

July 15, 2012

**NGO MONITOR'S SUBMISSION TO THE UN HUMAN RIGHTS COUNCIL
UNIVERSAL PERIODIC REVIEW– ISRAEL – FEBRUARY 2013**

Israel is a vibrant parliamentary democracy facing many challenges, including the need to defend its citizens against terror attacks from Hamas-controlled Gaza, the West Bank, and Hezbollah-controlled Southern Lebanon while protecting the rights of the populations in these areas. The civil society (NGO) network thrives in Israel and often provides valuable humanitarian assistance, including health services, education, and other basic requirements under many different and complex conditions.

Unfortunately, this network also often plays a counterproductive role in the context of efforts to end the Arab-Israeli conflict. As NGO Monitor and others have documented, some of the NGOs produce reports and launch campaigns that stand in sharp contradiction to their stated mandates of upholding universal human rights. These NGO activities regularly obscure or remove the context of terrorism; provide false or incomplete statistics and images; and disseminate gross distortions of the humanitarian, human rights, and international legal dimensions of the Arab-Israeli conflict. This activity often stresses the rights of Palestinians while disregarding Israeli human rights, and promotes the protection of some rights – such as the “right to work” – at the expense of more fundamental rights – such as the right to life or the right to self-defense. Moreover, violations of human rights and international humanitarian law committed by Palestinian actors or terror groups, or the Hezbollah terrorist organization, are systematically ignored or minimized. As a result, NGO publications and campaigns, including submissions to the United Nations, provide an incomplete and often non-credible picture of the state of human rights in Israel.

As all other societies, Israel is imperfect, and it has a responsibility to correct these imperfections. However, aggressive campaigns to greatly exaggerate the flaws, as part of the ongoing effort to delegitimize Israel, should not be assisted by a United Nations Human Rights Council which is based on universal principles. NGO Monitor urges the UNHRC to subject accusations from individuals and organizations, which are not subject to any democratic accountability, to careful scrutiny and independent verification.

The following analysis and examples highlight problematic NGO activity vis-à-vis human rights in Israel:

Right to Self Determination

[Article 1](#) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) mandates that “[a]ll peoples have the right of self determination” and the right to “freely determine their political status.” Many politicized human rights NGOs involved in the UPR process, however, campaign on the basis that the right of self-determination applies only to Palestinians and not to the Jewish people. These groups criticize Israel for efforts that seek to guarantee this right for Jews. Many NGOs label

Israel's very existence as a "Jewish State" as contravening international law despite the dozens of "Muslim States" and "Christian States" or other countries rooted in ethnic and religious identity. Some of these organizations campaign explicitly for the elimination of Jewish self-determination altogether – a fundamental violation.

[Badil](#), one of the preeminent campaigners for a so-called "right of return," provides a clear example. In 2012, the organization published an [essay stating](#) "delegitimizing Israel as the manifestation of the 'Jewish State' – the heart of political Zionism - is exactly what is needed today." Badil has posted blatant [antisemitic imagery](#) on its website, as well as drawings that show the elimination of the State of Israel altogether. Due to these expressions of racism and incitement, the organization has had its [funding frozen](#) from a number of core governmental donors. [Al Haq](#) is another prominent example of NGO activity aimed at eliminating Jewish self-determination. In order to carry out this objective, Al Haq has even called for the sabotaging of Israel's highly respected Supreme Court urging activists to "flood[] the [Israeli Supreme] Court with petitions in the hope of obstructing its functioning and resources." [Adalah](#), an Arab-Israeli NGO, has also campaigned for the elimination of Israel's Law of Return and Jewish symbols through its "Democratic Constitution" campaign.

Despite these inflammatory NGO campaigns based on racism and the destruction of fundamental human rights of Jews, all citizens in Israel enjoy equal rights, and there are no racial and ethnic restrictions on the ability to acquire Israeli citizenship. Israel's Law of Return grants a special track to Jews seeking to acquire citizenship due to historical persecution against the Jewish people; in providing this preference, however, Israel does not differ from countries such as Germany and Ireland.

Moreover, the Law of Return was enacted to provide a safe haven for Jews, who for millenia have suffered from genocide, crimes against humanity, and other systematic human rights abuses throughout the world. Jews, no less than other national groups, enjoy the right of self-determination recognized in the UN Charter, the ICCPR, and other treaties. Indeed, Jewish self-determination was specifically recognized and legally grounded in the 1922 Palestine Articles of Mandate issued by the League of Nations. Thus, as noted by legal scholar, [Robbie Sabel](#), "Zionism is perhaps the only national movement that has received explicit support and endorsement both from the League of Nations and from the United Nations."

