



# Freedom of Speech

August, 2018

[info@makan.org.uk](mailto:info@makan.org.uk)

Makan is a  
UK Registered Charity.  
No. 1169254





*As this document makes clear, many of the most significant violations of freedom of expression experienced by Palestinians at the hands of Israel surround the contestation and challenging of this history and Israel's attempt to prevent the consolidation of the Palestinian counter-narrative.*

## Summary

Freedom of speech is necessary for progress and prosperity, and is an essential component of political life. The ability to speak about and demonstrate one's views freely is a crucial aspect of democratic societies, and various international human rights documents exist that enshrine freedom of speech as a fundamental human right to be protected by states. Although Palestinians have the right to freedom of speech and expression, this right is often violated by the Israeli government, as well as Palestinian political parties, through silencing and suppressing free speech and stifling political and social activity more broadly. Further, freedom of speech is also severely affected by other rights violations which Palestinians systematically face, at the hands of the Israeli state, the [Palestinian Authority](#) and Hamas.

## Background and International Law

As with other nation-states, national and political narratives are vital to the sense of identity of the Israeli state and the way in which it attempts to engender this narrative amongst both its citizens and external audiences. This includes, perhaps most importantly, the narrative which is articulated with regards to the establishment of the state. As this document makes clear, many of the most significant violations of freedom of expression experienced by Palestinians at the hands of Israel surround the contestation and challenging of this history and Israel's attempt to prevent the consolidation of the Palestinian counter-narrative.

In some sense, therefore, looking at freedom of speech and its violations reveals the historical and ideological core of the Israeli state's project and its impact on Palestinians.

The right to free speech is [enshrined](#) in Article 19 of the International Covenant on Civil and Political Rights, which Israel is a party to and is therefore bound by, and is listed in Article 19 of the Universal Declaration of Human Rights (UDHR).<sup>1</sup> This right includes the "freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Israel violates the right to freedom of speech of Palestinians in various ways, and through the violation of this right, consequently violates others set out in the UDHR. The UDHR states that there is a right to the freedom of thought and conscience, as well as the freedom to act based on one's free speech and thought. The right to freedom of peaceful assembly and the right to take part in one's government are a natural product of these rights and are also laid out in the [UDHR](#).<sup>2</sup>

Israel specifically impairs the freedom to express criticism about its actions and behaviour. This extends to suppressing peaceful demonstrations, globally suppressing scholarly and non-scholarly critique of Israel, and limiting the political participation of Palestinians.

---

1. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

2. <http://www.un.org/en/universal-declaration-human-rights/>



***Israel specifically impairs the freedom to express criticism about its actions and behaviour. This extends to suppressing peaceful demonstrations, globally suppressing scholarly and non-scholarly critique of Israel, and limiting the political participation of Palestinians.***

Without freedom of speech and expression, or in circumstances where it is severely stifled, a society's ability to articulate its needs and demands, and represent itself as a political community, comes under siege, greatly impacting the condition of other individual rights. More broadly, societies develop in positive ways through having access to free speech. According to the United Nations, providing freedom of speech in a society is also key for [social and economic development](#).<sup>3</sup>

## Historical Development/Israeli Policy

Israeli censorship policies that currently hinder freedom of speech are based on laws enacted by the British Mandate government over Palestine. The Defense (Emergency) Regulations were first implemented in Palestine by the British Mandate government in 1945 in order to give the Mandatory government authority and [legitimise certain actions against the population](#).<sup>4</sup> These included various laws still used today such as the establishment and use of military courts, arrests and searches without warrants, and restrictions on self-expression verbally and through various forms of print. These laws also placed restrictions on Palestinians'

***Historical regulations from the earliest periods of Israel's statehood have been enhanced through the introduction of more recent laws.***

freedom of association through [regulating what meetings could be held](#).<sup>5</sup>

***...various laws still used today such as the establishment and use of military courts, arrests and searches without warrants, and restrictions on self-expression verbally and through various forms of print.***

given that many of these laws were found to oppose democratic principles. However, several laws based on the 1945 Regulations stayed in place and were imposed on Palestinians in the occupied territories as well as on Palestinian citizens of Israel. The regulations were deemed valid in the occupied territories and within the context of Israeli military rule and occupation. These laws are [still used today](#) as a basis for justifying Israel's authority to abuse various human rights, including the right to freedom of speech.<sup>6</sup>

