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Human Rights
and the Arab-Israel Conflict

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ABSTRACT

Terms such as “non-governmental organization” or “global civil society” are used to describe tens of thousands of groups, varying greatly in structure, objective, funding, impact, and other key aspects. The main influence of these organizations results from the application of “soft power” as “the ability to get what you want through attraction rather than coercion or payments”. NGOs are particularly influential on issues related to human rights and humanitarian aid. Their soft-power is based on the perception of technical expertise, combined with morality and normative goals, untainted by partisan politics or economic objectives, and projected through the media and other channels. Powerful NGOs, such as Human Rights Watch, Amnesty International, and the International Federation of Human Rights, work cooperatively in transnational advocacy networks, using the language and frameworks of human rights and humanitarian assistance. These organizations spread their views and campaigns via frameworks such as the UN Human Rights Council, in alliance with diplomats and political leaders from selected governments with similar objectives. Israeli policy has been a central focus of this NGO soft-power influence from the 2001 Durban NGO Forum through the UN Goldstone Commission on the Gaza war. The central role of NGO influence is reflected in the Goldstone Commission’s mandate, procedures, and reports, and the campaign to implement its recommendations. The article examines the influence of NGO activity in the political conflict, and on Israeli foreign and security policy in particular.

NGOs (NON-GOVERNMENTAL ORGANIZATIONS) OR CSOs (CIVIL society organizations) have become important actors in the “soft power”

arena of international diplomacy. In the United Nations system, over four thousand NGOs are accredited to the Economic and Social Council (ECOSOC),¹ giving them privileged access to many UN activities, including meetings of the Human Rights Council (HRC),² the 2001 World Conference on Racism³ (also known as the Durban Conference), and special frameworks such as the UN Committee on Inalienable Rights of Palestinian People,⁴ the Committee on the Elimination of Racial Discrimination,⁵ and the Committee Against Torture. NGO officials speak in the sessions, meet with participating diplomats, and submit documents that are quoted in final reports.⁶ Diplomats, journalists, academics, and other decision-makers and opinion leaders routinely accept NGO claims, in most cases without independent verification.

NGOs, both individually and through wider “transnational advocacy networks” or a “global civil society” framework, are influential in many fields, from environmental issues to human rights and humanitarian aid. Their moral claims are a major source of this influence, as reflected in Chandler’s reference to NGOs as “oriented around universal beliefs and motivations”.⁷ Similarly, Keck and Sikkink argue that while “governments are the primary guarantors of rights, they are also their primary violators”, leaving individuals or minorities with “no recourse within domestic political or judicial arenas”. On this basis, they analyze the ways in which domestic NGOs “. . . bypass their state and directly search out international allies to bring pressure on their states from the outside.”⁸

In the areas of human rights and international aid, Amnesty International (AI) was founded to campaign on behalf of “prisoners of conscience” and the abolition of torture, mainly in Eastern Europe and Africa.⁹ Human Rights Watch (HRW)¹⁰ grew out of “Helsinki Watch”, founded in the 1970s as a research-oriented alternative to AI. With the support of the United States and other Western governments, these NGOs gained entry into and influence in the UN and other political institutions. As their budgets grew, human rights NGOs became powerful international actors.

With the end of the Cold War, these NGOs defined new objectives, claiming to be experts in asymmetric warfare and advanced military technology, as well as the arbiters of international law, human rights,¹¹ military necessity, and proportionality. This transformation, and the political foundations of international legal institutions (particularly the UN) and their sources of legitimacy, in contrast to domestic judicial institutions, allowed NGOs to increase their influence in the media and in the diplomatic sphere.¹²

Thus, NGOs constitute an unregulated and nebulous sector described as “fuzzy at the edges”,¹³ but at the same time, they are highly influential. Journalists, UN officials, and academics repeat the technical claims and military analyses presented by NGOs such as HRW and AI without question. Revelations regarding the activities of HRW’s former senior military analyst, Marc Garlasco, the lack of detailed public information regarding his actual expertise, and the contradictions in the technical and military claims featured in his reports, illustrate the problematic credibility.¹⁴

These limitations are often masked by the NGO “halo effect”, through which groups perceived to promote “good” principles are protected from scrutiny by the image of objectivity and morality. This “halo effect” compensates not only for the lack of accountability but also for the lack of expertise in the military and diplomatic spheres in which many NGOs are active. According to Willets, “There is a widespread attitude that NGOs consist of altruistic people campaigning in the general public interest, while governments consist of self-serving politicians. . . . such an attitude should not be adopted as an unchallenged assumption . . .”¹⁵ Habibi demonstrates that NGOs that deal with human rights elicit “instinctive support amongst the general public”,¹⁶ and Heins shows that NGOs create “symbolical victims” and then portray themselves as altruistic rescuers.¹⁷

This process is enhanced by the dominance of post-colonial ideology among NGO officials who give preference to “victims” of Western imperialism and capitalism while criticizing liberal democratic societies. The ideological tilt among NGOs is reflected in their publications and analyses, particularly with respect to the application of international law and human rights claims. Kenneth Anderson noted that groups such as HRW, “focus to near exclusion on what the attackers do, especially in asymmetrical conflicts where the attackers are Western armies” and tend “to present to the public and press what are essentially lawyers’ briefs that shape the facts and law toward conclusions that [they] favor . . . without really presenting the full range of factual and legal objections to [their] position.”¹⁸

These critical perspectives will be shown below to be valid for a number of powerful international NGOs including HRW, AI, FIDH (France), Christian Aid (UK), and the Geneva-based International Commission of Jurists (ICJ). These and many other organizations lack the transparency, accountability, and checks and balances designed to mitigate and redress abuse. In parallel they have been shielded by the “halo effect”, which enhances credibility and the image of altruism.

