



"Protest against migrants deportations, Tel Aviv, Israel,  
28 February 2013."  
by ACTIVE STILLS

ISRAEL

# PRESENTATION

This country review is part of a larger study on **Freedom of assembly in the Euro-Mediterranean region** in the present time, presented in two parts: **I- Legislative review**, and **II- Practice of freedom of assembly**. Part I of the regional study was published in November 2013, and Part II will be published in 2014.

**The full Regional study on Freedom of Assembly in the Euro-Mediterranean Region is available [here](#).** It presents international standards protecting this fundamental right, and proceeds to analyzing the legal frameworks and their compliance to international human rights standards in 13 countries of the Mediterranean and the European Union: [the EU as region](#), [Spain](#), [the United Kingdom](#), [Algeria](#), [Egypt](#), [Israel](#), [Jordan](#), [Lebanon](#), [Libya](#), [Morocco](#), [Palestine](#), [Syria](#), [Tunisia](#) and [Turkey](#).

In order to develop the assessment of national legislations in comparison to international standards and the practical implications of legal provisions concerning freedom of assembly, objective indicators were used as a reference throughout this study, together with a gender-sensitive approach to detect whether women enjoy freedom of assembly to the same extent as men, or if they are more specifically affected by restrictions.

This study is based on a process of consultation and participation involving members of the Euro-Mediterranean Human Rights Network (EMHRN), which includes 80 organizations and institutions of human rights defense based in 30 countries as well as individual members. It thus reflects the efforts of a researcher recruited in the country, assisted by members of the EMHRN Working Group on Freedom of Association, Assembly and Movement, and the active involvement of other civil society organizations and experts.

Accordingly, the objective of this study is to provide Human Rights defenders and civil society organizations, international organizations and state institutions, with an analysis that allows them to assess national policies in their country and compare them to those of other countries and to international conventions, in order to advocate for relevant reforms and help improve the situation of freedom of assembly in the countries of the Euro-Mediterranean area.

## Introduction

This chapter examines the legal framework regulating Freedom of Assembly in Israel. Statehood for an independent State of Israel was declared on 14 May 1948, following a series of political events that led to the United Nations (UN) General Assembly's recommendation of the partition of Historic Palestine by Resolution 181 of 1947, also referred to as the UN Partition Plan of 1947.

In June 1967, Israel occupied the West Bank, including East Jerusalem, and the Gaza Strip.<sup>1</sup> Severing it from the rest of the Occupied Palestinian Territory, Israel illegally annexed East Jerusalem and has since confirmed the permanent nature East Jerusalem's annexation; thereby failing to recognise it as occupied territory.<sup>2</sup>

Similarly, Israel occupied the Syrian Golan Heights in 1967 and formally annexed the territory in 1981 with the Israeli Knesset's (Parliament) approval, despite the UN Security Council's Resolution 497 declaring Israel's annexation of the Syrian Golan Heights null and void and against international law.<sup>3</sup> The Knesset's statute extended Israeli civilian law and administration to the residents of the Syrian Golan Heights, replacing the military authority that had ruled the area since 1967.

According to the latest figures of the Israeli Central Bureau of Statistics, Palestinian citizens of Israel make up for 20 per cent of the total population of some 7.6 million.<sup>4</sup> Their status under international human rights instruments to which Israel is a State party is that of a national, ethnic, linguistic and religious minority. However, despite this status, the Palestinian minority is not declared as a national minority under Israeli law. Inequalities between Palestinian and Jewish citizens of Israel span all fields of public life and have persisted over time. Direct and indirect discrimination against Palestinian citizens of Israel is ingrained in the Israeli legal system and in governmental practice.<sup>5</sup>

Nonetheless, during Operation "Cast Lead" against Gaza in 2009 there has been a shift, as Israel has started targeting Jewish activists and human rights defenders who joined Palestinian human rights activists protesting this operation.<sup>6</sup> The Knesset has also put forward legislative initiatives aimed at curtailing freedom of association and expression for civil society organizations, particularly targeting Jewish organizations who denounce the occupation of the Occupied Palestinian Territory (hereafter, "OPT") or work in solidarity with

1 See country chapter on Palestine in this publication.

2 The status of East Jerusalem under international law is clear. Along with the Gaza Strip and the rest of the West Bank, East Jerusalem was occupied by Israel by force, and remains occupied territory to this day. This position is legally indisputable and has been universally and repeatedly affirmed by the United Nations, the High Contracting Parties to the Geneva Conventions, the International Court of Justice and the International Committee of the Red Cross.

