

## **Al Mezan Center for Human Rights**



Youths demonstrating in Rafah, 12 March 2011 (Photo: Al Mezan)

## **Position Paper Peaceful Assembly: A Basic Human Right and Indicator of the Rule of the Law**

**Gaza, March 2011**

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As part of its work toward promoting and raising awareness of the rights to peaceful assembly and freedom of opinion and expression, and based on the firm belief in the importance of respecting the right to peaceful assembly, as a core legal right whose respect indicates adherence to the principle of rule of law, Al Mezan Center for Human Rights (Al Mezan) presents this position paper to contribute to cementing this right in the Palestinian society. This brief paper presents Al Mezan's position regarding the violation of this right and other rights related to it in the occupied Palestinian territory (oPt). Issuing this paper is significant at this particular time, as the public, and especially youth groups, is increasingly mobilizing against the current Palestinian-Palestinian split and the Israeli occupation. Various powers and groups in Palestinian society are taking action. Their only tool in order to mobilize society is their right to peacefully assemble. Al Mezan therefore calls for full, unconditional respect of every Palestinian's right to exercise this right without being treated violently or denied of this right.

Al Mezan asserts that the violation of this right, be it in the form of preventing peaceful assemblies or by using force to disperse them, represents a serious infringement of Palestinian law as well as international human rights standards. The Palestinian governments in Gaza and the West Bank are under an obligation to respect this right as well as protect those who exercise it within the limits of the law.

### **Introduction**

Respecting the right to peaceful assembly forms one of the main pillars of the rights to political participation in one's country, to free expression and the ability to enjoy other human rights. It is a prerequisite for democratic political practice. Without peaceful assembly, the democratic process is nothing but impaired. Without it, other democratic processes, such as elections, are void, running the risk that political parties remain inactive and ineffective and any potential reforms cannot be reached. Societies need the protection and respect of freedoms to enhance stability and to move forward towards societal peace and good, democratic governance that ensures diversity and tolerance.

Respecting citizens' right to assemble peacefully is crucial to maintaining stability and peace in society. A denial of this would only result in violent and undemocratic action by political and social groups as they attempt to express injustice, exclusion or marginalization because they are deprived of their rights.

The strength of social texture and maintaining societal peace requires that citizens feel a sense of belonging and responsibility. This is attained not by restricting freedom

and rights, but by protecting them and respecting their practice. The resolution of conflicting political, social and economic interests should be pursued by peaceful means, which unifies society to deal with internal troubles and confront any external threats that threaten its security. Every individual in society should be responsible for confronting such risks and defending his or her rights and interests which are only achievable under a democratic system that maintains the dignity of its citizens.

The right to peaceful assembly, which comprises a wide array of activities, including peaceful demonstrations and sit-ins, is one of the main instruments used to exert pressure on decision makers and to affect public affairs. It is a vital democratic weapon that can be used by the different social, political, and cultural components of society to defend their interests and to legally affect public opinion, which is a fundamental right enshrined in law and must be respected by the executive authority. Groups and individuals have an intrinsic right to express their dissent or support towards government policies and they have the right to express this dissent and/or support collectively and peacefully. In this sense, the right to peaceful assembly is of value in itself in addition to being a guarantor to defend other human rights and freedom.

### **The legal protection of peaceful assembly: Palestinian law and international human rights law**

The right to peaceful assembly enjoys great interest and respect under Palestinian law, reflecting its importance and value, both in itself and to ensure respect of other human rights. Law normally reflects developments in society and must respect the dignity and rights of its members and help manage their complex social, economic, and political interrelationships. In addition to Palestinian law, international human rights standards guarantee a minimum margin of this right, whose respect and fulfillment represent an obligation on governments.

International law shows a clear interest in the right to peaceful assembly. The Universal Declaration for Human Rights<sup>1</sup> was the first document that ratified the right to peaceful assembly as a fundamental human right. Article 20 (1) states that "Everyone has the right to freedom of peaceful assembly and association". Article 21 of the International Covenant on Civil and Political Rights<sup>2</sup> also asserts the right to peaceful assembly: "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others."

