



ISRAEL

# PRESENTATION

This review is part of a larger two-part study on **freedom of assembly in the Euro-Mediterranean region**.

Following an overview of the international standards relating to the freedom of assembly, [Part I](#) examines the legal frameworks in 11 countries of the Mediterranean and in the European Union and their compliance with international human rights standards. Part II examines the implementation of laws and the exercise of the freedom of assembly and demonstration in practice.

In order to assess the compliance of national legislations with international standards relating to the exercise of freedom of assembly, objective indicators were used as a reference throughout this study. A gender-sensitive approach was incorporated to determine whether women enjoy freedom of assembly to the same extent as men or face more restrictions.

This study was conducted in consultation with members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 human rights organizations in 30 countries. It thus reflects the active involvement of EMHRN's working group members on freedom of association and assembly, as well as other civil society organizations and experts.

The study is meant to provide human rights defenders, civil society organizations, international organizations, and state institutions with an analysis that allows them to compare national laws and policies with those of other countries and assess their conformity with international conventions, with a view to advocating for reforms and guaranteeing freedom of assembly across Euro-Mediterranean area.

The chapters are also available separately: [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#) and Western Sahara, [Palestine](#), [Syria](#), [Tunisia](#), [Turkey](#), and [the EU](#).

## Introduction

In Israel, the right of peaceful assembly is guaranteed by various laws and protected by the decisive role played by the judiciary to safeguard public freedoms. Given the various attempts to restrict civic space in recent years in Israel,<sup>1</sup> an independent and impartial judiciary is crucial to ensuring compliance with international human rights law. Despite various judicial decisions protecting human rights and freedoms, the authorities have nevertheless in recent years too often resorted to restrictive administrative decisions, as well as preventive measures, and acts of intimidation and threats as well as indictments with no legal basis against peaceful protesters.

These practices constitute serious restrictions on the right of peaceful assembly. Not only do they retaliate against political activism, but they further inhibit the enjoyment of freedom of peaceful assembly of many others. These serious concerns are particularly relevant for Palestinian-Arab citizens of Israel and persons belonging to minorities who are regularly subject to these forms of restrictions.

In this context, it is essential to reiterate the State's duty to respect human rights of all individuals within its territory and subject to its jurisdiction without distinction of any kind, in light of Articles 2 and 26 of the International Covenant on Civil and Political Rights.

Based therefore on the important case law developed by Israeli national courts, State authorities should do more to translate the core principles it reaffirms into day-to-day measures.

### 1. Restrictions Imposed on Freedom of Assembly

In 2009, the Legal Center for Arab Minority Rights in Israel – Adalah published an important report on a wide variety of undue restrictions faced by peaceful demonstrators protesting against the Israeli military operation in Gaza.<sup>2</sup> The report notably described how the State Prosecutor's Office and the police presupposed that every protest was a threat to security. The State Prosecutor's Office and the police successfully appealed against every judicial decision releasing a protester from detention, arguing that every protest, regardless of its context, message, location or time, was a threat to the security of the State. Such a pre-emptive measure falls short of international law as it de facto suppresses the right of peaceful assembly.

Since then, the right of peaceful assembly has suffered from less drastic types of restrictions. One of them concerns the interpretation by police forces of a protest being, by definition, an 'illegal gathering'. In May 2013, in the city of Be'er Sheva, two demonstrators opposing the Prawer Plan were arbitrarily arrested on the assumption that the demonstration was illegal. Similarly, in June 2013, a demonstrator participating in a protest denouncing animal cruelty was arbitrarily arrested, on the same assumption that the demonstration was not legal; he was forced to strip naked and remain in detention for four hours with his hands handcuffed behind his back.<sup>3</sup> In many cases, these arrests were challenged in court, which then found that the accusations of illegality were baseless. This poses serious questions about police officers' interpretation of laws governing public assemblies. More seriously, these measures suggest it is the State's intention to target protesters through arbitrary arrest and degrading and ill-treatment in order to deter other individuals from participating in demonstrations.

