR, 2017).



3. **Physical threats, harassment and defamation by the PA.** Civil society actors identify a concerning increase in the use of harassment and intimidation by the PA and its supporters, including

the strategic use of defamation against opponents (HRW, 2016). The PA has increased its public accusations of corruption against CSOs, including from its very highest levels.

“There was a speech by Rami Hamdallah, the Prime Minister, accusing CSOs of corruption. We were not happy with that, and we worked together with other CSOs to reply to such accusations. It is clear that the PA is trying to limit our work and to harass us through the intensive monitoring and control tools and through asking for financial clearance of the civil society board members. The PA even assigned board members to some organizations. But more dangerous than that are the false accusations of corruption without any evidence.”

—2016 Study

Some feel that this was exacerbated by the growing power struggle over President Abbas’s succession. Certainly, this appeared to be the case with the PA confiscating

the assets of the organization Palestine Tomorrow for Social Development, which was set up by the former Palestinian Prime Minister, Salaam Fayyad.¹⁷

¹⁷ <http://www.timesofisrael.com/palestinian-authority-cracks-down-on-former-pms-ngo/>

“Would the police hit protesters in middle Ramallah streets if they knew they would be questioned and held accountable?”

—Palestinian civil society actor, March 2017

4. **Restrictive legislative and policy measures imposed by the PA.** The PA has made various formal attempts to control the space for CSOs through law and policy, which increases the administrative burden of CSO towards Ministries and official institutions. In early 2016, the Palestinian Council of Ministers set up a committee to prepare a new draft law on associations. The committee comprises of representatives of several ministries but CSOs are not represented. The PA also announced a centralized fund through which all funding for Palestinian CSOs should be channeled.¹⁸ It also presented a proposal that all board members of Palestinian CSOs should reside in the OPT, thus significantly reducing the scope of Palestinians that can be involved as

board members, excluding for example Palestinian citizens of Israel or those living abroad.

Aside from these high-level initiatives, the PA's Ministry of Interior is behind regular calls for the investigation of certain CSOs that are critical of the PA, as well as enhanced financial controls. One Palestinian civil society worker described the burdens CSOs face following the PA's introduction of new, additional administrative and bureaucratic measures. These include more steps in the NGO registration process, complex financial procedures, administrative obstacles to setting up a bank account and/or receiving and transferring funds.

“[There is an] increase in transactional costs of doing business as a human rights civil society organisation.”

—Palestinian civil society respondent, March 2017

Palestinian civil society actors see these increased administrative burdens as disenabling in that they further divert their energies away from serious human rights needs in the OPT, in an already extremely difficult operating environment.

5. **Financial measures affecting INGOs.** The PA is pressuring INGOs to pay income tax due to the PA in Ramallah for

Gaza based staff. INGOs have been threatened with non-renewal of bank account signatories if the taxes are not paid. INGOs fear that paying the tax to the PA without either (a) a new presidential decree or (b) agreement with the de facto authorities in Gaza on this issue, would put their operational capacity in Gaza at risk. INGOs are not able to pay taxes directly to the de facto authorities in Gaza due to existing anti-terror legislation.