The Palestinian Basic Law establishes the protection of peaceful assembly. Article 26 of the amended Palestinian Basic Law states that Palestinians have the right to participate in political activities as individuals or groups, hold private meetings without police presence, and hold public meetings without breaking the law. Moreover, the Palestinian Public Meetings Law No. 12 of 1998, in Article 2, states

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<sup>1</sup> Universal Declaration of Human Rights, G.A. res. 217,000, U.N. Doc. D/3, entered into force 10 December 1948.

<sup>2</sup> International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

that “[C]itizens shall have the right to hold public meetings, gatherings, and processions, which shall not be infringed upon or restricted, except pursuant to the provisions of this law.”<sup>3</sup>

The only legal procedure required by the law when a public meeting is organized is limited to notifying - in writing – the Governor or the Chief of the Police about the meeting at least 48 hours in advance. In case the organizers do not receive a response, also in writing, they automatically have the right to organize the meeting at the planned time and place. Article 3 of the same law states that “[P]ublic Meetings may be held, provided that a written notice to this effect is addressed to the Governor or Director of police at least forty-eight (48) hours in advance in accordance with article 4 below.”

International human rights law and Palestinian law provide for the legal protection owed to the right to peaceful assembly. However, facts on the ground show that it is systematically violated throughout the oPt.

The Palestinian police's interpretation of the Palestinian Public Meetings Law No. 12 of 1998 has raised controversy in Palestinian society. On 29 February 2000, the then Palestinian Director of Police, Major General Ghazi Al Jabali, issued a directive stipulating that when a public meeting is organized, prior permission must be received from the police. It added that in case the organizers do not receive such response, they are not allowed to organize the meeting. At the time, heated debates erupted between Palestinian political factions, particularly Hamas Movement, and non-governmental organizations on one hand, and the Palestinian Authority on the other. They appealed to the Palestinian High Court against the Director of Police's decision and, on 29 April 2000, the Court ruled that his pronouncement would be ineffective. The following day, 30 April 2000, Palestinian President Yaser Arafat, acting as Minister of Interior, issued an executive bylaw on the matter. The bylaw did not contradict with the spirit of the law, however, it created a new restriction whereby organizers must submit a written notice explaining the reasons behind the meeting. It also granted the Director of the Police the right to meet the organizers to discuss the schedule of the demonstration, but did not give him the power to disallow it.

Therefore, with such guarantees provided by Palestinian law - including the amended Basic Law (of 2005) and the Public Meetings Law - and international human rights law, Al Mezan asserts that the restrictions stated by the Palestinian law are mainly practical and administrative in their nature and aim to ensure the protection and good conduct of those who participate in peaceful assemblies and avoid potential traffic problems. These restrictions are more than sufficient to inform the authorities in case they want to use tame security measures against possible vandalism to public and personal property, or any violence that participants in peaceful assemblies could be subjected to by other opposing groups.

Al Mezan emphasizes the importance of adhering to the law, as it ensures the right to peaceful assembly, by submitting a written notice to the police by the organizers. Al

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<sup>3 3</sup> Palestinian Public Meetings Law No. 12 of 1998 issued in Gaza City on 28 December 1998, see the text of the law below.

Mezan asserts that as long as the organizers of meetings commit to the aforementioned reasonable limitations, the notice does not give anybody the authority to prevent meetings of a peaceful nature from being carried out in the oPt.

Al Mezan asserts that the letter, spirit and philosophy of the law require the non-intervention of the police or any other security forces to allow or disallow meetings. In this sense, the law seeks to strengthen society and to enhance its steadfastness to enable citizens to defend their rights and freedoms without resorting to violence. The law, as long as it respects and protects rights, also prevents the over-control of executive authority on society and promotes the strength of society and the feeling of belonging among its citizens. Therefore, Al Mezan:

- Calls on the Ramallah and Gaza Governments to respect and enhance the right to peaceful assembly and to stop violating the law in dealing with notices submitted by individuals, political groups, unions, non-governmental organizations, and other social groups, including youth groups;
- Calls on social groups to respect the limitations of the Palestinian Public Meeting Law (see the annex for the full text of this law);
- Strongly condemns acts and threats from security forces and police to prevent organizers from carrying out their assembly;
- Strongly condemns the police and/or security forces attacks on peaceful assemblies and participants. It also condemns police attempts to forcibly disperse peaceful assemblies even when the organizers obeyed the law and the assembly was peaceful and did not hurt any person or public or personal facilities;
- Calls on social and political groups in Palestine to view the right to peaceful assembly as a tool for stability that allows for political and social opinions be freely expressed, which could help engage people in the development of a sound democratic society. We should work together towards enhancing and respecting this right.

