



## **EXECUTIVE SUMMARY OF SOUTH AFRICA'S IMPLEMENTATION AND PROTECTION OF PALESTINIAN SOLIDARITY RIGHTS (IPPSRA CITIZENS ADVOCACY BILL)**

### **Summary Update: April 2023**

IPPSRA is an advocacy campaign in support of a parliamentary citizens advocacy bill. The first of its kind with the principal objective of achieving the legalisation for the implementation and Protection and Promotion of Palestinian Solidarity Rights in South Africa.

### ***How will IPPSRA be applied?***

Broadly, with far reaching legal ramifications affecting various public sectors involving government, organs of state, private individuals, companies, civil society, academic and educational institutions, religious associations, and the sporting fraternity.

More importantly IPPSRA is to be applied in holding arms manufacturers, the banking and financial sector, individuals and companies accountable for their actions in support of an apartheid regime which acts in utter impunity violating the fundamental human rights of the Palestinian people.

However, IPPSRA shall also be applied in a responsible manner with due evaluation of the various adverse state impacts and mitigation of risk to the Republic across all sectors affected by its provisions.

### ***What are the IPPSRA objectives?***

#### **IPPSRA has amongst its objectives the creation of an enabling legislative framework which deals with *inter alia*:**

- ✓ The cessation of diplomatic relations between the Republic of South Africa and Israel;

- ✓ The implementation of boycotts and the imposition of economic trade divestments and sanctions;
- ✓ Strengthening customary universal jurisdiction by means of development and enhancement of principles of complementarity;
- ✓ This includes the process of incorporating international criminal law and lawfare mechanisms into the domestic jurisdictional legal framework within the present environment of biased and intractable accountable international institutions;
- ✓ Monitoring, surveillance and screening of South African nationals and citizens and/or Israeli nationals and citizens *via* immigration authorities who serve in the Israeli Defence Force (IDF);
- ✓ The holding of perpetrators accountable including Israeli state leaders in the Knesset in terms of *South Africa's Implementation of the International Criminal Court Act 27 of 2002 (ICC Act 27 of 2002)*, that is SA's ratification of the Rome Statute, rather than affording such perpetrators immunity protection in terms of the *Diplomatic Immunities and Privileges Act 37 of 2001*;
- ✓ IPPSRA's interaction with the *Protection of Constitutional Democracy Against Terrorist and Related Activities Act 33 of 2004* and *Prevention of Organised Crime Act 121 of 1998* to counter global state terrorism and related terror activities by implicated persons and Zionist institutions in sustaining apartheid and the *status quo* of belligerent military occupation in the OPTs;
- ✓ Expansion on boycotts, disengagement and non – collaboration of cultural, religious, educational, scientific, academic institutional, environmental, water and/or sanitation management, including any other sustainable state institutionalised boycott campaign in partnership with government, affected stakeholders and civil society;
- ✓ Penalties and enforcement proceedings;
- ✓ Adhering to the constitutionality of IPPSRA provisions and the separation of powers between the *legislative, executive and judiciary*;
- ✓ Enabling the consultative framework for co-operative governance amongst ministries and department in the implementation of IPPSRA;
- ✓ The creation of an enforceable, accountable and responsible human rights based Palestinian Solidarity Bill for enactment with due reflection of our own colonial history and apartheid legacy, whilst South Africa taking the lead in solidarity legislation;
- ✓ Including the enabling for regulations of lifting restrictions and visa travel requirements for Palestinians travelling from the OPTs to enter the borders of the Republic of South Africa; and
- ✓ Contributing towards the realisation for all Palestinians of a free, democratic and constitutional society entrenched with a justiciable Bill of Rights.

The words of Nelson Mandela, must resonate during these precarious times for Palestinians living under apartheid, belligerent military occupation and settler colonialism:

***“We know too well that our freedom is incomplete without the freedom of the Palestinians.”***

The author’s work entails a product of the identification of solidarity focus areas in order to strengthen the *“international intifada”* extending over a decade in the commitment towards the utilisation of lawfare mechanisms, since the first Gaza War in 2008-2009 (**‘Cast Lead’**), by both strengthening and expanding on lawfare advocacy tools in Palestinian solidarity activities, after having been exposed to and being involved in various legal cases and advocacy campaigns for Palestine both locally and internationally.