In the years after Israel's inception, in 1951 and again in [1967](#), committees from the Knesset (the legislative branch of the Israeli government) were formed to revise Israeli law that was based on the Defense (Emergency) Regulations,

Historical regulations from the earliest periods of Israel's statehood have been enhanced

3. <https://www.indexoncensorship.org/2016/04/free-speech-important/>

4. <https://ecf.org.il/issues/issue/1471>

5. <http://nolegalfrontiers.org/military-orders/mil029ed2.html?lang=en>

6. [https://www.btselem.org/legal\\_documents/eme\\_gency\\_regulations](https://www.btselem.org/legal_documents/eme_gency_regulations)



*Since 2011, Israel has also cut funding from institutions that commemorate Nakba Day on May 15th,*

through the introduction of more recent laws. Some of this new legislation targets institutions and organisations which play significant political, social and cultural roles. In 2011, the Knesset passed “The Law for the Prevention of Damage to the State of Israel Through Boycott.” This law bans public advocacy for “boycotting the country and its illegal [settlements](#) in the [West Bank](#) and Golan Heights.”

This anti-boycott law allows the Israeli finance ministry to revoke funding to organisations that call for boycotts, and particularly impacts Palestinians, as well as Israeli human rights organisations and Palestinian human rights organisations that receive Israeli funding. The law violates freedom of speech in the form of boycotts, which are non-violent and legitimate tools of protest. By banning boycotts related to illegal settlements in the West Bank and Golan Heights, the state of Israel also legitimises these settlements [despite their illegality](#).<sup>7</sup>

Since 2011, Israel has also cut funding from institutions that commemorate Nakba Day on May 15<sup>th</sup>, when Israel celebrates its creation. Nakba Day is observed by Palestinians to mark the anniversary of their dispossession in the lead up to and upon the creation of the state of Israel, and is commemorated

each year with protests, marches, and other events. Through

7. <http://www.aljazeera.com/news/2015/05/150509080554926.html>

*The specific focus on this historical moment reveals the profound sense of erasure and displacement of Palestinians at the heart of the Israeli state’s foundation.*

cutting funding to institutions that mark this day, the state of Israel limits freedom of expression, silences opposing narratives, and prevents legitimate historical discussions. This action also works as an effort to end the commemoration of Nakba Day as a whole by diminishing the material and political capacity of Palestinians to observe it. The specific focus on this

historical moment reveals the profound sense of erasure and displacement of Palestinians at the heart of the Israeli state’s foundation. Such

ensorship of Palestinian history and perspectives is visible in the sole focus on the Israeli-Jewish narrative in Israeli schools and in the banning of films and plays that present the [Palestinian narrative](#).<sup>8</sup>

In 2016, the Knesset passed a law that allows for the removal of Members of Knesset based on statements they make. This law states that lawmakers can be removed or suspended from the Knesset “for incitement to racism and support of armed struggle against the state.” Those in opposition of this law fear that it seeks to specifically [target Palestinian Members of Knesset](#), who may promote policies and views that can be misconstrued as racist.<sup>9</sup> When Palestinian Members of Knesset, who make up a minority of Knesset members, advocate for fair and equal

8. “Freedom of Expression in Israel and the Place of Different Narratives in the Israeli Discourse,” by Yoni Levy for Columbia University, 2016.

9. <https://www.haaretz.com/israel-news/1.731962>



*Israeli forces regularly break up demonstrations by arresting and trying demonstration organisers in military court, deporting foreign activists who participate in demonstrations, and closing demonstration zones.*

treatment of Palestinians, this could also be interpreted as a struggle against the state of Israel. The possibility of removing Members of Knesset who promote views that other members disagree with clearly violates people's freedom of speech.