NGOs AND SOFT POWER

Notwithstanding these limitations, and in some ways as a result of them, NGOs exert a great deal of political power, particularly regarding moral and legal issues. As Blitt notes, NGOs “identify their primary goals as monitoring and reporting of government behavior on human rights . . . building pressure and creating international machinery to end the violations and to hold governments accountable.”¹⁹

This influence is based on the application of soft power, “the ability to get what you want through attraction rather than coercion or payments”.²⁰ Nye’s analysis includes the realization that “NGOs and network organizations have soft power resources and do not hesitate to use them.”²¹ Among those resources, the perception of expertise, and commitments to a universal morality untainted by partisan politics or economic objectives, are crucial for these human rights NGOs.

The Internet and advanced information technologies have greatly enhanced NGO soft power. NGO networks with hundreds, and in some cases, thousands of member organizations, “are able to focus the attention of the media and government on their issues”.²² The extensive resources available to global NGOs permit them to engage in lobbying campaigns and to mobilize mass demonstrations and media visibility that have major impacts on governments and policies.²³

For Europe, soft-power is not a residual or secondary element, but rather is often the primary vehicle to exert international influence, and the NGO framework is a central vehicle for exercising this power. The term NGO notwithstanding, European governments and the European Union (EU) provide hundreds of millions of euro annually to non-governmental organizations in order to promote specific policy goals.²⁴

Such funding is central to European policy in the Southern Mediterranean and with respect to Israeli-Arab peace efforts,²⁵ and has greatly enhanced NGO budgets, power, and influence. Among the key frameworks that provide funds to NGOs for political activities is the European Instrument for Democracy and Human Rights (EIDHR), with an annual budget of €160m, under the auspices of the Europe Aid Cooperation Office. In the Arab-Israeli zone, however, many such NGO projects, as demonstrated below, focus primarily on the conflict, and promote the Palestinian narrative.²⁶

As a result, and in contrast to universality and the “fair application of human rights principles”, political NGOs focus on a smaller group of targets, where funding is available and their influence is amplified.

Israel has become the primary target of these powerful political and ideological NGOs, in parallel to the agenda of the Organization of the Islamic Conference (OIC), which dominate the UN human rights frameworks.

NGOS AND THE UN IN THE ARAB-ISRAELI CONFLICT

Following the end of the Cold War, powerful NGOs such as HRW and AI sought new issues and means of maintaining and increasing their influence. Kaldor refers to the emergence of a “global civil society” resulting from “a growing consciousness of a set of duties towards mankind, which developed as a consequence of the wars of the 20th century.” The increased role of NGOs in conflict regions was justified by moral concepts such as the “duty to interfere (Devoir d’Ingerence)” in the context of humanitarian disasters.²⁷

In parallel, the Islamic bloc²⁸ expanded its influence in UN human rights mechanisms. In his detailed analysis, “Human Rights and Politicized Human Rights: A Utilitarian Critique”, Habibi cites the “hundreds of one-sided resolutions” that have emerged from the UN General Assembly, Security Council, Economic and Social Council Commission (ECOSOC), Human Rights Commission (HRC), and Commission on the Status of Women as evidence that “At the UN, Israel is singled out for more intense scrutiny and held to higher standards than any other country.”²⁹

The network of human rights NGOs has played a critical role in contributing to and reinforcing this intense focus on Israel in the UN human rights structures. Following the collapse of the Oslo negotiations and during the period of violence between 2000 and 2004, referred to as the “second intifada”, NGOs with ECOSOC status frequently supported the Islamic governmental delegations that dominated the Human Rights Commission.³⁰ The NGO statements, testimonies, and “expert reports” highlighted allegations against Israel and repeatedly called for “independent investigations”. Major international NGOs, including HRW, AI, the ICJ, and FIDH (France) submitted numerous reports and statements to the UN Human Rights Commission (UNHRC) during this period.

These publications often cited reports by Palestinian NGOs, such as the Palestinian Center for Human Rights (PCHR), Al Haq, and Al Mezan, which, in turn, relied on claims made by Palestinian witnesses, which could not be verified. They also tended to ignore or downplay Israeli human rights perspectives, including the killing of over 1000 civilians in terror attacks, and the wider context of the conflict.³¹ As Heins notes, in

such NGO reports, it is “not the event, but the event’s telling that counts”, and “The process of establishing the facts of victimhood plays itself out through language (including pictures), which implies that it is inherently contestable.”³²

The high-profile 2001 UN Conference on Racism, held in Durban, consisted of three frameworks of which the NGO Forum was the most influential. This Forum included thousands of representatives from an estimated 1,500 organizations, whose participation was enabled by extensive funding provided by the Ford Foundation,³³ the UN, as well as government programs in Canada and Western Europe. In addition to having their costs paid, the high level of NGO participation in the Durban Conference is also explained by the impact provided by UN recognition, legitimacy, and on this basis, increased prospects for additional funding. Heins notes the ease with which the Durban mechanism enabled individuals to “mutate into NGOs, even for a few days by just filling out and submitting forms that are available as PDF downloads.”³⁴ The Durban Forum, as well as the strategy that followed, is an important example of a powerful NGO-based transnational advocacy network operating in the soft-power dimension. The Ford Foundation played an important coordinating role for NGO advocacy network, particularly in assisting Palestinian groups,³⁵ while powerful global actors such as HRW and AI were central in forming the agenda. In addition, the South African National NGO Coalition played a central role, working with Palestinian NGOs, including MIFTAH, the Palestinian Committee for the Protection of Human Rights and the Environment, BADIL, Al Haq, and the Palestinian NGO Network (PNGO).