3 UN Security Council Res 497 (17 December 1981) UN Doc. S/RES/497.

4 Israeli Central Bureau of Statistics (ICBS), *Statistical Abstract of Israel 2011* (2011) 86 <[http://www1.cbs.gov.il/reader/shnaton/templ\\_shnaton\\_e.html?num\\_tab=st02\\_01&CYear=2011](http://www1.cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st02_01&CYear=2011)> last accessed 6 April 2013.

5 See for an overview of the discriminatory policies and practices against Palestinian citizens of Israel, Adalah, *The Inequality Report: the Palestinian Arab Minority in Israel* (March 2011).

6 See Adalah report *Prohibited Protest*, 2009.

Palestinians and Arab Israeli citizens. It is the case of the “Anti-boycott law”<sup>7</sup> or a law targeting human rights organisations as “political” organisations and aiming at limiting their access to foreign funding.<sup>8</sup>

The right to freedom of assembly has been recognised and articulated in Israel and has been upheld by the Supreme Court, which has also elaborated on the balance that should be maintained between competing interests and rights. Directives and separate laws have clarified many of the practical matters arising from the landmark judgements. However, the exercise of this right has often been restricted and continues to discriminate against Palestinian citizens of Israel, who in practice do not enjoy freedom of assembly on an equal footing with Jewish Israelis.

This part only addresses the legal framework within Israel’s 1967 borders, while Israeli regulations of freedom of assembly in the OPT will be addressed in the chapter on **Palestine**. To this regard, note that in the OPT a civil body of laws apply to Israeli citizens residing in settlements located beyond the Green Line, while a body of Military Orders applies to its Palestinian citizens.

## 1. General Legal Framework

### *International commitments*

Israel has ratified all core international human rights conventions relating to freedom of assembly, including the 1966 International Covenant on Civil and Political Rights (hereafter ICCPR), which Article 21 is the reference for the protection of freedom of assembly.<sup>9</sup>

According to Article 4 of the ICCPR, the right to freedom of assembly is not an absolute right and, under certain circumstances, a State may be allowed to derogate from or temporarily exempt from upholding some of its international human rights obligations during periods of emergency. Israel declared itself to be in a state of emergency on 19 May 1948,<sup>10</sup> just four days after its founding, which has been annually renewed by the Knesset since 1997, until the present day.<sup>11</sup>

7 See EMHRN *Anti-boycott law violates human rights and further undermines Israeli democracy – EU must unequivocally condemn the law*, 15 July 2011.

8 See EMHRN *Open Letter to the Israeli Knesset*, 16 November 2011.

9 An assembly is defined as “an intentional and temporary gathering in a private or public space for a specific purpose”, which, according to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, may include “demonstrations, inside meetings, strikes, processions, rallies or even sit-ins”. UN Human Rights Council, *Report of the Special Rapporteur on the rights to freedom of assembly and of association, Maina Kiai*, (21 May 2002) Human Rights Council 20<sup>th</sup> Session, UN Doc. A/HRC/20/27, summary, paragraph 24.

10 Under Basic Law: the Government (2001), the Knesset may declare a state of emergency for a period of up to one year. Basic Law: the Government, passed by the Knesset on the 12th Adar, 5761 (7th March, 2001) and published in Sefer Ha-Chukkim No. 1780, p. 158; the Bill and an Explanatory Note were published in Hatza’ot Chok No. 2756 of 5758, p. 72.

11 See *Consideration of reports submitted by States parties under article 40 of the Covenant Concluding observations of the Human Rights Committee: Third periodic report of States parties due in 2007: Israel* (21 November 2008) UN Doc. CCPR/C/ISR/3, paragraph 157.