## Current Events

One of the ways in which Palestinians are deprived of their freedom of speech today is through the suppression of political demonstrations. According to Article 21 of the ICCPR, people have the right to peaceful assembly. Article 27 of the Fourth Geneva Convention also states that occupied people should have their freedom of speech and other fundamental human rights protected by the occupying power. It follows that Palestinians should have the right to peacefully voice their complaints in the form of [demonstrations](#).<sup>10</sup> Despite the clear allowance for this in international law, Israeli forces regularly break up demonstrations by arresting and trying demonstration organisers in military court, deporting foreign activists who participate in demonstrations, and closing demonstration zones. Sometimes, demonstrations are [completely prevented](#) by the dispersal of crowds by Israeli forces.<sup>11</sup> Most recently, the peaceful protests in [Gaza](#), known as the Great March of Return, have been met with overwhelming force by Israel's army,

resulting in the killing of over 30 Palestinians and the injuring of thousands.

Other times, Israeli forces engage in unprovoked [attacks on peaceful Palestinian protestors](#).<sup>12</sup> Although demonstrations are completely legal for Israelis, the Israeli Defense Forces Order No. 101 places severe restrictions on forming and participating in demonstrations that only apply to Palestinians living in the occupied West Bank. Before organising a demonstration, a permit needs to be approved by the Israeli government. Palestinians face regular discrimination in acquiring these permits based on claims that Palestinian demonstrations are inherently violent, threatening to state security, or defamatory. Order No. 101 goes on to state that it "is forbidden to hold, wave, display or affix flags or political symbols, except in accordance with a permit of the military commander." Again, this rule renders most demonstrations meaningless and displays of Palestinian nationality illegal. [Order No. 101](#) also makes posters, photos, and other documents with political significance illegal

*Although demonstrations are completely legal for Israelis, the Israeli Defense Forces Order No. 101 places severe restrictions on forming and participating in demonstrations that only apply to Palestinians living in the occupied West Bank.*

10. <http://www.acri.org.il/en/protestright/the-right-to-demonstrate/>

11. <http://www.btselem.org/demonstrations>

12. <https://www.amnesty.org/en/latest/news/2017/07/israeli-forces-attack-peaceful-crowds-at-jerusalem-holy-site/>



without the authorisation of military commanders.<sup>13</sup> These restrictions effectively repress the ability of Palestinians to freely express national, political and historical identities in the public sphere.

In the occupied Palestinian territories, the right to freedom of speech is also infringed upon by the Palestinian Authority (PA) and Hamas. Palestinian journalists are regularly detained and

***In the occupied Palestinian territories, the right to freedom of speech is also infringed upon by the Palestinian Authority (PA) and Hamas. Palestinian journalists are regularly detained and imprisoned for promoting what the PA or Hamas consider to be defamation.***

imprisoned for promoting what the PA or Hamas consider to be defamation. Some websites have even been shut down or blocked on various occasions. In August 2017, the PA enacted the Electronic Crimes Law, which restricts freedom of expression online. Under this

law, imprisonment, fines, and detentions are possible based on what people [post or share online](#).<sup>14</sup> [Young Palestinians](#) are particularly targeted for critiquing the PA or government officials online.<sup>15</sup> 7amleh, the Arab Center for the Advancement of Social Media, submitted a statement to the United Nations Human Rights Council for the 37th session in which they expressed

their concerns regarding the increase of attacks on freedom of speech for Palestinians in recent years. This statement also included concerns regarding the violations of online privacy and digital rights for Palestinians by the Israeli government, the PA, Hamas, and social media companies that partner with the Israeli government to further police Palestinians online. The statement included [recommendations](#) for Israel, the PA, and the Human Rights Council in order to ensure that Palestinians' right to freedom of speech online is met.<sup>16</sup>

## The Criminalisation of Boycotts

In July 2011, the Israeli Knesset passed a law making it “an offence to call for a boycott against the state of Israel or its West Bank settlements.” This law criminalises anyone living in Israel or the occupied territories who peacefully oppose the many practices of Israel that are illegal according to international law. This law not only violates the right to freedom of expression of Israelis and Palestinians, but it also threatens the funding for Israeli human rights organisations that [support the boycott of Israel](#).<sup>17</sup> In March 2017, the Knesset expanded the 2011 law by passing a bill that blocks entry visas or residency to foreign nationals who make public calls for boycotts of Israel, Israeli

13. <http://www.acri.org.il/en/protestright/order-101-3/>

14. <https://www.amnesty.org/en/latest/news/2017/08/palestine-dangerous-escalation-in-attacks-on-freedom-of-expression/>

15. <https://www.aljazeera.com/news/2015/11/palestinian-authority-war-facebook-dissent-151114105846783.html>

