

# THE NGO FRONT IN THE GAZA WAR

The Durban Strategy Continues

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Gerald M. Steinberg, Editor

## **NGO Monitor Monograph Series:**

*The NGO Front in the Gaza War: The Durban Strategy Continues* (February 2009)  
*NGO "Lawfare": Exploitation of Courts in the Arab-Israeli Conflict* (September 2008)  
*Europe's Hidden Hand: EU Funding for Political NGOs in the Arab-Israeli Conflict* (April 2008)



**Making NGOs Accountable**

1 Ben-Maimon Blvd.  
Jerusalem 92262 Israel  
Phone: +972-2-566-1020  
Fax: +972-77-511-7030  
mail@ngo-monitor.org  
www.ngo-monitor.org

NGO Monitor's mission is to provide information and analysis, promote accountability, and support discussion on the reports and activities of NGOs claiming to advance human rights and humanitarian agendas in the framework of the Arab-Israeli conflict.

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# **The NGO Front in the Gaza War**

The Durban Strategy Continues

## Executive Summary

**T**hroughout Israel's operation in Gaza, from December 27, 2008 to January 18, 2009, and in its immediate aftermath, over 50 NGOs claiming to promote human rights and humanitarian agendas issued more than 500 statements on the fighting. These statements exhibit severe bias and double standards, focus overwhelmingly on condemning Israel, and ignore or give minimal attention to Israeli human rights and casualties. Under the façade of morality and universality, they exploit international legal terminology and erase Hamas' violations of international humanitarian law, such as the "reckless and cynical use of civilian instillations."<sup>i</sup>

This vilification and delegitimization of Israeli anti-terror tactics is part of the "Durban Strategy," crystallized at the NGO Forum of the UN's 2001 World Conference Against Racism in Durban, a process of attempting to isolate Israel internationally to achieve Palestinian political goals. Since the conference, the NGO network has applied the Durban Strategy repeatedly: in promoting the myth of the Jenin "massacre" (2002); campaigns against Israel's West Bank security barrier (2004); the attempt to impose an academic boycott on Israel (2005); the church-based anti-Israel divestment campaigns (2006); and the 2006 Israel-Hezbollah war in Lebanon.<sup>ii</sup>

From late 2007 to December 2008, the focus of the Durban Strategy was on condemning Israel's policy regarding Hamas-controlled Gaza. Numerous NGOs active in the Arab-Israeli conflict issued reports, press releases, and "urgent calls" in condemnation of Israel (over 300 statements in 2008 alone). In general, these documents misrepresent international humanitarian law

by labeling the policy "collective punishment," and largely parrot a PLO "legal opinion" claiming that Israel remains responsible for the welfare of the population in Gaza.<sup>iii</sup>

A wide range of groups were responsible for implementing the Durban Strategy during the Gaza conflict: international "superpowers" – including Amnesty, Human Rights Watch (HRW), and Oxfam; Israeli NGO, B'Tselem; Israeli-Arab organizations, Adalah, Ittijah, and Mossawa; and Palestinian NGOs in Gaza, PCHR and Al Mezan. Under the cover of the "halo effect" – where NGOs' human rights claims are accepted without question by virtue of their self-stated humanitarian mandates – these organizations accused Israel of "war crimes," "disproportionate" and "indiscriminate" attacks, and "targeting civilians."

This was accompanied by campaigns, also under the guise of universal human rights, to criminalize legitimate forms of self-defense, weaponry, and warfare. According to these re-definitions of international humanitarian law, if Hamas fights from and hides within the civilian population of Gaza, a military response by Israel would be impossible and illegal.

These NGOs publicized their claims despite not having access to Gaza to conduct their supposed "independent, impartial investigations," and relied on Palestinian "eyewitnesses," whose testimony, objectivity, and even identity could not be verified or corroborated. As opposed to objective reports on the human rights situation, the Palestinian groups in Gaza promoted the Palestinian narrative in their political attacks on Israel. Moreover, the NGOs are unqualified to evaluate whether Israeli strikes were "disproportionate" and "indiscriminate": they do

<sup>i</sup> Under-Secretary-General for Humanitarian Affairs John Holmes to the Security Council, in "Israel must allow full access for aid and supplies to rehabilitate Gaza – UN relief chief," *UN News Centre*, January 27, 2009. Available at <http://www.un.org/apps/news/story.asp?NewsID=29690&Cr=gaza&Cr1=holmes>

<sup>ii</sup> Gerald M. Steinberg, "The Centrality of NGOs in the Durban Strategy," *Yale Israel Journal*, Summer 2006, pp. 3-20.

<sup>iii</sup> Abraham Bell, "Is Israel Bound by International Law to Supply Utilities, Goods, and Services to Gaza?" *Jerusalem Center for Public Affairs*, February 2008. Available at <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&TMID=111&LNGID=1&FID=378&PID=0&IID=2037>

not possess the necessary military expertise and detailed information on the dispersal of weapons by Hamas, and they are not privy to Israeli targeting decisions.

The implementation of the Durban Strategy in the Gaza war can be summarized under three headings: the exploitation of international humanitarian law, threats of “lawfare,” and delegitimizing Israel in the media and at international forums.

First, the exploitation of international legal rhetoric is a major weapon in the political war to delegitimize Israeli anti-terror operations. The terminology of international humanitarian (IHL) and human rights law is selectively applied to charge Israel with “violations of law,” “crimes against humanity,” “war crimes,” “disproportionate force,” and “indiscriminate attacks.” NGOs use the legal language to increase the credibility and seriousness of the charges, and, according to Washington attorneys David Rivkin and Lee Casey, to “criminaliz[e] traditional warfare,” rather than promote universal human rights.<sup>iv</sup> In one case, Israel’s “guilt” and “responsibility” were pre-decided: even before the first strikes of the operation, several NGOs including Oxfam and CARE International, released a statement that “called on the international community to speak out against the disproportionate use of force by any side.”<sup>v</sup>

Second, calls for “war crimes” investigations and trials are part of the NGO anti-Israel “lawfare” strategy, to harass Israeli officials with civil lawsuits and criminal proceedings and to promote a negative media image of Israel.<sup>vi</sup> The Palestinian Center for Human Rights is leading the Gaza lawfare attacks. Other NGOs calling for lawfare include the Alternative Information Center, Adalah, Amnesty International, Ittijah, and the Arab Association for Human Rights. Rather than obtaining “justice” for victims, these

cases are intended to punish Israel for its anti-terror methods, to prevent future operations, to interfere with Israel’s diplomatic relations, and to advance boycotts and other aspects of the Durban Strategy. Although the vast majority of previous lawfare cases have been dismissed, the damage to the legitimacy of Israel’s self-defense is considerable.

Third, at the UN Human Rights Council Ninth Special Session to address “the grave violations of human rights in the Occupied Palestinian Territory including the recent aggression in the occupied Gaza Strip” (January 9-12, 2009),<sup>vii</sup> NGOs such as PCHR, FIDH, MRAP, Union of Arab Jurists, EAFORD, and Nord-Sud XXI used demonizing language in their attacks, accusing Israel of “massacres” “apartheid” and “racism” rhetoric, “genocide,” and “first class war crimes against Palestinian civilians.”

This appears to be a prelude to NGO activity at the Durban Review Conference scheduled for April 20-24, 2009, and mirrors how pro-Palestinian activists at the 2001 Durban conference used the so-called “Second Intifada,” including images of 12-year old Muhammad al Dura who was allegedly killed by Israeli soldiers, to represent Palestinian suffering and resistance. Indeed, at a January 20, 2009 Intersessional Working Group meeting, Badil, a Palestinian NGO that promotes the “Right of Return,” reportedly introduced the “atrocities taking place in Gaza” in an attempt to include the Palestinian people on a “list of victims of racial discrimination.”

Such highly biased and politicized NGO campaigns prevent any genuine assessment of Israel’s human rights record and erode the moral foundation and universality of human rights.

<sup>iv</sup> David B. Rivkin, JR. and Lee A. Casey, “Lawfare,” *The Wall Street Journal*, February 23, 2007. Available at <http://online.wsj.com/article/SB117220137149816987.html?mod=article-outset-box>

<sup>v</sup> “Aid agencies warn of humanitarian catastrophe if Gaza is attacked,” December 28, 2008. Available at <http://alertnet.org/thenews/fromthefield/217440/50d54fb73b647865c4d50628b3748274.htm>. Although the statement was not published online until after the war began, it was released on December 27 and clearly was composed before the outbreak of violence.

<sup>vi</sup> Anne Herzberg, *NGO “Lawfare”: Exploitation of Courts in the Arab-Israeli Conflict*, *NGO Monitor Monograph Series*, September 2008. Available at [http://www.ngo-monitor.org/article/ngo\\_lawfare\\_exploitation\\_of\\_courts\\_in\\_the\\_israeli\\_arab\\_conflict](http://www.ngo-monitor.org/article/ngo_lawfare_exploitation_of_courts_in_the_israeli_arab_conflict)

<sup>vii</sup> United Nations press release, “Human Rights Council to Hold Special Session on human rights situation in Gaza on 9 January 2009,” Human Rights Council, January 7, 2009.

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## Prologue by Prof. Gerald M. Steinberg

GO Monitor has been reporting on and analyzing the activities and publications of organizations claiming to promote human rights and humanitarian agendas, since 2002. From the fictitious “Jenin massacre” in 2002, to the “apartheid wall” campaign, and the condemnations during 2006 Lebanon war – the pattern is now firmly established. The process begins with indiscriminate attacks against Israeli civilians, launched from command centers located in civilian neighborhoods and buildings. After waiting and absorbing these attacks, Israel responds using limited means – short incursions and attempts to prevent the import of weapons – for which it is condemned for violations of international humanitarian law (IHL). When these partial measures fail, the IDF acts to protect Israeli lives by initiating a wider military operation in which the human shields are caught in the middle. These tragic images then trigger a barrage of NGO reports and condemnations of the Israeli action, followed by calls for boycotts and sanctions, and this one-sided political response is hailed as a great victory by the leaders of the PLO, Hamas and Hezbollah.

This is precisely the pattern followed in the case of the operation against Hamas in Gaza. For over a year (following the violent Hamas coup in June 2007 that took control from Fatah and killed over 150 Palestinians according to Red Cross estimates), as rocket attacks against Sderot increased in number and reached Ashkelon, Israel’s fifth largest city, the NGOs were largely silent on these deliberate violations of the human rights of Israelis. Instead, NGO superpowers – Amnesty International, Oxfam, Human Rights Watch – focused their considerable resources on attacking the Israeli responses using highly emotive and legally misleading terms such as “collective punishment.” Dozens of other NGOs – many funded by European governments, the European Union, the New Israel Fund, and the Ford Foundation – joined the campaign. They went far beyond their missions and mandates, promoting demonization and calling for sanctions against Israel. In a statement issued in the first days of the Gaza war, Oxfam, which had been the most vocal anti-Israel NGO in the months before Hamas ended its ceasefire, declared: “The international community must not stand aside and allow Israeli leaders to commit massive and disproportionate violence against Gazan civilians in violation of international law.”

As in the past, the heads of powerful organizations that claim to promote human rights and humanitarian aid were the generals and lieutenants in this deadly “soft war.” They fought for the Palestinian cause and repeated the narrative of victimization, entering areas far beyond their claimed competence and missions. NGOs consistently claimed military expertise that they do not have, issuing solemn pronouncements on highly complex issues such as “military necessity” and the impacts of

different weapons systems, and always in a manner that highlighted Palestinians as victims. Human Rights Watch used and distorted the complexities of white phosphorous as the basis for its most sustained anti-Israel campaign in this war, while claiming to have insufficient information to judge Hamas for using human shields. Human rights norms prohibit the use of human shields on the battlefield, but the record shows that when Hamas turned the entire population of Gaza into a massive human shield, including houses, hospitals, schools, and mosques, HRW and other NGOs that claim a moral mandate turned a blind eye.

The hundreds of NGO statements detailed in this monograph were repeated and amplified by the media around the world. Amnesty International, Human Rights Watch, and Oxfam – as well as their European, Israeli, and Palestinian NGO partners – are endowed with a “halo effect,” and are considered beyond reproach. NGOs such as B’Tselem and Oxfam published Palestinian “eyewitness” claims that lack credibility, but most journalists made no effort to check these sources, or the levels of claimed NGO expertise. Unverifiable casualty numbers from the Palestinian Center for Human Rights, claiming that the majority of victims were innocent civilians, were

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also adopted by the media, and then by diplomats and politicians from Muslim countries (notably including Turkey), in Europe and in the United Nations.

In Gaza, as in the past encounters, the end of one round of fighting, and another NGO-led political campaign against Israel, will set the stage for the further attacks. The NGO “soft war” has already moved to the legal arena, with preparations for lawsuits in European countries with universal jurisdiction statutes. These laws were designed to bring heinous dictators to justice, but – like so much of the human rights and international legal structure – have been abused and debased into weapons for attacking Israel.

The NGO campaign in the Gaza conflict further erodes what remains of the moral foundation and the universality of human rights principles. In 2001, the NGO Forum of the UN-sponsored Durban conference against racism itself became a source of anti-Israel racism and crude antisemitism. The Durban Review Conference, scheduled to be held in Geneva in April 2009, is likely to go further down this destructive road, led by the NGO generals, and using the false claims and double standards of the Gaza conflict as the heavy weapons.

Prof. Gerald M. Steinberg  
Executive Director, NGO Monitor

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# Introduction

## Introduction

Throughout Israel's operation in Gaza, from December 27, 2008 to January 18, 2009, and in its immediate aftermath, over 50 NGOs claiming to promote human rights and humanitarian agendas issued more than 500 statements on the fighting. These statements exhibit severe bias and double standards, focus overwhelmingly on condemning Israel, and ignore or devote minimal attention to Israeli human rights and casualties. Under the façade of morality and universality, they exploit international legal terminology and erase Hamas' violations of international humanitarian law, such as the extensive use of human shields.

These reports are a central part of the "soft power" war being waged against Israel, in parallel to the "hard power" rocket and terror attacks, and reflect an ideological bias which also gives excessive attention to this conflict. Even after the end of the military confrontation between Israel and Hamas, the "soft power" war continues in the form of "lawfare" – calls by NGOs for international investigations, tribunals, and criminal proceedings against Israel officials.

This vilification and delegitimization of Israeli anti-terror tactics is part of the "Durban Strategy," crystallized at the NGO Forum of the UN's 2001 World Conference Against Racism in Durban, a process of attempting to isolate Israel internationally to achieve Palestinian political goals. Since the conference, the NGO network has applied the Durban Strategy repeatedly: in promoting the myth of the Jenin "massacre" (2002); campaigns against Israel's West Bank security barrier (2004); the attempt to impose an academic boycott on Israel (2005); the church-based anti-Israel divestment campaigns (2006); and the 2006 Israel-Hezbollah war.<sup>1</sup> During the six weeks of fighting in Lebanon, major NGOs issued over 100 press releases, statements, and reports, almost all of which were directed against Israel.<sup>2</sup>

From late 2007 to December 2008, the focus of the Durban Strategy was on condemning Israel's policy regarding Hamas-controlled Gaza. Numerous NGOs active in the Arab-Israeli conflict issued reports, press releases, and "urgent calls" in condemnation of Israel (over 300

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<sup>1</sup>Gerald M. Steinberg, "The Centrality of NGOs in the Durban Strategy," *Yale Israel Journal*, Summer 2006, pp. 3-20.

<sup>2</sup>NGO Monitor, "NGOs in the Lebanon War – Update: Covering July 12 through September 10," *NGO Monitor Reports*, September 10, 2006. Available at <http://www.ngo-monitor.org/article.php?id=852>

statements in 2008 alone). In general, these documents misrepresent international humanitarian law by labeling the policy “collective punishment,” and largely parrot a PLO “legal opinion” claiming that Israel remains responsible for the welfare of the population in Gaza.<sup>3</sup>

The NGO statements and reports during the Gaza War of January 2009 are a wider extension of the political warfare, and Israel’s “guilt” and “responsibility” were pre-decided. Even before the first strikes on December 27, 2008, when Israel was publically indicating that it would not begin a full-scale attack on Gaza, several NGOs (Oxfam, CARE International, and Diakonia) released a statement that “called on the international community to speak out against the disproportionate use of force by any side.”<sup>4</sup>

In their one-sided, disproportionate condemnations of Israel, these NGOs bolster Hamas’ public relations campaign, which deflects focus from what UN Under-Secretary for Humanitarian Affairs John Holmes called their “reckless and cynical use of civilian instillations”<sup>5</sup> as a primary fighting tactic – including firing from populated areas, placing women and children on the roofs of targeted buildings, storing weapons in schools and mosques, and hiding in bunkers beneath hospitals – onto tragic civilian deaths. NGO accusations of Israeli “war crimes” also coincide with a rising number of antisemitic attacks in Europe, which Human Rights Watch recognizes as an “apparent backlash to recent events in Gaza.” A similar trend was noticed during the Second Lebanon War in 2006.<sup>6</sup>

During the Gaza fighting, NGO Monitor tracked and analyzed NGO statements, and this monograph presents the results of that comprehensive project. First we discuss the manipulations of international humanitarian law by NGOs and their attempts to initiate criminal proceedings against Israeli officials in international and European

courts – lawfare. The monograph also explores NGO statements to the UN Human Rights Council in light of the scheduled April 2009 Durban Review Conference, which is expected to further extend the Durban Strategy and the NGO focus on Gaza. Finally, the analysis investigates the press releases and reports of individual NGOs that were particularly active and influential during the operation: international organizations such as Amnesty International, Human Rights Watch (HRW), and Oxfam; an Israeli group, B’Tselem; Israeli-Arab NGOs Adalah, Mossawa, and Ittijah; and Palestinian groups from Gaza, the Palestinian Center for Human Rights (PCHR) and Al Mezan.