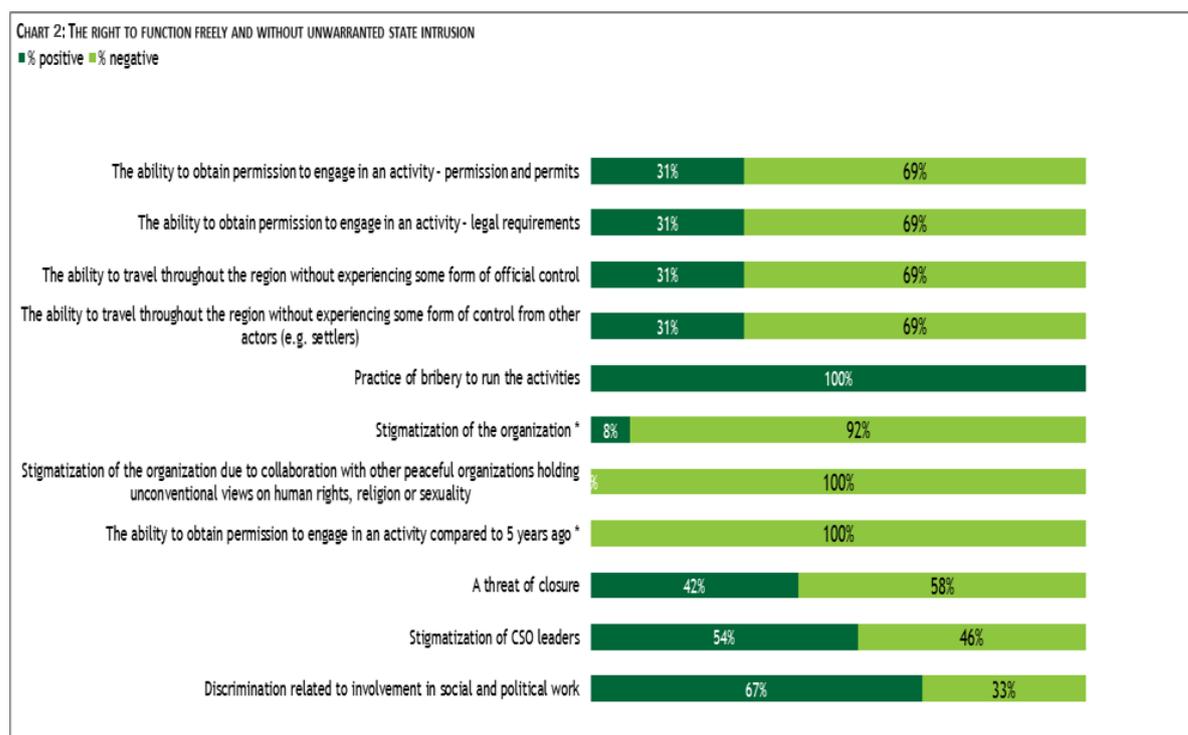
¹⁸ <http://www.icnl.org/research/monitor/palestine.html>

4.2 | In Israel

Israeli CSOs are regulated by the state under the Israeli Law of Associations (1981), which covers non-governmental organizations, corporations, and cooperative associations. Additionally, organizations that want to carry out activities involving resources, are required to be authorized by the Israeli Registrar of Associations, which is under the Ministry of Justice. While the 1981 law is in itself quite unrestrictive, there are other laws that prevent the establishment of ‘subversive’ organizations which the state can (and has) used to stifle legitimate CSO activities. Also, as evident under section 3, critical CSOs have been subject to a range of attacks, both covert (going un-checked by government) as well as overt, such as the public defamation of leading Israeli human rights NGOs by high level governmental representatives.¹⁹

The period from 2016 to 2017 has clearly witnessed a dramatic spike in repressive actions against sections of Israeli civil society, in particular those with a focus on advocating for Palestinian rights. (Yavne, 2017). The increasingly restrictive policies affect the fundamental freedoms necessary for civil society and the media and have had an undeniable impact, acting as a deterrent, silencing debate and leading to self-censorship in Israeli society. This has led to the now well-known ‘chilling effect’ (ACRI, 2016) with the consequence that Israel’s citizens are less able to criticize and hold their authorities to account (SSI, March 2017).

Responses to a core question about the ability of CSOs to function freely (2016 study) indicate:



* Of the negative group only 2 respondents (15%) say that they see a small difference

* 4 respondents (31%) within the negative group indicate that this has remained the same

¹⁹ See for example <https://www.haaretz.com/israel-news/1.748609> and <https://www.timesofisrael.com/liberman-bt-selem-breaking-the-silence-are-traitors/>

In the previous responses we can see a clear downward trend in CSOs' ability to obtain permission for activities compared to 5 years ago. The threat of closure to their activities was a concern of 58% of respondents and the stigmatization of CSO leaders was cause for concern among 46% of respondents.