In the past few months, undue restrictions on freedom of peaceful assembly by Palestinian-Arab citizens of Israel or minorities have also continued.<sup>4</sup> On 28 June 2012, Israeli Police Chief Yohanan Danino issued a directive to police commanders ordering them to document every "involvement of

1 In March 2014, the Ministerial Committee for Legislative affairs reviewed a bill aimed to amend the Non-Profit Organizations Law which, if adopted without changes, will allow State authorities to prevent the registration of an organization if any of its objectives contradict the definition of 'Israel as a Jewish and democratic state'. See more restrictions to freedom of association and of expression in Euro-Mediterranean Human Rights Network's *Annual reports on freedom of association in the Euro-Mediterranean Region*, available at: <http://www.euromedrights.org/eng/2012/10/19/annual-reviews-on-freedom-of-association-in-the-euro-mediterranean-region/>

2 Adalah, *Prohibited Protest: How the Law Enforcement Authorities Limited the Freedom of Expression of Opponents to the Military Attacks on Gaza*, 2009, <http://adalah.org/features/prisoners/protestors%20report.pdf> (in Hebrew); [http://adalah.org/features/prisoners/GAZA\\_REPORT\\_ENGLISH\\_FOR\\_THE\\_NEWSLETTER.pdf](http://adalah.org/features/prisoners/GAZA_REPORT_ENGLISH_FOR_THE_NEWSLETTER.pdf) (Executive Summary).

3 See more in Association for Civil Rights in Israel (ACRI)'s Situation Report, 2013, page 81.

4 See more in Euro-Mediterranean Human Rights Network's report *The EU and the Palestinian Arab Minority in Israel*, 2011, page 20-24: [http://www.scribd.com/fullscreen/50343745?access\\_key=key-1vofvlqnsrj9cx13yhdi](http://www.scribd.com/fullscreen/50343745?access_key=key-1vofvlqnsrj9cx13yhdi)

the Palestinian-Arab citizens of Israel in protests”.<sup>5</sup> On 5 July 2012, an article published in Haaretz newspaper reported that the police permission to hold a protest against the Praver Plan was accompanied by a note stipulating that protesters must not hold “signs that damage Israel’s name” and that “the applicants will be responsible for the event.” These limitations do not meet Israel’s obligations under international human rights law. The Israeli Police Chief’s directive undermines the very essence of human rights which is to ensure the respect of human rights for all without any discrimination, based on Articles 2 and 26 of the International Covenant on Civil and Political rights.<sup>6</sup>

Despite these challenges, the 2013 legislative electoral period did not engender additional restrictions on the right to freedom of peaceful assembly.

## 2. Facilitation of Assemblies by the Authorities

An important Israeli legal case states that the right of peaceful assembly shall not be contingent upon the subject or purpose of the demonstration and that the police should bear the responsibility for allowing each person to demonstrate, regardless of the cause.<sup>7</sup> In consequence, protests in Israel, including spontaneous (unnotified) protests, are generally adequately facilitated by police forces. On 14 July 2011, an important social justice protest demonstrating against the lack of affordable housing and the high cost of living in Israel began. Within a few days, hundreds of thousands of people gathered across the country and most of these protests were facilitated by State authorities. However, on 7 September 2011, police decided to dismantle the tent encampments in the city of Tel Aviv where frequent demonstrations took place, although protesters were acting peacefully. This seems to indicate that the length and the message of these protests started to displease State authorities.

Indeed, one year later, on 22-23 June 2012, when protesters tried to restart the social justice protest in Tel Aviv, they encountered burdensome requirements and restrictive conditions.<sup>8</sup> One day after the demonstration in Tel Aviv, on 24 June 2012, the Jerusalem municipality also issued a series of “Procedures for Protest Activity in Public Spaces in Jerusalem”, indicating, amongst other things, that even where a permit had been granted, protests involving tents may only take place in certain locations and last one day at the most. This is not in line with the principle that restrictions should not prevent demonstrators from delivering their message to their intended audience,<sup>9</sup> and could hence be seen as an excessively general restriction.