Right to Life

The right to life is perhaps the most fundamental of human rights included in the Universal Declaration of Human Rights ([UDHR](#)), and is applicable not only to Palestinians, but to Israelis as well.

In order to preserve Israeli (whether Jewish, Christian, or Muslim) right to life in the wake of the Palestinian suicide bombing campaign targeting Israeli civilians, which murdered and injured thousands of Israelis including hundreds of children, the Israeli government built a [security barrier](#). As a result of the construction, there was an

[84% drop](#) in terrorist attacks against civilians, compared to the previous years. Since then, [the rate](#) of deadly suicide attacks has remained at [significantly](#) lower levels. Rather than campaign for the right to life for all on an equal basis, however, NGO Monitor's detailed analyses consistently demonstrate that prominent NGOs such as [HRW](#), [Amnesty](#), [Christian Aid](#), the International Commission of Jurists ([ICJ](#)), and [B'Tselem](#), emphasize rights solely from the Palestinian perspective when criticizing the barrier. The right to life of Israeli civilians is either not considered at all, or at best, is relegated to a secondary concern by these organizations.

While repeatedly condemning Israel for alleged "war crimes" and "violations" of international humanitarian law (IHL), many UPR-associated NGOs minimize or even ignore war crimes or IHL abuses committed against Israelis. Some even go so far as to justify these attacks under an invented "right of resistance."

The [Palestinian Center for Human Rights \(PCHR\)](#) often refers to terror groups targeting Israeli civilians with rocket attacks to be "resistance activists." Similarly, it characterizes highly sophisticated armaments from Iran and China used to target Israeli population centers as "homemade rockets." PCHR's statements are a complete perversion of international law and the absolute prohibition against indiscriminate attacks on civilians. Operations by the terror groups have not only terrorized, injured, or killed tens of thousands of Israelis, they also have [killed Palestinian children](#) and wounded several others when the rockets fell short of their intended Israeli targets.

Even more troubling, in its statements, PCHR seems to be claiming that Palestinians have the right to engage in "resistance" attacks on civilians. Contrary to PCHR's euphemistic apologetics and supposed justifications of "resistance," the direct targeting of civilians by Palestinians is a violation of the rule of distinction and is a war crime. The broad consensus is that non-state actors are bound to obey the laws of war and in fact, in 1989, the Palestinian National Council decided, on behalf of "Palestine," to [adhere](#) to the Geneva Conventions and Additional Protocols I & II.

It is strange that a so-called "human rights" organization would make such claims that are completely incompatible with principles of international law, human dignity, and respect for human life.

Right to Self-Defense

Many NGOs with ECOSOC consultative status and involved in the UPR process disregard Israel's unequivocal right to self-defense as codified in Chapter VII, Article 51 of the [UN Charter](#) when condemning Israeli anti-terror operations. In order to delegitimize Israel's self-defensive measures, many NGOs have issued statements distorting international law or even inventing legal bases under which Israel's rights are denied. NGOs such as Al Haq often deny Israel's right to self-defense. For example, [Al Haq stated](#) that they "would like to make it emphatically clear that Article 51 of the UN Charter cannot be invoked as justification for military operations within or against the OPT." Similarly the [PCHR](#) has [stated that](#) "The State of Israel is not entitled to invoke

Article 51 of the UN Charter (the right to self defense) with respect to the occupied Palestinian territory.”

As noted by [Rosalyn Higgins](#), a former justice on the International Court of Justice (ICJ) and a highly respected authority on international law, “[t]here is, with respect, nothing in the text of Article 51 that *thus* stipulates that self-defence is available only when an armed attack is made by a State.”

Freedom of Expression

By any objective standard, Israeli democracy is as robust and pluralistic as any in the world. There are no restrictions on any form of protest or advocacy, including very fierce and unpopular criticism of the government and military. No other democracy can claim to have greater freedom of expression, despite more than six decades of war and terrorism; threats of annihilation; and in parallel, the challenges of developing a cohesive society based on numerous divergent communities scattered for generations as Diasporas, many of which do not have traditions of pluralism and democracy.

The Israeli government should be commended for allowing NGOs to operate freely, even when many (including groups cited in this submission) promote an agenda in which Israel is demonized, often using unsubstantiated or false claims. Groups such as [B’Tselem](#), [Machsom Watch](#), [Mossawa](#), and [Yesh Din](#), are very active in Israeli civil society, while NGOs based outside of Israel, such as [Amnesty International](#) and [Human Rights Watch](#) are also able to operate without interference. In contrast, many NGOs do not acknowledge this basic freedom in their UPR submissions on Israel and in statements to other UN bodies.