16. <http://7amleh.org/2018/03/20/7amleh-raises-its-grave-concern-about-increasing-violations-to-palestinian-digital-rights-at-the-un-human-security-council>

17. <https://www.amnesty.org/en/latest/news/2011/07/israel-anti-boycott-law-attack-freedom-expression>



*In March 2017, the Knesset expanded the 2011 law by passing a bill that blocks entry visas or residency to foreign nationals who make public calls for boycotts of Israel, Israeli institutions, or Israeli settlements.*

institutions, or Israeli settlements.<sup>18</sup> Although the goal of the bill is to fight against the international Boycott, Divestment, Sanctions movement (BDS), which aims to place “[nonviolent pressure](#)” on Israel until it complies with international law,<sup>19</sup> Palestinians living in Israel are not exempt from this ban.<sup>19</sup> Many who oppose this bill say that foreign nationals calling for BDS are against occupation, not the state of Israel. Others opposing the bill say that it violates the right to freedom of speech, which is a fundamental human right.

The Association for Civil Rights in Israel (ACRI) also opposes this law, stating that it is undemocratic to bar someone entry from Israel solely based on his or her political views. ACRI also stated that this ban will [overwhelmingly affect Palestinians](#), particularly those who have residence permits.<sup>20</sup> These laws create further censorship around the treatment and rights of Palestinians.

*Although Palestinians in the occupied Palestinian territories do not have a political voice, Jewish settlers illegally living in the West Bank can vote.*

and the Gaza Strip cannot obtain Israeli citizenship and therefore cannot vote, although Israel has ultimate jurisdiction over this area through occupation. Although Palestinians in the occupied Palestinian territories [do not have a political voice](#), Jewish settlers illegally living in the West Bank can vote.<sup>21</sup>

Within the Israeli government, Arab political parties do not have much power, as many of the concerns of Palestinian citizens of

Israel stem from issues surrounding systemic discrimination against the non-Jewish population.

Arab political parties

are also politically [marginalised and targeted](#) within Knesset due to their identity and political concerns.<sup>22</sup> Furthermore, approximately half of Bedouins in the [Negev](#) live in villages that are unrecognised by the State of Israel, thereby removing their ability to attain various rights, including the right to vote.

## Political Participation

Palestinians are also restricted in their freedom of speech through limited political participation. Due to policies enacted under the Israeli occupation, Palestinians living in the West Bank

## Global Academia

Violating the right to freedom of speech concerning Israel extends to a global level for Palestinians and non-Palestinians alike. Universities around the globe, particularly in the United

18. <https://www.haaretz.com/israel-news/.premium-1.775614>

19. <https://bdsmovement.net/what-is-bds>

20. <https://www.haaretz.com/israel-news/.premium-1.775614>

21. <http://mondoweiss.net/2015/02/palestinians-israeli-elections>

22. <https://www.middleeastmonitor.com/20150311-10-facts-about-israels-elections-and-the-palestinian-vote/>



States and the United Kingdom, are increasingly being censored in their criticism of Israel. Although Israel has been violating the rights of Palestinians for over 50 years, many professors worldwide are unable to express their genuine critiques of Israel. In various American universities, smear campaigns are waged against scholars who critique Israel and American foreign policy. This push for ideological conformity not only suppresses genuine critique and expression of ideas, it is also not in keeping with what universities were made to represent. Such initiatives underscore a loss of freedom of speech and, particularly in an academic setting, the loss of academic freedom. Universities challenge worldviews and objectively critique widely accepted or ignored facts. Instead, academics are globally targeted, monitored and often dismissed from their positions for their support of Palestine.<sup>23</sup>

Although freedom of speech is a vital human right, both in personal and political settings, most Palestinians are not given this right. Israel impairs the ability to critique its practices through barring peaceful demonstrations, suppressing genuine critique of Israel, and limiting political participation. Through these actions that suppress free speech and expression, Palestinians suffer the loss of a fundamental human right.

*In various American universities, smear campaigns are waged against scholars who critique Israel and American foreign policy.*

---

23. "Academic freedom and Palestine: A personal account" by Kristofer J. Petersen-Overton for Arab Studies Quarterly (Volume 33, Issue 3/4), Summer 2011. Pages 256-267.