Another serious concern for demonstrators who took part in the summer 2012 social justice protests was the repeated use of a “raccoon” – which is a military vehicle with intelligence gathering equipment – as well as the practice of police officers filming protesters.<sup>10</sup> Although the Police Commissioner promised national NGOs that this practice would not be used in future demonstrations, it raises serious concerns as it is likely to engender mistrust between protesters and police officers, who are the designated officials responsible for facilitating peaceful assembly. More seriously, it may instil fear amongst protesters and may deter other individuals from exercising their human rights. This practice, which exposes that State authorities are engaged in surveillance of its citizens and collecting information about their political opinions, also raises concerns about the enjoyment of the right to freedom of opinion and expression in Israel.

5 <http://www.haaretz.com/news/national/report-police-intelligence-told-to-target-israeli-arabs-joining-social-protests-1.444790>

6 See also the Human Rights Council Resolution 15/21 reaffirming that “*everyone* has the rights to freedom of peaceful assembly and of association” (emphasis added); and the UN Special Rapporteur on the rights to freedom of association and of peaceful assembly who stressed that “the organizers and stewards of assemblies should not assume [the] obligation [to protect assemblies that fall within the jurisdiction of the State] (A/HRC/20/27 paras. 33 and 84 (b)).

7 PP 14677-02-11 State of Israel v. Beninga, decision rendered 16 February 2011, in Association for Civil Rights in Israel (ACRI), *Situation Report: the State of Human Rights in Israel and the OPT 2011*, December 2011, page 42.

8 For further details, see ACRI *Situation Report 2012*, page 9.

9 Page 30, footnote 9: The entire footnote should be the following: UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, 21 May 2012, para. 40, <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session20/Pages/ListReports.aspx>

10 See ACRI *Situation Report*, 2012 page 11.

*"The Israel Police is behaving as it would in a police state, rather than a democratic state. It has become a political, repressive instrument of the government, against all groups that protest against it. We saw on Rothschild Boulevard [where social justice protest took place] how the police are serving the government rather than the law," an opposition leader deplored.<sup>11</sup>*

When the message of the protest is perceived to be more controversial, State authorities seem to be much less favourable in facilitating the right of peaceful assembly. In May 2012, the Association for the Defence of the Rights of Internally Displaced Persons in Israel notified their intention to hold a protest commemorating the 'Nakba'.<sup>12</sup> Permission was not granted as the police rejected the proposed route of the demonstration and prohibited the raising of the Palestinian flag by protesters.<sup>13</sup> On 24 November 2013, the president of the University of Haifa issued a decision banning students from raising the Palestinian flag during demonstrations. These various restrictions violate well established Israeli case law, as much as international human rights law.<sup>14</sup>

In other cases, State authorities have not only failed to facilitate assembly, but they also tried to dissuade individuals from exercising their rights and freedoms. On the eve of the 30 November 2013 important demonstrations in Haifa and Hura opposing the Praver Plan, the Shabak (or Shin Bet, the Israeli General Security Services) summoned individuals involved in the organisation of protests for interrogation. The Shabak also sent threatening letters to activists informing them that they had been identified as 'targets'.<sup>15</sup> During the interrogations, activists were questioned about their political activities, their personal lives and their future employment prospects.

These measures, clearly aimed at intimidating the protest organisers and at deterring them and others participants from joining the protests, constitute a worrying obstruction to the freedoms of peaceful assembly and expression and the right to take part in public affairs.

As far as journalists and other observers are concerned, they were reportedly not obstructed when monitoring assemblies, nor when attending trials of demonstrators.<sup>16</sup>

### 3. The Use of Force and Detention

The case of the Praver Plan protests is worth exploring further considering the police's repeated excessive use of force. In summer 2013 a wave of protests against a controversial Bill on the Arrangement of Bedouin Settlement in the Negev, also called the 'Praver Plan', began. This, if adopted, was "likely to result in the demolition of up to 35 Bedouin villages in the Negev desert and lead to the dispossession, eviction and forcible displacement of as many as 30,000-40,000 Arab Bedouins from their ancestral land and homes," according to the United Nations Commissioner for Human Rights.<sup>17</sup> The vast majority of Bedouins, who are Israeli citizens and who claimed to have been living in the

11 See <http://www.jpost.com/National-News/TA-protest-Police-arrest-social-justice-leader-Leef>

12 'Al Nakba' marks the Palestinian forcible displacement from their homes that preceded and followed the Declaration of the State of Israel in 1948.