On February 22, 2011, the Knesset passed the NGO Funding Transparency Law, which requires non-profit organizations (*amutot*) to file a one page quarterly report on any foreign government donations in excess of 20,000 NIS. Most, if not all, democratic countries in the world have reporting requirements for organizational funding. The ideas of financial transparency and the public’s right to know are tenets of any democracy, and keys to ending artificial, non accountable, and non-democratic influence

Unfortunately, the media coverage and NGO reporting on these issues, both in Israel and outside, is often distorted and confused. Despite the existence of financial transparency laws in the US, UK, Canada, Australia, and elsewhere, NGOs such as B’Tselem falsely claimed that the minimal reporting requirements of the Transparency Law would “impede freedom of association in Israel; ...deny civil-society organizations freedom of action; render registration of civil-society organizations as non-profit organizations meaningless.” These statements fail to address why these organizations think they should be exempt from core democratic values of transparency and accountability. Transparency and informed public debate are vital. It is entirely appropriate for democratically elected representatives to introduce legislation that seeks

to address organizational funding. Committees debate the legislation, amendments are offered, and rigorous debates take place – all reflecting a vibrant democratic system.

Furthermore, there is no censorship of Israeli civil society activities. Critical reports of the government issued by NGOs such as the Association for Civil Rights in Israel (ACRI), B'Tselem, Yesh Din, Adalah, Mossawa, and many others receive extensive press attention in Israel, including from the government-owned media. When ACRI released a publication criticizing alleged harassment of demonstrators, the document was widely disseminated and served as the topic of an op-ed in *Ha'aretz*, one of Israel's most influential papers. This type of public debate and intense criticism of government policies would not be possible in a country without free expression.

Freedom of Association

Israel systematically protects the rights of its minority populations to freedom of expression and to protest. For example, each year, Israeli police forces and government institutions facilitate Gay Pride parades in Jerusalem, Tel Aviv, Haifa, and Eilat; marches on Human Rights Day; protests by the Islamic movement; and to mark the murder of Yitzhak Rabin.

Mass demonstrations on socio-economic issues were held in Summer 2011, and attest to Israel's dynamic civil society and a culture of advocacy and peaceable protest. Israeli police facilitated these activities, blocking off roads and granting permits. The government responded to protestors' demands positively, in the form of a task force to address their claims.

These protests stand in marked contrast to demonstrations of the "Arab Spring," where thousands were murdered at the hands of their own governments, protestors in Egypt, Tunisia, Syria. Many of these protestors were quoted as taking inspiration from the peaceful social protests in Israel.

Summary: Unfortunately, the history of reporting by UN frameworks on human rights in Israel has been characterized by biased mandates, false and unverifiable allegations, double standards, and hypocrisy – from Jenin (2002) through Goldstone (2009), as well as reports by special rapporteurs Jean Ziegler, John Dugard, and Richard Falk. The results have been highly counterproductive in promoting human rights. Given the impact of the UPR, it is important that the National Report, Compilation of UN Information, and Summary of Stakeholders' information be credible, accurate and impartial. Reliance on politicized NGOs discussed herein regarding human rights issues in Israel is inconsistent with this requirement. The obsessive condemnations of Israeli responses to daily attacks on its civilians, as well as disproportionate criticism of Israeli attempts to balance rights within a complex society facing asymmetrical warfare, further highlights this issue.

This limitation in NGO reporting related to human rights is not unique to Israel. Recently the International Criminal Court (ICC) in the Judgment against [Thomas Lubanga Dyilo](#) quoted a French magistrate and former police detective who headed the ICC's Congo Investigation Team as stating "Investigators also sometimes find it difficult to corroborate information provided by human rights groups who are eager to call international attention to crises. The gap between the assessment of the human rights groups and the evidence was sort of a surprise." Similarly The ICC Pre Trial Chamber in the case of [Callixte Mbarushimana](#) (December 16, 2011) commented (§78) on the weight of claims originating from Human Rights Watch reports "that information based on anonymous hearsay must be given a low probative value in view of the inherent difficulties in ascertaining the truthfulness and authenticity of such information."

A 2006 [study](#), "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," conducted by the Bogota-based Conflict Analysis Resource Center and the University of London reveals the lack of credibility in NGO reporting related to this conflict region.

On this basis, we urge the Human Rights Council and OHCHR to carefully examine the credibility and biases in NGO submissions and claims and to issue an accurate report that will not repeat the flaws and negative impacts of previous UNHRC reports related to Israel.

We hope that this information will assist the HRC and OHCHR in the UPR process.

Respectfully Submitted,

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