The most significant barriers for CSOs operating in Israel include:

1. Legislative and policy measures restricting freedom of expression.

In recent years, several Israeli bills have been proposed and critical ones have been passed, specifically targeting human rights groups and other organizations which oppose the occupation, and those established by the Arab minority in Israel. These measures include, from 2011, the Nakba Law,²⁰ affecting the right to commemorate Palestinian displacement in the 1948 war, and the Boycott Law approved by the High Court in 2015,²¹ making it possible to file a civil lawsuit against an individual or an organization which publishes a public call for a boycott of Israel or its settlements.

Other laws have specifically targeted organizations that are highly dependent on foreign funding, as is the case for almost all Israeli human rights organizations. The latest of these is the NGO Transparency Law of 2016, which singles out CSOs receiving

more than 50% of their funding from foreign government sources, branding them as 'foreign state entities' and requiring them to disclose their foreign funding in all publications, meetings and correspondence. Critics noted that 25 of the 27 CSOs affected are left wing, human rights or anti-occupation organizations.²² In June 2017, Prime Minister Netanyahu expressed the intention to bar foreign government funding for NGOs.²³

Additional steps restricting freedom of expression include, for example, directives by the Israeli Ministry of Education, preventing teachers from expressing political views on controversial topics in the classroom, and dissuading them from inviting members of Breaking the Silence as speakers.²⁴

2. Defamation and stigmatization of Israeli human rights CSOs.

Public defamation of leading human rights NGOs and activists by high level politicians and governmental representatives have intensified rapidly.²⁵ In addition, as described above, Prime Minister Netanyahu and other Ministers are systematically approaching foreign governments, calling on them to stop their financial support for specific Israeli and Palestinian human rights and anti-occupation organizations.²⁶ Prime Minister Netanyahu now also refuses to

20 Introduced in 2011 and, although technically not implemented yet, still having a deterrent effect

21 <http://www.acri.org.il/en/2015/04/16/hcj-boycott-law/>

22 <http://www.haaretz.com/israel-news/premium-1.722663>

23 <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Netanyahu-wants-to-bar-foreign-government-money-to-NGOs-496546>

24 <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Cabinet-approves-bill-to-ban-Breaking-the-Silence-from-schools-477805>

25 See for example: <https://www.haaretz.com/israel-news/1.748609> and <https://www.timesofisrael.com/liberman-bt-selem-breaking-the-silence-are-traitors/>

26 See for example: <http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Exclusive-Shaked-gives-European-ministers-lists-of-anti-Israel-NGOs-they-fund-424942> and <https://www.haaretz.com/israel-news/1.792817>

meet any visiting Foreign Ministers if they are meeting with specific human rights organizations.²⁷ Finally, Israeli private organizations have gained on increased access to, and influence on, political and media debate in Israel and abroad, disseminating inaccurate and/or misleading information about human rights organizations while successfully diverting attention away from the IHRL and IHL violations that these CSOs work to address. This has contributed to the portrayal of foreign funding for human rights NGOs as a new form of ‘foreign meddling’ on domestic matters and misrepresenting recipient NGOs as foreign entities that ‘manipulate Israeli democracy and fuel the conflict’.²⁸ The defamation campaigns and the resulting hostile public atmosphere have affected targeted CSOs in different ways. There have been cases of organizations refusing grants or cutting ties with organizations that have been the subject of smear campaigns. Many have reluctantly had to dedicate already scarce resources to mitigate the impact. Some institutions have become more cautious and have introduced tighter security measures or have taken legal advice on public statements, while others have found it difficult to get media coverage for their work. Public events and activities on controversial (e.g. occupation related) issues have been cancelled or have had to change location, requiring police presence due to pro- occupation protestors turning up. All these measures have led to a generalized sense of insecurity amongst the employees of these organizations.

