



## OPEN LETTER TO AUTHORITIES IN EUROPE AND GLOBALLY

Respect and protect the freedoms of expression and peaceful assembly

for

Nakba Remembrance Day commemorations

10 May 2024

Amnesty International urges state authorities across Europe and globally to respect, facilitate and protect the rights to freedom of expression and assembly in advance of Nakba Remembrance Day events, which will be held across Europe and worldwide on or around 15 May 2024.<sup>1</sup>

In past years, Amnesty International has expressed deep concern over blanket, pre-emptive bans on assemblies, and the clampdown on freedom of expression in solidarity with Palestinians, including specific bans on past Nakba Day assemblies in some countries.<sup>2</sup> Such bans are unlawful and discriminatory and are often predicated on, and reinforce, harmful anti-Arab and anti-Palestinian racism and stereotypes. Bans and other infringements on such expression in many states thus pre-date the current hostilities in the occupied Gaza Strip and violence across the rest of the Occupied Palestinian Territory.

Since October 2023, however, many states in Europe and beyond have dramatically intensified their crackdown on assemblies and forms of expression intended to amplify the voices of Palestinians, to express solidarity with them and their families, and/or to criticize Israeli violations of international law or the potential complicity of the USA and a number of Europe states in these violations.<sup>3</sup> In addition to numerous examples of banned assemblies, Amnesty International has also observed a deeply

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<sup>1</sup> Nakba Day commemorates the “catastrophe” (“nakba” in Arabic) that Palestinians experienced before, during and after the 1947-1949 conflict, which led to the displacement and dispossession of over 800,000 Palestinians from their homes and land.

<sup>2</sup> See, for example, Amnesty International, Germany – Protect the Protest: Against blanket bans of demonstrations for the rights of Palestinians, Index Number: EUR 23/7180/2023, 12 September 2023, <https://www.amnesty.org/en/documents/eur23/7180/2023/en/>.

<sup>3</sup> Amnesty International, Europe: Right to protest must be protected during latest escalations in Israel/OPT, 20 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/europe-right-to-protest-must-be-protected-during-latest-escalations-in-israel-opt/>; EUObserver, “Peaceful Israel/Gaza Protests are not National Security Threat,” 9 November 2023, <https://euobserver.com/opinion/157668>.

disturbing trend in which certain slogans or demands, including calls for a ceasefire, have been wrongly labelled by state authorities as “antisemitic” or as “apologizing” for or “glorifying” terrorism.

People and groups that oppose Israel’s illegal occupation, apartheid against Palestinians, war crimes and signs of genocide must be enabled to peacefully assemble and communicate their opposition to such human rights violations; demand accountability; and express solidarity with the Palestinian victims of these abhorrent practices.<sup>4</sup>

The instrumentalization of antisemitism to discredit or criminalize criticism of the state of Israel and the conflation of antisemitism with criticism of Israel’s violations of international law are particularly problematic and undermine authorities’ efforts to address the real and enduring scourge of antisemitism. Authorities must hold people accountable for both hate crimes and any advocacy of hatred that constitutes incitement to hostility, discrimination, or violence, regardless of whether directed at Jewish people or at Palestinians, Arabs, Muslims or other groups. But Amnesty International’s research indicates that both counter-terrorism laws and laws penalizing the advocacy of hatred are being weaponized by state authorities to target demonstrations and expression that are protected under international human rights law. A recent statement by the UN High Commissioner for human rights has urged states to refrain from conflating the exercise of freedom of assembly and expression with incitement to hatred or in support of acts of terrorism.<sup>5</sup>

### *The right to freedom of expression and assembly*

The rights to freedom of peaceful assembly and expression are the foundation of civic participation. State authorities must respect, protect, and fulfil these rights for everyone, without discrimination.