**Ends**

### **Public Meetings Law No. 12 of 1998<sup>4</sup>**

The Chairman of the Executive Committee of the Palestine Liberation Organization,  
The President of the Palestinian National Authority,  
Having reviewed the (Ottoman) public Meetings Law of 1327 AH in force in the  
Governorates of the Gaza Strip,  
Having reviewed the (Jordanian) public Meetings Law No. 60 of 1953 in force in the  
Governorates of the West Bank, Based upon the draft submitted by the Minister of  
Interior, and Based upon the approval of the Legislative Council during its session of  
19 December, 1998,  
I hereby promulgate the following law:

#### **Article 1**

In applying the provisions of this law, the following terms and expressions shall have the meanings specified below, unless the context determines otherwise:

Ministry: the Ministry of the Interior

Ministry: The minister of the Interior

Governor: The Governor of a Governorate

Public Meeting: Any public meeting to which at least fifty (50) persons are invited in an open and public place, including public squares, open places, playgrounds, parks and the like.

#### **Article 2**

Citizens shall have the right to hold public meetings, gatherings, and processions, which shall not be infringed upon or restricted, except pursuant to the provisions of this law.

#### **Article 3**

Public Meetings may be held, provided that a written notice to this effect is addressed to the Governor or Director of police at least forty-eight (48) hours in advance in accordance with article 4 below.

#### **Article 4**

A written notice signed by at least three (3) organizer of a meeting must be submitted, the notice shall specify the place and time where the meeting will be held and the purpose thereof.

1. If the written notice is submitted by a corporate body, the signature of its representative shall suffice.
2. Without prejudice to the right to hold a public meeting, the Governor or Director of Police may place restrictions on the duration of the meeting or route of the procession set forth in Article 3 for traffic regulation, provided that the organizers are informed in writing of these restrictions after a period not to exceed twenty-four (24) hours from the submission of the notice.
3. If the organizing party does not receive any written reply as set forth under the preceding paragraph, the organizing party may hold the public meeting at the fixed time in the manner stated in the notice.

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<sup>4</sup> Source: [http://ahmadbarak.com/UserImages/File/Public\\_Meetings\\_Law\\_No\\_12\\_of\\_1998.pdf](http://ahmadbarak.com/UserImages/File/Public_Meetings_Law_No_12_of_1998.pdf).

**Article 5**

The competent parties, upon the request of the party which is organizing the meeting, shall take all necessary precautionary measures, provided that such measures do not infringe upon the freedoms of the meeting participants, and the process of the meeting.

**Article 6**

Without prejudice to a severer penalty set forth by the Penal Law, a person who violates the provisions of this law shall be liable to imprisonment for a period not to exceed two (2) months and a fine of fifty (50) Jordanian Dinars or the equivalent in legal tender.

**Article 7**

The Minister of Interior shall issue the bylaws and decision required for the enforcement of the provisions of this law.

**Article 8**

The (Ottoman) Public Meeting Law of 1327 AH in force in the Governorates of the Gaza Strip, the (Jordanian) Public Meetings Law No. 60 Of 1953 in force in the Governorates of the West Bank, as well as any other provision contradicting the provisions of this law, are hereby repealed.

**Article 9**

All competent authorities, each one within its sphere of jurisdiction, shall implement the provisions of this law, which shall enter into force thirty (30) days after the date of its publication in the Official Gazette.

Issued in the city of Gaza on 28 December, 1998 AD, corresponding to 9 Ramadan 1419 AH.

**Yasser, Arafat**

**Chairman of the Executive Committee of the Palestine Liberation Organization  
President of the Palestinian National Authority.**