13 <http://www.adalah.org/eng/?mod=articles&ID=584>

14 See EMHRN *Regional Study on Freedom of Assembly in the Euro-Mediterranean Region - Part I* (Israel chapter) [http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013\\_EN\\_ISRAEL1.pdf](http://www.euromedrights.org/eng/wp-content/uploads/2013/11/FOA2013_EN_ISRAEL1.pdf); see also European Court of Human Rights, *Handyside v. the United Kingdom*, application No. 5493/72, 7 December 1976, para. 49; and Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression A/HRC/17/27 para. 37.

15 <http://adalah.org/eng/Articles/2224/Adalah-and-ACRI-The-Shabak-is-Trying-to-Sow-Fear>

16 See <http://adalah.org/eng/Articles/2189/All-detained-demonstrators-from-anti-Praver-in>

17 Pillay urges Israel to reconsider proposed bill that will displace tens of thousands of Bedouin, 25 July 2013, <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=13577&LangID=E>

Negev since even before the creation of the State of Israel, opposes the Praver Plan and organised a series of protests in 2013.<sup>18</sup> Most of these protests were subject to excessive use of force by the police.

On 15 July 2013, one of the first protests opposing the Praver Plan took place in the city of Sakhnin. Only five minutes after the police had ordered the demonstration to end and whilst a group was starting to leave the site, a large number of police officers, together with mounted police, Special Forces and secret police, sprayed demonstrators with tear gas and arrested 14 protesters. On the same day, similar excessive force and tear gas were used against protesters who gathered in the city of Be'er Sheva. According to NGOs, dozens of protesters were injured – at least four of them even had to be taken to hospital – and 14 protesters were arrested. On 1 August 2013, in the city of Rahat, peaceful protesters were subject to excessive force and arbitrary arrest from police forces. On 30 November 2013, protesters in Haifa, Hura and Jerusalem were subject to excessive use of force, tear gas, stun grenades and water cannons by the police.

*"I was at the demonstration against Praver on the 30 November on Ben Gurion Street in Haifa. Around 8 pm, officers began to remove protestors from the road onto the sidewalk; all of a sudden one of the officers grabbed my hair and pulled me down to the floor; he then proceeded to drag me across the floor, while my head hit the pavement a couple of times [...] When I was in the station I saw officers physically and verbally abusing some other detainees. At some point I screamed at one of the officers to stop abusing the others and he screamed back at me to "shut up bitch", when I told him not to call me a bitch he told me "if you don't shut up I will fuck you and other bitch" [One police officer] then took me with unreasonable force to a corridor outside and started searching me in front of other policemen and other detainees. The search was rough and very humiliating. They were searching me and touching me everywhere, even on private parts of my body [...] On 2 December, I had to go to the hospital as I had still been suffering from constant dizziness, headaches, vomiting, etc." one protester explained.<sup>19</sup>*

Other recent examples include the regrettable use of lethal force against demonstrators. On 15 May 2014, during the Nakba Day demonstrations in the West Bank, Israeli troops shot and killed with live ammunition two Palestinians aged 17 and 20, Mohammad Abu Al Thaher and Nadim Nuwara, who posed no imminent threat, and injured other people during a crackdown operation.<sup>20</sup>