Lawfare, like BDS is a means of peaceful conflict resolution. Lawfare was adopted as a legitimate policy tool at the NGO Forum of the UN World Conference against Racism in Durban 2001.

Since then, Palestinian NGOs around the world are effectively deploying this mechanism where the Israeli government is facing serious allegations of war crimes. This can be attributed to the 22- day Israeli Defence Force (IDF) bombing campaign in Gaza in December 2008 and January 2009, under the auspices, *“Operation Cast Lead”*.<sup>1</sup>

According to Iqbal Jassat, executive member of the Media Review Network, an ardent Palestinian human rights stalwart and lawfare advocate:

***“This international role played by civil societies all over the world is viewed as a hostile development that could undermine the Zionist regimes legitimacy.”***<sup>2</sup>

**IPPSRA** underscores the urgent and important need to codify customary principles of universal jurisdiction and legislate South Africa's support for the lawful and just human rights cause of Palestine in achieving peace, equality, freedom and justice.

**IPPSRA** also serves as an important precedent for Palestinian solidarity both locally and internationally, whereby both its content and legal provisions may be adapted to a particular jurisdictions constitutional and domestic legal framework and to supplement such common law principles entrenched in customary universal jurisdiction.

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<sup>1</sup> S. Dadoo & F. Osman, *Why Israel? – The anatomy of Zionist apartheid - A South African perspective*, CH 60: *The War on Lawfare*, p 552

<sup>2</sup> *Why Israel?* Op. Cit. CH 60, p 578

**The current Israeli coalition led by Benjamin Netanyahu of the Likud party, is an ultra-right nationalist fascist regime** which has intensified its campaign through arming, aiding and abetting settler colonial pogroms through land grab, theft, and destruction of Palestinian property in the occupied Palestinian territories including Palestinian neighbourhoods in East Jerusalem, Sheikh Jarrah, Silwan, the Jenin refugee camp.

In February this year a mob of around 400 Israelis attacked the Palestinian town of Huwara in the southern district of Nablus. Dozens of homes and cars torched, leaving one dead and hundreds wounded. This support comes from the ultra-right coalition and a senior Israeli minister days after the rampage, ***“I think the village of Huwara needs to be wiped out. I think the state of Israel should do it,” Israeli Minister of Finance Bezalel Smotrich, who also handles civil administration in the occupied West Bank, was quoted as saying by Israeli media.***

**The arming, aiding and abetting of Jewish settlers and sustaining the settler colonialism ideology by the Israeli regime, its security police and the IDF breeds fertile ground for the intensification of pogroms and ethnic cleansing Palestinians from their homes.**

The Centre for Constitutional Rights study <sup>3</sup> regarding the genocide of the Palestinian people defines genocide, not by a particular form of violence, but by general and pervasive violence. Settler colonial regimes are structurally prone to genocide and may indulge in ‘*genocidal moments*’ when they become frustrated by the resistance of a colonized or occupied people. Prominent human rights advocates and scholars have argued that the killings of Palestinians and their forceful expulsion from Mandate Palestine in 1948, the Israeli occupation of the West Bank, East Jerusalem, and Gaza as well as the violence and discrimination directed at Palestinians by the Israeli government have violated a number of human rights protections contained in international human rights, with genocide being among them which is a violation of the Genocide convention under international law.

The conditions of settler colonial policies and findings of the crime of apartheid - a crime against humanity, by reputable rights organisations such as Amnesty International and Al Haq in over a decade of wars in the Gaza strip where war crimes and crimes of aggression have been perpetrated, makes the context of IPPSRA and its implementation even more urgent and relevant.