<sup>3</sup>Abraham Bell, “Is Israel Bound by International Law to Supply Utilities, Goods, and Services to Gaza?” *Jerusalem Center for Public Affairs*, February 2008. Available at <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&TMID=111&LNGID=1&FID=378&PID=0&IID=2037>

<sup>4</sup>“Aid agencies warn of humanitarian catastrophe if Gaza is attacked,” December 28, 2008. Available at <http://alertnet.org/thenews/fromthefield/217440/50d54fb73b647865c4d50628b3748274.htm>. Although the statement was not published online until after the war began, it was released on December 27 and clearly was composed before the outbreak of violence.

<sup>5</sup>Under-Secretary-General for Humanitarian Affairs John Holmes to the Security Council, in “Israel must allow full access for aid and supplies to rehabilitate Gaza – UN relief chief,” *UN News Centre*, January 27, 2009. Available at <http://www.un.org/apps/news/story.asp?NewsID=29690&Cr=gaza&Cr1=holmes>

<sup>6</sup>Human Rights First press release, “Human Rights First Condemns Antisemitic Backlash Attacks in Europe,” January 23, 2009. Available at <http://www.humanrightsfirst.org/media/disc/2009/alert/390/index.htm>

# NGOs and the Exploitation of International Law

The exploitation of international legal rhetoric is a major weapon in the political war to delegitimize Israeli anti-terror operations. Under this strategy, crystallized at the NGO Forum of the UN's 2001 Durban Conference, the terminology of international humanitarian (IHL) and human rights law is selectively applied to charge Israel with "violations of law," "crimes against humanity," "war crimes," "disproportionate force," and "indiscriminate attacks." In contrast, the violation of Gilad Shalit's human rights and Hamas' use of human shields are ignored. NGOs use legal language to increase the credibility and seriousness of the charges, and in the Gaza conflict, many are already calling for international "investigations" and "lawfare" (i.e. filing lawsuits against Israeli officials in different countries) based on these accusations. Hamas, Hezbollah, and the PLO have reaped significant political benefits from this strategy in their conflicts with Israel. The exploitation of international law by NGOs, according to Washington attorneys David Rivkin and Lee Casey, reflects an effort to "criminaliz[e] traditional warfare," rather than promote universal human rights.<sup>7</sup>

The analysis below dissects numerous NGO claims which distort human rights and international humanitarian law (IHL) in order to undermine the legitimacy of Israel's right to self-defense.

## Tendentious NGO Claims

**Claim:** *The fate of Gilad Shalit is an unimportant international legal issue.*

**Analysis:** The refusal of the NGO community to demand Red Cross access to Gilad Shalit is a significant moral failure. International humanitarian law was enacted

to guarantee the rights and protections of prisoners of war. The Third Geneva Convention lays out these rights unequivocally: the right to humane treatment (article 13); the right to have knowledge of a POW's location (article 23); the right to send and receive letters and cards on a monthly basis (article 71); the right to unfettered access to the Red Cross (article 126), and others. Hamas has flouted each of these provisions, and the NGO silence causes considerable damage to international humanitarian law and universal human rights.

**Claim:** *The use of human shields by Hamas is irrelevant to Israel's compliance with IHL*

**Analysis:** These NGO claims misstate the law as it applies to Israel and deliberately ignore violations by Hamas. Under article 51(7) of the First Protocol of the Geneva Conventions, civilians "shall not be used to render certain points or areas immune from military operations, in

*The refusal of the NGO community to demand Red Cross access to Gilad Shalit is a significant moral failure.*

particular in attempts to shield military objectives from attacks or to shield, favour or impede military operations." Hamas is in direct violation of this rule, yet few if any NGOs mention it. Regardless of Hamas' abuse of article 51, under article 28 of the Fourth Geneva Convention, "the presence of a protected person may not be used to render certain points or areas immune from military operations." Therefore, Israel is not prohibited from attacking a military target simply because there are civilians present. The documentary and video proof<sup>8</sup> of Hamas' exploitation of schools, mosques, hospitals, and cultural centers to carry out its attacks is overwhelming, and responsibility for any civilian deaths that follow belongs to Hamas.<sup>9</sup>

<sup>7</sup>David B. Rivkin, JR. and Lee A. Casey, "Lawfare," *The Wall Street Journal*, February 23, 2007. Available at <http://online.wsj.com/article/SB117220137149816987.html?mod=article-outset-box>

<sup>8</sup>*Hamas Exploitation of Civilians as Human Shields*, Intelligence and Terrorism Information Center at the Israel Intelligence Heritage & Commemoration Center (IICC), January 2009. Available at [http://www.terrorism-info.org.il/malam\\_multimedia/English/eng\\_n/pdf/hamas\\_e028.pdf](http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/pdf/hamas_e028.pdf)

<sup>9</sup>This concept is analogous to the "felony murder" rule where the perpetrator of a crime will be held liable for murder if an innocent bystander is killed by a police officer or other law enforcement agent while attempting to apprehend the felon.

**Claim:** NGOs such as Oxfam, Gisha, and B'Tselem claim Israel has used “disproportionate force,” highlighting the number of Palestinians killed – especially children – with emotive “testimonies” and anecdotes from Gazans in their reports. These claims frequently compare Palestinian casualties with Israeli casualties.

**Analysis:** While every civilian death is regrettable, casualty ratios are not relevant to the standard for evaluating proportionality. Pursuant to article 2(b)(iv) of the Rome Statute of the International Criminal Court, an attack is “disproportionate” if it causes damage or loss of civilian life “which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated,” and as Israel’s former UN Ambassador Dore Gold notes, Israel “is not required to calibrate its use of force precisely according to the size and range of the weaponry used against it.”<sup>10</sup> “Just war” theorist Michael Walzer has also remarked that the concept of proportionality cannot be applied “speculatively.” He points out that the test of proportionality is in relation to the future expected military advantage, not in relation to past events or civilian deaths from previous attacks. In his view, those leveling the charge of “disproportionate” do so only when it is “simply violence they don’t like, or it is violence committed by people they don’t like.” Therefore, “Israel’s Gaza war was called ‘disproportionate’ on day one, before anyone knew very much about how many people had been killed or who they were.”<sup>11</sup>

**Claim:** Human Rights Watch, the Palestinian Center for Human Rights, Amnesty, Al Mezan, and others accuse Israel of “indiscriminate attacks” against Gazan civilians.

**Analysis:** The claim that Israel deliberately targets civilians or does not attempt to distinguish between civilian and military targets is entirely unfounded. The IDF has legal advisors embedded with combat units making analyses prior to any military action.<sup>12</sup> Many attacks have been aborted when it was deemed the potential harm to civilians was too great. Moreover, the NGOs leveling these charges do not possess military expertise, detailed information on the dispersal of weapons by Hamas, and they are not privy to Israeli targeting decisions. Such information is essential in order to make a credible evaluation of Israeli military responses to the thousands of rocket attacks by Hamas.

**Claim:** Amnesty International accuses Israel of “unlawfully” killing “scores of unarmed civilians, as well as police personnel who were not directly participating in the hostilities.”

**Analysis:** Amnesty has no basis for re-labeling Hamas operatives as “civilian” police officers and presents no evidence supporting its claim that these men were not “directly participating in the hostilities.” In fact, a Hamas-linked website claims that these men were members of Hamas’ Izz Al-Din Al-Qassam Brigade.<sup>13</sup>

**Claim:** Israel is engaging in “collective punishment.”

**Analysis:** Restriction on the flow of goods in a war environment does not constitute “collective punishment” under international law, and this charge is not only false legally, but factually as well. “Collective punishment” refers to the imposition of criminal penalties and does not refer to the legal act of retorsion (e.g. sanctions,

<sup>10</sup>Dore Gold, “Did Israel Use ‘Disproportionate Force’ in Gaza?” *Jerusalem Center for Public Affairs* Vol. 8, No. 16, December 28, 2008. Available at <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&LNGID=1&TMID=111&FID=378&PID=0&ID=2808>

<sup>11</sup>Michael Walzer, “On Proportionality,” *The New Republic*, January 8, 2009. Available at <http://www.tnr.com/politics/story.html?id=d6473c26-2ae3-4bf6-9673-ef043cae914f>

<sup>12</sup>“Responding to Hamas Attacks from Gaza – Issues of Proportionality Background Paper,” Israel Ministry of Foreign Affairs, December 2008. Available at [http://www.mfa.gov.il/NR/rdonlyres/A1D75D9F-ED9E-4203-A024-AF8398997029/0/Responding\\_to\\_Hamas\\_Attacks\\_from\\_Gaza\\_december\\_2008.pdf](http://www.mfa.gov.il/NR/rdonlyres/A1D75D9F-ED9E-4203-A024-AF8398997029/0/Responding_to_Hamas_Attacks_from_Gaza_december_2008.pdf)

<sup>13</sup>Hamas Exploitation of Civilians as Human Shields, Intelligence and Terrorism Information Center at the Israel Intelligence Heritage & Commemoration Center (IICC), January 2009. Available at [http://www.terrorism-info.org.il/malam\\_multimedia/English/eng\\_n/pdf/hamas\\_e028.pdf](http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/pdf/hamas_e028.pdf)

blockades).<sup>14</sup> In fact, pursuant to article 23 of the Geneva Convention (which sets standards for the provision of limited humanitarian aid),<sup>15</sup> Israel has no obligation to provide any goods, even minimal humanitarian supplies, if it is “satisfied” that such goods will be diverted or supply of such goods will aid Hamas in its war effort.<sup>16</sup> As numerous credible accounts have reported, Hamas has diverted supplies from Gaza’s civilian population. Although Israel is under no legal obligation and despite the diversion as well as attacks on the Israeli border crossings, including the April 9, 2008 attack on the Nahal Oz fuel depot and the May 22, 2008 truck bomb attack at the Erez crossing, Israel continues to provide thousands of tons of humanitarian supplies to Gaza. This is above and beyond

*Restriction on the flow of goods in a war environment does not constitute “collective punishment” under international law, and this charge is not only false legally, but factually as well.*

any obligation under international law, and the claim of “collective punishment” is entirely unjustified.

**Claim: NGOs dismiss Israel’s claim that it is fighting terrorism in Gaza.**

**Analysis:** Israel has numerous binding obligations to fight terrorism under international law. These include Security Council Resolution 1373 (2001) made pursuant to Chapter VII of the UN Charter requiring Israel to:

- “prevent and suppress the financing of terrorist acts”;
- “criminalize the wilful provision or collection, by any means, directly or indirectly, of funds” used to carry out terror attacks;
- “refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts”;
- “deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens”;
- “prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens”;
- “prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents.”

The NGO statements on Gaza overwhelmingly ignore this obligation and seek to place “human rights” duties upon Israel that stand in direct conflict with Israel’s legal obligations – in essence, demanding Israel violate international law.

<sup>14</sup>Abraham Bell, “International Law and Gaza: The Assault on Israel’s Right to Self-Defense,” *Jerusalem Center for Public Affairs* Vol. 7, No. 29, January 28, 2008. Available at <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DRIT=1&DBID=1&LNGID=1&TMID=111&FID=443&PID=0&IID=2021>

<sup>15</sup>Article 23 provides that:

*Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.*

*The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:*

- (a) that the consignments may be diverted from their destination,*
- (b) that the control may not be effective, or*
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.*

*The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.*

*Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.*

<sup>16</sup>Abraham Bell, “Is Israel Bound by International Law to Supply Utilities, Goods, and Services to Gaza?” *Jerusalem Center for Public Affairs*, February 2008. Available at <http://www.jcpa.org/JCPA/Templates/ShowPage.asp?DBID=1&TMID=111&LNGID=1&FID=378&PID=0&IID=2037>

## “Lawfare” Threats

### *Lawfare Background*

Calls for “war crimes” investigations and trials are part of the NGO anti-Israel “lawfare” strategy: to harass Israeli officials with civil lawsuits and criminal proceedings and to promote a negative media image of Israel.<sup>17</sup> Rather than obtaining “justice” for victims, these cases are intended to punish Israel for its anti-terror methods, to prevent future operations, to interfere with Israel’s diplomatic relations, and to advance boycotts and other aspects of the Durban Strategy.

NGO leaders of lawfare include the Palestinian Center for Human Rights (PCHR), the International Federation of Human Rights (FIDH [France]), the Center for Constitutional Rights (New York), Al-Haq, and Adalah; these organizations are funded by the EU, European governments (Ireland, Norway, Sweden, Denmark), and prominent foundations such as the New Israel Fund, the Ford Foundation and the Open Society Institute. NGO “superpowers” such as Amnesty International and Human Rights Watch have supported lawfare against Israel by providing publicity, organizing demonstrations, and issuing reports crafted as legal briefs to coincide with court hearings.

Lawfare cases are initiated by exploiting universal jurisdiction statutes in Europe and North America. These statutes allow courts to preside even though the parties and events at issue are entirely foreign. In some countries, such as Spain, an NGO can apply to a court directly for an arrest warrant or to launch a criminal investigation without the knowledge or approval of the government. Since the adoption of the lawfare strategy, at least ten cases

have been filed against Israelis in England, New Zealand, Spain, Belgium, Switzerland, and elsewhere. Nine of the cases have been dismissed at the preliminary stages; one case is still pending in lower court. Despite the dismissals, the damage – including the public perception of Israel, the interference with Israel’s diplomatic relations, and the movement restrictions placed on Israelis singled out for this harassment – is considerable.

In general, because Israel is not a party to the International Criminal Court (ICC) or the International Court of Justice (ICJ) due to the overtly political nature of these bodies, NGOs turn to national courts. The UN Security Council, however, can refer a case to the ICC, and the UN General Assembly (GA) can refer cases for advisory opinions to the ICJ. For instance, in 2004 the GA referred a case to the ICJ for an advisory opinion regarding the “legality” of Israel’s separation barrier. (Advisory Opinions issued by the ICJ are not legally binding.) In the wake of the Gaza war, NGOs such as FIDH are lobbying the UN for either a Security Council referral to the ICC or a General Assembly referral to the ICJ.

### *Lawfare in the Gaza war*

Since the start of the Gaza fighting, PCHR has been preparing for lawsuits to be filed abroad, and appears to be focusing on filing a case for the killing of Nizar Rayan,<sup>18</sup> one of the leading architects of Hamas atrocities and who sent his son on a suicide bombing mission in 2001. In an “exclusive interview” with the Islamic Republic News Agency (Iran), PCHR’s Director Raji Sourani claimed that PCHR is preparing cases in six countries, targeting 87 Israelis for harassment, and that “dozens of arrest warrants have already been issued.”<sup>19</sup>

*Rather than obtaining “justice” for victims, these cases are intended to punish Israel for its anti-terror methods, to prevent future operations, to interfere with Israel’s diplomatic relations, and to advance boycotts and other aspects of the Durban Strategy.*

<sup>17</sup>Anne Herzberg, NGO “Lawfare”: *Exploitation of Courts in the Arab-Israeli Conflict*, NGO Monitor Monograph Series, September 2008. Available at [http://www.ngo-monitor.org/article/ngo\\_lawfare\\_exploitation\\_of\\_courts\\_in\\_the\\_israeli\\_arab\\_conflict](http://www.ngo-monitor.org/article/ngo_lawfare_exploitation_of_courts_in_the_israeli_arab_conflict)

<sup>18</sup>Damien McElroy, “Israel warns soldiers of prosecution abroad for Gaza ‘war crimes,’” *Telegraph* (UK), January 24, 2009. Available at <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/4323980/Israel-warns-soldiers-of-prosecution-abroad-for-Gaza-war-crimes.html>.