The draft texts were composed during a series of regional and preparatory conferences, including one in Tehran during February 2001, from which Israelis and Jewish delegates were excluded by the Iranian government.³⁶ The resolutions included references to “holocausts and the ethnic cleansing of the Arab population in historic Palestine” and of the “racist practices of Zionism and anti-Semitism”.³⁷ In Durban, the NGO Forum was also physically intimidating for Jewish and Israeli participants. David Matas and others report a “steady stream of incidents” directed at the members of the Jewish caucus. “On entry to the forum grounds, every participant was accosted by virulent, anti-Semitic slogans, pamphlets, slurs and chants”, including “kill all the Jews”.³⁸ Copies of core anti-Semitic literature, such as the “Protocols of the Elders of Zion” and cartoons of “hooked nose” Jews with “pots of money surrounding their victims” were distributed by the Arab Lawyers Union and similar groups.³⁹

In this atmosphere, and with the active participation of “mainstream” NGOs such as HRW and AI, the NGO Forum adopted a final declaration that featured attacks on Israel. (Similar language was removed from the text of the governmental forum of the Durban Conference, following a walkout by American and Israeli delegations, and intense negotiation among the remaining delegates.)⁴⁰ Article 164 asserted that, “Targeted victims of Israel’s brand of apartheid and ethnic cleansing methods have been in particular children, women and refugees.” Article 425 advocated “a policy of complete and total isolation of Israel as an apartheid state . . . the imposition of mandatory and comprehensive sanctions and embargoes, the full cessation of all links (diplomatic, economic, social, aid, military cooperation, and training) between all states and Israel.” In this spirit, Article 426 condemned states that “. . . are supporting, aiding and abetting the Israeli apartheid state and its perpetration of racist crimes against humanity including ethnic cleansing, acts of genocide.”⁴¹

Korey refers to the Ford Foundation’s role in the Durban conference as a “stumble”, noting that “not every initiative of the foundation has gone well . . . Durban turned out to be a propagator of vulgar anti-Semitism.” Previous “world conferences on racism” had focused on South African apartheid. In the case of Durban the Arab and Islamic regimes, with the assistance of the NGO networks, turned their attention and resources to attacking Zionism.⁴² The combined NGO/UNHRC “Durban strategy”, was implemented in March 2002 following a series of mass Palestinian terror attacks followed by the IDF operation Defensive Shield.

Palestinian officials claimed that the IDF had committed a “massacre” in the Jenin refugee camp.⁴³ NGO officials quickly repeated these claims. On 16 April *Le Monde* cited reports by HRW concluding that Israel had committed “war crimes”⁴⁴ and demanded the appointment of an “independent investigative committee”. Shortly afterwards, an AI statement declared, “The evidence compiled indicates that serious breaches of international human rights and humanitarian law were committed, including war crimes”, and demanded an immediate inquiry.⁴⁵ Other influential NGOs issued similar statements, reports, and condemnations, including Caritas (a Catholic group),⁴⁶ as well as Palestinian NGOs funded by European governments, such as MIFTAH.

HRW was particularly active in this campaign,⁴⁷ issuing 15 press releases and reports condemning Israel in 2002.⁴⁸ In May its 50 page report, “Jenin: IDF Military Operations”, was based largely on unverifiable “eyewitness testimony” from Palestinians.⁴⁹ One sentence mentioned the justification for the operation, noting that “The Israelis’ expressed aim was

to capture or kill Palestinian militants responsible for suicide bombings and other attacks that have killed more than seventy Israeli and other civilians since March 2002.”⁵⁰ In contrast, HRW’s detailed indictment against Israel included allegations that “IDF military attacks were indiscriminate . . . failing to make a distinction between combatants and civilians . . . the destruction extended well beyond any conceivable purpose of gaining access to fighters, and was vastly disproportionate to the military objectives pursued.” It alleged that the IDF had used Palestinian civilians as human shields “to screen Israeli soldiers from return fire”. It also referred to the death of Munthir al-Haj, acknowledged as an “armed Palestinian militant”, as a case of “murder” and “willful killing”.⁵¹ (Such claims, categorizations, and legal analysis by human rights NGOs in the context of armed conflict have been shown to be inconsistent and highly problematic.)⁵²

Following HRW’s lead and other NGOs, the UN Report similarly exculpated the Palestinian side from all responsibility. It stated that, “Israeli military retaliation for terrorist attacks was often carried out against Palestinian Authority security forces and installations. This had the effect of severely weakening the Authority’s capacity to take effective action against militant groups that launched attacks on Israelis.”⁵³ (The UN report also differed from HRW and other NGOs on some significant points, such as noting that, “Armed Palestinian groups sought by the IDF placed their combatants and installations among civilians. Palestinian groups”, and their tactics, “targeted at IDF personnel but also putting civilians in danger.”⁵⁴)

After Jenin, the NGO networks supported and often led UN condemnations of Israel that reflected the Durban strategy, particularly in the human rights frameworks. In parallel, HRW also supported the sanctions and boycotts of the Durban NGO declaration. In a CNN interview, HRW executive director Kenneth Roth called for “conditioning” or cutting US aid funds to Israel.⁵⁵ In October 2004, HRW published “Razing Rafah”, based on unverifiable Palestinian allegations and unsubstantiated security judgments. This also provided the foundation for the participation of HRW officials (specifically head of the Middle East and North Africa division, Sarah Leah Whitson) in anti-Israel boycott campaigns.

In parallel, NGO soft power was a significant factor in sessions of the UNCHR—both the biannual and emergency sessions. The 58th Session in 2002 included the participation of approximately 300 NGOs, many reflecting pro-Palestinian positions, including PCHR,⁵⁶ Al Haq, and others.⁵⁷ On 2 April 2002, during the IDF Operation Defensive Shield in Jenin, Al-Haq charged that, “The Israeli government has launched a new

campaign of aggression against the Palestinian people that threatens the lives of the whole of the civilian Palestinian population.”⁵⁸ It also repeated the demands of PLO head Yassir Arafat for international intervention, through “. . . immediate steps to ensure protection for the civilian Palestinian population, and . . . an immediate end to the illegal Israeli occupation of the Palestinian Territories. . . .”⁵⁹

Much of the language included in NGO statements is often reflected in the UNCHR resolutions and reports. Israel was condemned for “. . . gross, widespread and flagrant violations of human rights in the occupied Palestinian territory, in particular regarding the violation of the right to life, . . . the disproportionate and indiscriminate use of Israeli military force against the people of Palestine and its leadership”, and numerous other allegations.⁶⁰ This text closely followed the submissions from AI, PCHR, Al Haq, and other NGOs. As in the case of the NGO statements, the UN report included only minor references to the numerous terror attacks against Israelis.