3. **The outlawing of Palestinian CSOs using un-supported evidence of support for terror organizations.** Israel has banned the northern branch of the Islamic Movement, along with 17 charities linked to the movement, on the grounds that they share the ideology of Hamas and Islamic State despite providing no supporting evidence. Amnesty International stated, “especially worrying is the fact the decision was made by the Israeli cabinet, without a fair process which gives the movement the chance to defend itself in legal proceedings”.²⁹
4. **Judicial harassment.** In what appears to be unprecedented judicial harassment the Israeli organization of former soldiers, Breaking the Silence, was challenged to reveal the identity of their anonymous testifiers. Whilst eventually the case was settled ‘amicably’ in court, the precedent is alarming.³⁰ Settler organizations have also used libel suits to deter criticism. Even when the libel suit is not successful, the process faced by a CSO to defend itself in court is very costly (ACT Alliance study, 2016).
5. **Physical threats and harassment against individual civil society actors.** A 2016 study found that grassroots activists and members of Israeli organizations working for Palestinian rights had been subject to verbal and physical harassment by Israeli law enforcement agencies, and sometimes settlers, including, for some, physical attacks on their premises. In the case of some Bedouin community groups, harassment included arrests and

²⁷ <https://www.haaretz.com/israel-news/1.785594>

²⁸ <http://www.jpost.com/Opinion/Knesset-NGO-vote-is-the-beginning-of-the-debate-not-the-end-460018>

²⁹ <http://www.haaretz.com/israel-news/1.686521>

³⁰ <https://www.theguardian.com/world/2016/may/18/israel-action-threatens-rights-group-free-speech-breaking-silence-soliers>

charges for non-violent activities; and detention and interrogation by Israel's Police and Israel's security service, Shin Bet (general security service), with reported attempts to recruit them as agents. CSOs report that the situation has clearly worsened in the past few years.

This section has explored the wide range of measures adopted by both the Israeli state and the PA to restrict the operating space for civil society, particularly human rights organisations. An overview is presented below.