See also PCHR’s press release, “IOF Offensive on the Gaza Strip Continues for the 7th Consecutive Day,” January 2, 2009. Available at <http://www.pchrgaza.org/files/PressR/English/2008/125-2008.html>

<sup>19</sup>“Reports of mass arrests for Israeli war criminals,” *IRNA*, January 24, 2009. Available at <http://www5.irna.ir/En/View/FullStory/?NewsId=317949&IdLanguage=3>

Other NGOs calling for lawfare in the wake of the Gaza war include the Alternative Information Center,<sup>20</sup> Adalah,<sup>21</sup> Amnesty International,<sup>22</sup> Ittijah (Adalah is a coalition member),<sup>23</sup> and the Arab Association for Human Rights.<sup>24</sup> One anonymous group established a website, entitled “Wanted,” with pictures of Israeli government and military officials. The website asks those with “information about the suspect[s] when [they] are outside of the Israeli borders” to contact the Prosecutor of the ICC.

### **Legal Distortions**

The NGOs calling for lawfare base their allegations on faulty legal premises, factual distortions, and unreliable “eyewitness” testimony. These NGOs do not possess the military or other factual information necessary to level their charges. Many NGOs accuse Israel of breaching the laws of war by attacking the Hamas government and its police force, claiming that these are “civilian” entities. There is no basis, however, for labeling the Hamas

*Under the Geneva Conventions, the presence of civilians does not render military targets immune, and any civilian deaths resulting from Hamas’ use of human shields in these areas are the responsibility of the terror organization and not Israel.*

government or its police force as civilian, and there is clear evidence that members of these institutions have been involved in attacks.

Furthermore, these NGOs also distort international law by claiming Israel committed “war crimes” by attacking military targets located within civilian infrastructure such as homes, schools, mosques, and hospitals. Under the Geneva Conventions, the presence of civilians does not render military targets immune, and any civilian deaths

resulting from Hamas’ use of human shields in these areas are the responsibility of the terror organization and not Israel. Also, many NGOs claim to have greater military knowledge than the IDF, questioning the military advantage of various targets. In fact, former British army colonel Richard Kemp noted on the BBC that there has been “no time in the history of warfare when an army has made more efforts to reduce civilian casualties and the deaths of innocent people than the [Israel Defense forces did in Gaza].”<sup>25</sup>

Finally, the supposed “prima facie” evidence of “war crimes” publicized by Amnesty and HRW is without merit. These NGOs rarely name their researchers, specify the collection methodology, or identify witnesses. NGOs researchers are not trained professionals in evidence or forensic collection. There is no way of ensuring that this “evidence” is preserved according to forensic standards or that NGO researchers have maintained a recognizable chain of custody. Due to the absence of any standards or publication of their methods, NGO “evidence” is impossible to corroborate or verify. The New York-based NGO Human Rights First, has criticized NGO involvement as actually being harmful to a criminal investigation because, “[m]ost NGOs do not employ trained criminal investigators” and this “untrained collection of physical or forensic evidence” can “limit its value” before a court.<sup>26</sup>

In contrast to the many appeals for lawfare against Israel, very few, if any, of these NGOs call for the filing of cases against Hamas. Hamas war crimes – including deliberately attacking Israeli civilians with thousands of rockets and mortars, the widespread use of human shields within Gaza, and the killing and maiming of Gazan civilians from premature denotation of Hamas weaponry and “work accidents” – are completely ignored. NGOs also remain silent regarding the violation of Gilad Shalit’s rights under

<sup>20</sup>Michael Warschawski, “Barak and all Israeli Leaders - To the Hague,” *Alternative Information Center (AIC)*, January 15, 2009. Available at <http://www.alternativenews.org/content/view/1541/389/>

<sup>21</sup>Written submission from Adalah, Al-Haq, and Badil to the UN Human Rights Council, “Gross Human Rights Violations and War Crimes in the Occupied Gaza Strip,” January 9, 2009. Available at [http://www.adalah.org/features/gaza/NGO\\_Joint\\_Statement\\_to\\_HRC\\_08.01.09%5b1%5d.pdf](http://www.adalah.org/features/gaza/NGO_Joint_Statement_to_HRC_08.01.09%5b1%5d.pdf)

<sup>22</sup>Amnesty International’s oral statement to the UN Human Rights Council, January 12, 2009; Amnesty USA, “Open Letter to US Special Envoy, George Mitchell,” January 27, 2009.

<sup>23</sup>Ittijah press release, “About the Israeli massacre in a school of UNRWA – act of destruction,” January 7, 2009 [Hebrew].

<sup>24</sup>Arab Association for Human Rights (HRA) press release, “Israel is not above international law,” January 7, 2009.

<sup>25</sup>BBC interview, January 9, 2009. Available at <http://www.youtube.com/watch?gl=US&v=WssrKJ3Iqcw>

<sup>26</sup>Human Rights First, “The Role of Human Rights NGOs in Relation to ICC Investigations,” September 2004. Available at [http://www.humanrightsfirst.org/international\\_justice/pdf/NGO\\_Role\\_Discussion\\_Paper.pdf](http://www.humanrightsfirst.org/international_justice/pdf/NGO_Role_Discussion_Paper.pdf)

the Geneva Conventions as a prisoner of war. Similarly, Iran and Syria – Hamas' sponsors and conspirators in its legal violations – are not called to account.

### *Lawfare in Israel*

NIF- and EU-funded Israeli NGOs such as B'Tselem, Gisha, Yesh Din, Mossawa, and Physicians for Human Rights-Israel are not at this stage overtly calling for lawfare. However, they have issued tens of statements leveling charges against Israel such as “collective punishment,” “wanton” use of force, “deliberate” and “unprecedented” harm to civilians, “blatant violation of the laws of warfare,” and “suspicion” of “war crimes.” B'Tselem even claimed that “it is hard to think of a clear military advantage which could be accomplished” by the killing of Rayan. Israeli NGOs' one-sided statements, their distortions of international law, and the emotive “testimonies” collected by these organizations contribute to hostility towards Israel and can underpin any lawfare cases that are filed.

The Israeli government is taking the threat of lawfare seriously. The IDF has established a team of legal and military experts to collect evidence which can be used to exonerate its officials.<sup>27</sup> It has appointed an inter-ministerial team, headed by Justice Minister Prof. Daniel Friedman to defend any Israeli subject to suit.<sup>28</sup> The army is also protecting the identities of battalion and brigade commanders who participated in the war.<sup>29</sup> However, the government is largely reactive, and has not addressed the core role of NGOs and their funders.

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<sup>27</sup> Jerusalem Post Staff, “Officers cloaked to hamper lawsuits,” *Jerusalem Post*, January 21, 2009. Available at <http://www.jpost.com/servlet/Satellite?pagename=JPost/JPArticle/ShowFull&cid=1232292923634>

<sup>28</sup> Damien McElroy, “Israel warns soldiers of prosecution abroad for Gaza ‘war crimes,’” *Telegraph* (UK), January 24, 2009. Available at <http://www.telegraph.co.uk/news/worldnews/middleeast/israel/4323980/Israel-warns-soldiers-of-prosecution-abroad-for-Gaza-war-crimes.html>.

<sup>29</sup> “IDF not to release names of commanders for fear of int’l lawsuits,” *Jerusalem Post*, January 21, 2009. Available at <http://www.jpost.com/servlet/Satellite?cid=1232292923280&pagename=JPost/JPArticle/ShowFull>

## Co-opting Gaza for the Durban Review Conference

**D**uring the 2001 World Conference Against Racism in Durban, NGO participants and pro-Palestinian activists used the so-called “Second Intifada,” including images of 12-year old Muhammad al Dura who was allegedly killed by Israeli soldiers, to represent Palestinians suffering and resistance. That conference became an instrument for racism itself, particularly directed against Israel. This agenda was driven by Iran and a number of Arab states, and primarily by the delegates in the antisemitic NGO Forum. The final declaration of the NGO Forum labeled Israeli counter-terrorism measures as “war crimes,” revived the “Zionism is racism” slogan, and introduced the “Durban Strategy” of isolating Israel internationally, following the model of the campaign against apartheid in South Africa. This Durban Strategy is behind extensive NGO activity during the Gaza war, which is justified using the rhetoric of human rights, to demonize and delegitimize Israel – as discussed in this monograph.

With the Durban Review Conference scheduled for April 20-24, 2009 – only three months after the end of the Gaza war – NGOs are expected to capitalize on this issue to propel the Palestinian agenda even further to the fore of the conference. Indeed, according to the draft of the conference Outcome Document circulated after the January Intersessional Working Group meeting, there has been a “proposal to include reference to Gaza situation – language to be provided.”<sup>30</sup> Additionally, Badil, a Palestinian NGO that promotes the “Right of Return,” reportedly introduced the “atrocities taking place in Gaza” in an attempt to include the Palestinian people on a “list of victims of racial discrimination.”<sup>31</sup>

This is not the only example of Palestinian NGOs and their supporters manipulating the Durban Review Conference for anti-Israel campaigning. NGOs such as Badil, EAFORD, Nord-Sud XXI, and the Movement Against Racism and for Friendship between Peoples (MRAP) have used conference Preparatory Meetings to advance the Palestinian narrative and attack Israel, and to support attempts by the African and Asian Regions and the Organization of the Islamic Conference (OIC) to introduce strong anti-Israel language into the Review Conference’s Outcome Document.

Additionally, in November 2008 “Palestinian Civil Society” – a coalition of the Boycott, Divestment and Sanctions Campaign National Committee (BNC) that includes Ittijah, the Palestinian Grassroots Anti-Apartheid Wall

*“Palestinian Civil Society” accuses Israel of “apartheid, colonization and occupation” and identifies the Durban Review Conference as the successor to the NGO Forum at the 2001 Conference for promoting the coordinated demonization of Israel.*

Coalition (PGAAWC), the Palestinian Non-Governmental Organizations Network (PNGO), the Palestinian Campaign for the Academic and Cultural Boycott of Israel (PCABI), and others – published a “Strategic Position Paper Towards the UN Durban Review Conference.”<sup>32</sup> It accuses Israel of “apartheid, colonization and occupation” and identifies the Durban Review Conference as the successor to the NGO Forum at the 2001 Conference for promoting the coordinated demonization of Israel. Importantly, this document has been endorsed by over

<sup>30</sup>“Revised version of the technically reviewed text (A/CONF.211/PC/WG.2/CRP.2) submitted by the Chairperson-Rapporteur of the intersessional open-ended working group mandated to continue and finalize the process of negotiations on and drafting of the outcome document,” January 23, 2009, pg. 9. Available at [http://www.un.org/durbanreview2009/pdf/intersession\\_open\\_ended19109.pdf](http://www.un.org/durbanreview2009/pdf/intersession_open_ended19109.pdf)

<sup>31</sup>Eye on the UN, “Iran and Syria Dominate Day 2 of Durban II Planning,” January 22, 2009. Available at <http://www.eyeontheunblog.com/2009/01/iran-and-syria-dominate-day-2-of-durban-ii-planning.html>

<sup>32</sup>Palestinian Boycott, Divestment and Sanctions National Committee (BNC), *United Against Apartheid, Colonialism and Occupation: Dignity & Justice for the Palestinian People*, October 2008. Available at [http://bdsmovement.net/files/English-BNC\\_Position\\_Paper-Durban\\_Review.pdf](http://bdsmovement.net/files/English-BNC_Position_Paper-Durban_Review.pdf)

*NGOs such as PCHR, FIDH, MRAP, Union of Arab Jurists, EAFORD, and Nord-Sud XXI use demonizing language in their attacks, including “massacres” “apartheid” and “racism” rhetoric, “genocide,” and “first class war crimes against Palestinian civilians.”*

100 international groups, whose donors include European governments.<sup>33</sup>

As mandated by the UN General Assembly, the Human Rights Council of the United Nations (UNHRC) is responsible for organizing and convening the Durban Review Conference.<sup>34</sup> And as indicated by statements to the UNHRC during the Gaza conflict (see below) by NGOs that are accredited to participate in the Durban Review Conference,<sup>35</sup> a sizeable lobby is prepared to turn to the United Nations to condemn Israel for its actions in Gaza.

## NGO Statements to the UN Human Rights Council

On January 9 and 12, 2009, the UN Human Rights Council convened its Ninth Special Session to address “the grave violations of human rights in the Occupied Palestinian Territory including the recent aggression in the occupied Gaza Strip.”<sup>36</sup> More than 80 state delegations spoke, and most accused Israel of violations of international humanitarian law. According to a UN press release, speakers expressed the notion that “[n]othing justified the current actions by Israel in the Gaza Strip: it was nothing short of an attempt to rewrite international law based on the doctrine of self defence.”<sup>37</sup>

NGOs were also permitted to make statements to the council, and over 20 groups – including Amnesty International, Human Rights Watch, Adalah, and Badil – accused Israel of “human rights abuses.”<sup>38</sup>

The Special Session concluded with the adoption of a resolution that “[s]trongly condemns the ongoing Israeli military operation carried out in the Occupied Palestinian Territory, particularly in the occupied Gaza Strip, which has resulted in massive violations of the human rights of the Palestinian people and systematic destruction of Palestinian infrastructure.” The resolution “demand[ed]” that Israel stop targeting civilians and elected to “dispatch an urgent, independent international fact-finding mission... to investigate 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, due to the current aggression, and calls upon Israel not to obstruct the process of investigation and to fully cooperate with the mission.”<sup>39</sup>

NGO statements to the UN Human Rights Council are part of the Durban Strategy of attacking Israel in international forums:

- Accusations include “war crimes,” “crimes against humanity,” “serious violations,” and “grave breaches of international humanitarian law.”

<sup>33</sup><http://www.bdsmovement.net/?q=node/222>

<sup>34</sup>United Nations General Assembly, *61/149 Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action*, December 19, 2006, p.1. Available at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/503/37/PDF/N0650337.pdf?OpenElement>.

<sup>35</sup>Only NGOs that have ECOSOC accreditation can formally speak before the UN Human Rights Council, and these groups are automatically accredited for the Durban Review Conference. Special accreditation for the Durban Review Conference is available for non-ECOSOC NGOs.

<sup>36</sup>United Nations press release, “Human Rights Council to Hold Special Session on human rights situation in Gaza on 9 January 2009,” Human Rights Council, January 7, 2009. Available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/BFE95B19F05CBAFCC1257537004A606D?opendocument>. Five out of the nine Special Sessions of the UNHRC have focused on Israel.

<sup>37</sup>United Nations press release, “Human Rights Council continues to discuss crisis situation in Gaza,” Human Rights Council, January 9, 2009. Available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/8E8BAE03D7CDF9E8C1257539006C5F6B?opendocument>

<sup>38</sup>Videos of NGO statements to the UNHRC are available at <http://www.un.org/webcast/unhrc/archive.asp?go=090109> (January 9, 2009) and <http://www.un.org/webcast/unhrc/archive.asp?go=090112> (January 12, 2009).

<sup>39</sup>“The grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip,” A/HRC/S-9/L.1, January 12, 2009. Available at <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/index.htm>

- The NGOs erase the context of Palestinian terror and Israeli self-defense. They attempt to frame the conflict in terms of Israeli “collective punishment,” “occupation,” “blockade,” “siege,” and “apartheid.”
- NGOs such as PCHR, FIDH, MRAP, Union of Arab Jurists, EAFORD, and Nord-Sud XXI use demonizing language in their attacks, including “massacres,” “apartheid” and “racism” rhetoric, “genocide,” and “first class war crimes against Palestinian civilians.”
- Nearly all the NGOs call for criminal prosecution of Israeli officials for the alleged human rights violations. This “lawfare” is also part of the Durban Strategy, and its primary purposes are public relations and delegitimizing Israel. In addition, the Movement Against Racism and for Friendship between Peoples (MRAP) expresses “full solidarity to the Israeli soldiers who might refuse to take part in war crimes that are now taking place.”
- Nord-Sud XXI “expresses its condemnation of those who have contributed to the suffering of the Palestinian for the better part of a century.”
- In a joint statement to the UN Human Rights Council,<sup>40</sup> Al-Haq, Badil, and Adalah condemn Israel for “the willful killing of civilians and the extensive destruction of civilian property” and “widespread and systematic attack directed against a civilian population bringing them to the level of crimes against humanity”; they also call for “the imposition of collective measures against the Israeli government.”
- The statement of the Union of Arab Jurists and The International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) justifies “resistance”: “Israeli crimes including the apartheid wall and the expansion of settlements require resistance which is a legitimate right over all peoples under occupation.”
- The International Commission of Jurists (ICJ) expresses “concern[] that a substantial number of Palestinians from Gaza have been detained as unlawful combatants and illegally transferred for interrogation to Israel where they face incommunicado detention.” Besides the misrepresentation of international law, neither ICJ nor any other NGO mentioned the fate of Gilad Shalit who is being held illegally without access to Red Cross visitation.