Essentially, by perpetuating this state of emergency, Israel is trying to bypass its international legal obligations, using the argument of “national security”. While reviewing Israel’s period report in 2003, the United Nations Human Rights Committee (hereafter the UN HRC) expressed concern about what it described as the “sweeping nature” of emergency measures that derogated from the State’s obligations under the ICCPR. The UN Human Rights Council stated that the derogations went beyond the permissible limitations on the right to freedom of assembly.<sup>12</sup>

### ***Israeli Domestic Legislation***

In absence of a formal constitution, the legal rights and obligations are enumerated in different laws. A set of Basic Laws, which were designed to be part of the future Israeli constitution, set forth the State’s main institutions and its citizens’ fundamental rights. The Basic Laws are considered of a higher rank than regular laws and enjoy constitutional status. Among these, the most important are *Basic Law: Human Dignity and Liberty* (1992)<sup>13</sup> and *Basic Law: Freedom of Occupation* (1994).<sup>14</sup> The Israeli High Court considered the two as a constitutional revolution and labelled them as “Israel’s mini bill of rights.” However, the right to freedom of assembly, as well as a general provision for equality and non-discrimination, are lacking in the Basic Laws.<sup>15</sup>

Despite the absence of constitutional protections, the right to freedom of assembly has been recognised and duly upheld by the judiciary as a fundamental right that the State needs to guarantee to *all* residents of Israel<sup>16</sup>.

The most significant case and turning point in relation to the exercise of the right to freedom of assembly has been *Saar v. Minister of Interior and Police* (1979),<sup>17</sup> in which Justice Barak,

12 *Consideration of reports submitted by States parties under article 40 of the Covenant: Concluding observations of the Human Rights Committee*, 78<sup>th</sup> session, UN Doc. CCPR/CO/78/ISR, 21 August 2003, paragraph 12 (; see also Human Rights Committee, 99<sup>th</sup> Session, UN Doc. CCPR/C/ISR/CO/3, 3 September 2010, paragraph 7.

13 *Basic Law: Human Dignity and Liberty* (1992) intends to protect human rights in Israel. It was passed by the Knesset on the 12<sup>th</sup> Adar Bet, 5752 (17 March 1992) and amended on 21 Adar, 5754 (9 March 1994). Amended law published in *Sefer Ha-Chukkim* No. 1454 of the 27<sup>th</sup> Adar (10 March 1994), p. 90; the Bill and the Explanatory Note were published in *Hatza’ot Chok*, No. 2250 of 5754, p. 289.

14 *Basic Law: Freedom of Occupation* (1994) guarantees every Israeli national or resident’s “right to engage in any occupation, profession or trade”. It was passed by the Knesset on the 22<sup>nd</sup> Shevat, 5718 (12 February 1958) and published in *Sefer Ha-Chukkim* No. 244 of the 30<sup>th</sup> Shevat, 5718 (20 February 1958), p. 69; the Bill was published in *Hatza’ot Chok*, No. 180 of 5714, p. 18.

15 *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, Frank La Rue (June 2012) Human Rights Council 20<sup>th</sup> Session, paragraph 15.

16 Emphasis added. See, HCJ 8988/06, *Yehuda Meshi Zahav v. Ilan Franko*, CO Jerusalem District (unpublished, 27 December 2006); HCJ 2557/05, *Mateh Haruv et al. v. Israel Police et al* (unpublished, 12 December 2006); HCJ 6658/93, *Kalavie v. CO Jerusalem Station*, PD 48 (4) 793, 796 (1994); HCJ 2481/93, *Dayan v. CO Jerusalem District*, PD 48 (2) 456, 468 (1994); HCJ 372/84, *Klopfer-Naveh v. Minister of Education and Culture*, PD (3) 233, 238 (1984); HCJ 153/83, *Levy v. CO Southern District, Israel Police*, PD 38(2) 393, 401-402 (1984). Original source: Adalah, “*Prohibited Protest: Law Enforcement Authorities Restrict the Freedom of Expression of Protestors against the Military Offensive in Gaza*” (September 2009) 8 fn. 3.

