

# The Legal Reality of Non-Profit Companies



## The Nature of Non-Profit Companies and Their Purposes

Law by Decree No. (42) of 2021 defines non-profit companies as those that do not aim to make a profit and take the form of private joint-stock companies, and their terms, conditions, objectives, the activities that they are entitled to practice and control over them, the method for obtaining support and donations, their funding sources, and how they are spent, their liquidation and the transfer of its funds upon its liquidation or upon their expiration, the data that they must submit to the companies register and all other matters related to them are determined according to a special regulation issued by the Council of Ministers upon the recommendation of the Minister for this purpose, taking into account the following:



**1** The number of the company's shareholders shall not be less than seven, with a Board of Directors of at least five members.

**2** To provide a service or an economic, social, cultural, civil, developmental or other activity that would provide a benefit for the public interest and if returns or profits are generated, they may not be distributed to shareholders of the company.



**3** To consider all the net returns achieved by the non-profit company among its savings, and it may not be used except to achieve its purposes and the objectives for which it was established and to expand its activities and increase its capital.



**4** That non-profit companies have the right to own movable and immovable funds to achieve their purposes and objectives.



**5** Non-profit companies must submit periodic financial and administrative reports to the competent authority within the first three months from the end of the fiscal year in stages that meet the projects and activities for which they received previous funding.

## Classification of Non-Profit Companies According to their Funding Sources and Activities

According to the approximate statistics issued by the Ministry of National Economy, the number of licensed non-profit companies reached **300** distributed between the West Bank and the Gaza Strip. **100** companies receive funding and grants according to the applicable conditions, including **18** operating companies in the Gaza Strip. All licensed companies submit periodical financial and administrative reports to the Ministry of Economy and the ministries of jurisdiction in the West Bank\*. Non-profit companies can be classified into four categories in view of the source of their funding as well as the type of activity they provide in the community, taking into account the difference in the control authorities between the West Bank and the Gaza Strip that constitutes a motive for choosing this type of company more in the Gaza Strip, with the aim of practicing human rights work away from the oversight of the Ministry of Interior, which is concerned with the work of associations. These four categories will be discussed as follows:

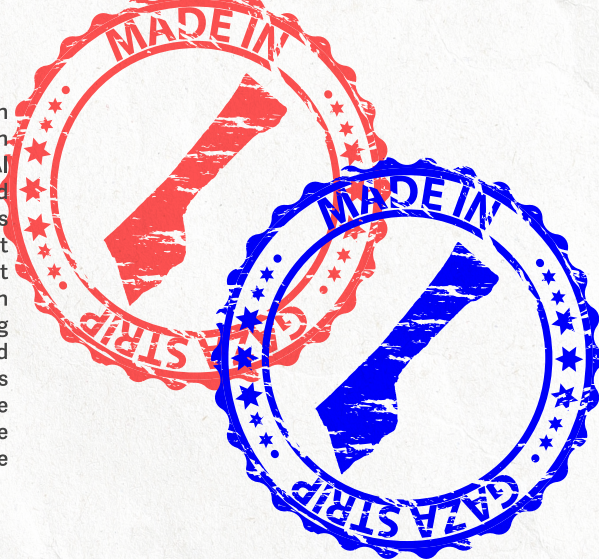
\*The source is from the Registrar of Companies, Tariq Al-Masry, at the Ministry of National Economy, an interview with him on 11/14/2022

### The First Category:

Non-profit companies operating in the Gaza Strip, which are the oldest in Palestine, and an example of them are those working in the human rights field, the Palestine Center for Human Rights, which was established in 1995 by a group of lawyers and human rights activists\*, and Al Mizan Center for Human Rights, which was established in 1999, and these companies depend on external funding. Human rights organizations operating in the Gaza Strip have chosen this legal form to practice human rights work in order to avoid the complications of oversight imposed by the Ministry of Interior and the Ministry of Justice in the Gaza Strip and the West Bank, since they are the competent authority to monitor the work of associations working in the human rights field. This type of registration was followed in order to provide a working environment that cannot influence their human rights positions and reports published and submitted to local, regional or international competent authorities or the government's influence on them to limit the pressure and advocacy campaigns carried out by these non-profit companies working in the human rights field against government policies that are not consistent with international legal standards or aimed at reducing violations by the authorities responsible for law enforcement and holding them accountable\*.