## Statements:

**Joint statement: Al-Haq, Badil, Adalah, and Cairo Institute for Human Rights Studies (CIHRS), January 9, 2009**

- “... the willful killing of civilians and the extensive destruction of civilian property. Not only is Israel responsible as a state for violating international human rights and humanitarian law, but its political and military leaders are individually criminally responsible for the commission of war crimes through grave breaches of the Fourth Geneva convention. Additionally, the continuing air strikes on the Gaza Strip are being committed as part of a widespread and systematic attack directed against a civilian population bringing them to the level of crimes against humanity.”
- “The only effective measure the UN Human Rights Council can take ...[is] the imposition of collective measures against the Israeli government.”

**Written submission from Al-Haq, Badil, and Adalah. Endorsed by Addameer Prisoners Support and Human Rights Association, Ad-Dameer Association for Human Rights, Al Mezan, The Arab Association for Human Rights (HRA), and the Palestinian Non-Governmental Organizations’ Network (PNGO), “Gross Human Rights Violations and War Crimes in the Occupied Gaza Strip”<sup>41</sup>**

- “Thus, grave breaches of international humanitarian law, including the Hague Regulations (1907) and the Geneva Conventions (1949) that amount to war crimes have been committed by Israel in the occupied Gaza Strip. These breaches include wilful killing and the extensive destruction of houses and other civilian property not justified by military necessity and have been carried out unlawfully and wantonly.”

**Joint statement: International Federation of Human Rights Leagues (FIDH) and Palestinian Center for Human Rights (PCHR),<sup>42</sup> January 9, 2009**

- “For two years Gaza has been under siege, socio-economically suffocated, and basic human rights fundamental issues doesn’t exist [sic].”

<sup>40</sup>Joint statement to the UNHRC, Al-Haq, Badil, Adalah, and Cairo Institute for Human Rights Studies (CIHRS), January 9, 2009.

<sup>41</sup>Available at [http://www.badil.org/Publications/statements/Badil-Joint-Gaza%20\(7Jan2009\).pdf](http://www.badil.org/Publications/statements/Badil-Joint-Gaza%20(7Jan2009).pdf)

<sup>42</sup>Raji Sourani, director of PCHR, is a vice president of FIDH.

- “This is the most collective punishment for people under occupation who are entitled for protection. ... [Israel] began this war which is the first war crimes ever broadcasted live on air.”
- “In the eye of the storm of all this criminal occupation is doing the Palestinian civilians whom almost 90% of the level of killings and injured in Gaza...all these civilian targets has been targeted and erased by F-16s, Apaches, drones, and gun boats, artillery, and tanks...in a very systematic way, Israel waged war, criminal one, first class war crimes against Palestinian civilians [sic].”

#### **Movement Against Racism and for Friendship between Peoples (MRAP), January 12, 2009**

- “The massacres... over these past weeks in the Gaza strip are war crimes and crimes against humanity. We share the view expressed by the high commissioner, those responsible for these crimes must be brought to justice and the victims must be able to enjoy their right to compensation.”
- “Last Friday, 31 signatory associations including MRAP, filed a complaint for war crimes with the Prosecutor of the International Criminal Court...”
- “MRAP speaks out against the xenophobic and racist policies being implemented by the government of the state of Israel which aims in the long run to make it impossible to implement the resolutions adopted by the General Assembly and by the Security Council and thus to make it impossible to have the existence of a Palestinian state.”

#### **Joint Statement: Union of Arab Jurists and The International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), January 12, 2009**

- “...the Israeli war machine continues to kill Palestinian civilians: women, children, old people, continues to destroy infrastructure, homes, schools, press offices, relief workers, mosques, as well as other civilian targets. These acts according to international conventions are considered crimes of war, crimes against humanity, and genocide.”
- “What is happening today in Gaza is not due to the rocket attacks by Hamas, Israel in fact occupied Palestine well before Hamas came into being. Israel committed massacres in Jenin, Nablus, Ramallah and Bethlehem...”
- “Israel also attacked South Lebanon in 2006.... Israeli crimes including the apartheid wall and the expansion of settlements require resistance which a legitimate right over all peoples under occupation.”
- “These criminal acts are supported by great powers and western governments which are supported with money, information and weapons in order to impose

a peace through destruction, genocide, and isolation. This does not help in building peace or stability in the region.”

#### **Amnesty International, January 12, 2009**

- “... this council must demand that all parties to the current conflict, Israel, Hamas, and other Palestinian armed groups, immediately end all unlawful attacks against civilians and other serious violations of international human rights and humanitarian law. It must demand measures to relieve civilians in Gaza and an end to the indiscriminate rocket attacks that endanger civilians in southern Israel.”
- “Prime facie evidence of possible war crimes and crimes against humanity is emerging daily, this council must not ignore it, it must use its authority to call for an urgent and thorough, independent, and impartial investigation. It must call for perpetrators of war crimes, crimes against humanity, and other serious violations of International Law to be held to account.”
- “There must be full accountability for war crimes and crimes against humanity. Where appropriate, states must be ready to initiate criminal investigations and carry out prosecutions before their own courts if the evidence warrants it.”

#### **Human Rights Watch (HRW), January 12, 2009**

- “... we are deeply concerned about attacks that may have caused indiscriminate or disproportionate loss of civilian life in violation of the rules of war. ... Israel Defense Forces is not limiting its attacks to military targets as required by the laws of war.”
- “The closure of Gaza constitutes the unlawful collective punishment of the civilian population there.”

#### **International Commission of Jurists (ICJ), January 12, 2009**

- “...Israeli military operation in Gaza, [are] replete with serious violations of Human Rights Law and International Humanitarian Law.”
- “Israel’s attacks have been indiscriminate or disproportionate and it has failed in its legal obligation to spare civilians and civilian infrastructure from attack and to take care of the wounded. Violations of the prohibitions against indiscriminate and disproportionate attacks such as through shelling the UN school in Jabalya constitute crimes under international law.”
- “The ICJ also is concerned that a substantial number of Palestinians from Gaza have been detained as unlawful combatants and illegally transferred for interrogation to Israel where they face incommunicado detention.”

**Nord-Sud XXI, January 12, 2009**

- “We especially express our outrage at the unjustifiable and inhumanely intense violence perpetrated by the government of Israel against Palestinians in Gaza. The current onslaught against the Palestinian people in Gaza is part of an international effort ongoing for more than 60 years by an illegal occupier and its allies to destroy the Palestinian people, at least in part.”
- “The genocide must be stopped, and those directly and indirectly responsible must be punished.”
- “...the most serious and longest unresolved situation of widespread human rights abuses ever that has faced the United Nations.”

# INTERNATIONAL NGO SUPERPOWERS

International NGO “superpowers” – including Amnesty, Human Rights Watch (HRW), and Oxfam – maintain annual budgets of tens of millions of dollars. Under the cover of the “halo effect” – whereby NGO human rights claims are accepted without question

by virtue of their self-stated humanitarian mandates – the reports of Amnesty and HRW are highly influential with the media, diplomats, and policy makers.

Officials from these groups often promote post-national and post-colonial ideologies, which automatically label Israel the “powerful aggressor” and the Palestinians as “helpless victims.” This is accompanied by campaigns, also under the guise of universal human rights, to criminalize legitimate forms of self-defense, weaponry, and warfare. According to Amnesty’s and HRW’s re-definitions of international humanitarian law, if Hamas fights from and hides within the civilian population of Gaza, a military response by Israel would be impossible and illegal.

## *NGOs lack independent research capability*

Despite the massive funding available to these NGOs, they tend not to employ full time researchers on the ground in Israel and Gaza. Instead, the “Middle East divisions” are primarily based in the United States or England, and “experts” are sent over after an “incident” or during an extended military conflict. These researchers have demonstrated that they are not impartial either, justifying their presence in the region with preconceived notions of “disproportionate” and “indiscriminate” attacks by Israel.

During the Gaza operation specifically, NGOs for the most part did not have access to the battle sites to conduct

their supposed “independent, impartial investigations,” and relied on Palestinian “eyewitnesses,” whose testimony, objectivity, and even identity could not be verified or corroborated; media statements by foreign aid workers, including the highly partisan Dr. Mads Gilbert who falsely accused Israel of deliberately targeting civilians and whose credibility and impartiality was thoroughly undermined;<sup>43</sup> and visual observations from the ridges overlooking Gaza, miles away from the combat. Even as Amnesty and HRW blamed Israel for denying them accurate assessments of the human rights situation, subjective judgments of Israeli “war crimes” were nonetheless rendered with confidence. That Amnesty, HRW, and Oxfam did not have detailed knowledge of Israeli targeting decisions, and in most cases the military expertise to determine proportionality, did not impact the certainty of their reports and press releases.

## *NGOs ignore major human rights abuses around the world*

In contrast, many international NGOs remained silent on extensive human rights abuses occurring around the world during this period. For example, between December 24, 2008 and January 13, 2009, over 600 villagers were massacred by Ugandan rebels in the Congo. Yet, as opposed to the near-obsessive level of coverage on Gaza, Human Rights Watch, Amnesty International, and others have devoted minimal attention to these atrocities.<sup>44</sup> This disproportionate focus on alleged Israeli violations, while actual victims of genocidal attacks suffer in Africa, represents a moral failure by international civil society and reveals the political agendas behind these groups. NGO silence on the fate of Gilad Shalit and the violations of his rights to International Red Cross access – a cornerstone of international humanitarian law – is a further indication of the erosion of universal human rights.

<sup>43</sup>See “Dr Mads Gilbert’s Media Campaign,” NGO Monitor Press Releases, January 9, 2008. Available at [http://www.ngo-monitor.org/article/press\\_statement\\_dr\\_mads\\_gilbert](http://www.ngo-monitor.org/article/press_statement_dr_mads_gilbert)

<sup>44</sup>Human Rights Watch issued one press release (“DR Congo: LRA Slaughters 620 in ‘Christmas Massacres,’” January 17, 2009, available at <http://www.hrw.org/en/news/2009/01/17/dr-congo-lra-slaughters-620-christmas-massacres>) and briefly mentioned the matter in a letter to the African Union Chairman (January 22, 2009. Available at <http://www.hrw.org/en/news/2009/01/22/letter-african-union-chairman-he-jean-ping-address-key-concerns-during-african-union>). In an “appeal[] to [the] governments of the Democratic Republic of Congo (DRC), Uganda and Rwanda,” Amnesty International made an obscure reference to the attacks (“DRC: Governments launching offensives against armed groups must take precautions to avoid civilian casualties,” January 22, 2009. Available at <http://www.amnesty.org/en/for-media/press-releases/drc-governments-launching-offensives-against-armed-groups-must-take-prec>).

## Amnesty: Disproportionate Focus on Gaza

Throughout 2008, Amnesty disproportionately focused on Israel's Gaza policy, and led the NGO campaign accusing Israel of "collective punishment." At the same time, Amnesty largely ignored Hamas' rocket attacks on Israeli civilians. As part of the Durban Strategy, Amnesty has also been responsible for promoting false allegations of a "massacre" in Jenin in 2002, lobbying on behalf of lawfare efforts in the Ariel Sharon (Belgium) and Caterpillar (US) cases, and disseminating numerous false claims during the Second Lebanon War.

*Between December 24, 2008 and January 13, 2009, over 600 villagers were massacred by Ugandan rebels in the Congo. Yet, as opposed to the near-obsessive level of coverage on Gaza, Human Rights Watch, Amnesty International, and others have devoted minimal attention to these atrocities.*

As demonstrated by NGO Monitor,<sup>45</sup> Amnesty's reports on Gaza before the war were highly deficient – lacking evidence and credibility, ignoring the context of terrorism, exploiting international legal terms, selectively using data, and disproportionately focusing on Israel's role in the conflict. For example, after a cameraman was killed in Gaza in April 2008 and the Israeli army concluded that the death was accidental, Amnesty issued a highly prejudicial press release accusing the IDF of conducting a "so-called investigation" which "lacked any semblance of impartiality" and promoting a "culture of impunity." Amnesty's "researcher," Donatella Rovera, condemned the Israeli army, even though she did not have access to the IDF's report of its detailed investigation.

Throughout the war, Amnesty International headquarters issued over twenty statements, and its branches around the world released tens more. The statements are primarily critical of Israel and use the rhetoric of international humanitarian law in a consistently biased manner.

- Amnesty statements accuse Israel of "unlawful," "disproportionate," and "indiscriminate" attacks against Palestinian civilians, but this organization does not possess military expertise or detailed information regarding military targets in Gaza. These accusations are similar to Amnesty's false claims against Israel made during the Second Lebanon War.<sup>46</sup>

- On December 28, 2008, Amnesty accused the IDF of "unlawfully" killing "scores of unarmed civilians, as well as police personnel who were not directly participating in the hostilities." Amnesty presents no evidence in relabeling Hamas operatives as "civilian" police officers, or in claiming that they were not "directly participating in the hostilities." A Hamas-linked website claims that these men were members of Hamas' Izz Al-Din Al-Qassam Brigade. By cloaking claims in Geneva Convention terminology, Amnesty seeks to transform Israel's lawful attack on a legitimate military target into a war crime.

- Amnesty largely ignores the well-documented commandeering of civilian infrastructure and widespread use of human shields by Hamas. Instead, the organization accuses Israel of using human shields.

- As part of its "team" in Gaza, Amnesty has employed an "expert," Chris Cobb-Smith of Chiron Resources, whose previous "investigations" helped Amnesty promote the myth of a "massacre" in Jenin in 2002 and who accused Israel of "calculated and cold-blooded murder" in 2006.<sup>47</sup>

- Before she could enter Gaza, Amnesty's researcher in the region, Donatella Rovera, spoke with Israeli residents of the South about their experiences and the effects of rocket fire from Gaza into Israel. However, the majority of her activities and blog entries focus on the "humanitarian disaster" and Israeli "war crimes" and "egregious human rights abuses" in Gaza.<sup>48</sup>

- Amnesty has issued multiple demands for Israeli officials to be prosecuted for "war crimes" while largely absolving Hamas and its state backers, Iran and Syria, of responsibility. Amnesty USA lobbied Special Envoy to the Middle East George Mitchell "that long-term peace and security cannot be found in the Middle East unless accountability is established for crimes under international law."

<sup>45</sup>NGO Monitor, "Amnesty on Gaza (again): Ideology Instead of Research," *NGO Monitor Reports*, August 14, 2008. Available at [http://www.ngo-monitor.org/article/amnesty\\_on\\_gaza\\_again\\_ideology\\_instead\\_of\\_research](http://www.ngo-monitor.org/article/amnesty_on_gaza_again_ideology_instead_of_research)

<sup>46</sup>NGO Monitor, "Amnesty and HRW claims discredited in detailed report," *NGO Monitor Reports*, December 28, 2006. Available at <http://www.ngo-monitor.org/article.php?id=1132>

<sup>47</sup>Julia Day, "Miller was murdered, inquest told," *Guardian* (UK), April 4, 2006. Available at <http://www.guardian.co.uk/media/2006/apr/04/middleeastthemedia.israel1>

<sup>48</sup><http://livewire.amnesty.org/author/donatellarovera/>

## Selected Quotes:

### Press release: “Civilians must be protected in Gaza and Israel,” December 28, 2008

- “Amnesty International calls on Israeli forces and Palestinian armed groups to immediately halt the unlawful attacks carried out as part of the escalation of violence which has caused the death of some 280 Palestinians and one Israeli civilian since December 27.”
- “Scores of unarmed civilians, as well as police personnel who were not directly participating in the hostilities, are among the Palestinian victims of the Israeli bombardment in the Gaza Strip.”
- “Such disproportionate use of force by Israel is unlawful and risks igniting further violence in the whole region.”

### Press release: “End unlawful attacks and meet Gaza’s emergency needs,” December 29, 2008

- “Amnesty International reiterates its call for an end to reckless and unlawful Israeli attacks against densely populated residential areas which have killed more than 300 Palestinians since 27 December, including scores of unarmed civilians and police personnel not taking part in the hostilities, and injured several hundred others.”

### “Urgent Letter to Secretary Rice,” January 2, 2009

- “But Amnesty International USA is particularly dismayed at the lopsided response by the US government to the recent violence and its lackadaisical efforts to ameliorate the humanitarian crisis in Gaza.”
- “Without diminishing the responsibility of Hamas and other Palestinian armed groups for indiscriminate and deliberate attacks on Israeli civilians, the US government must not ignore Israel’s disproportionate response and the longstanding policies which have brought the Gaza Strip to the brink of humanitarian disaster.”
- “The U.S. Arms Export Control Act of 1976 requires governments that receive weapons from the United States use them only for legitimate self-defense.”

