

*On October 22, Israeli Defense Minister Benny Gantz declared six well-known Palestinian human rights and civil society groups “terrorist organizations.” While the New Israel Fund does not work directly with these groups, and the evidence against them remains sealed and secret, we know that this act deserves all due scrutiny. Below we share the analysis of renowned Israeli human rights lawyer Michael Sfard, who serves as legal counsel for many human rights organizations in Israel. Here are six points he views as critical for anyone attempting to understand the recent Israeli government designations.*

### **6 Key Points from Attorney Michael Sfard on Israel declaring six prominent Palestinian NGOs “terrorist organizations”**

#### **(1) These organizations have earned our trust.**

The six organizations designated by the Israeli Minister of Defense are well-known and respected human rights and civil society organizations. Their work is critical of both Israel and the Palestinian Authority. Anyone who deals with human rights in Israel, internationally, or in Palestine, knows that these are veteran, professional, and serious human rights defenders, and that they have garnered legitimacy through decades of critical work. Their proven record of countering human rights abuses in Palestine as resulted in their splendid reputations around the world. I believe these organizations — certainly the ones I have known for years - Al-Haq, Defense for Children International-Palestine, and Addameer — when they say they have nothing to do with terrorism, as alleged by the Israeli government. I know their work, I know some of the people who work there personally, and I trust them.

#### **(2) Israel’s motivation in designating these groups as “terror organizations” is based in these NGOs’ advocacy and legal work; security allegations act as cover.**

The Israeli government is not claiming that these organizations are merely a “front,” and that, in fact, they do not do human rights work, but are instead are a shell organization set up to funnel money to terrorists. They are instead claiming that these organizations provide employment to operatives of the PFLP, a designated terrorist organization. But if say, the American government discovered that a hospital was being run by someone who funneled money towards illegal purposes or that a hospital employee was involved in a terrorist plot, you do not shut down the hospital leaving an entire community without medical service -- you surgically prosecute those who engage in the illegal activity.

The fact that the Israeli government has taken action to completely shut these organizations down means that they (a) do not have the evidence needed to prove the claim, and (b) they are not, in fact, interested in the alleged “terrorist elements.” Rather, they are concerned by the very fact that these NGOs exist; interested in shuttering their operations — the advocacy and legal work they do to defend and secure human rights — altogether. The Israeli government understands that if it were to disclose its “evidence” to the public or to journalists it would be clear that the emperor has no clothes. So, instead, the Israeli government hides the “evidence” by invoking security privilege.

#### **(3) These allegations are not new, and have been found to be baseless many times over.**

These organizations have been targeted for years. First by right-wing NGOs and then by Israeli governments who identified them as major actors in advocating for International Criminal Court investigations against Israelis and in promoting Boycott Divestment Sanctions movement. These actors

then targeted them (for their **advocacy and legal** work) through a smear campaign meant to convince European funders that they have ties with the PFLP. These allegations were based on faulty guilt-by-association logic. In early 2019, the Ministry of Strategic Affairs (now a part of the Foreign Ministry) wrote a report entitled “Terrorists in Suits,” which was used in a major effort by successive Netanyahu governments to convince European governments to stop funding these organizations. But the “evidence” was so weak that failed to convince European governments. Some, however, were convinced to launch thorough audits of the NGOs operations. When the audits found nothing improper, they dismissed the Israeli demands.

*NOTE: BDS and advocacy for Palestinian rights in international bodies like the ICC may be unsavory to Israelis, but they are not illegal in Israel today and they are definitely not terrorist activities. These are acts of pure advocacy — legal acts. Invoking counter-terrorism legislation and its powers to thwart political dissent is a totalitarian act of a state that is afraid of the criticism leveled against it by human rights organizations.*