17 *Saar v. Minister of Interior and Police* (1979) 34 P.D. II 169.

former Chief Supreme Court Justice, confirmed that the freedom of assembly was a fundamental right recognised by Israeli law. Following this and many other Supreme Court clarifications of the right to freedom of assembly,<sup>18</sup> the government issued legally binding directives to define its framework, such as the *Directives on the Matter of the Freedom to Demonstrate*,<sup>19</sup> which reaffirmed the State's acceptance of the basic right to demonstrate and clarified the nature and range of police powers to intercede in such cases.<sup>20</sup>

The Supreme Court has further stated that: "*Freedom of expression and protest were designed to protect not only those who hold accepted and popular opinions, but also – and herein lies the principal test of freedom of expression – opinions that are liable to be provoking or upsetting.*"<sup>21</sup> While the Supreme Court has emphasised that it is particularly important to protect this right in the case of minority views, restrictions placed on the exercise of the right to freedom of assembly in practice severely affect minorities, including Palestinian citizens of Israel and residents of East Jerusalem and the Syrian Golan Heights.

## 2. Procedures

The Police Ordinance (1971) and the Penal Law (1977) contain the basic requirements for those organising a demonstration and regulate law enforcement authorities' powers for such events. These instruments state that no prior notification or permission is required for demonstrations that do not involve speeches or a march, regardless of the number of attendants. However, note that demonstrations in the Knesset area always require a permit.

A permit, issued by the Israeli police, is required only when all following three conditions exist:

1. When the demonstration is likely to attract more than 50 people;
2. When it is an open-air demonstration;
3. When it includes a march and/or political speeches.

Organisers of demonstrations must apply for a permit five days in advance to the District Commander of Police.

18 See also landmark Supreme Court case HCJ 153/83 *Levy v. Southern District Commander of the Israeli Police* and HCJ 4661/06 *The Temple Mount Faithful v. Police Commander of Jerusalem*. See further, D. Sharfman, *Living Without a Constitution: Civil Rights in Israel* (M E Sharpe Inc, Armonk, New York, 1993) 131-133.

19 Issued on 1 April 1983.

20 See further, D. Sharfman, *Living Without a Constitution: Civil Rights in Israel* (M E Sharpe Inc, Armonk, New York, 1993) 127-136.

21 B'Tselem, "*Demonstrations: Israeli Law*" (September 2011).

### 3. Restrictions

Restrictions to freedom of assembly may only occur in exceptional circumstances as a measure of last resort. As stated by the Special Rapporteur on the rights to freedom of peaceful assembly and association (UN Special Rapporteur on FPAA) in his first report, “Only “certain” restrictions may be applied, which clearly means that freedom is to be considered the rule and its restriction the exception”.<sup>22</sup> As such, it is necessary to consider all alternative measures that would ensure public order and security, before placing any restrictions on the freedom to assemble or demonstrate.

“As with other liberties, here, too, a balance must be struck between the will of the individual – and of individuals – to express views by way of assembly and demonstration, the will of the individual to protect his well-being and property, and the will of the public to protect public order and security. Without order there is no liberty. Freedom of assembly does not mean the abandonment of all public order, and freedom of procession does not mean the freedom to riot.”

Justice Barak in *Saar v. Minister of Interior and Police* (1979)

The police can refuse permission for a demonstration or protest on grounds of “concern for public order”, and additional restrictions may be placed on “time, place and manner” of a demonstration.<sup>23</sup> The Supreme Court stipulated that the test concerning the restriction of the right to freedom of assembly is the test of “near certainty” of disruption of public order.<sup>24</sup> As such, the mere apprehension that a demonstration might lead to rioting and disturbance of the peace is not sufficient to place restrictions on freedom of assembly, but must be substantiated with concrete, clear and convincing evidence, such as information of plans to violate public order or to incite violence.<sup>25</sup> The Directives further state that the police

22 Report of the *UN Special Rapporteur on FPAA*, Human Rights Council, 20<sup>th</sup> session, A/HRC/20/27 (2012), para. 16; see also OSCE/ODIHR *Guidelines on Freedom of Peaceful Assembly*, 2010, Warsaw, 2<sup>nd</sup> edition.