### Press Release: “Firmer European voice needed to unblock humanitarian crisis in the Middle East,” January 8, 2009

- “As EU Foreign Ministers meet in Prague, Amnesty International today urged them to spare no efforts to pressure Israel to end attacks which are directed at civilians or civilian buildings in the Gaza Strip or are disproportionate, and to allow much needed humanitarian access to the region.”

- “To show that it means business, the EU should put on hold discussions on the upgrade of relations with Israel and work on getting concrete commitments from Israel to end the humanitarian catastrophe.”

### Press Release: “Amnesty International Calls on Israel, Egypt to Allow Critically Ill and Wounded to Leave Gaza for Treatment,” January 9, 2009

- “The 1.5 million Palestinian civilians who are trapped in Gaza continue to both be targeted and suffer disproportionately in this conflict.”

### Live Chat with Donatella Rovera: “Ask Amnesty,” January 12, 2009

- “There is evidence that white phosphorous is being used by Israeli force in Gaza, posing an additional risk to the civilian population. We have not yet been able to confirm use of DIME.”
- “Israel, as the occupying power, has additional responsibilities for the welfare of the populations in Gaza, including an obligation to ensure provision of adequate food and medicine. Both sides are violating international law. Israel has been blocking the passage of emergency humanitarian assistance for Palestinians and has attacked medics and relief convoys. And Israeli forces have been carrying out indiscriminate and disproportionate attacks that have killed hundreds of unarmed civilians.”
- “Under IHL, an attack is disproportionate if it may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. Many of the attacks by Israeli forces match this definition.”

### Chris McGreal, “Demands grow for Gaza war crimes investigation,” *Guardian* (UK), January 13, 2009

- “Amnesty International says hitting residential streets with shells that send blast and shrapnel over a wide area constitutes ‘prima facie evidence of war crimes.’”
- “‘There has been reckless and disproportionate and in some cases indiscriminate use of force,’ said Donatella Rovera, an Amnesty investigator in Israel. ‘There has been the use of weaponry that shouldn’t be used in densely populated areas because it’s known that it will cause civilian fatalities and casualties.’”
- “Rovera has also collected evidence that the Israeli army holds Palestinian families prisoner in their own homes as human shields. ‘It’s standard practice for Israeli soldiers to go into a house, lock up the family in a room on the ground floor and use the rest of the house as a military base, as a sniper’s position. That is the absolute textbook case of human shields.’”

**Press Release: “Israeli soldiers leave Gaza homes in devastated condition,” January 23, 2009**

- “Despite the ceasefire declared on Sunday, each morning since Israeli gunboats have fired towards Gaza’s coastline. Nine people were injured as a result of such shelling from an Israeli gunboat, Amnesty International’s fact-finding team in Gaza was told on Wednesday.”
- “Chris Cobb-Smith, a military expert and part of Amnesty International’s team, was an officer in the British Army for almost 20 years. He said he was staggered by what he saw and by the behaviour and apparent lack of discipline of the Israeli soldiers. ‘Gazans have had their houses looted, vandalized and desecrated. As well, the Israeli soldiers have left behind not only mounds of litter and excrement but ammunition and other military equipment. It’s not the behaviour one would expect from a professional army,’ he said.”
- “In most cases, the families had fled or were expelled by the soldiers. In some cases, however, the soldiers prevented the families from leaving, using them as ‘human shields.’”

**Press Release: “Israel must disclose weapons used in Gaza,” January 26, 2009**

- “Amnesty International called for the disclosure in order that medical staff can be better equipped to treat victims of the conflict, which ended with a ceasefire declared by Israel on 18 January.”
- “Israel’s earlier failure to disclose, and then refusal to confirm, that its troops had used white phosphorus meant that doctors were unable to provide the correct treatment to people suffering from burns caused by this weapon.”
- “‘Lack of cooperation by Israel is leading to needless deaths and unnecessary suffering,’ said Donatella Rovera.”

**Letter: “Open Letter to US Special Envoy, George Mitchell,” January 27, 2009 [Amnesty USA]**

- “...the true scale of devastation wrought on civilians in Gaza is becoming increasingly evident. Amnesty International researchers currently in Gaza and southern Israel have found first hand evidence of war crimes and other serious violations of international humanitarian and human rights law by the parties to the conflict.”
- “Amnesty International believes that long-term peace and security cannot be found in the Middle East unless accountability is established for crimes under international law.”
- “Amnesty International believes this is critical – that those who have committed possible war crimes should not be given impunity.”

**Press Release: “Israeli army used flechettes against Gaza civilians,” January 27, 2009**

- “Apart from white phosphorus, the Israeli army used a variety of other weapons in densely populated civilian areas of Gaza in the three-week conflict that began on 27 December.”
- “An anti-personnel weapon designed to penetrate dense vegetation, flechettes should never be used in built-up civilian areas. The Israeli army has used them in Gaza periodically for several years. In most cases their use has resulted in civilians being killed or injured.”

**“Video: Researching Allegations of war crims in Israel and Gaza,” January 30, 2009**

- Philip Luther (Deputy Director of Amnesty International’s Middle East and North Africa Programme): “There must be an urgent, immediate, and independent, impartial investigation set up to look at evidence of war crimes. It must compile this evidence, evidence of war crimes and other crimes under international law because at the end of the day, without accountability there can be no sustainable just peace...Israel has an obligation to make full reparations to individual victims of Israel’s unlawful acts in Gaza. And that means victims for instance of direct attacks by Israeli forces against civilians and those attacks that were disproportionate.”
- Donatella Rovera: “It’s very important that this time things change, that an independent and impartial investigation is carried out and that those who are responsible for what we’re seeing are brought to book, are held accountable. Otherwise the likelihood is high that this sort of situation will be once again repeated, and basically those responsible for these violations should not be allowed to get away with murder.”

## Human Rights Watch: More False “War Crimes” Allegations

Human Rights Watch (HRW), a New York-based NGO superpower, is funded by private individuals and foundations. Although claiming to perform “objective investigations and strategic, targeted advocacy,” many members of its Middle East division have proven records of strongly politicized activity, and NGO Monitor’s analyses demonstrate HRW’s disproportionate condemnations of Israeli security policy. HRW was an active participant in the 2001 Durban conference, and continues to campaign in favor of boycotts and other measures against Israel.<sup>49</sup>

NGO Monitor’s quantitative analysis of HRW’s reporting in 2008 reflects the portrayal of Israel as the second worst abuser of human rights in the Middle East.<sup>50</sup> In 2008, Israel and the Palestinians were the only countries in the Middle East region suspected or accused of “war crimes” by HRW: Israel on six occasions, and the Palestinians in one instance for suicide bombings. Even before the renewal of the military conflict on December 27, 2008, HRW focused disproportionately on Gaza. Eighteen out of 27 HRW statements in 2008 dealing with Israel addressed Gaza, accusing Israel of “collective punishment,” “continued occupation,” and contributing to a “humanitarian crisis.”

During the war, HRW released numerous statements, primarily critical of Israel, including many using the rhetoric of international law for political objectives. HRW’s internet site also featured emotive images of Palestinian victimization, and Sarah Leah Whitson carried HRW’s campaign to the UN (see quotes below). This mirrors HRW’s campaigning during the 2006 Lebanon War, when the NGO issued hundreds of pages of biased condemnations of Israel, many of which relied on unverifiable “eyewitnesses,” were factually inaccurate, or based on distortion of international legal terminology.

- HRW statements on Gaza repeat the slogans of previous publications, continuing to ignore Hamas’ extensive use of human shields, and claim a level of military expertise and targeting information that HRW does not possess.

- The objectivity of HRW’s “expert” researcher during the war, Marc Garlasco, is highly questionable. Garlasco was a contributing author to HRW’s report *Razing Rafah: Mass Home Demolitions in the Gaza Strip* (October 17, 2004),<sup>51</sup> which included political and ideological claims, unsupported “military assessments,” and denunciations that downplay the context of terrorism. He also led HRW’s high profile campaign after the 2006 Gaza beach incident,<sup>52</sup> where his report included unverifiable Palestinian claims as well as testimony and “evidence” brought by the Palestinian police. This was accepted uncritically, but IDF claims were rejected. Garlasco also co-authored HRW’s February 2008 report *Flooding South Lebanon*,<sup>53</sup> which was based primarily on unsubstantiated and subjective claims regarding international law, and unverifiable evidence based on local “eyewitnesses.”

- A “research consultant” for HRW (and reporter for The Independent [UK]), Fares Akram, published an article that concluded, “But, in truth, as a grieving son, I am finding it hard to distinguish between what the Israelis call terrorists and the Israeli pilots and tank crews who are invading Gaza. What is the difference between the pilot who blew my father to pieces and the militant who fires a small rocket?”<sup>54</sup>

- HRW also frequently cites unnamed “witnesses” or “researchers,” whose credibility cannot be established and reports cannot be independently verified.

- HRW issued demands for numerous investigations of Israeli actions, and calls for prosecution for “laws-of-war violations in Gaza,” knowing that such procedures are always framed to indict Israel and erase the context of terror. HRW issued no demand to investigate the use of human shields by Hamas, or the sources of its weapons and training – Syria and Iran.

<sup>49</sup>Anne Bayefsky, “Human Rights Watch Coverup,” *Jerusalem Post*, April 13, 2004.

<sup>50</sup>NGO Monitor, “Examining Human Rights Watch in 2008: Double Standards and Post-Colonial Ideology,” *NGO Monitor Reports*, January 13, 2009.

<sup>51</sup>Human Rights Watch, *Razing Rafah: Mass Home Demolitions in the Gaza Strip*, October 17, 2004. Available at <http://www.hrw.org/en/node/11963/section/1>

<sup>52</sup>See NGO Monitor, “Gaza beach incident: Timeline of HRW involvement and activities June 9-21, 2006,” *NGO Monitor Reports*, June 21, 2006. Available at [http://www.ngo-monitor.org/article/gaza\\_beach\\_incident\\_timeline\\_of\\_hrw\\_involvement\\_and\\_activities\\_june\\_](http://www.ngo-monitor.org/article/gaza_beach_incident_timeline_of_hrw_involvement_and_activities_june_)

<sup>53</sup>Human Rights Watch, *Flooding South Lebanon*, February 16, 2008. Available at <http://www.hrw.org/en/node/62428/section/4>

<sup>54</sup>Fares Akram, “Gaza: The death and life of my father,” *The Independent* (UK), January 5, 2009. Available at <http://www.independent.co.uk/news/world/middle-east/gaza-the-death-and-life-of-my-father-1225793.html>

- In an op-ed published in *Forbes*<sup>55</sup> (a similar version was published in the *Jerusalem Post*<sup>56</sup>), HRW's executive director Kenneth Roth accused Israel of "a determination to make Gazans suffer for the presence of Hamas – a prohibited purpose for using military force." Roth also dismissed claims that Hamas operated from civilian areas as "ritual IDF pronouncements" that should be taken "with a grain of salt." These "ritual pronouncements" have been confirmed in the independent media and by UN officials.

- In a 27-page report entitled *Deprived and Endangered: Humanitarian Crisis in the Gaza Strip*, HRW repeated false accusations of "collective punishment," made numerous, strong demands of Israel, but did not ask Hamas to cease firing rockets at Israeli civilians or its illegal use of human shields. In other instances, HRW focused solely on Israel, and did not acknowledge Hamas' severe violations of international humanitarian law.

*HRW's executive director Kenneth Roth accused Israel of "a determination to make Gazans suffer for the presence of Hamas – a prohibited purpose for using military force."*

### Selected Quotes:

**Press release: "Israel/Hamas: Civilians Must Not Be Targets," December 30, 2008**

- "Israel and Hamas both must respect the prohibition under the laws of war against deliberate and indiscriminate attacks on civilians . . . Israel's severe limitations on the movement of non-military goods and people into and out of Gaza, including fuel and medical supplies, constitutes collective punishment, also in violation of the laws of war."

**Press release: "Israel: Gaza Ground Offensive Raises Laws of War Concerns," January 3, 2009**

- "[The IDF should] issue clear rules of engagement that adhere strictly to the laws of war prohibition against attacks that target or indiscriminately harm civilians and the requirement to distinguish at all times between civilians and combatants."

**Press release: "Israel: Allow Media and Rights Monitors Access to Gaza," January 5, 2009**

- "Israel's excessive restrictions on access to Gaza only end up impeding this deterrent effect and placing civilians at greater risk."

**"Press conference by humanitarian, human rights organizations on Gaza," January 7, 2009**

- "Ms. Whitson of Human Rights Watch said that the closure of Gaza represented collective punishment, which was unlawful under international humanitarian law."

- "Regarding yesterday's attack on a United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) school, she said that it was an example of civilians being exposed to great harm. Of course, the Israelis had said that there had been artillery fire from the vicinity of the school, but Human Rights Watch had spoken to witnesses on the ground, as well as UNRWA representatives, who had said that was not the case."

- "[S]he said that Human Rights Watch was calling for respect for international humanitarian law. With regard to Hamas, that meant containing rocket attacks that were indiscriminate or targeted civilians. With regard to Israel, it meant cessation of indiscriminate attacks on civilian areas."

**Press release: "Israel: Investigate Former Judge's Killing in Gaza," January 9, 2009**

- "In a letter to Brig.-Gen. Avichai Mandelblit, IDF Military Advocate General, Human Rights Watch urged the military to investigate the attack, make the results of the investigation public, and prosecute any persons it finds to have acted in serious violation of international humanitarian law."

**"Q & A on Israel's Use of White Phosphorus in Gaza," January 10, 2009**

- "WP burns anything it touches. When air-burst as an obscurant, it can fall over an area about the size of a football field, about the same area affected by a cluster bomb. Those below may receive horrific skin burns, and it can set structures, fields, and other

<sup>55</sup>Kenneth Roth, "The Incendiary IDF," *Forbes*, January 22, 2009. Available at [http://www.forbes.com/2009/01/22/israel-gaza-phosphorous-oped-cx\\_kr\\_0122roth.html](http://www.forbes.com/2009/01/22/israel-gaza-phosphorous-oped-cx_kr_0122roth.html)

<sup>56</sup>Kenneth Roth, "IDF's violations of laws-of-war prohibitions," *Jerusalem Post*, January 25, 2009. Available at <http://www.jpost.com/servlet/Satellite?cid=1232643745908&pagename=JPost/JPArticle/ShowFull>

objects on fire. Using WP against military targets in densely populated areas would also raise concerns where the weapon could not be directed at a specific military target and thus would be indiscriminate in its impact, in violation of the laws of war.”

**“Letter to Secretary-General Ban Ki-moon,” January 12, 2009**

- “Urge that Israel take all feasible precautions to avoid indiscriminate or disproportionate attacks, cease attacks that assume that political entities are valid military targets, and not use white phosphorus ‘obscurants’ in densely populated areas.”
- “Urge that Hamas and other Palestinian armed groups in Gaza cease firing rockets at population centers in Israel, and avoid to the extent feasible deploying forces or storing weapons in populated areas”
- “Make clear to Israel that any plan to raze homes in Rafah along the Philadelphi route in order to destroy tunnels violates two fundamental principles of international humanitarian law, distinction and proportionality. The destruction of another swath of houses will only make tunnels longer; it will not stop the tunneling.”
- “The blockade has had a disastrous impact on the health and well-being of the civilian population, depriving them of food, medicine, fuel, and other essential supplies, and constitutes the unlawful collective punishment of the civilian population.”
- “...the records of Israel and Hamas show little willingness to conduct impartial investigations of their own forces. We therefore believe an impartial international investigation is required to look at violations by both sides.”

**Press Release: “Israel: End Gaza’s Humanitarian Crisis at Once,” January 13, 2009**

- “Israel and Egypt need to open their borders to allow a regular flow of food, medicine and fuel into Gaza, and to evacuate those needing urgent medical care,” said Kenneth Roth, executive director of Human Rights Watch. ‘A daily three-hour humanitarian ‘pause’ is woefully insufficient to help all the wounded and supply Gaza’s civilian population, which has already endured severe deprivation for the past 19 months.”
- “An international investigation would be an important way of demonstrating that the United Nations is deeply concerned about the fate of victims of this conflict. Because Israel has blocked the media and human rights groups from entering Gaza, only an international investigation stands a chance at this critical moment of uncovering key facts and reducing abuses.”