The right to freedom of expression is enshrined in Article 10 of the European Convention on Human Rights and Fundamental Freedoms (ECHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). The right to peaceful assembly is enshrined in Article 11 ECHR and Article 21 ICCPR. Although restrictions on freedom of expression and freedom of assembly are permissible under international human rights law under certain circumstances, the authorities must always first seek to protect and facilitate the exercise of these human rights. Any restrictions must be both necessary and proportionate.

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<sup>4</sup>Amnesty International, Israel/OPT: New evidence of unlawful Israeli attacks in Gaza causing mass civilian casualties amid real risk of genocide, 12 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/israel-opt-new-evidence-of-unlawful-israeli-attacks-in-gaza-causing-mass-civilian-casualties-amid-real-risk-of-genocide/>; Amnesty International, Israel must end its occupation of Palestine to stop fuelling apartheid and systematic human rights violations, 19 February 2024, <https://www.amnesty.org/en/latest/news/2024/02/israel-must-end-its-occupation-of-palestine-to-stop-fuelling-apartheid-and-systematic-human-rights-violations/>; Amnesty International, Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza, 20 October 2023, <https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>; Amnesty International, Israel’s apartheid against Palestinians: Cruel system of domination and crime against humanity, Index Number: MDE 15/5141/2022, 1 February 2022, <https://www.amnesty.org/en/documents/mde15/5141/2022/en/>.

<sup>5</sup> UN High Commissioner for Human Rights, United States of America: UN human rights chief troubled by law enforcement actions against protesters at universities, 30 April 2024, <https://www.ohchr.org/en/press-releases/2024/04/united-states-america-un-human-rights-chief-troubled-law-enforcement-actions>.

Banning an assembly is always a measure of last resort and assemblies should never be banned unless other, less intrusive measures have been exhausted first.

The right to freedom of expression applies to information and ideas of all kinds including those that may be deeply shocking, disturbing or offensive. It is key to enabling individuals to exercise their other human rights and includes expression of personal identity, for example by means of dress and forms of behaviour.

Any restrictions on these rights must not only be necessary and proportionate, but also content neutral. Otherwise, the very purpose of peaceful assemblies as tools of political and societal participation and as an opportunity to voice opinions in the public domain is invalidated. The right to freedom of expression not only protects the communication of views that reflect a societal consensus, but also explicitly protects those that might be perceived by some as alienating or disturbing. Indeed, in its General Comment 37, the UN Human Rights Committee noted that “given that peaceful assemblies often have an expressive function, and that political speech enjoys particular protection as a form of expression, it follows that assemblies with a political message should enjoy a heightened level of accommodation and protection.”<sup>6</sup>

### ***The right to non-discrimination***

The recognition of the rights to peaceful assembly and expression imposes a corresponding obligation on the authorities to ensure their exercise (and also any restrictions on them) without discrimination. Freedom of expression and freedom of peaceful assembly must always be interpreted in ways that explicitly protect minorities.

Amnesty International considers the suppression of Palestinian perspectives in public and political discourse to be a violation of the right to non-discrimination. The expression of frustration, or indeed anger, in the context of assemblies cannot justify general suspicion, stigmatisation and criminalization of people of (or perceived to be of) Palestinian or Arab descent, or Muslims – and their allies, including the many Jewish people who stand in solidarity with Palestinians. The rights to freedom of peaceful assembly and expression are the foundation of civic participation. This includes the right to advocate for the rights of Palestinians and to exercise the right to freedom of peaceful assembly accordingly. State authorities must respect, protect and fulfil these rights for everyone, without discrimination.

**Amnesty International therefore calls on all state authorities to refrain from harmful and discriminatory bans on assemblies and targeting of speech and expression in the context of Nakba Remembrance Day. States must comply with their international legal obligations to facilitate and uphold the rights of people wishing to commemorate and hold such events, or to express concern and solidarity with the Palestinian people.**

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<sup>6</sup> UN Human Rights Committee, General Comment 37, 17 September 2020, <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful>.