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<sup>3</sup> [The Genocide of the Palestinian People: An International Law and Human Rights Perspective | Center for Constitutional Rights - 25 August 2016 \(ccrjustice.org\)](https://www.ccrjustice.org/2016/08/25/the-genocide-of-the-palestinian-people-an-international-law-and-human-rights-perspective/)

Similarly reputable rights groups <sup>4</sup>, have documented the ongoing violations in the processing and treatment of Palestinian prisoners and child prisoners unlawfully transferred from the OPTs where torture and other inhumane practices are administered by the Israeli Prison Services, which also constitutes a crime against humanity. The UN Human Rights Council in its resolutions have also called upon Israel to respect the fundamental human rights of prisoners <sup>5</sup>.

On the strength of UN Security Council resolution 2334 which specifically prohibits the expansion of settlements in the OPTs. Michael Lynk in July 2021, UN Special Rapporteur on human rights in the OPTs - In his report to the UN Human Rights Council (UNHRC), **settlements are to be classified as war crimes**. Lynk asserts that the settlements are a violation of the absolute prohibition against “settler implantation” and insisted that UN member states not ignore Israeli transgressions.

It is an imperative objective to construct a legally enabling framework which **converts the political rhetoric** of South Africa’s governing political party, the African National Congress (the ANC) and/or other such political parties into tangible support for the international Palestinian Solidarity Intifada.

Former ANC political resolutions concerning Palestine are provided in the appendices.

The pre-amble and its appendices are provided as a historical record, which includes insight into the factual matrix of the complex geo-political Middle East conflict.

Furthermore, it also provides the pretext for the legal foundations of IPPSRA informed by decades of sustained human rights violations and abominable crimes perpetrated by the Israeli, Zionist regime where culpability is incontrovertible.

The IPPSRA advocacy campaign is intended to navigate through a malaise of challenges and processes whilst intending to achieve broad based advocacy support across all sectors of society.

IPPSRA must be driven by the passion of sincere activism, national and international Palestinian solidarity.

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<sup>4</sup> Cf. [TADAMON - International Solidarity With Prisoners \(asra-ps.com\)](https://www.asra-ps.com/), Kham Rehabilitation Center for victims of torture | [Kham Rehabilitation Center \(khamcenter.org\)](https://khamcenter.org/), ADDAMEER - Prisoner Support and Human Rights Association | [Addameer](https://addameer.org/). Attorney ZE Patel submission to the UN Human Rights Council (UNHRC) 31 Session - Geneva

<sup>5</sup> (A/HRC/31/L.37)

The **IPPSRA National Commission** to be established shall be mandated with all matters relating to the advancement of the IPPSRA advocacy campaign with its strategic partners including the collaboration and navigation required in any Parliamentary processes which would unfold.

### **Author's Expression of Gratitude**

I wish to express my wholehearted gratitude to the countless inspiring activists I have met across the globe, dedicated professionals and the broader Palestinian solidarity movement locally and internationally for their support and assistance rendered in the IPPSRA initiative.

I wish to also thank the contributors, including comrades at the PSC Cape Town who have supported this advocacy campaign wholeheartedly. Lest also not forgetting the many individuals from various national solidarity movements who support the broader vision of the IPPSRA initiative and campaign.

The unflinching support of my family and inspiration of my late parents and father, Ebrahim Essop Patel through the many years he served as an educationist and pioneer in social welfare activism in the Lenasia community and beyond which provided me with the foundational roots to resonate the anti-apartheid struggle in my country of birth with the Palestinian struggle for freedom.

The IPPSRA Advocacy Bill is dedicated to the Palestinian people and to all oppressed peoples of the world where constructive lawfare and human rights advocacy may through peaceful means, beneficially alter their situation and provide them with a world filled with peace, tolerance, justice and freedom.

***“The fight for freedom must go on until it is won, until our country is free and happy and peaceful as part of the community of man, we cannot rest – Oliver Tambo”***



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*An attorney who, under section 4(2) of the Right of Appearance in Courts Act 62 of 1995, has the right of appearance in the Supreme (High) Court in the Republic of South Africa*

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