

## **Adalah – The Legal Center for Arab Minority Rights in Israel**

### **Opening Remarks**

#### **Politics without law: The attack on human rights organizations**

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This month, against the backdrop of the Goldstone Mission's Report, a virulent offensive was launched against the New Israeli Fund (NIF) and human rights organizations based in Israel. Government ministers, Members of Knesset, senior journalists and NGOs that support the Occupation all partook in the attack. The situation deteriorated to the point that the Knesset discussed the possible establishment of a parliamentary committee to investigate the activities of human rights organizations. The Knesset is also currently debating a bill that would severely curtail the foreign funding of NGOs. What, then, is behind this attack? True, it began in the heated context of the Goldstone Report; however, the leading human rights organizations in Israel have been submitting reports to UN committees on human rights violations by Israel for many years, including previous calls for accountability for suspected war crimes. The Israeli Ministry of Foreign Affairs, together with the Ministry of Justice, regularly submits detailed responses to these reports and gives oral presentations before the UN committees. The attack can therefore not be explained away simply as a hysterical response to the Goldstone Report.

The explanation runs deeper than that. On the institutional level, the past few years have witnessed an aggressive political attack on the legal system, spearheaded by the Justice Minister. The attack is grounded in the argument that politics should be freed from the restrictions of the rule of law, and thus the state's legal advisers should not intervene, in the name of law, in their superiors' decisions, judicial review of Knesset legislation should be limited, the political system should dictate the appointment of Supreme Court justices, etc. This position has gained supremacy and brought about a takeover of the law enforcement authorities by the extreme-right Yisrael Beiteinu party. The Justice Minister, Yaacov Neiman, was appointed with the approval of the head of Yisrael Beiteinu, the Foreign Minister, Avigdor Lieberman. The head of the Knesset's Constitution, Law and Justice Committee and the Minister of Internal Security, the politician responsible for the police, are also both members of Yisrael Beiteinu. In parallel, a representative of the most extreme right-wing party in the Knesset, HaIchud HaLeumi, was selected to the Judges' Appointment Committee.

In this situation, legal norms have been reduced from obligations to mere recommendations. During and after "Operation Cast Lead", human rights organizations asked the Attorney General (AG) to open an investigation based on *prima facie evidence* of gross violations of international law; the AG rejected our request. Previous requests to the Military Advocate General (MAG) to open investigations into numerous other cases were also denied. The political attack on the Supreme Court has deterred it from issuing decisions in such cases, and petitions filed to the Supreme Court against the MAG and AG's policy of not opening criminal investigations into the killing of Palestinians remain pending years later. It also appears that the Supreme Court's inaction has resulted in a brake on the submission of petitions by human rights organizations. The number of principle petitions

filed to the court has dropped dramatically in recent times despite a marked increase in the incidence and severity of human rights violations.

In this political climate, legitimization of the doctrine of the liberation of politics from the confines of the law is greater than ever. The doctrine took root with the construction of the Wall, in breach of international law. It was then consolidated by the state's decision to close all investigation files into the killing of thirteen young Arab demonstrators in October 2000, contrary to the recommendation of the Or Commission; the enactment of racist laws such as the ban on family unification law; the incitement against Arab citizens of the state that followed the publication of the "vision documents". The campaign of home demolitions in East Jerusalem, carried out based on British Mandatory regulations and the state's failure to implement a number of key court decisions providing remedies to Palestinians delivered on petitions submitted by human rights organizations then followed. To these developments should be added the siege on Gaza, which amounts to collective punishment of the entire population; and the popular support for "Operation Cast Lead", a military attack in which the Israeli army demonstrated a complete disregard for the laws of war.

What can be inferred from this context is that the ascendancy of the doctrine of politics freed from law offers the real explanation for the recent attack on human rights organizations. The criticism repeatedly voiced by these organizations as they seek to subordinate politics to the rule of law is viewed as an intolerable interruption of the political process. The Goldstone Mission report is precisely about the relationship between law and power. The human rights organizations that have come under attack will continue to struggle to preserve the primacy of discourse of rights, based on international law, and will not be subordinated to the doctrine of politics freed from the constraints of the law.