23 For instance, the Supreme Court considers restricting the duration of the demonstration or altering its location, as proportionate measures. HCJ 5277/07, *Baruch Marzel v. The Chief of Jerusalem Police*, Ilan Franko; HCJ 5380/07 *Kochav Ehad Association v. The Chief of Jerusalem Police*, Ilan Franko. See, *Consideration of reports submitted by States parties under article 40 of the Covenant: Third periodic report of States parties due in 2007: Israel* (21 November 2008) UN Doc. CCPR/C/ISR/3, paragraph 407-412.

24 HCJ 73/53, *Kol Ha'Am v. Minister of the Interior*, PD 7(1) 871 (1953); HCJ 4712/96, *Meretz Faction v. CO Jerusalem District*, ILR 50 (2) 822, 827-828 (1996); HCJ 153/83, *Levy v. CO Southern District, Israel Police*, PD 38(2) 393, 401 (1984). Original source: Adalah, *Prohibited Protest: Law Enforcement Authorities Restrict the Freedom of Expression of Protestors against the Military Offensive in Gaza* (September 2009) 8 fn. 5.

25 Adalah, *Prohibited Protest: Law Enforcement Authorities Restrict the Freedom of Expression of Protestors against the Military Offensive in Gaza* (September 2009) 8.

cannot refuse a permit simply because of undue demands being made on police resources; nor because of disruption to urban routines that a demonstration might cause; nor because of an objection to the ideology of the demonstrators or the views that might be expressed. The police have a duty to protect people's right to demonstrate and receiving permission from the police must not be considered a favour, but the exercise of the right to freedom of assembly, regardless of the message that is being conveyed or of the demands that might be made on police resources.

#### 4. Protection

The right to protest is not contingent upon the subject or purpose of the demonstration and the police bear responsibility for allowing each person to demonstrate, regardless of the cause.<sup>26</sup> In order to ensure that the police do not abuse its powers of granting permission for demonstrations, the law allows for an appeal process to the Supreme Court in case the police refuse to issue a permit. However, this requires the police to render a decision on the demonstration prior to the event, which has proven problematic in practice.<sup>27</sup>

The law furthermore provides protection for those wishing to engage in a demonstration. Two recent police practices that violate freedom of assembly have drawn attention from human rights groups and have been challenged before the courts. Firstly, while working to maintain public order, police regulations require police officers to wear name tags, have their faces exposed, and present a photo identification to any citizen who asks for it.<sup>28</sup> Secondly, as a condition for release, many protesters arrested by the police have had to agree to various restrictions, including distancing themselves from the location of the protests, or promising not to participate in future events. Several courts have opposed this policy of preconditioning release upon receiving guarantees from the protester, which is in clear violation of the individual's right to freedom of assembly.<sup>29</sup>

#### *The use of force*

The police have the authority under Article 153 of the Penal Law to disperse the gathering – “*After making [their] presence known by blowing a bugle or whistle or by similar means or by firing a Verrey light from a pistol*” (Article 153 of the Penal Code). The order to disperse may be giving by a ranking police officer only if:

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

27 To this regard, the UN Special Rapporteur on FPAA sets out that “*organizers should be given the possibility of an expedited appeal procedure with a view to obtaining a judicial decision by an independent and impartial court prior to the notified date of the assembly*” (Second Report, Human Rights Council, 23<sup>rd</sup> session, A/HRC/23/39, para. 64).

28 ACRI, *Rights of Demonstrators* (July 2011) 5; ACRI *Situation Report: the State of Human Rights in Israel and the OPT 2011* (December 2011) 42-43.

29 AK 48236-03-011 *Vardi et al v. State of Israel*, decision rendered 27 March 2011 (in Hebrew); BSA (TA) 18299-09-11 *State of Israel v. Nisan*, decision rendered 8 September 2011; AK 22343-09-11 *Musari v Israel Police – Ayalon Region*, decision rendered 13 September 2011. Original Source: ACRI *Situation Report: the State of Human Rights in Israel and the OPT 2011* (December 2011) 44.

1. A demonstration lacks the required permit;
2. The conditions for the demonstration set by the law enforcement authorities are ignored;
3. The demonstration poses a threat to the public;
4. Demonstrators turn violent and when there is a real fear for the public's safety.