**Report: “Deprived and Endangered: Humanitarian Crisis in the Gaza Strip,” January 13, 2009**

- A 27 page report, repeating the non-serious and unsupported claims of “collective punishment” and continuing “occupation.” HRW makes eleven “recommendations” to Israel, three to Hamas.
- “The Israeli government has repeatedly denied that a humanitarian crisis exists. Information from international humanitarian organizations, United Nations agencies and Gaza’s residents themselves starkly refute that claim. Hundreds of civilians have been killed in the fighting, a large percentage of them children.”
- “The New York Times reported that armed Hamas members have also interfered with the work of medical facilities, reportedly keeping an armed presence within some hospitals; and carrying out at least six executions of wounded persons at al-Shifa hospital, mostly of suspected ‘collaborators’ ...”
- “Israel’s continuing blockade of the Gaza Strip, a measure that is depriving its population of food, fuel, and basic services, constitutes a form of collective punishment in violation of article 33 of the Fourth Geneva Convention.”
- Recommendation to Israel: “Cease all attacks on infrastructure essential for the survival of the civilian population, such as the water infrastructure, the electrical grid, the sewage system.”
- None of the recommendations to Hamas discussed illegal and deliberate rocket attacks on Israeli civilians and its illegal use of human shields.

**Press Release: “Israel: Stop Shelling Crowded Gaza City,” January 16, 2009**

- “Israel’s use of heavy artillery in residential areas of Gaza City violates the prohibition under the laws of war against indiscriminate attacks and should be stopped immediately, Human Rights Watch said today.”
- “Israel warned civilians to go to city centers and later shelled the center of Gaza City with a weapon that should never be used in densely populated areas,’ Garlasco said.”
- This one-sided statement makes five demands of Israel, zero of Hamas.

**Kenneth Roth, “The Incendiary IDF,” Forbes, January 22, 2009.**

- “Behind the unsupportable legal claim seemed to lie a determination to make Gazans suffer for the presence of Hamas – a prohibited purpose for using military force.”

- “And as should be obvious, it is hardly in Israel’s interest to degrade international law protecting civilians.”
- “Long experience, as during the 2006 war in Lebanon, shows that we must take such ritual IDF pronouncements with a grain of salt. We will not know exactly how Hamas waged the war until human rights monitors can conclude the on-the-ground investigations that they are only just beginning because of the IDF’s earlier refusal to let them into Gaza.”
- “Israelis seem dismayed that the world has not embraced the justness of its latest war in Gaza. Of course Israel is entitled to defend itself from Hamas’ rocket attacks, but when it does so in violation of its duty to spare civilians, and with so massive a civilian toll, public outrage is entirely predictable.”

## Oxfam: Pre-determined Illegality

Oxfam is an international NGO based in Britain and composed of numerous quasi-autonomous branches in other countries. Its funding sources, especially of the local chapters, are disparate, but it does receive regular support from the British government and the Ford Foundation (\$9 million grant over 5 years to Oxfam America).

*Oxfam's website featured emotive, tendentious blog entries – with titles such as “Goodnight my love, see you in heaven” and “We are caged like animals, waiting to die” – from a resident of Gaza.*

Following Hamas' takeover of Gaza and increased rocket attacks on Israeli civilians in 2007, Oxfam played an integral role in the NGO campaign against Israel's Gaza policy, with regular accusations of an “illegal siege,” “collective punishment” and continued “occupation.” This campaign exacerbated the conflict and gave Hamas' leaders the expectation of international support for its terror activities.

- On December 27, 2008, before the launch of the operation in Gaza, Oxfam decided that any Israeli response to rocket attacks would be “disproportionate”: “The aid agencies [Oxfam, CARE International, Diakonia] condemned all attacks on civilians and called on the international community to speak out against the disproportionate use of force by any side.”
- Oxfam's numerous statements throughout the war include false international legal claims, such as the accusation that Israel is guilty of “disproportionate force” or “illegal collective punishment.” Oxfam also established a special “Gaza humanitarian crisis” webpage<sup>57</sup> and featured emotive, tendentious blog entries – with titles such as “Goodnight my love, see you in heaven” and “We are caged like animals, waiting to die” – from a resident of Gaza.<sup>58</sup>

- The BBC and Sky News refused to air a “humanitarian” appeal for Gaza by the Disaster Emergency Committee (DEC), whose members included Oxfam and Christian Aid, on the grounds that it would jeopardize the broadcasters' impartial and objective stance on the conflict.<sup>59</sup>

- Oxfam presents an immoral equivalence between Hamas' deliberate rocket attacks on Israeli civilians and Israel's response in self defense – a right guaranteed under Article 51 of the UN Charter.

- An Oxfam press release of January 13, 2009 labeled Israeli attacks “appalling incidents” and referred to “completely excessive” civilian casualties in Gaza. A single sentence, presenting the illusion of impartiality, was devoted to “[i]ndiscriminate rocket fire by Palestinian armed groups at Israel is inadmissible.”

- Oxfam uses these claims to promote a clear anti-Israel political agenda, including calls for increased diplomatic pressure and demands that the EU and other international bodies suspend agreements with Israel. No similar demands are presented with respect to Hamas, the Palestinian Authority, Egypt, or Iran.

- On January 7, 2009, Oxfam joined with a coalition of NGOs calling upon the European Union “to immediately suspend any further enhancement of its relations with Israel, known as an ‘upgrade’” during the war. This followed unsuccessful attempts in June 2008 by Oxfam and other NGOs to promote their hostile political agendas under the guise of human rights advocacy and derail EU-Israel negotiations over the upgrade agreement.

### Selected Quotes:

**Press release: “Bombing severely reduces Oxfam's aid programme in Gaza as humanitarian crisis looms,” December 28, 2008**

- “The international community must not stand aside and allow Israeli leaders to commit massive and disproportionate violence against Gazan civilians in violation of international law. Oxfam condemns outright Hamas' rocket attacks on Israeli civilians. However they cannot justify this overwhelming military response which is killing innocent civilians.”

<sup>57</sup>Available at [http://www.oxfam.org.uk/oxfam\\_in\\_action/emergencies/gaza\\_crisis.html](http://www.oxfam.org.uk/oxfam_in_action/emergencies/gaza_crisis.html)

<sup>58</sup>Available at <http://www.oxfam.org.uk/applications/blogs/pressoffice/?tag=gazablog>

<sup>59</sup>John F. Burns, BBC assailed for refusing to carry Gaza appeal, New York Times, January 26, 2009. Available at [http://www.nytimes.com/2009/01/27/world/europe/27britain.html?\\_r=1&hp](http://www.nytimes.com/2009/01/27/world/europe/27britain.html?_r=1&hp). Dominic Lawson, When charities turn political, the BBC is right to tread warily, Independent (UK), January 27, 2009. Available at <http://www.independent.co.uk/opinion/commentators/dominic-lawson/dominic-lawson-when-charities-turn-political-the-bbc-is-right-to-tread-warily-1516810.html>

**Press release: “EU Gaza crisis talks,” December 30, 2008**

- “...For the people of Gaza the latest round of violence is an intense part of a festering catastrophe they have endured for more than 18 months. An immediate end to the violence and an end to the blockade of Gaza is desperately needed,” said Jeremy Hobbs, Oxfam International’s Executive Director.”

**Press release: “Gaza crisis - Crisis critical with supplies of food and fuel perilously low,” December 31, 2008**

- “Nine months ago aid agencies warned the crisis in Gaza was the worst it has ever been since the 1967 ‘six-day war.’ Months of a tightening blockade and the latest disproportionate attacks make it much worse.”

**Press release: “Maximum pressure needed from EU delegation to end Gaza onslaught,” January 2, 2009**

- “The agency is calling on the EU delegation to put maximum pressure on all sides to end the violence immediately. It says that Israeli bombing is excessive and Hamas’ rocket fire indiscriminate and neither party is respecting international humanitarian law.”

**Press release: “Gaza: Oxfam supported health worker killed and ambulance destroyed in Israeli shelling,” January 4, 2009**

- “The incident shows yet again that trying to fight a military campaign in the densely populated streets and alleys of the Gaza Strip will inevitably lead to civilian casualties.”
- “Oxfam is also calling on the European Union to suspend the EU-Israel upgrade process until there is a comprehensive ceasefire in Gaza, and Israel provides unimpeded humanitarian access.”

**Press release: “Gaza: Aid agencies call for suspension of enhanced EU-Israel agreements,” January 7, 2009**

- “A coalition of major humanitarian, human rights and development organizations called on the European Union today to immediately suspend any further enhancement of its relations with Israel, known as an ‘upgrade’, until it agrees to a comprehensive ceasefire and provides unimpeded humanitarian access.”
- “The coalition calls on the EU to uphold fundamental European principles by:
  - Suspending the EU-Israel upgrade process until a full, complete and permanent ceasefire has been agreed by all parties and Israel provides unimpeded humanitarian access;

- Making publicly clear that partnership with the EU should be linked to respect for human rights and international law”

**Jeremy Hobbs, Executive Director Oxfam International, “Humanitarian desperation in Gaza,” January 9, 2009**

- “Gaza’s civilian population has already borne the brunt of an increasingly severe blockade for the last 18 months, impeding access to a wide range of goods and supplies and making it hard for people to move freely in and out of Gaza. It has been a form of collective punishment illegal under international humanitarian law yet tolerated by the international community.”

**Press Release: “Nowhere safe to go in Gaza, says Oxfam as staff member’s refuge gets hit,” January 13, 2009**

- “‘The prolonged war across the Gaza Strip is decimating the homes and lives of tens of thousands civilians – men, women and children,’ says John Prideaux-Brune, Oxfam Great Britain Country Director. ‘Oxfam demands an immediate end to the violence. We cannot afford one more night of these appalling incidents.’”
- “The level of civilian casualties recorded in Gaza is completely excessive and mounting by the hour. Indiscriminate rocket fire by Palestinian armed groups at Israel is inadmissible.”

**Press Release: “Gaza: A unilateral ceasefire is no guarantee of safety for civilians,” January 18, 2009 [Oxfam Great Britain]**

- “Immediate opening of all the crossings into Gaza and ending the 18-month blockade that has reduced the population of Gaza to almost complete poverty and dependency on aid must be the priorities once we have a negotiated, durable and fully respected ceasefire, international aid agency Oxfam said today.”

**Press Release: “To rebuild Gaza we need a superhighway not a country back road, says Oxfam,” January 21, 2009**

- “The people of Gaza are living in the world’s largest prison but have fewer rights than convicts.”

## REGIONAL NGOs



Criticism of Israel during the Gaza conflict was not restricted to international NGOs; Israeli, Israeli-Arab, and Palestinian groups also engaged in harsh condemnations of Israeli attacks in Gaza. Politicized Israeli NGOs – including B’Tselem, Gisha, Physicians for Human

Rights-Israel, the Association for Civil Rights in Israel, and others – called press conferences to accuse Israel of “grave violations” and “disproportionate harm to civilians.” Claiming to represent a significant portion of Israeli society declaring “not in our name,” these groups bolster international NGO efforts to delegitimize Israel’s actions. B’Tselem, in particular, has widespread name-recognition and prestige, and is often quoted by international media sources as an unbiased observer.

Israeli-Arab NGOs uniformly opposed the IDF operation in Gaza. Adalah, Ittijah, and Mossawa accused the Israeli army and government of “war crimes,” “targeting civilians,” “disproportionate” and “indiscriminate” strikes, and “collective punishment.” These organizations buttressed their delegitimization of Israeli government policy with unfounded claims of “institutionalized racism” toward “Palestinian citizens of Israel.”

The statements of Gaza-based NGOs, especially the Palestinian Center for Human Rights (PCHR) and Al Mezan, achieved an illusion of credibility from “being on the ground.” However, these Palestinian groups completely erase Hamas’ responsibility stemming from operating within the civilian population. As opposed to objective reports on the human rights situation, PCHR and Al Mezan promote the Palestinian narrative in political attacks on Israel; for instance, the Israeli army is referred to as the Israeli Occupation Forces (IOF).

### B’Tselem: Illusion of Credibility

B’Tselem is one of Israel’s largest and most well-known NGOs. B’Tselem’s funding is primarily foreign; donors include: Ford Foundation, Christian Aid, DanChurchAid, Switzerland, Norway, UK, EU, NIF, Diakonia, and Trocaire. Although B’Tselem is widely cited in the Israeli and international media, a number of independent reports<sup>60</sup> have seriously questioned its credibility and leveled charges of “deception”<sup>61</sup> and distortions.

As with the global campaign against Israel’s security barrier, B’Tselem was at the forefront of labeling Israeli responses to terror from Gaza as “collective punishment.” In 2008 B’Tselem also claimed that Israel violated international humanitarian law in Gaza, including “excessive and disproportionate force,” a lack of distinction between civilians and combatants, and the use of “prohibited weapons.”

- Since December 27, 2008, B’Tselem has issued over 35 press releases and “testimonies” about the Gaza war, most of which cannot be independently verified. No testimonies of Israeli victims of Hamas attacks were published.
- B’Tselem, along with 8 other Israeli NGOs, participated in a January 14, 2009 press conference and press release entitled, “A Clear and Present Danger, an Israeli call for urgent humanitarian action in Gaza.” These NGOs accused Israel of “grave violations of international humanitarian law,” “wanton use of lethal force,” and “disproportionate harm to civilians.”
- B’Tselem’s statements largely erase Hamas’ use of human shields and its indiscriminate rocket attacks on Israeli civilians. B’Tselem also ignores Israeli soldier Gilad Shalit and does not demand that Hamas grant him access to the Red Cross – a cornerstone of international humanitarian law.

<sup>60</sup>For instance, Yehonatan D’choach-Halevy, “The struggle over Israel’s narrative through statistics on the number of Palestinians killed in IDF operations,” *JCPA Blog*, October 26, 2008 (Hebrew). Available at <http://www.jcpa.org.il/Templates/showpage.asp?FID=528&DBID=1&LNGID=2&TMID=99&IID=19183>

<sup>61</sup>CAMERA, “In 2007, B’Tselem Casualty Count Doesn’t Add Up,” September 4, 2008 (updated November 2, 2008). Available at [http://www.camera.org/index.asp?x\\_context=7&x\\_issue=39&x\\_article=1533](http://www.camera.org/index.asp?x_context=7&x_issue=39&x_article=1533)

- On December 31, 2008, B'Tselem accused the IDF of "targeting" civilians and police personnel who were not directly participating in the hostilities. B'Tselem provides no basis for its claim that Hamas "government offices" "do not make an effective contribution to the military activity against Israel and the attack provides Israel with no military advantage whatsoever, and certainly not a clear military advantage."
- Following the killing of senior Hamas leader, Nizar Rayan, B'Tselem labeled Israel's attack "a grave breach of international humanitarian law," despite IDF evidence that Rayan's house served as a "large munitions warehouse" and other military functions. According to B'Tselem, "[i]n the current situation in the Gaza Strip, it is hard to think of a definite military advantage that could have been achieved by bombing the house and killing Rayan, that can justify the killing of 13 women and children." B'Tselem is not qualified to assess the military relevance of the target, and does not present alternatives.

### Selected Quotes:

**Letter: "B'Tselem to Attorney General Mazuz: Concern over Israel targeting civilian objects in the Gaza Strip," December 31, 2008**

- "[T]he military bombed the main police building in Gaza and killed, according to reports, forty-two Palestinians who were in a training course and were standing in formation at the time of the bombing. Participants in the course study first-aid, handling of public disturbances, human rights, public-safety exercises, and so forth."
- "The argument that striking at objects of this kind is consistent with international humanitarian law is untenable. Such an interpretation, which relates to these bodies as military objects, stretches the provisions of international humanitarian law in a way that is inconsistent with the articles cited above, and contravenes the principle of distinction that lies at the foundation of international humanitarian law. An intentional attack on a civilian target is a war crime."

**Press release: "The killing of Nizar Rayan and 15 members of his family," January 4, 2009**

- "[T]he large toll of civilian lives renders the attack a grave breach of international humanitarian law. In the current situation in the Gaza Strip, it is hard to think of a definite military advantage that could have been achieved by bombing the house and killing Rayan, that can justify the killing of 13 women and children."

*According to B'Tselem, "[i]n the current situation in the Gaza Strip, it is hard to think of a definite military advantage that could have been achieved by bombing the house and killing Rayan, that can justify the killing of 13 women and children."*

**"Testimony: 3 children killed by missile when playing in the street," January 5, 2009**

- "The bomb had been aimed right at them."

**"Testimony: Soldiers Killed and injured dozens of persons from a-Samuni family in a-Zeitun neighborhood," January 7, 2009**

- "The soldiers came to the house on foot and knocked on the door. We opened and then, threatening us with weapons, they forced us to leave the house. They had bullet-proof vests on and had automatic weapons. Their faces were painted black."
- "The soldiers told us that they would release us and leave only Musa and his uncle 'Emad in case Hamas came. I understood that they intended to use them as 'human shields.'"