\* <https://pchgaza.org/ar/about-pchr>

\* Mr. Yamen, Al-Mizan Center, Gaza Strip, meeting with the NGO Network on the Zoom with representatives of non-profit companies 02/11/2022



### The Second Category:

Non-profit companies that are established by businessmen and large economic groups, such as the Investment Fund (Palestine Development Company)\*, the Communications Group, and Jawwal. These non-profit companies provide health and educational services that contribute to the development of society, benefiting from external financing and tax money that is supposed to be paid directly to the government on their investments and real estate, but this money is paid by financing nonprofit companies that were established by them to benefit from the idea of corporate social responsibility as a means to reduce the payment of direct tax to the government or to benefit from tax deductions and incentives resulting from activating this clause\*. The examples of these companies include Mounib and Angela Al-Masri companies, which work in the field of education, health, scientific research, culture, and the promotion of the resilience of Jerusalem, as well as An-Najah University Hospital, which attracted important medical cadres at the national level, and treatment there is high in cost. This hospital also benefits from a substantial percentage of government medical referrals and service purchases for the government and its preferred also by patients who have private health insurance. It should be noted that there is no published information indicating that these non-profit companies provide free services to the community, and there are no figures indicating the provision of free treatment services, for example, by An-Najah Hospital for the poor and needy. However, the official website of the hospital on the Internet indicated when introducing the hospital that a fund had been established for the poor patient to help patients who are unable to bear the expenses of treatment in cooperation with Al Zakat Committee in Nablus where Al Zakat Committee and the hospital contribute to covering the treatment cost\*.

\* <https://www.psd.ps/ar/It> is a non-profit national company established by the Palestine Investment Fund in 2014 to be responsible for implementing its strategy in the field of social responsibility. The Foundation aims to invest in human resources by adopting strategic goals that contribute to the development of individuals' skills and capabilities and support them in entering the labor market and participating in community life to the fullest, etc.

\* Mahmoud NimrHarbiat, co-founder of LammatSahafah Company for Community Media, meeting of the NGO Network with representatives of non-profit companies 11/02/2022.

\* <https://nnuh.org/ar/mn-nhn/ltosaa-igdyd/>



### The Third Category:

Non-profit companies that were built on the basis of individual community initiatives (artistic, media, cultural, youth, etc.) Most of their leaders are young people (male and female) who chose this type of company to start their working life with the aim of strengthening their leading role in society through combining the provision of a variety of social, cultural and economic services and getting job opportunities that help them in economic empowerment and living stability. The reason for choosing this type of company is the ease of its registration procedures compared to the registration procedures required for associations, especially with regard to the number of its founders\*.

\* Sabreen Abdel Rahman, Co-Founder and Executive Director of AttabaFann for Arts, Media and Training, NGO Network meeting with representatives of non-profit companies 11/02/2022.



### The Fourth Category:

Non-profit companies that work in the field of lending. An example of this is the Palestinian Credit and Development Company (Faten), which was established in 1999 in the Gaza Strip\*. This is a company that relies mainly on financing its operational activity on the funds it obtains from local banks and international funds, which are considered the main source of its financing. In this sense, Faten plays an active role in bringing funds into the Palestinian economy and re-employing them for marginalized groups and camps according to the vision of the institution, since it works on borrowing money from international funds and bringing it into Palestine and re-lending it with interest to the target groups to work on small projects. Other examples of re-registered non-profit lending companies are Asala and Reef companies\*.

\* <https://www.faten.org/jan-fatn>

\* An interview with Mr. Anwar Al-Jayousi, General Manager of Faten Foundation, on 11/17/2022  
Report "Shrinking Space for Freedom: Government Restrictions on Funding Non-Profit Companies in Balance of International Standards" Palestinian Center for Human Rights 2019, p. 8.