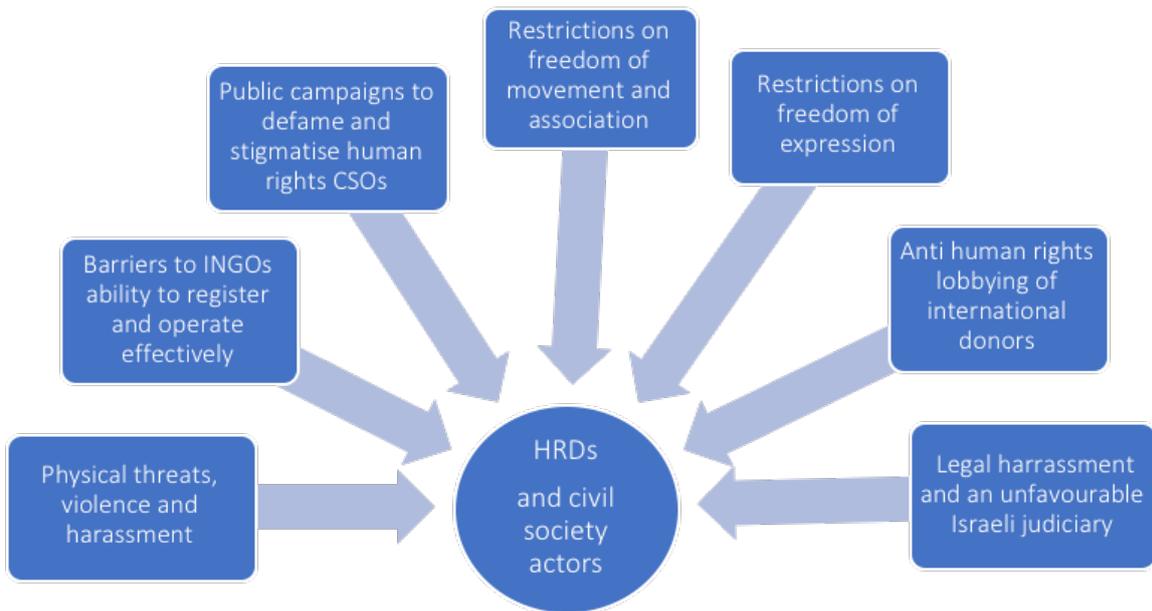


Figure 2: The state-sponsored challenges facing civil society in Israel and the OPT

4.3 | Other challenges faced by civil society in Israel and the OPT

Below are other challenges that CSOs in Israel and the OPT face that are not linked to state action or inaction.

1. **Reliance on international donors.** An over-reliance on external funding runs the risk of ‘delegitimizing’ CSOs in the eyes of local populations. This is an important factor in the context under discussion and evident within both Israel and the OPT. The ACT Alliance 2016 study noted that it is through this dependency that donor agencies may impose their own priorities and agendas instead of following those identified locally. Another disadvantage is that the international shift away from core funding for local CSOs to project-based funding, in combination with increased demands for accountability, has led to multiple reporting obligations for grantees alongside shorter planning time frames.
2. **Internal weaknesses within Palestinian civil society.** While vibrant and flexible, and capable of building

on a rich tradition of activism in very difficult conditions, Palestinian civil society is also fragmented and divided along political lines. The 2016 study found that many CSOs suffered from a lack of transparency and accountability and the absence of proper internal democratic structures and scrutiny. Consequently, organizations tended to be male-dominated and showed a lack of generational change, with few women and young people in leadership positions. This both reduces their effectiveness and making them easy targets for legitimacy challenges from the PA and others. Having said this, recognition of these shortcomings among Palestinian CSOs has helped to provide impetus for the development and implementation of the NGO Code of Conduct³¹—see below.

Next we turn to what civil society in Israel and the OPT have done, with some success, to defend themselves against the various disempowering measures.

³¹ <http://www.ndc.ps/node/669>

5 | Recommended actions

“Human rights work is critical to creating a just society and maintaining peace and security (...) However, it appears that rights defenders are facing ever greater challenges in the OPT.”

—OHCHR, 2016

As the situation in Israel and the Occupied Palestinian Territories continue to deteriorate, and the occupation and its repercussions persist and deepen, there is a critical need to protect and support human rights defenders and civil society actors. This Case Study has highlighted some of the alarming developments that have escalated rapidly in the past few years, along with some effective pushback strategies which are working. In this, the argument that political factors have led to a more conflictual era in state-civil society relations in I/OPT has been made.

What is the significance of this, and what does it mean for those who believe in the

role of a vibrant civil society, particularly in fragile and conflict-affected states?

The key message is that the international community needs to continue to be vigilant of the dangers of the highly unsecured civil society space and needs to commit to finding new ways of overcoming existing challenges. It needs to restore an even playing field for peaceful dissent and human rights voices. Now, more than ever, the space for civic action in Israel and the Occupied Palestinian Territories must be safeguarded and human rights defenders must be defended.

ACTIONS FOR EU, MEMBER STATES AND OTHER STATE ACTORS

The main responsibility for protecting and enabling spaces for civil society and for respecting, protecting and fulfilling the relevant human rights obligations lie with the Israeli and Palestinian Authorities. There is an urgent need for the repealing of existing legislations and practices that are restricting civic spaces and basic freedoms and a need to secure the effective protection of the rights and security of human rights defenders.

However, considering the evident protection gaps, it is of crucial importance that third

state actors, particularly the EU and Member States, take strengthened action to protect and enhance civic space and to support the vital role civil society plays in promoting open, democratic societies and just peace.