In 2006, in response to the widely perceived bias of the existing system, the Human Rights Council was created to replace the Human Rights Commission.⁶¹ However, this institutional reshuffling had little impact on the role of the NGO community, and the First Special Council Session in July 2006 followed the earlier pattern. Statements by officials from AI, HRW, World Vision International, the ICJ, and others again made accusations holding Israel responsible for “deliberate and disproportionate attacks” against the Palestinians amounting to “war crimes”, and “collective punishment”⁶² in Gaza.

The UN Committee on the Exercise of the Inalienable Rights of the Palestinian People provides another venue for NGO involvement in this agenda. It holds numerous public conferences and “civil society” seminars in which NGO officials play a central role. NGO statements often reflect soft power and the Durban strategy, including allegations of “apartheid”,⁶³ “ethnic cleansing”,⁶⁴ and calls to impose “sanctions, boycotts and divestments”.⁶⁵ Former Australian Foreign Minister Alexander Downer noted “concern at the high level of UN secretariat resources devoted to anti-Israeli activity”, explicitly citing the UNCEIRPP.⁶⁶ According to a report by the Anti-Defamation League (ADL), the committee is “the single most prolific source of material bearing the official imprimatur of the UN which maligns and debases the Jewish State”, and noted that this committee is “the only committee in the UN devoted to a specific people”.⁶⁷ These NGO conferences take place in venues designed to provide public and media exposure, such as Vienna, Geneva, Beijing, Jakarta, and the EU Parliament in

Brussels. In the past decade 148 NGOs registered with the CEIRRPP that have issued statements or participated in these sessions.⁶⁸

NGOs that focus on human rights are also central in the activities of the UN Committee on the Elimination of Racial Discrimination, whose formal mission is to monitor implementation of the International Covenant on the Elimination of All Forms of Racial Discrimination. A February 2007 session featured documents and updates by six NGOs whose submissions were placed on the Committee's website and also formed a major part of the final report.⁶⁹ A joint submission from Palestinian NGOs Al Haq, BADIL, and Al Mezan, as well as some Israel-based NGOs with similar agendas (ICAHN and Mossawa), characterized Palestinians as "indigenous" while branding Jews as "colonizers" and claimed that Israel engaged in "forced expulsions" of the indigenous population. This submission also included a comparison of the State of Israel to Nazi Germany.⁷⁰

Israel's separation or security barrier, which was constructed in response to large scale terror attacks, was also a central focus of UN and NGO cooperation. In 2004, NGOs published a number of press releases, letters, and reports calling on the UN to take action, and demanding that the US and the EU penalize Israel.⁷¹ NGOs active in this campaign included HRW, AI, Christian Aid, World Vision,⁷² the Palestinian Environmental NGO Network (PENGON), the Palestinian Grassroots Anti-Apartheid Wall Campaign, Palestinian affiliates of the ICJ, the UK-based War on Want, the Mennonite Central Committee, and Medicine du Monde (France). Christian Aid lobbied the British government, including a press release entitled "Why the Israeli 'barrier' is wrong", which referred to Palestinian hardships inflicted by Israel's "land grab".⁷³

NGO activity supported the diplomatic campaign led by the OIC that resulted in a UNGA resolution, referring the issue to the ICJ for an "advisory opinion". The ICJ issued its advisory opinion in July 2004. As anticipated, the majority claimed that the Israeli "separation barrier" was a violation of international law, although a dissenting opinion by Judge Buergenthal pointed out the inconsistencies and errors in the majority view.⁷⁴

The UNHRC-NGO activities targeting Israel were also prominent during the second Lebanon War (12 July–14 August 2006), which coincided with the Second Session of the UNHRC. Statements were submitted by Badil, AI, ANND (Arab NGO Network for Development), HIC (Habitat International Coalition), and others. Most NGO statements ignored the context of the conflict, including the Hezbollah attacks that led to the Israeli response.



This cartoon won the BADIL (Palestinian NGO Resource Center for Palestinian Residency and Refugee Rights) 2009–10 “Al Awda Award.” The NGO receives funding from a number of European governments.

NGO officials, in support of the Arab and Islamic delegations (Egypt, Saudi Arabia, Indonesia, Qatar, Bahrain, Pakistan, and others) again pressed the UNHRC to establish a commission of inquiry, with a mandate focusing only on allegations against Israel. The Commission claimed that investigating Hezbollah “would exceed the Commission’s interpretive function and would be to usurp the Council’s powers”.⁷⁵ The report repeated the language of the NGOs in their written statements, including accusations of “collective punishment” and “excessive, indiscriminate and disproportionate use of force by the IDF”.⁷⁶

In 2008, planning began for the “Durban Review Conference” (DRC) scheduled for April 2009. Chaired by Libya and Iran, with the support of the OIC, the expectation was that this would repeat and expand on the 2001 conference. The NGO network sought to play a central role in these activities, including promotion of an NGO Forum modeled on the Durban experience.⁷⁷ However, in January 2008, the Canadian government (led by the Conservatives, which were in opposition during the 2001 conference) declared that it would not participate in Durban II. In November, Israel announced a similar decision, followed in early 2009 by the US, Italy, Holland, and others. In response, a number of NGOs expressed sharp opposition to these decisions not to participate. HRW condemned the delegations for “undermining the conference”, arguing that there was “no justification for the decision”⁷⁸ and pressed for “engagement”.⁷⁹ Al-Haq accused Israel of creating an “apartheid regime in the Occupied Palestinian Territories”.⁸⁰