Every person who participates or continues to participate in a prohibited assembly after the dispersal order was announced to rioters or to persons assembled in order to riot, and if reasonable time passed since the notification and order, is liable to five years imprisonment (Article 155 of the Penal Law).

The police may, in certain instances, use force when dispersing the demonstration (Articles 154 and 155 of the Penal Law) or arrest the demonstrators. The law stipulates that a police officer may be allowed to use force in the following cases:<sup>30</sup>

1. When arresting a demonstrator who attempts to resist arrest or flee;
2. To disperse an unruly congregation that threatens the public;
3. When the officer is attacked or tries to prevent a crime.

## 5. Sanctions

In accordance with Article 151 of the Penal Law, *“If at least three or more persons [...] assembled for a common purpose, even a lawful one, and conducted themselves in a manner that gives nearby persons reasonable grounds to suspect that the assembled persons will commit a breach of the peace or that by their assembly itself they will provoke others needlessly and without reasonable cause to commit a breach of the peace, then that constitutes a prohibited assembly.”* A person commits a riot when *“committing a breach of peace that terrorises the public”* (Article 152 of the Penal Law).

In such cases, the demonstration will be regarded as an “unlawful gathering” and all those participating (not only the organisers) are considered to be in violation of the law. A person who participated in a prohibited assembly as defined under Article 151 of the Penal Law is liable to one year imprisonment, while a person who participated in a riot as defined under Article 152 of the Penal Law is liable to two years imprisonment.

It needs to be noted, however, that, as international human rights bodies have warned about, disproportionate sanctions and penalties may amount to unlawful restrictions on

<sup>30</sup> ACRI, *Rights of Demonstrators* (July 2011) 5.

the exercise of the freedom to assemble if, for instance, individual participants that have remained peaceful are held liable on account of the violent means or intentions of others.<sup>31</sup>

## 6. Palestinian citizens of Israel

While acknowledging the above stipulated regulations and government practices, it must be noted that these apply principally to Jewish Israeli demonstrations and that other factors come into play if Palestinians are involved. While Palestinian citizens of Israel, some 20 per cent of the population, enjoy equal rights under the law, they face direct and indirect discrimination in all aspects of political, social and economic life in Israel. The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, stated in his recent report: “[...] *Palestinians citizens of Israel are frequently regarded and treated as “An enemy from within”, given their ethnic and religious ties to the Palestinians in the occupied Palestinian territory and the surrounding Arab and Muslim States, and consequently suffer from various discriminatory policies and treatment*”.<sup>32</sup>

According to human rights groups, the police routinely arrest and use (excessive) force against Palestinian citizens of Israel as a deterrent against demonstrating. Reportedly, law enforcement authorities in Israel apply different treatment to detained protestors if they are from Palestinian descent. For instance, Palestinian citizens of Israel are frequently denied bail or release under *The Criminal Procedure (Powers of Enforcement, Detentions) Law (1996)*. The reason usually cited by the authorities is that, if released, they could endanger state security or public safety, disrupt the investigation or influence witnesses. A further attempt to reduce the space allowed for protest by Palestinians citizens of Israel was mounted by the General Security Services (GSS), who continue to use intimidation tactics, including warning phone calls and threats of prosecution if activists do not halt their activities. This kind of state sanctioned harassment and intimidation of Palestinian political leaders and activists in Israel stands in stark contrast to the treatment afforded to Jewish Israeli protestors exercising their right to freedom of assembly.<sup>33</sup>

On 22 March 2011, the Knesset adopted the “Nakba Law”, which empowers the Minister of Finance to fine public bodies that receive public funding, such as schools, universities and local authorities, if they hold events that commemorate Israel’s “Independence Day or the establishment of the State of Israel as a day of mourning.” Furthermore, fines could also be imposed if such institutions hold events that aim to revoke “the existence of Israel as a Jewish and democratic State.” This has raised concern with the Special Rapporteur on the freedom of opinion and expression as this law is inherently discriminatory towards Palestinian citizens of Israel, who refer to Israel’s

31 See *Ezlin v France*, Judgment of the European Court of Human Rights, 26 April 1991, para. 53: [t]he Court considers, however, that the freedom to take part in a peaceful assembly - in this instance a demonstration that had not been prohibited - is of such importance that it cannot be restricted in any way, even for an advocate, so long as the person concerned does not himself commit any reprehensible act on such an occasion. See also first report of the Special Rapporteur on FPAA, para. 29.