State actors, including the EU and its Member States, are recommended to utilize bilateral and diplomatic relations with Israel and Palestinian Authorities to:

- Stress that its bilateral relations are conditioned on respect for

fundamental freedoms, human rights and international humanitarian law. These shared values should be at the forefront of all engagement with parties and the development of cooperation on all issues. Specific repercussions on bilateral relations stemming from continued infringements on civic space should be made clear to the parties.

- Engage with Israel and the PA—at the highest level—to cease further introduction of legislation that limits civil society space and to repeal existing legislation and practices restricting space and basic freedoms.
- Bring up the individual cases of affected NGOs/human rights defenders—at the highest level—while linking individual cases to the broader picture of pressure on civil society and human rights defenders.
- Grant public high-level recognition to local human rights NGOs/and individual human rights defenders and their work and find ways to expose and respond to disinformation aiming at delegitimizing the work of NGOs and individuals.

State actors including the EU and its member states are recommended to further support

civil society in Israel and Palestine by:

- Rejecting external demands to introduce politically-motivated funding requirements while standing firm on the principles of freedom of association, assembly and expression and support for all non-violent strategies to address rights violations.
- Reporting regularly on the situation of civil society to capitals and making recommendations for capital level actions.
- Working proactively with the further implementation of the Human Rights Defenders Guidelines (EU, UN and State specific guidelines) including facilitating access to emergency grants to cover the costs of legal representation and other protection and security measures.
- Developing strengthened local strategies to counteract threats to civil society spaces while continuing to engage Israeli and Palestinian civil society among others in the preparation of the EU Local Human Rights Country and Democracy Strategies (HRDCS) and prior to political and human rights dialogues.

ACTIONS FOR ACT ALLIANCE MEMBERS/INTERNATIONAL NGOS

The increasing pressure on civil society in Israel and Palestine places new demands on international organizations—as donors and partners—in efforts to support local civil society, promote increased protection against rights violations and to avoid further infringements.

ACT Alliance members and other international NGOs are recommended to:

- Work proactively on securing the implementation of human rights standards, norms, and guidelines such as the EU Human Rights Defenders Guidelines. This includes supporting access to legal aid for both NGOs and

individual human rights defenders and creating an awareness of and access to available diplomatic protection.

- Facilitate access to flexible emergency grants and support for CSOs for enhancing their physical and online security.
- Support CSOs in the OPT and Israel to hold their own authorities to account: Strengthen their skills as watchdogs, and build their capacities to play a structured, and efficient role towards their own authorities.
- Support initiatives that strengthen CSO transparency and accountability to the public, including initiatives such as the Palestinian NGO Code of Conduct that aims to strengthening the transparency

and accountability of CSOs.

- Support strengthened coordination and networking by CSOs and INGOs, in-country and abroad, to effectively address the shrinking civil society space in a way that respects existing civil society dynamics and networks.
- Create a support mechanism in the ACT Alliance network for member organizations and partners at risk and/or facing restrictions and threats.
- Enable space for exchange and dialogue between INGOs and CSOs to secure mutually satisfactory funding and reporting modalities, ensure coordinated fundraising efforts and ensure bottom-up driven priorities and programming.

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Annex—KEY DEVELOPMENTS IN ISRAEL AND THE OPT IN 2016–2017

February 2016

- The Palestinian Council of Ministers establishes a committee to prepare a new draft law on associations. The committee comprises of representatives of several ministries, CSOs are not represented.

May 2016

- Attempts (unsuccessful) in the Israeli Knesset to outlaw the organisation, Breaking the Silence.

June 2016

- World Vision Gaza Director, Mohammad El Halabi, is arrested by the Israeli authorities on controversial accusations of using his position to divert cash to Hamas. In April the Australian Department of Foreign Affairs and Trade (DFAT) says an internal review has uncovered nothing to suggest any diversion of government aid funding to Hamas.