The intense debate concerning the role of NGOs in this process and the intense criticism of the 2001 experience led to a decision against holding an NGO Forum in the 2009 Review Conference. On this issue, the delegates and UN officials agreed not to provide official support for this activity, and major NGO funders, including the Ford Foundation and the Canadian government adopted similar policies. As a result, the NGO role and influence in the review Conference was relatively minor and restricted largely to off-site gatherings that were sparsely attended.⁸¹

THE NGO ROLE IN BDS AND “LAWFARE”

In the decade since the 2001 Durban NGO Forum, NGOs have adopted a number of different tactics for implementing the call for “a policy of complete and total isolation of Israel as an apartheid state”.⁸² The goal of imposing “mandatory and comprehensive sanctions and embargoes, the full cessation of all links (diplomatic, economic, social, aid, military

cooperation, and training) between all states and Israel”⁸³ has become the basis for a campaign of boycotts, divestment, and sanctions (BDS) modeled on the South African experience. Allegations regarding human rights and international law violations are used as a prime tool of the Durban strategy.

There are numerous examples in which NGOs have featured prominently in BDS campaigns. These include academic boycott efforts, particularly in the UK, and North American and European church-based anti-Israel divestment resolutions, and other forms of sanctions efforts, including calls for arms embargoes.⁸⁴ For example, in the UK academic boycott movement, which initially began within the framework of the Association of University Teachers (AUT),⁸⁵ the language of the boycott resolutions was taken from PNGO. The AUT boycott effort was initiated in 2002, as part of the Jenin campaign to demonize Israel, and was revived in the context of the separation barrier campaigns and the ICJ advisory decision. PNGO co-sponsored a conference in December 2004 in London to focus on this issue.⁸⁶ Powerful groups such as War on Want continue to promote academic boycott efforts in the UK and elsewhere.

In parallel, the NGO network also promoted anti-Israel divestment resolutions and debates among Lutheran, Anglican, and other Protestant church groups. This campaign involves many Palestinian NGOs, such as MIFTAH, BADIL, Al-Mezan (based in Gaza), Association for the Defence of the Rights of the Internally Displaced (ADRID), Ittijah, and others. In addition, the public relations effort behind divestment has gained visibility through the activities of Christian-based NGOs, such as the Mennonite Central Committee (based in North America and a recipient of significant Canadian government funding), the Sabeel Ecumenical Liberation Theology Centre (based in Bethlehem), and groups such as Christian Peacemaker Teams and Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI).

HRW was also active in the BDS campaigns, both as a major source of allegations against Israel, and in an activist role. The 2004 publication of “Razing Rafah” and the accompanying press conference⁸⁷ at Jerusalem’s American Colony Hotel provided the basis for HRW’s involvement in the effort to force Caterpillar to end sales to Israel. This activism included emails and letters, as well as participation in rallies. (AI and other NGOs were also involved in these activities).⁸⁸ The publicity surrounding the Caterpillar boycott campaign added to the soft power war against Israel. Although Caterpillar rejected the pressure, the overall impact was to increase the visibility of delegitimization based on boycott and sanctions.

A leader of BDS activities in Scandinavia has been the Coalition of Women for Peace (funded by a number of European governments and the New Israel Fund). Their lobbying played an important role in the decision by the large Norwegian government employees' pension fund and other groups to sell shares in Israeli firms. The radius of BDS campaigns is widening. In 2009, Belgian municipalities boycotted a bank due to its business dealings in Israel.⁸⁹ The 2009 Toronto Film Festival, which included a number of films related to the 100th anniversary of the founding of Tel-Aviv, was the focus of a well-organized boycott campaign.⁹⁰ A prominent director pulled out of the festival in protest of the focus on Tel-Aviv, and he was supported by a number of well-known artists. Similarly, the organizers of the 2009 Edinburgh International Film Festival returned a £300 gift from the Israeli embassy following protests.⁹¹

Events such as "Israel apartheid week" (IAW) on university campuses are closely related to the BDS and demonization process, and NGOs are actively involved in these frameworks as well. In 2010, NGO speakers at IAW events included officials from ICAHD (Jeff Halper on "Israeli Apartheid: The Case for BDS" in Glasgow; and on "Israel and Palestine hurtling Towards Apartheid" at UC Santa Cruz), the Alternative Information Center, PCHR, Addameer, and Badil (Nidal al-Azza on "Refugees and Israel's Apartheid Regime" at Al Quds University). Many campuses screened NGO videos, such as "Breaking the Silences", "Israeli Soldiers talk about Hebron", and the "Occupation 101" video, which includes interviews with leaders from HRW, Rabbis for Human Rights, ICAHD, B'Tselem, and the Gaza Community Mental Health Programme.

NGOs are also prominent in the "lawfare" campaigns used to further the delegitimization of Israel. This strategy involves exploiting the terminology of international human rights and humanitarian law by accusing Israel of "war crimes", "crimes against humanity", and other violations.⁹² The lawfare strategy was included in the NGO Forum of the 2001 Durban Conference which called for the use of legal processes against Israel including the establishment of a "war crimes tribunal".

Taking advantage of universal jurisdiction statutes in a number of Western countries, NGO-led lawfare cases in national courts, as distinct from international frameworks such as the ICJ and ICC, are often filed in venues where there is no connection between the forum and the parties and events at issue. Examples include the 2001 suit in Belgium against Ariel Sharon for the Sabra and Shatila massacre; suits in the UK against Doron Almog (2005) for the 2002 targeted killing of Hamas leader Salah Shehade, and against Ehud Barak (2009) and Tzipi Livni (2009) for the

Gaza war; the 2008 case in Spain against seven Israeli officials (also on Shehade); and the 2005 civil suits in the US against Avi Dichter (citing Shehade) and against Moshe Ya'alon for a 1996 operation in Lebanon against Hezbollah.