Other occurrences of disproportionate use of force include events on 3 May 2012, when the police used Taser guns (weapons that fire electric shocks) against peaceful protesters gathering outside the Ramle prison even after they were handcuffed;<sup>21</sup> severe police violence against some 500 protesters who gathered at the Horse Park in Jerusalem in June 2013 to protest against the government's intention to apply budget cuts; police assault against ultra-Orthodox protesters of Beit Shemesh opposing construction in the area;<sup>22</sup> and police use of force against about 200 asylum seekers who gathered outside the Israeli Prime Minister's office on 17 December 2013 to denounce an amendment to the Anti-Infiltration Law.<sup>23</sup>

The United Nations Human Rights Council (HRC) recently urged *"all States to avoid using force during peaceful protests and to ensure that, where force is absolutely necessary, no one is subject to excessive or indiscriminate use of force"*.<sup>24</sup> Even where some protesters may not act peacefully, the HRC resolution underlines that *"isolated acts of violence committed by others in the course of a protest do not deprive peaceful individuals of their rights to freedom of peaceful assembly, of expression and of association."*

18 After serious criticism, expressed by national activists and the international community, the authorities announced on 12 December 2013 that they decided to drop the draft bill. A few days later however, on 5 January 2014, the Israeli Prime Minister's Office issued a short statement stating that the Government would continue with the legislative process.

19 Interview with a victim who prefers to remain anonymous contacted by Adalah, 8 April 2014.

20 See Human Rights Watch, <http://www.hrw.org/news/2014/06/09/israel-killing-children-apparent-war-crime>

21 See <http://adalah.org/eng/Articles/1746/Adalah-Demands-Criminal-Investigation-into-and-in>

22 See <http://www.acri.org.il/en/wp-content/uploads/2013/12/SituationReportEng2013.pdf>, p.81

23 see also [http://www.unhcr.org/52cfe2a09.html?\\_ga=1.32440374.968825390.1395762199](http://www.unhcr.org/52cfe2a09.html?_ga=1.32440374.968825390.1395762199)

24 Human Rights Council, The promotion and protection of human rights in the context of peaceful protests, 11 April 2014, A/HRC/25/L.20 [http://ap.ohchr.org/Documents/F/HRC/d\\_res\\_dec/A\\_HRC\\_25\\_L20.pdf](http://ap.ohchr.org/Documents/F/HRC/d_res_dec/A_HRC_25_L20.pdf)



In too many cases however, Israeli police forces have too quickly resorted to violence, as most of the protesters were released, in some cases without a court hearing, tending to show that these arrests had been baseless and aimed at intimidating protesters and delegitimizing the protest movement.

#### 4. Accountability of Law Enforcement Forces

On 31 October 2010, the Magistrate's Court in Be'er Sheva awarded 12,838 NIS (about 2,700 euros) in compensation to a demonstrator who had been arrested in January 2009 during a protest against the war in Gaza. The compensation also included an unprecedented sum of 10,000 NIS (about 2,000 euros) for the harm caused by the undue restrictions to his freedoms of speech and of assembly.

#### 5. Judicial Sanctions against Organisers and Participants in Assemblies

On 26 February 2013, the Tel Aviv Magistrates' Court acquitted four Palestinian-Arab citizens of Israel of the offenses of participating in an illegal assembly, disturbing peace, and resisting police officers. These persons had participated in a demonstration in Tel Aviv in 2008 against the Israeli offensive on the Gaza Strip. In his verdict, the judge strongly criticized the police and prosecution for charging the accused without any evidence.<sup>25</sup> This example is a positive illustration of the role played by the judiciary, but it also shows that too often the police rush to charge protesters belonging to minorities for political reasons.

In numerous other cases of activists protesting against the Prawer Plan, judges withdrew the charges of disrupting public order and/or attacking police officers, on the grounds that the police had provided false evidence. The Legal Center for Arab Minority Rights in Israel -Adalah- has documented numerous cases where police provided distorted evidence,<sup>26</sup> which indicates a pattern of intimidation and retaliation against those exercising their right of peaceful assembly.

On other occasions, sanctions were not dismissed by the judiciary. During the social justice protest in Tel Aviv on 22-23 June 2012, police forces arrested about 100 protesters. Although most of them were quickly released, others, such as Daphni Leef, one of the organisers, were subjected to further investigation on various grounds, including the lack of a permit for the protest.