**Press release: "Witness reports that Israeli soldiers shot woman waving white flag in Gaza Strip," January 13, 2009**

- "Although B'Tselem cannot, at present, independently verify or disprove the witness's claims, it believes their severity merits immediate notification of the media."

**Press release: "'B'Tselem Publishes Guidelines for Israel's Investigation into Operation Cast Lead," February 8, 2009**

- "The extent of the harm to the Gaza civilian population from the recent operation is unprecedented. Whole families were wiped out. Children were killed before their parents' eyes. Some people watched as their loved ones bled to death. The extensive harm to the civilian population is not, in and of itself, proof of violations of the laws of war. However, it requires Israel to conduct an independent and credible investigation, rather than relying solely on operational debriefings. Such an investigation is mandated by law. It is also in Israel's best interest, says B'Tselem, as the Israeli public has a right to know what was done in its name in the Gaza Strip."

## Israeli-Arab Groups: NIF Funding for Anti-Israel Attacks

During the Gaza war, a number of NGOs claiming to represent the rights of “Arab-Palestinian citizens of Israel” were active in political campaigning against Israel’s legitimate self-defense in response to terror attacks from Gaza.<sup>62</sup> In particular, Adalah, Ittijah, and Mossawa routinely accused the Israeli army and government of “war crimes,” “targeting civilians,” “disproportionate” and “indiscriminate” strikes, and “collective punishment.” In one case, Ittijah employed offensive Nazi rhetoric, accusing Israel of running “extermination camps.”<sup>63</sup> Another common theme was antagonism towards Israeli society and the media for their general support of the incursion into Gaza, and alleged “silencing” and “excluding” voices of opposition to the war, especially from the Israeli-Arab sector.

**Adalah:** The Legal Center for Arab Minority Rights in Israel is funded by the New Israel Fund, the Ford Foundation, the Open Society Institute, Christian Aid, and was a recipient of European Commission funding.<sup>64</sup> NGO Monitor’s detailed analyses show that Adalah is active in promoting the Durban Strategy of demonizing Israel using the rhetoric of human rights, and accusing Israel of “institutionalized racism,” “apartheid,” and “war crimes.” In particular, Adalah advances these arguments at the UN Human Rights Council and in Israeli courts. Adalah is also a member of Ittijah.

**Ittijah,** “a network for Palestinian NGOs in Israel,” was active at the 2001 Durban Conference. In the lead-up to the Durban Review Conference scheduled for April 2009, Ittijah is leading Palestinian “civil society” in a campaign to “boycott Israel, to impose sanctions and to label it as a

colonial racist state under the Motto: Zionism is Racism- Israel is an Apartheid.”<sup>65</sup>

**Mossawa** was founded in 1997, originally as a joint project of Ittijah and SHATIL (an NIF program in Israel), “to promote equality for Arab/Palestinians within the borders of Israel.” Officially, Mossawa claims to focus on changing “the social and political status of Arab/Palestinians in Israel in an attempt to gain minority recognition and rights, without sacrificing their national and cultural rights as

*In one case, Ittijah employed offensive Nazi rhetoric accusing Israel of running “extermination camps.”*

Palestinians.” In reality, Mossawa’s main focus is political, and designed to delegitimize Israel on the basis of blanket charges of “racism” and similar pejoratives.

Both Adalah and Mossawa have proposed “constitutions” for Israel, which aim to eliminate the Jewish character of the state. In Adalah’s “Democratic Constitution” – based on the vision of “a one-state solution” – immigration of Jews would be permitted for “humanitarian reasons” only and the Jewish cultural framework of the state would be replaced by a “democratic, bilingual and multicultural” state. Similarly, Mossawa called for the eradication of the Israeli flag and national anthem, the right of the Arab minority to have a veto over matters of national import, and the immediate implementation of the Palestinian “Right of Return.”

- During the war, Adalah composed several pseudo-legal briefs,<sup>66</sup> manipulating international

<sup>62</sup>Notably, a poll conducted following the war found that 45% Israeli Arabs were “proud to be Israeli,” indicating that these Israeli-Arab NGOs do not represent the whole Arab community. See “Patriotism survey: 88% of Jews proud to be Israeli only 45% Arabs proud to be Israelis but 81% want their kids to stay in Israel,” *IMRA*, Januray 28, 2009. Available at <http://www.imra.org.il/story.php3?id=42564>

<sup>63</sup>Ittijah press release: “About the Israeli massacre in a school of UNRWA – act of destruction,” January 7, 2009 [Hebrew].

<sup>64</sup>According to “Adalah’s Report of Activities: January – September 2008” (Available at <http://www.adalah.org/eng/features/Final%20Half-Year%20Report%202008%20Updated%20September%202008.pdf>), Adalah’s EU grant of “around \$220,000 per year” expired in 2008.

<sup>65</sup>Ittijah, “Statement on Israel’s Pronouncement to Boycott,” November 21, 2008. Available at <http://www.ittijah.g/?intLanguage=2&chrSystem=item&intPMenu=319&intMenu=319&intMenuType=2&intCategory=386&intItem=1769&intItemType=2&intItemDisplayType=1>

<sup>66</sup>“Attacking Civilian Government Institutions and Buildings Violates International Humanitarian Law,” Adalah, ACRI, Bimkom, Gisha, HaMoked, PHR-I, and PCATI, January 4, 2009. “Adalah to AG: Bombing Civilian Neighborhoods and Killing and Injuring Civilians in Gaza Constitute War Crimes,” Fatmeh El-’Ajou, January 4, 2009.

humanitarian law to accord with their political opposition to the war. These reports were sent to high ranking Israeli officials with threats of “lawfare” such as, “those who make such decisions and execute them bear personal criminal responsibility.”

- In a letter to the Israeli Minister of Defense and Attorney General,<sup>67</sup> Adalah asserts, “The presence of individuals who are not defined as civilians but who are among the civilian population does not change the civilian nature of the population, and therefore does not deny it protection from such attacks... you are obligated to immediately halt all military activity that is directed at civilian population centers and/or liable to result in the killing of civilians.” Through the selective citation of relevant international law, Adalah creates the false impression that Israel’s strikes were illegal.
- Adalah repeats the non-serious claim from a PLO “opinion” that Gaza remained “occupied” following the 2005 Disengagement.
- In a statement to the UN Human Rights Council,<sup>68</sup> Adalah condemns Israel for “the willful killing of civilians and the extensive destruction of civilian property” and “widespread and systematic attack directed against a civilian population bringing them to the level of crimes against humanity”; Adalah also calls for “the imposition of collective measures against the Israeli government.”
- Ittihad employs Nazi rhetoric<sup>69</sup> in its condemnation of Israel: “turning Gaza, by the IDF, into an extermination camp in the full whole meaning of the word, and in the whole full historical relation of it.” Ittihad also accuses Israel of a “reign of terror,” “genocide,” “Israeli terror,” “war crimes,” “systematic and continuous massacre,” and “crimes against humanity.”
- Ittihad threatens “lawfare” against Israeli officials, calls for a global boycott and for sanctions against Israel, and asks other NGOs to protest and boycott the EU presidency and commission for its support of Israel. Adalah representatives also promote lawfare in their reports and at the UN.
- Mossawa falsely accuses Israel of “war crimes,” “collective punishment,” “deliberate harm to innocent civilians,” and a “seismic and disproportionate response.”
- In a January 16, 2009 advertisement,<sup>70</sup> Mossawa misrepresents international law by claiming, “killing

civilians under the claim that fighters are hiding among them” is illegal. At the same time, Mossawa dismisses Hezbollah’s terrorist tactics during the Second Lebanon War, and implies that Israel violated restrictions about placing military installations in civilian areas: “the rockets of Hezbollah that hit Israeli civilians fell very close to military facilities which were built in, or next to civilian neighborhoods, schools and hospitals.”

### Selected Quotes:

#### Mossawa advertisement: “A harsh violation of IHL,” NO DATE [Hebrew]

- “Artillery fire, using cluster bombs, using incendiary weapons, firing missiles to the center of the civilian population, preventing humanitarian aid, not giving treatment to wounded, harming medical staff, collective punishment, threatening the civilian population, massive attacks on civilian property, deliberate harm to innocent civilians.”

#### Ittihad statement, December 28, 2008 [Arabic]

- “The massacre and the aggressiveness by Israel are ‘war crimes,’ ‘crimes against humanity’ and an ‘act of genocide.’”
- “Israeli Terror.”
- “The Follow up Committee calls the international community to a boycott and sanctions against Israel.”

#### Mossawa press release: “Stop War in Gaza: Civilian Killing is a War Crime,” December 31, 2008

- “Under definitions of international humanitarian conventions and international human rights standards, Israel’s seismic and disproportionate response to the escalation of rocket fire coming from Gaza in the last week must be defined as a war crime . . . Collective punishment against a population of 1.5 is a fundamental breach of these conventions.”
- The Hebrew version of the same statement adds: “This position of the Arab public...is being cast aside from the Israeli media and it is not represented there as a legitimate part of the public views.”

<sup>67</sup>“Re: The Killing of Civilians in the Gaza Strip,” January 4, 2009.

<sup>68</sup>Joint statement to the UNHRC, Al-Haq, Badil, Adalah, and Cairo Institute for Human Rights Studies (CIHRS), January 9, 2009.

<sup>69</sup>Ittihad press release: “About the Israeli massacre in a school of UNRWA – act of destruction,” January 7, 2009 [Hebrew].

<sup>70</sup>“The IDF will not win,” January 16, 2009 [Hebrew].

**Letter: “Adalah to AG: Bombing Civilian Neighborhoods and Killing and Injuring Civilians in Gaza Constitute War Crimes,” Fatmeh El-Ajou, January 4, 2009**

- “The presence of individuals who are not defined as civilians but who are among the civilian population does not change the civilian nature of the population, and therefore does not deny it protection from such attacks.”
- “The violation of these principles constitutes a war crime and those who make such decisions and execute them bear personal criminal responsibility.”
- “These obligations apply to Israel not only by virtue of the laws of occupation (which continue to apply to the Gaza Strip, contrary to the view that prevails within the state’s institutions)...”
- “Therefore, you are obligated to immediately halt all military activity that is directed at civilian population centers and/or liable to result in the killing of civilians.”

**Adalah Letter: “Attacking Civilian Government Institutions and Buildings Violates International Humanitarian Law,” Adalah, ACRI, Bimkom, Gisha, HaMoked, PHR-I, and PCATI, January 4, 2009**

- “The Israeli government’s position, which regards anyone or anything related to Hamas, whether members [of the movement] or buildings, as a legitimate target for attack, is in violation of international humanitarian law (IHL).”
- “Thus, as noted, among the targets bombed were government buildings and facilities, and it is very doubtful that the nature, objective or use of these buildings and facilities made ‘an effective contribution to military action,’ or that their partial or complete destruction provided ‘a definite military advantage.’”

**Ittijah press release, “Request from the EUROMED NGO platform – when the EU justifies Israeli acts of genocide,” January 4, 2009**

- “At the moment, from the perspective of the last days, we understand this step as a defensive, not offensive, action,” Czech EU presidency spokesman Jiri Potuznik said. The EU presidency by this declaration again decided to follow George Bush attitude and to launder and justify the Israeli acts of genocide and ongoing massacre.”
- “I propose to the civil society within the Euromed region to make all efforts in protesting the EU sharing crimes responsibility...As Palestinian I take the moral right to request the Euromed platform to stop

any contact with the EU presidency and commission as they are supporting the Israeli ongoing acts of genocide.”

**Ittijah press release: “About the Israeli massacre in a school of UNRWA – act of destruction,” January 7, 2009 [Hebrew]**

- “Another daily massacre by the IDF. The Public Committee of Defending Freedoms has begun communicating with legal organizations from Gaza and the world to bring the government of Israel and the heads of the army to trial in the ‘war crimes court.’”
- “The policy which the Israeli government is carrying out in Gaza is a policy of systematic war crime and acts of destruction.”
- “The Israeli society which supported this massacre should know that eventually it will carry the responsibility, especially on what is carried out in Gaza which is an act of genocide, and turning Gaza, by the IDF, into an extermination camp in the full whole meaning of the word, and in the whole full historical relation of it.”

**Joint statement: Adalah, Al-Haq, Badil, and Cairo Institute for Human Rights Studies (CIHRS), January 9, 2009**

- “Not only is Israel responsible as a state for violating international human rights and humanitarian law, but its political and military leaders are individually criminally responsible for the commission of war crimes through grave breaches of the Fourth Geneva convention. Additionally, the continuing air strikes on the Gaza Strip are being committed as part of a widespread and systematic attack directed against a civilian population bringing them to the level of crimes against humanity.”
- “The only effective measure the UN Human Rights Council can take under these specific circumstances in order to stop the attacks is to recommend that the General Assembly convene under Resolution 377 uniting for peace with a view towards the imposition of collective measures against the Israeli government. History will judge Israel’s actions and eventually those responsible will be held accountable.”

**Adalah press release: “HR Organizations Demand Criminal Investigations by Israel into the Bombing of Two UNRWA Schools in Gaza Resulting in Dozens of Civilian Deaths,” January 12, 2009**

- “...demanding an independent and impartial criminal investigation into the events leading to the killing of dozens of Palestinian civilians from the shelling of two UN-run schools in Gaza. The letter

demands that those found responsible be criminally charged and indicted.”

- “...both events, in which mostly children were killed, constitute grave breaches of international humanitarian law and amount to war crimes. Attorney El-Ajou further argued that the Israeli military breached two central principles of IHL in carrying out these attacks: the distinction between combatants and civilians and the principle of proportionality. The letter further argued that Israel’s massive ongoing shelling of Gaza also violates the principle of proportionality.”

**Ittijah press release: “Position on bombing hospitals in Gaza 15-1-2009,” January 16, 2009 [Hebrew]**

- “The deliberate hitting of hospitals in Gaza: typical to a reign of terror.”
- “The claim of Ehud Barak, as if it is an accident is a wicked claim of a war criminal. He’s leading for three weeks a systematic and continuous massacre.”

**Mossawa advertisement: “The IDF will not win,” January 16, 2009 [Hebrew]**

- “Killing civilians under the claim that fighters are hiding among them was not legal in the first Lebanese war, not in the second. Every reporter knows that the rockets of Hezbollah that hit Israeli civilians fell very close to military facilities which were built in, or next to civilian neighborhoods, schools and hospitals.”

## Palestinian Center for Human Rights: Inflaming the Conflict

PCHR is a highly politicized NGO, funded by the European Commission, Norway, Trocaire, Irish Aid, Denmark, Austria, Switzerland, NOVIB-Holland, Open Society Institute, DanChurchAid, and Christian Aid. PCHR's Director, Raji Sourani, is also Vice President of the French International Federation of Human Rights (FIDH).