Cases have also been filed against those doing business with Israel such as the US lawsuit brought by the parents of Rachel Corrie against Caterpillar (2005); the 2008 case in Canada against companies involved in West Bank construction, and two suits filed (2006, 2009) against the UK government to block arms export licenses to companies doing business with Israel. While all the lawfare cases referenced here have been dismissed in the preliminary stages, the propaganda impact and damage have been significant.

NGOs leading anti-Israel lawfare include PCHR (cases in Spain, the UK, New Zealand, and the US over the Shehade killing and the Gaza War), the New York-based Center for Constitutional Rights (Dichter, Ya'alon, Corrie cases), Al-Haq (Barak, Canada cases), Al Mezan (Barak case), Yesh Gevul (Shehade cases in the UK) and Adalah (Spain case). Michael Sfard, Israeli attorney and legal advisor for Yesh Din, Breaking the Silence, and others, is also a prominent actor working with Al Haq and other NGOs on the 2008 case in Canada, and potential filings in the UK.

NGOs, THE 2008–9 GAZA WAR, AND THE GOLDSTONE REPORT

The renewed hostility in Gaza that erupted into full scale conflict on 27 December 2008 was accompanied by an expansion of the combined UN-NGO soft power campaign targeting Israel, in which the full range of tactics that had been developed prior to the Durban Conference were implemented.⁹³ NGOs including HRW and AI condemned the Israeli operation and presented a chronology that downplayed or erased the context of Hamas attacks that preceded the Israeli incursion. The NGOs were also central in the Special Session of the UNHRC held in January 2009.

Statements from Al-Haq, and the Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP), declared Israel guilty of "war crimes" and "crimes against humanity". AI, HRW, and ICJ accused Israel of "indiscriminate" and "disproportionate" attacks.⁹⁴ Libyan-linked Nord Sud XXI charged Israel with participating in an "intentional effort ongoing for more than 60 years by an illegal occupier and its allies to destroy the Palestinian people",⁹⁵ with the aim to commit genocide.⁹⁶

As in the 2006 Lebanon War, the major international NGOs—particularly HRW and AI—joined with the OIC states that dominate the council, as well as the Palestinian leadership in campaigning for establishment of an inquiry. The Council adopted Resolution S-9/1 on 12 January 2009, creating the foundation for what became the Goldstone inquiry, with the mandate of investigating “all violations of international human rights law and international humanitarian law by the occupying Power, Israel, against the Palestinian people throughout the Occupied Palestinian Territory, particularly in the occupied Gaza Strip.”⁹⁷ (Goldstone was a member of the board of HRW, and following HRW’s advocacy, had condemned Israel during the war. He resigned from HRW after the appointment to head the commission.) Hamas violations, such as massive use of human shields,⁹⁸ indiscriminate rocket fire,⁹⁹ and the 2006 kidnapping of an Israeli soldier (Gilad Shalit), were not mentioned by the NGOs or the resolution establishing the fact-finding mission.¹⁰⁰ This special session and its outcome reiterated the disproportionate NGO/UNHRC emphasis on the Arab-Israeli conflict. Between 24 December 2008 and 13 January 2009, roughly the same period as the Gaza fighting, over 600 villagers were massacred by Ugandan rebels in the Congo. Yet this was not included in the NGO/UNHRC agenda.

After the Goldstone commission was established, NGOs provided the substance of its subsequent report. A number of Israel-based advocacy groups, including the Public Committee Against Torture in Israel, Physicians for Human Rights-Israel, and Adalah participated in a May 2009 NGO “town hall meeting” in Geneva held by the Goldstone Commission. A representative from PCATI spoke at the public sessions of the Commission in July 2009, referring to “collective punishment” and “[Palestinian] martyrs”.¹⁰¹ In addition, the Association for Civil Rights in Israel, Bimkom, Gisha, HaMoked, PCATI, PHR-I, and Yesh Din submitted a joint statement to the Commission.¹⁰² The text does not address alleged Hamas war crimes, “. . . but rather offers our own distinct perspective—human rights violations for which Israel must be held accountable.”

This NGO document also makes entirely speculative assertions about the motivation for the IDF operation against Hamas, claiming that “To the extent that this was planned as a punitive operation which main purpose was not the achievement of actual military objectives, but the inflicting of deliberate damage as a deterrent and punitive measure.” The submission also accuses the IDF of having “deliberately and knowingly shelled civilian institutions”, supporting the legal claim that “Israel deviated from the principle that allows harm only to military objectives, and carried out

strikes against civilian sites in an effort to achieve political ends.” References and evidence are missing for many accusations, such as the allegation that “[m]any prisoners . . . were held in pits in the ground . . . apparently dug by the army”; details are sourced to “information in our possession”.¹⁰³

Goldstone’s report,¹⁰⁴ published on 15 September 2009, strongly reflected these NGO submissions and statements. The text referenced over 50 NGOs, including 70 references each for B’Tselem and the PCHR, 27 for Breaking the Silence, and more than 30 each for Al-Haq, HRW, and Adalah. Significantly, many of these citations refer to speculative issues unrelated to the conflict in Gaza, seeking to brand Israeli democracy as “repressive”, and to widen the scope of the condemnations and the resulting political campaigns.

For example, closely following the HRW and AI, which rejected Israeli claims that Hamas used mosques for military purposes, paragraph 495 claims that: “Although the situations investigated by the Mission did not establish the use of mosques for military purposes or to shield military activities, the Mission cannot exclude that this might have occurred in other cases.” IDF video material clearly documented mosques being used as weapons depots and even the site of a Hamas anti-aircraft position.¹⁰⁵

Similarly, the discussion of international legal claims¹⁰⁶ mirrored the NGO rhetoric, particularly with respect to collective punishment, distinction and proportionality, and the use of human shields. Goldstone adopted the disputed legal claim published by the PLO Negotiation Affairs Department, and promoted by NGOs such as B’tselem, HRW, and AI, that Gaza remained “occupied” after the Israeli 2005 disengagement.¹⁰⁷

Civilian casualty claims were also based largely on NGO allegations and estimates, with references to PCHR, HRW, AI, B’tselem, and others, and asserting (erroneously) that the “data provided by non-governmental sources with regard to the percentage of civilians among those killed are generally consistent . . .”¹⁰⁸ B’Tselem’s data differ significantly from PCHR’s, though both are unverifiable. PCHR’s list characterizes Hamas military figures, including Nizar Rayan and Siad Siam, as civilians.¹⁰⁹

After the publication of the Goldstone report, and its recommendations, the NGO network campaigned for the adoption of its punitive recommendations, particularly in the US and Western Europe. This lobbying effort continues, with as yet undetermined results.