Such a charge is not in line with international standards on freedom of assembly that consider *"that the exercise of fundamental freedoms should not be subject to previous authorization by the authorities [...] Should the organizers fail to notify the authorities, the assembly should not be dissolved automatically and the organizers should not be subject to criminal sanctions, or administrative sanctions resulting in fines or imprisonment"*.<sup>27</sup>

#### 6. Civil Society Initiatives and Good Practices

National civil society organisations play a considerable role in promoting and protecting human rights in the context of peaceful protests in Israel. In 2011 the Association for Civil Rights in Israel (ACRI) published an important pamphlet on the rights of demonstrators.<sup>28</sup>

In 2012, the organisation also set up a telephone hotline for questions, assistance, and counselling on issues of freedom of expression and protest.

From the legal standpoint, the NGO Legal Center for Arab Minority Rights in Israel - Adalah, in many cases in cooperation with ACRI, also played a decisive role in bringing individual cases of restrictions to the right of peaceful assembly before national Courts. This excellent work has not only made a

25 See more at: <http://adalah.org/eng/Articles/1925/Court-acquits-demonstrators-against-2008-Gaza->

26 See e.g. <http://adalah.org/eng/Articles/1918/Court-Cancels-Indictments-of-Al-Araqib>; <http://adalah.org/eng/Articles/2226/Update-on-Detained-Anti-Prawer-Demonstrators-in> and <http://adalah.org/eng/Articles/2241/Two-indictments-against-Naqab-activists-home>.

27 A/HRC/20/27 paras. 28 and 29.

28 <http://www.acri.org.il/en/2011/08/02/demonstrators-know-your-rights-july-2011/>.

## Recommendations

contribution to ensuring the release of individuals arbitrarily arrested or charged, but also, and without any doubt, to the development of important case law on this crucial issue.

1. Guarantee that the freedoms of assembly, expression and association can be exercised by any individual or group without any discrimination based on opinions, origins, sex, religion etc.;
2. Repeal all laws and decisions specific to Palestinian-Arab citizens of Israel which impose restrictions or prohibitions on their expressing their opinions or opposition through action and at public gatherings (see the first part of the Study);
3. Establish a notification (rather than authorization) procedure for public meetings and demonstrations that potentially impact upon the rights and freedoms of others; ensure that this procedure is transparent, accessible and not unduly onerous, and that the administrative authorities comply with the law when it is implemented; suspend judicial proceedings and quash sanctions imposed on peaceful demonstrators who had not sought or obtained a permit, as pursuance of such principles of authorisation and sanctions is contrary to international law;
4. Make sure that restrictions imposed comply with the law, respect the principles of necessity and proportionality, and are communicated in writing to the organizers within a time frame that allows for an appeal before an independent tribunal or court before the scheduled date of the event;
5. Ensure that the authorities are always open to dialogue with the assembly organizers (both prior to and during gatherings) and where such dialogue occurs, that its purpose is to better facilitate the right of peaceful assembly;
6. Put an end to arbitrary arrests during peaceful demonstrations and also to any other type of threat, intimidation, reprisal, or judicial harassment of citizens demanding their right to demonstrate peacefully;
7. Guarantee the safety of journalists and facilitate their access to peaceful gatherings;
8. Train the law enforcement authorities in the use of force and anti-riot weapons in accordance with the United Nations Basic Principles on the use of force and firearms by law enforcement officials;
9. Act upon the State's duty to protect peaceful demonstrators; ensure that any use of force by law enforcement officers follows the principles of last resort, need, progressiveness and proportionality; ensure that lethal force is strictly a last resort and used as a defence against an imminent threat endangering human lives;
10. Expedite prompt, independent and impartial investigations in the event of a complaint or information about possible breaches or violations of human rights committed by law enforcement authorities during any operations to maintain order; punish those responsible and enable victims to obtain redress as well as be given guarantees of non-repetition; to this end, establish an independent mechanism for monitoring and investigating the behaviour of the security forces.