- Between December 27 and January 29, PCHR issued more than twenty-six statements. These statements employed extreme rhetoric against Israel, exploiting international legal terminology.
- PCHR is behind the debate over the Palestinian casualty count. On January 21, 2009, PCHR alleged that there had been a total of 1,285 Palestinian deaths, among which 895 were civilians – meaning almost 70% of were civilian.<sup>71</sup> These figures were repeated

*PCHR's anti-Israel campaigning during the war was among the most extreme. It has not called on Hamas to cease rocket attacks on civilians, ignores Hamas' practice of human shields, and until several weeks after the war remained silent on Hamas' summary execution of alleged "collaborators."*

by the *Jerusalem Post*,<sup>72</sup> *Ha'aretz*,<sup>73</sup> *Reuters AlertNet*,<sup>74</sup> and others. These statistics were contradicted by the IDF in February 2009, "put[ting] the civilian death toll at no higher than a third of the total."<sup>75</sup> The credibility of these figures has also been questioned in a report by CAMERA: "PCHR includes in its civilian toll individuals identified by other sources as combatants and omits any mention of several slain senior fighters from terrorist groups. The omission of several publicized Hamas commanders should

raise suspicion that other Hamas fighters have been omitted from its statistics." CAMERA also concluded that "[a]n analysis of the fatalities by age and gender shows that the majority of civilian fatalities recorded by PCHR are males between 15 and 50 years old, the same age profile as the combatants. This should raise concern that significant numbers of combatants may have been misclassified as civilians."<sup>76</sup>

- PCHR's anti-Israel campaigning during the war was among the most extreme including accusations of Israeli "war crimes," "crimes against humanity," "human holocaust," "collective punishment," "indiscriminate killing and continued systematic destruction of all the Palestinian institutions and civilian facilities in the Gaza Strip." PCHR consistently refers to Palestinian terrorism as "resistance."
- PCHR is a leader in the anti-Israel "lawfare" movement and has worked to bring cases in England, New Zealand, the US, Spain, and Switzerland. In an "exclusive interview" with the Islamic Republic News Agency (Iran), PCHR's Director Raji Sourani claimed that PCHR is preparing cases in six countries, targeting 87 Israelis for harassment, and that "dozens of arrest warrants have already been issued."<sup>77</sup>
- Many international NGOs partner with PCHR, including Oxfam, the International Commission of Jurists, Euro-Mediterranean Human Rights Network, and Christian Aid partner with PCHR. These organizations repeat PCHR claims verbatim without independent verification.
- PCHR issued several calls for international investigations of alleged Israeli "war crimes." It did not call on Hamas to cease rocket attacks on civilians, ignored Hamas' practice of human shields, and remained silent on Hamas' summary execution of alleged "collaborators."
- The day after HRW issued its claims of "illegal" use of white phosphorous, PCHR began issuing allegations of widespread Palestinian casualties and "burns" caused by white phosphorous "bombs."<sup>78</sup>

<sup>71</sup>PCHR, "Weekly Report: On Israeli Human Rights Violations in the Occupied Palestinian Territory: 15-21 January 2009." Available at [http://pchrgaza.ps/files/W\\_report/English/2008/22-01-2009.htm](http://pchrgaza.ps/files/W_report/English/2008/22-01-2009.htm)

<sup>72</sup>Associated Press, "PCHR: 894 of the 1,284 Palestinians killed in Gaza op were civilians," *Jerusalem Post*, January 21, 2009. Available at <http://www.jpost.com/servlet/Satellite?cid=1232292925858&pagename=JPost/JPArticle/ShowFull>

<sup>73</sup>Amira Hass, "Gazans say IDF troops ignored white flags and shot at them," *Ha'aretz*, January 20, 2009. Available at <http://www.haaretz.com/hasen/spages/1056952.html>

<sup>74</sup>Reuters, "'I wept,' Olmert says of death of Gaza children," *Reuters AlertNet*, January 23, 2009. Available at <http://www.alertnet.org/thenews/newsdesk/LN571480.htm>

<sup>75</sup>Yaakov Katz, "'World duped by Hamas death count,'" *Jerusalem Post*, February 15, 2009. Available at <http://www.jpost.com/servlet/Satellite?cid=1233304788684&pagename=JPost/JPArticle/ShowFull>

<sup>76</sup>CAMERA, "Gaza Casualties: Civilian or Combatant?" January 16, 2009. Available at [http://www.camera.org/index.asp?x\\_context=2&x\\_outlet=118&x\\_article=1603](http://www.camera.org/index.asp?x_context=2&x_outlet=118&x_article=1603)

<sup>77</sup>"Reports of mass arrests for Israeli war criminals," *IRNA*, January 24, 2009. Available at <http://www5.irna.ir/En/View/FullStory/?NewsId=317949&IdLanguage=3>

<sup>78</sup>PCHR press release, "Israel uses internationally prohibited weapons," January 11, 2009. Available at <http://pchrgaza.ps/files/PressR/English/2008/10-2009.html>

## Selected Quotes:

### **Press release: “IOF Offensive on the Gaza Strip Continues for the 7th Consecutive Day,” January 2, 2009**

- “During the latest hours, the most brutal crime committed by IOF in the Gaza Strip was the extra-judicial execution of Dr. Nizar Rayan, a senior leader of the Islamic Resistance Movement (Hamas), together with his 4 wives and 11 of his children.
- “PCHR: Holds Israel responsible for the lives of Palestinian civilians in all circumstances. Under the international law, the existence of armed resistance does not in any case justify the use of such excessive force disproportionately and indiscriminately.”

### **Interview with PCHR director, Raji Sourani: “International law and Humanitarian law are not only for intellectuals and academics,” January 6, 2009**

- “Support for these crimes by United States should be scandalized and should be confronted because it leads to rule of jungle...”
- “This is the first war ever... that targets... civilians.”
- “We are talking about unique, special crimes, first class war crimes, and this is happening in the eyes of the world...”

### **Press Release: “Twelfth Day of Continuous IOF Attacks Against the Population of Gaza,” January 7, 2009**

- “Israel continues to show no mercy in its military campaign, intent on destroying entire areas populated by civilians.”
- “PCHR have documented, and confirmed, Israeli war crimes being committed against the population of the Gaza Strip throughout this military operation.”

### **Press Release: “European Union Failing its Obligations to Protect Human Rights in the Occupied Palestinian Territory,” January 28, 2009**

- “The Centre reiterates that the root of the continuing violence in the OPT is the continuing IOF belligerent military occupation of the Gaza Strip and the West Bank, including occupied East Jerusalem. International silence...is encouraging Israel to continue to use excessive lethal force against civilians, including the widespread use of bombs believed to contain white phosphorous, and to act with utter impunity.”

- “The Centre demands that the international community, including the 27 EU member states, hold Israel to account for its massive violations of international human rights and humanitarian law, and forcefully and effectively demand that Israel begin to respect international human rights and humanitarian law. PCHR also demands that the EU does not upgrade its political and economic relationship with Israel vis a vis the EU-Israel Association Agreement.”

## Al Mezan: Advancing the Palestinian Narrative

Al Mezan, a Gaza-based Palestinian NGO, claims “[t]o protect, respect and promote the internationally accepted standards of human rights.” Its donors include Netherlands Representative Office (NRO), Norwegian Representative Office (Norad), Diakonia, Trocaire, Save the Children Sweden, and CARE International. Al Mezan’s activities and reports indicate that this NGO’s goal is a political campaign against Israel, not human rights.

- Al Mezan consistently refers to the Israeli army as the Israel Occupation Forces (IOF), framing the conflict in terms of false accusations of “occupation,” erasing the context of terror, and delegitimizing Israeli self-defense.
- Throughout the 23 days of fighting, Al Mezan issued more than 25 statements, promoting allegations of “Israeli massacres,” “slaughtering civilians,” “scandalous war crimes,” and “despicable disregard to civilian life.”
- Al Mezan’s daily press releases regularly exploit international law terminology, accusing Israel of “disproportionate” or “indiscriminate” force, “breach[ing] the rules of International Humanitarian Law,” intent to “target civilian premises directly and wantonly, while showing blatant disregard to civilian life and property,” and committing “war crimes” and “crimes against humanity.”
- Al Mezan repeatedly asserts military expertise, including knowledge of Israeli army “advanced technology for surveillance and sophisticated weapons” and targeting decisions.
- Al Mezan does not condemn Hamas’ use of human shields or illegal Hamas rocket attacks against Israeli civilians. In fact, it dismisses Israel’s claims of self-defense against these terror strikes.
- Like PCHR, Al Mezan claims that “about 70% of IOF’s attacks casualties of these attacks are from families who were hit inside their homes or as they left their homes to flee these areas. Most of the other victims were also civilians.” In another statement, Al Mezan asserts that only 13.9% of the deaths were “fighters.”

### Selected Quotes:

**Press release: “In a Criminal Escalation, IOF Strikes on Gaza Kill and Injure over 900 People as the Siege Continues to Debilitate Health and Other Vital Services,” December 28, 2008**

- “Al Mezan Center for Human Rights condemns the IOF’s criminal military escalation in the Gaza

Strip, which indiscriminately harms civilians and civilian property, and blatantly breaches the rules of International Humanitarian Law (IHL), qualifying as war crimes.”

- “A reaction to rocket attacks cannot justify the perpetration of grave breaches of IHL, i.e. war crimes and crimes against humanity.”

**Press release: “Israeli Massacres in Gaza Continue: 284 Killed; Including 32 Children, and 755 Injured; Gaza’s Service Systems Paralyzed under Severe Lack of Medicine, Food and Power,” December 29, 2008**

- “Many of the IOF’s conducts qualify as war crimes and/or crimes against humanity. The Israeli aggression also represents a multiple violation of human rights standards.”
- “It has been observed that the IOF target civilian premises directly and wantonly, while showing blatant disregard to civilian life and property. Israel’s attempts to prescribe its recent actions as self-defence against Hamas and rocket launchers is distorted and misleading.”

**Press release: “IOF’s Criminal Attacks on Gaza Continue for the Fourth Day - Bombardment Kills 306 Including 39 Children; Injure 901 Including 82 Children - Tens of Thousands Displaced as Humanitarian Crisis Worsens,” December 30, 2008**

- “[T]he IOF have perpetrated grave breaches of the International Humanitarian Law (IHL) amounting to war crimes and crimes against humanity in the course of its military actions in Gaza.”
- “Al Mezan condemns the attempts by the IOF to portray targeting civilian objects as legitimate military targets,”
- “The Israeli disproportionate, indiscriminate attacks on Gaza must stop without any delay.”

**Press release: “Israel Conducts New War Crimes in Gaza: Air Raid Targets Dense Block in Jabalia Killing Nizar Rayyan and 7 People - Number of Casualties in Gaza Rises to 337 People, Including 43 Children and 15 Women,” January 1, 2009**

- “[T]he IOF has perpetrated grave breaches of the International Humanitarian Law (IHL), amounting to war crimes and crimes against humanity, in the course of its military actions in Gaza... Most of the casualties are not combatants and were not involved in any hostilities when they were targeted by IOF. This behavior reflects a blatant disregard of civilian life and of the international law that is supposed to protect it.”

**Press release: "Israeli Attacks on Gaza Continue for the 7th Day ; Number of Victims of Air Raid on Rayyan House Rises to 16; 11 Children - Death Toll in Gaza Rises to 353 People, Including 59 Children and 14 Women," January 2, 2009**

- "Israel is showing despicable disregard to civilian life."

**Press release: "IOF Attacks Cause More Civilian Casualties in Gaza; Shells Homes and an UNRWA Shelter - Death Toll Rises to 585, Including 101 Children and 37 Women," January 6, 2009**

- "The Israeli Occupation Forces (IOF) has further escalated its attacks against the Gaza Strip; massacring civilians."

**Press Release: "IOF Continue Targeting Civilians and Houses in Gaza: Death Toll Rises to 771; Including 189 Children and 58 Women," January 9, 2009**

- "IOF's attacks have killed hundreds of civilians and wiped out entire families under unprecedented, disproportionate bombardment of civilians targets."
- "Al Mezan Center for Human Rights strongly condemns the continuous, criminal Israeli aggression against civilians in the Gaza Strip."

**Press Release: "IOF Operations in Gaza Continue; More Civilians Killed and Civilian Premises Destroyed," January 11, 2009**

- "The IOF also continue to act in violation of the rules of international law relevant to conflict and belligerent occupation, motivated by the failure of the international community to stand for the principles and rules itself had set."
- "With advanced technology for surveillance and sophisticated weapons used, the IOF bears the responsibility to distinguish between civilian and non-civilian targets. Facts on the ground show the opposite, guided missiles and bombs have been fired deliberately at civilian targets; including homes, civilian shelters and ambulances."

**Press Release: "Humanitarian Crisis Deepens as IOF Escalates Its Aggression: Thousands of Gazans Isolated under Scarcity of Food, Power, Healthcare and Water," January 13, 2009**

- "Based on its observations and monitoring, Al Mezan Center reasserts that the IOF has been regularly committing acts that well fit the definition of war crimes, in particular by deliberately targeting

civilians and civilian objects since the start of its Operation Cast lead in Gaza."

**Press Release: "IOF Escalates Its Attacks on Gaza; Death Toll Rises to 979; of whom 13.9% Fighters," January 14, 2009**

- "Al Mezan Center asserts that innumerable acts by the IOF represent scandalous war crimes, the worst of which being the indiscriminate attacks on house full of inhabitants, killing ambulance teams while attempting to reach them and leaving them to bleed or starve to death only meters from IOF troops."

**Press Release: "IOF Targets Civilians at Homes; Shells Fleeing Families on Streets in Gaza City - Restricting Ambulance Teams Continues," January 15, 2009**

- "Al Mezan Center's monitoring indicates that about 70% of IOF's attacks casualties of these attacks are from families who were hit inside their homes or as they left their homes to flee these areas. Most of the other victims were also civilians."

**Press Release: "IOF Targets a 3rd UNRWA Shelter and Continues its massacres in the Gaza Strip - The Int'l Community Must End Slaughtering Civilians Immediately," January 17, 2009**

- "The Center asserts that the IOF's acts represent scandalous war crimes that must be investigated and punished."

**Press Release: "IOF Unilaterally Ceases Fire; Redeploys inside Gaza - Dozens of Decomposed Bodies Found under Houses Rubble and Enormous Destruction in Neighborhoods," January 18, 2009**

- "It [Al Mezan] has also started to investigate dozens of cases where the likelihood of the perpetration of war crimes is evident."
- "Al Mezan Center highlights the necessity of ensuring that the IOF would not return to its disproportionate, indiscriminate military actions in the Gaza Strip. The Center has witnessed the manner in which the IOF carried out its operations, with flagrant disregard to applicable international law and to civilian life."

## CONCLUSION

The IDF declared a ceasefire in Gaza on January 18, 2009 and withdrew all its forces, but the NGO war against Israel continues. Amnesty International has intensified its output, publishing nine press releases, a letter to US Special Envoy George Mitchell lobbying for Israeli “accountability,” and numerous prejudicial blog entries. In Israel, a group of NGOs that includes ACRI, B’Tselem, PCATI, PHR-I, and Yesh Din has demanded that the Israeli Attorney General investigate “violations” regarding harm to civilians and treatment of detainees. In addition, NGO superpowers Human Rights Watch and Amnesty are compiling major reports, which – based on previous experience – can be expected to be lengthy and tendentious, with factual claims that are based on unverifiable “eyewitnesses.” Extending their offensive, a number of NGOs have also announced plans to initiate “lawfare” cases, and to promote anti-Israel agendas at the Durban Review Conference.

As in previous instances of lawfare, the Palestinian Center for Human Rights (PCHR), funded by European governments and the EU, is taking the lead, preparing suits in six countries against tens of Israeli officials. Many other NGOs support these initiatives, and the International Criminal Court (ICC) may also pursue this strategy, according to media reports.<sup>79</sup> These cases can be expected to focus on maximizing the political consequences of the conflict, under the guise of obtaining “justice” for alleged Palestinian victims. This will further contribute to the negative public perception of Israel, particularly in Europe, while the basic violations of human rights by the Hamas leadership – including extensive use of human shields – will be ignored in these legal proceedings.

The Gaza conflict will also feature in the UN’s Durban Review Conference, (DRC) scheduled for April 20-24, 2009 in Geneva. The Palestinian Boycott, Divestment and Sanctions Campaign National Committee (BNC) has identified this event as the successor to the NGO Forum at the 2001 Conference for promoting the coordinated

demonization of Israel as an “apartheid” and “colonizing” state. Badil, a Palestinian NGO that promotes the “Right of Return,” is reported to have introduced the “atrocities taking place in Gaza” at an Intersessional Working Group, seeking to include Palestinians on a draft “list of victims of racial discrimination.” The virulent NGO Forum in 2001 and NGO statements to the UN Human Rights Council during the Gaza conflict indicate that pro-Palestinian NGOs plan to use graphic images from Gaza taken out of context and false claims of “war crimes,” “crimes against humanity,” and “genocide,” in order to push the Durban Strategy forward.

Beyond the specific impacts, NGO campaigns related to Gaza have further eroded the moral foundation and universality of human rights. The readiness of major international groups such as Amnesty, Human Rights Watch, and Oxfam to launch instant condemnations of Israel resulted in false accusations, claims of “war crimes,” and other forms of demonization. Illustrating the “halo effect” in relations between NGOs and journalists, these allegations, as well as the unsubstantiated Palestinian casualty claims of PCHR and Al Mezan, were repeated in the media around the world, adding to anti-Israel incitement. As Human Rights First has reported, this corresponded with incidents of violent antisemitism.

Furthermore, the false or unverifiable claims and one-sided statements that disproportionately single out Israel – while at best paying lip service to the blatant violations perpetrated by Hamas – undermine any remaining claim to NGO objectivity. This bias increases distrust of humanitarian aid groups, as demonstrated when the BBC rejected the request from 13 organizations to air an appeal on behalf of Palestinian victims. Such distortions also inhibit legitimate debate on Israeli policy, both during the conflict and more generally. In the NGO Gaza campaigns, as in the case of the 2006 Lebanon War, the Jenin “massacre” myths in 2002, and numerous other examples, the political and ideological agendas erode what remains of the moral foundation and universality of human rights and international law.

<sup>79</sup>Catherine Philip and James Hider, “Prosecutor looks at ways to put Israeli officers on trial for Gaza ‘war crimes,’” *The Times*, February 2, 2009. Available at [http://www.timesonline.co.uk/tol/news/world/middle\\_east/article5636069.ece](http://www.timesonline.co.uk/tol/news/world/middle_east/article5636069.ece)