NGO SOFT POWER IMPACT ON HARD POWER

While academic boycotts, NGO campaigns, and UN condemnations and diplomatic scoldings are sometimes dismissed as of little consequence in terms of “hard power” dimensions of security, weapons and military technology, intelligence, economic factors, etc., the overall impact of the soft-power targeting is significant and growing. Using the language and mechanisms of human rights and international law, the objective is to apply the South African model to Israel, allowing the NGOs to create “symbolical victims” and portraying themselves as altruistic rescuers of the Palestinians, to apply the framework developed by Heins.¹¹⁰ The 2001 Durban NGO Forum declaration, adopted in South Africa, and proclaiming the goal of “the complete international isolation” of Israel highlights this linkage. As Irwin Cotler has stated, “A conference that was to commemorate the dismantling of apartheid in South Africa turned into a conference that called for the dismantling of Israel as an apartheid state.”¹¹¹

Following efforts to implement this objective, in which the powerful NGO transnational advocacy network plays a leading role, increasing evidence points to Israel’s growing international isolation. Although the “occupation” and settlements are cited as motivations for the campaign, the one-sided narrative places responsibility exclusively on Israel, and treats Palestinians as victims, often without examining behavior. This reinforces the view that the target is Israel’s existence as a sovereign Jewish homeland, and is not limited to the post-1967 dimensions of the conflict.

Anthony Julius argues that the new anti-Zionism “is predicated on the illegitimacy of the Zionist enterprise” that views Israel as having been “established by the dispossession of the Palestinian people . . . enlarged by aggressive wars waged against militarily inferior forces, and . . . maintained by oppression and brutality.”¹¹² Julius as well as Christopher Mayhew and Michael Adams conclude that these views promote the argument that, “It is impossible to justify the continuance of the State of Israel” on “legal, historical or moral grounds”.¹¹³

The growing hard-power impacts of these soft-war campaigns, led by the NGOs, and based on human rights and international legal claims can be seen in a number of dimensions. Israeli links with Europe on security, and, to a growing degree, also on economic matters, have been negatively affected. There are also indications that this process is extending to the US and elsewhere. In the military and security dimensions, including operational considerations, the impact can be seen in a number of recent examples. In the 2006 Lebanon war, the international outcry and pressure

originating with HRW's false allegations regarding the number of civilian casualties in Qana, and amplified by journalists and political leaders, led PM Olmert to order a 48-hour halt in Israeli air strikes. According to Harel and Issacharoff, the Qana incident "was the best gift that (Hezbollah leader) Nasrallah could have hoped for as Hezbollah now had Arab and international backing and had no reason to accept the terms of a cease fire."¹¹⁴ This allowed Hezbollah to redeploy its forces and probably extended the war.

These campaigns based on allegations of violations of international law are also impacting Israel's ability to acquire needed weapons and related equipment. International NGOs have been leading the calls for arms embargoes against Israel based on allegations of human rights violations during the "second intifada",¹¹⁵ the 2006 Lebanon War,¹¹⁶ and the 2008–09 Gaza conflict.¹¹⁷ In the UK, AI and other NGOs testify frequently before UK parliamentary committees involved in arms exports, and their reports, accusing Israel of war crimes and deliberate attacks against civilians, are highlighted by major British media outlets.¹¹⁸

In 2000, the UK government began to reconsider the sale of F-16 parts directly to Israel. While a 2002 government decision allowed F-16 and Apache helicopter parts to be sold to a third party for incorporation and onward transfer to Israel, this was also halted (albeit unofficially) following the 2006 Lebanon War.¹¹⁹ During the 2008–09 Gaza fighting, British media and politicians emphasized AI's claims that weapons used by Israel to carry out allegedly unlawful attacks included British components. According to the BBC, this report triggered the British government's decision to undertake a review of all military export licenses to Israel.¹²⁰ On 10 July 2009 the British government revoked five licenses for the sale of Saar 4.5 naval parts to Israel. *Ha'aretz* cited "heavy pressure" from NGOs and MPs in explaining this decision. The British government did not provide evidence that the Saar gunboat was used in a way that violated international law, but rather "investigated" the likelihood that the gunboat had been used at all during the operation. This followed the NGO practice of portraying Israeli actions in Gaza as generally unlawful and immoral, meaning that any weapon that had been employed was assumed to have been used illegally.

In the short term, the British decision has more of a symbolic rather than practical impact, as most of Israel's military imports originate in the US. However, Israeli officials have expressed concerns about the widening impact of the NGO campaign of delegitimization, including the possibility that other EU states may follow Britain's lead, or that pressure generated by NGO criticisms will also eventually impede US arms transfers.

Divestment efforts are also accelerating. Following an NGO campaign led by the Coalition of Women for Peace via the “Who Profits.org” project, the Swedish and Norwegian state pension funds announced that they were divesting from Israeli defense contractors such as Elbit. The Danske Bank in Denmark is reportedly following this path.¹²¹ The economic impact of these specific divestment moves is marginal, but they contribute to the wider process. In addition, NGO-led lawfare against Israelis has interfered with travel and related interaction involving key individuals from the political, military, and security sectors. As noted, former foreign minister and current opposition leader Tzipi Livni was forced to cancel a trip to Britain in 2009, following efforts to initiate legal proceedings against her related to the 2008–09 Gaza conflict. The lawfare cases against Israeli officials initiated by NGOs in Spain, Holland, New Zealand, Australia, and elsewhere (all of which were eventually dismissed) had similar impacts.