32 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue’ Mission to Israel and the occupied Palestinian territory (11 June 2012) Human Rights Council 20<sup>th</sup> Session UN Doc. A/HRC/20/17/Add.2, paragraph 43.

33 Adalah, *The Inequality Report: the Palestinian Arab Minority in Israel* (March 2011) 55-57.

Independence Day as the “Nakba”, meaning catastrophe or tragedy, to commemorate the suffering of their people in 1948.<sup>34</sup> In addition, it is noteworthy to mention that the Special Rapporteur on the right to freedom of peaceful assembly and of association in his latest report expresses concern about the practice of prohibiting or repressing assemblies when authorities are not pleased with the message conveyed.<sup>35</sup>

## 7. Gender Equality and Freedom of Assembly

In 1951, three years after declaring statehood, Israel passed the Women’s Equal Rights Law, 5711-1951, which guaranteed women the right to live in dignity by providing equality in work, education, health, and social welfare. The 1992 Basic Law - Human Dignity and Liberty further protects gender equality as falling within the parameters of the right to human dignity. The amendment to the Women’s Equal Rights Law in 2000 consolidated the principles of equal opportunity, affirmative action and accommodation, previously recognized in case law and specific statutes, as basic principles of the legal system. Another notable amendment to the Women’s Equal Rights Law in December 2005, which resulted from the articulation of UN Security Council Resolution 1325 (October 2000), dealt with the representation of women in peace negotiations and increased protection of women and children against violence in conflict situations. The amendment mandated the inclusion of diverse women to public bodies established by the government on issues of national importance, including peace negotiations. Despite this achievement, the law remained a formal declaration, lacking all meaningful implementation. Human rights groups have further warned that *“The repression of civilian freedom of action, [for instance through discriminatory laws such as the “Nakba Law” and the “anti-boycott law” aimed at oppressing civil society initiatives] nullifies the feminist achievements towards equal representation, anchored in UN Security Council resolution 1325”*.<sup>36</sup>

Women still face the “glass ceiling”, i.e. social and political *obstacles* to climb the ladder to higher positions in the public sphere, confining their participation in the political arena to civil society, peace, and human rights organizations. Thus, attempt to hamper the work of these organizations constitutes an additional step towards the exclusion of women from involvement in the political system.<sup>37</sup>

34 Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue’ Mission to Israel and the occupied Palestinian territory (11 June 2012) Human Rights Council 20<sup>th</sup> Session UN Doc. A/HRC/20/17/Add.2, paragraph 28-31.

35 Second report of the Special Rapporteur on FPAA, para. 61.

36 Coalition of Women for Peace, *All-Out War: Israel Against Democracy* (November 2010) 6.

37 Ibid.

## Recommendations

1. As has continuously been recommended by various UN treaty bodies, the Basic Law: Human Dignity and Liberty (1992) should be amended to include principles of non-discrimination and equality and the right to freedom of assembly, opinion and expression.
2. Abandon those police practices that violate the right to freedom of assembly, such as masking police identity, conditioning of release of demonstrators and withholding permission for demonstrations on the basis of the message of the demonstration.
3. Abolish the rubberstamping on the existence of the state of emergency, which allows for the restriction of the right to freedom of assembly in violation of international legal norms, as well as the Basic Laws.
4. The government of Israel must ensure that Palestinian citizens of Israel can fully exercise their right to freedom of assembly, including by upholding their rights with equal force as those of Jewish Israelis.
5. The government of Israel must hold law enforcement authorities accountable for violations of the right of Palestinian citizens of Israel to assemble.
6. The government of Israel must put in place effective participation mechanisms to counter discriminatory policies and laws, particularly in the absence of constitutional protections that promote equality and non-discrimination norms to the benefit of Palestinian citizens of Israel.
7. The government of Israel must abolish the “Nakba Law”, which bestows upon the Minister of Finance the power to take punitive measures to prevent Palestinian citizens of Israel from commemorating Israel’s Independence Day or the establishment of the State of Israel as a day of mourning.