

April 22, 2022

His Excellency Naftali Bennett
Prime Minister of Israel
The Knesset
Jerusalem, Israel

Dear Mr. Prime Minister:

The American Bar Association (ABA) is the world's largest voluntary association of attorneys and legal professionals. Advancing the rule of law is one of the ABA's four goals, the objectives of which include working for just laws, including human rights and a fair legal process; assuring meaningful access to justice for all persons; preserving the independence of the legal profession and the judiciary; and holding governments accountable under law.

We have read reports that Israel has designated six leading Palestinian human rights and humanitarian organizations as terrorist entities without providing them the full panoply of procedural rights guaranteed to them under international law. The organizations are Al-Haq, Addameer, the Bisan Center for Research and Development, Defense for Children International-Palestine, the Union of Agricultural Work Committees, and the Union of Palestinian Women Committees.

A number of organizations and officials have expressed concerns that these designations have been made on the basis of vague or uncorroborated allegations and target legitimate human rights activities.¹

Organizations should not forfeit their rights simply because they are accused of engaging in terrorist activity. Those charged are still entitled to the presumption of innocence. International law accepts that the requirements of a fair trial may be modified in counterterrorism matters and that states may have recourse to special courts, particularly military courts. It is fundamental, however, that court procedures adhere to the principle of "equality of arms," a jurisprudential principle that obliges a court to ensure that neither party is put at a disadvantage in presenting its case by being denied access to evidence at the core of the case against it.

Questions have been raised about whether an impartial and independent administrative review of the military order against the six organizations is possible under the circumstances. While a final appeal can be brought before the Israeli Supreme Court, this could be an inadequate protection since the organizations likely will not have had access to the evidence on which the military order was based, and there may well be no written decision or record for the Court to review.

The ABA takes no position on the ultimate culpability of the designated organizations. Procedural rights guaranteed under international law would suggest that authorities should disclose to those organizations or their counsel the evidence on which the allegations are based to permit them to prepare a proper legal defense.

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We request that you review the concerns some in the international community have expressed questioning whether the procedures utilized here inappropriately deprive persons or organizations of their rights.

Sincerely,



Reginald M. Turner

cc: His Excellency Benjamin Gantz, Defense Minister of Israel
The Honorable Maj. Gen. Yehuda Fuchs, IDF Military Commanding Officer
in Charge of the West Bank
The Honorable Michael Herzog, Ambassador of Israel to the United States
The Honorable Gilad Erdan, Ambassador of Israel to the United Nations
The Honorable Thomas R. Nides, United States Ambassador to Israel
The Honorable Antony J. Blinken, United States Secretary of State
Ms. Fionnuala D. Ní Aoláin, United Nations Special Rapporteur on the promotion and
protection of human rights and fundamental freedoms while countering terrorism

ⁱ *Statement by UN High Commissioner for Human Rights Michelle Bachelet on Israel's "terrorism" designation an unjustified attack on Palestinian civil society*, 26 October 2021, <https://reliefweb.int/report/occupied-palestinian-territory/israel-s-terrorism-designation-unjustified-attack-palestinian>; *UN Special Rapporteurs and Working Groups Letter to Mr. Josep Borrell Fontelles, High Representative of the EU for Foreign Affairs and Security Policy*, 8 December 2021, <https://www.ohchr.org/sites/default/files/2022-01/LetterHRJosepBorrell.8.12.2021.pdf>; *Statement by Mr. Nicolas de Riviere, Permanent Representative of France to the UN Security Council on the Situation in the Middle East, Including the Palestinian Question*, 19 January 2022, <https://onu.delegfrance.org/nouvelle-traduction-israel-doit-assurer-la-protection-de-tous-les-civils>; Jonathan Lis & Jack Khoury, *Israel Hasn't Provided Evidence on Labeling of Palestinian NGOs, EU Foreign Minister Says*, Haaretz, 17 November 2021, <https://www.haaretz.com/israel-news/.premium-eu-israel-didn-t-provide-evidence-on-palestinian-ngos-labeled-terror-groups-1.10395713>; *Statement by Ireland's Minister for Foreign Affairs and Minister for Defence, Simon Coveney, on the designation of Palestinian NGOs as terrorist organisations*, 27 October 2021, <https://www.gov.ie/en/press-release/08444-statement-by-minister-coveney-on-the-designation-of-palestinian-ngos-as-terrorist-organisations/>; Hagar Shezaf & Ben Samuels, *In Congress, Israel Justifies Palestinian NGO Terror Tag With Evidence on Unrelated Group*, Ha'aretz, 4 November 2021, <https://www.haaretz.com/israel-news/.premium.HIGHLIGHT-israel-justifies-palestinian-ngo-terror-tag-to-u-s-with-evidence-on-unrelated-group-1.10352342?fbclid=IwAR25DyXt7qepzsC6DjN5Nf3WC79sPcpYKh5Nu73WocME-gJAp4iqF0n-QOU>; *Letter from Rep. James P. McGovern to Secretary of State Antony J. Blinken Expressing 'Grave Concern'*, 8 November 2021, https://mcgovern.house.gov/uploadedfiles/israel_2021_-_to_secy_blinken_-_designation_ngos_as_terrorists_8nov21.pdf.