#### **(4) What is new?**

In May of 2021 Israeli officials again approached European governments advocating that they end their funding for these organizations. They claimed they had “new evidence.” Two former employees of a [seventh organization](#) (“the Health Workers Committee”) were laid off, arrested by the Shin Bet (Israel’s FBI), and then confessed in custody (under unknown conditions) of having funneled money to the PFLP. Despite having never worked for any of these other organizations, and presenting no evidence to back up their claims, they listed the six organizations now under discussion as “known as PFLP organizations” and “part of the PFLP NGO network”. When presented with this “new” evidence, most European governments rejected it outright. Some said they would do another thorough audit of these organizations. When they did, and found nothing – no money was diverted to anything that wasn’t legitimate. These governments, once again, dismissed the Israeli demand to sever ties with these NGOs and stop funding their critical work. Still, Defense Minister Gantz did what Netanyahu’s governments did not dare to do, and — on his own — designated these groups as “terror organizations.” Thus, in the end, unable to convince European governments, Israel took unilateral action. In doing so, it accomplished its initial goal: the financial suffocation of six particular organizations whose political work it doesn’t like.

Also new are the reports of the hacks by NSO, an Israeli tech firm, into the private cellphones of employees in some of these Palestinian NGOs, violating some of their most basic rights. NSO was recently blacklisted by the United States, due to claims that its software is used against human rights advocates.

#### **(5) Israel’s exceptionally broad 2016 counter-terrorism law enables this designation, and then some.**

Israel’s anti-terror law includes two alternative definitions of a terrorist organization: (1) An entity that carries out acts of terror, and (2) An entity that “provides service to” or has a “link to” an organization of the first type. The latter definition includes extremely blurry concepts (“provide service to,” “has links to”), and – if read broadly – could include, by its recursive nature, the entirety of Palestinian society.

**For Palestinians**, Israel has constructed a spider web of orders, designations, proclamations and laws that make almost any political act an act of terrorism. All Palestinian political factions – including those that sit

in the Palestinian parliament — are *already* on the Israeli list of terror organizations or unauthorized organizations. A young Palestinian who wants to be politically active cannot join a political party without violating Israeli law. This puts Palestinians in a terrible and impossibly undemocratic bind, and it is because, again, Israel conflates political work with terrorist activity.

**For these six organizations**, the designation of “terrorist organization” is the NGO equivalent of a capital punishment. The government can expropriate its property, and – critically – have the Israeli banking system, which controls the Palestinian banking system, block any transactions to their account, confiscate any and all money transfers they receive, and designate them “terrorist funds.” Anyone who holds a position in the organization — employees, volunteers, board members — or anyone who has links or offers services to the organization must immediately sever all ties or face possible criminal charges which may carry long prisons sentences.

**For Israelis**, this law (which threatens those who “support” or “praise” a terrorist organization with years in prison) makes support for these Palestinian human rights organizations an act of civil disobedience—breaking the law. Some, myself included, who have come out publicly in support of these organizations, already have had complaints filed against them with the police, by right-wing organizations that would love to see us locked up.

**A speedy reversal of the designation is critical. Keeping it on the books does serious harm to the possibility of a future democratic reality in Israel and Palestine.** If these designations are not reversed quickly, these organizations may not exist in a year, at least not in their current form. This puts the backbone of Palestine’s fledgling civil society at risk, and might leave thousands of people whom these organizations serve with nowhere to turn. It will set the struggle for human and civil rights in Palestine—and thus for democracy itself—back, and delay democratization by a generation.

What’s more, the Israeli government, while it will have achieved its goal of eliminating what it perceives as a political threat, will also have become even more repressive and more authoritarian. The best thing for the futures of both Israelis and Palestinians is to reverse this designation as soon as possible.

#### **Looking ahead:**

There are two avenues to reverse his designation. The first is through European governments. Europeans have been funding these organizations for years because they think that a viable just future in the Middle East depends on building democratic societies based on a vibrant civil society. In designating these organizations as “terrorist,” Israel has cut down this tree that they have been working to cultivate for years. Will these government risk transferring funds to these organizations, and see if Israel lets them through or blocks them, triggering a diplomatic crisis?

The second path open to the designated entities for reversal is through the Israeli court system. This is a problematic path offered by the abuser within its own system, and it remains to be seen whether the Palestinian organizations will choose to take it, given the poor record this system has. That path is long and winding, and – to the best of my knowledge – there has never been a successful case where the designation of “terrorist organization” was reversed by the Israeli judiciary. But this is not an ordinary case, and as the international outcry grows, so does the pressure on Israeli authorities to do the right thing.