Lawfare also exacts economic costs, as each case requires the involvement of legal experts focused on defending against and defeating these efforts. In Canada, an economically based lawfare case against a Canadian firm for commercial involvement in the construction of the separation barrier/beyond the 1949 armistice line (submitted by Al Haq and other NGOs) also required a defense and incurred legal costs, which could deter firms from doing business in Israel. (Like the other lawfare cases, this one was dismissed by the court, but the damage caused by the filing and related publicity was not undone.)

In what is expected to be the next round of this “soft power” warfare, these tangible hard-power dimensions are likely to increase. The leaders of the efforts to press for the adoption of the Goldstone report by the UNSC, including NGO officials, see this as accelerating and amplifying the process of imposing UN sanctions on Israel, including arms embargoes. As in other dimensions, this follows the South African model. Although a UNSC endorsement is considered unlikely, the UNGA, in which the Arab and Islamic bloc wields more power, is almost certain to endorse Goldstone, which will also add to the sanctions process, albeit with less intensity.

Similarly, the NGO-led efforts to open proceedings against Israeli officials under the framework of the International Criminal Court (ICC) are designed to extend this process and its impact. In parallel, the BDS movement threatens to expand the hard-power impacts. BDS has a number of related dimensions, including academic and economic boycotts, divestment campaigns, and support for UN sanctions, as imposed on rogue states—Iraq under Saddam, North Korea, Iran, and the apartheid regime in South Africa.

The academic boycott was the first and perhaps the most visible element. While formal measures have been blocked, in part due to legal issues, evidence is growing of the impact of the informal or “silent” boycott in excluding Israeli academics from a number of frameworks. Similarly, efforts to promote widespread economic boycotts of Israeli products, as well as divestment campaigns are expanding.¹²²

Thus, the effort to translate NGO soft power into hard power through these mechanisms continues. To counter these impacts wider soft-power warfare, the targets—particularly Israel—will need to find remedies to address the sources of NGO power.

SPEAKING TRUTH TO NGO POWER

The image of non-governmental organizations active in global issues and regional conflicts, as apolitical experts and impartial watch dogs far removed from the push and pull of politics, is no longer valid. In the past decades, NGOs have become major political powers, particularly in the context of the Arab-Israeli conflict. They exercise influence through public discourse, political advocacy, and legal proceedings. Using their preferential access to the media and diplomatic mechanisms, NGOs set agendas, frame the moral issues and factual allegations, and promote both soft- and hard-power strategies. As demonstrated, the two are closely related.

However, NGO accountability remains a serious problem. In contrast to government policy-making structures, there is virtually no system of checks and balances on the power of NGOs, and independent analyses have only just begun. While serious media outlets, such as the *New York Times*, have a semi-independent “public editor”, and other institutions have ombudsmen to expose ethical breaches, professional lapses, and corruption, such mechanisms are largely unknown among the powerful NGOs. NGO enthusiasts boast that these organizations are “everything that governments are not”,¹²³ yet in many ways this is more of a curse than a blessing.

This situation is amplified by the general absence of transparency among political NGOs, including with regard to decision making, hiring policies, and agenda-setting. In most cases, NGO officials stay in their positions for many years or decades, as in the case of Kenneth Roth at HRW. When the infrequent changes at the top do occur, as in the case of Amnesty International in 2010, these processes are closed, highlighting the NGO democracy deficit.

In the absence of accountability, transparency, and checks and balances, the main engine driving NGO power is the funding that they receive. Money translates into power, influence, and the ability to manipulate the public debate, and the large international NGOs now have operating budgets in the tens of millions of dollars. In a 1990 decision upholding limits on corporate election campaign donations (McCain-Feingold), the US Supreme Court warned of “the corrosive and distorting effects of immense aggregations of wealth”. The same analysis can be applied to the “aggregations of wealth” in the NGO community, and its role in manipulating the marketplace of ideas in the context of the Arab-Israeli conflict. Foreign governments, primarily in Europe, but also including some US, Canadian, Japanese, and Australian funds, are the primary source of the “corrosive and distorting effects”.

Moreover, in the case of Europe, the annual transfer of large amounts of government funds to a selected group of political NGOs (in reality, FONGOs, or Foreign Government-funded Non-governmental Organizations) often takes place without transparency. The EU has refused to release any significant documents related to the funding process for NGOs involved in Arab-Israeli issues, including the names and the positions of the officials involved, contending that such information constitutes highly classified and extremely sensitive state secrets. (This is another example of soft-power imitating hard power.) This lack of funding transparency exacerbates the problems of non-accountability.

Thus, in order to address these deficiencies in the activities of political NGOs, prescriptive initiatives should focus on the following dimensions: (1) Transparency (both for the funding process and the organizations themselves); (2) Systems of accountability, such as an ombudsman, and regular independent investigations, which are built into the NGO mechanisms; (3) Mechanisms to ensure a balanced debate and critical exchanges, and to prevent a monopoly on the “marketplace of ideas”; (4) Regulation, where necessary, to ensure that these basic systems of “checks and balances” are implemented for powerful NGOs.

In an August 2010 speech, Tony Blair, speaking in his capacity as the Quartet’s special Middle East envoy, referred to demonization as “a conscious or often unconscious resistance, sometimes bordering on refusal, to accept Israel has a legitimate point of view”. The supporters of these political attacks are characterized by an “unwillingness to listen to the other side, to acknowledge that Israel has a point, to embrace the notion that this is a complex matter that requires understanding of the other way of looking at

it.” Blair compared the soft-power delegitimization to the Iranian threats to “wipe Israel off the map”, noting that the former is “more insidious, harder to spot, harder to anticipate and harder to deal with, because many of those engaging in it, will fiercely deny they are doing so. It is this form that is in danger of growing, and whose impact is potentially highly threatening.”¹²⁴

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