July 2016

- Israeli Parliament passes the 'NGO Transparency Law'. This requires that Israeli human rights NGOs that receive more than 50% of their funding from foreign public sources be labelled "foreign state entities". It excludes those who receive funding from foreign private individuals, thereby exempting numerous settler organizations.

August 2016

- Al-Haq's representative in Europe is subject to a campaign of well-organised covert harassment, including death threats, for the organisation's human rights work in Brussels and The Hague.

October 2016

- B'Tselem CEO Haggai Elad's anti-occupation speech at the UN Security Council is strongly condemned by PM Netanyahu and a top Likud politician publicly calls for the revocation of Elad's Israeli citizenship.

December 2016

- World Council of Churches Assistant Secretary General, Dr Isabel Phiri, is refused entry to Israel and deported on grounds of 'working against the interest of the Israeli state'.

January 2017

- The Palestinian Council of Ministers states that it would seek to unify the funding avenues, be they for government or civil society organisations, and work towards channelling all funding through the Ministry of Finance to insure that there are no duplications and that assets are used in the best possible way according to the PA national plan.

February 2017

- Israeli authorities reject granting a work permit for Human Rights Watch's Israel and Palestine Director, on the grounds that HRW had "smeared" Israel in the past. The decision is subsequently reversed in April and Shakir is granted a visa.
- New Israel Fund's Vice President, Jennifer Gorowitz (American citizen) is detained and questioned at Ben Gurion Airport about the NGO's activities and funding.
- Israeli Prime Minister Netanyahu puts pressure on the Belgian Prime Minister to freeze support for organizations that 'act against IDF soldiers and the State of Israel'. Breaking the Silence and B'Tselem are specifically mentioned.

March 2017

- The Israeli Public Security and Strategic Affairs Minister declares his intention to set up a database to monitor all BDS supporters holding Israeli citizenship.
- Israel imposes an entry ban on foreign individuals and representatives of organizations who publicly back any economic, cultural or academic boycott of Israel or “territories under its control”. The term ‘boycott of Israel’ is defined in the new Knesset law, Preventing Harm to the state of Israel, through Boycott Law 5771-2011 and thus includes illegal settlements.
- The Palestinian Security Forces disperse with violence the peaceful assembly in front of the Palestinian Court Complex in Al-Bireh City, which called for the end of Palestinian security coordination with Israel.

April 2017

- The German Minister of Foreign Affairs meets with Breaking the Silence, Btselem and other human rights organizations against the expressed wish of PM Netanyahu, who subsequently cancelled his meeting with the Minister.

June 2017

- Repeated calls on foreign governments by PM/FM Netanyahu to cease funding for specific human rights organizations.
- PA restricts online access to 29 media websites, which are critical of the PA or are affiliated with political parties and groups opposing policies of the PA.³²
- Following pressure by Israeli Minister of Justice, the spokesperson for Breaking the Silence is investigated by the Israeli Police about a testimony he publicly provided on his service.

September 2017

- The PA arrests prominent human rights defender, Issa Amro, accusing him of crimes under the cybercrime law.³³

October 2017

- Palestinian civil society, human rights organizations and the Union of Journalists lead on discussions about the legality of the cybercrime law and its adherence to International law.

³² https://www.madacenter.org/report.php?lang=1&id=1719&category_id=13&year=

³³ <https://www.theguardian.com/commentisfree/2017/sep/20/issa-amro-palestine-war-free-speech-mahmoud-abbas>



Syrian refugee children walk to school in Madaba, a sprawling Palestinian refugee camp in Jordan that has grown in recent years with the arrival of refugees from war-torn Syria. As a result, the more than 25,000 Palestinians in Madaba have been joined by more than 6,000 Syrians. The Department of Service for Palestinian Refugees of the Middle East Council of Churches, a member of the ACT Alliance, provides a variety of services here, including medical care. Parental consent obtained. Photo: Paul Jeffrey

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