

**Written Submission of NGO Monitor to the Human Rights Committee  
and its relevant Special Rapporteur on the occasion of the Country  
Report Task Force consideration of the Periodic Report of Israel.**

**June 2010**

Israel is a vibrant parliamentary democracy facing many complex challenges, such as balancing the rights of its population (including its Arab minority) with the need to protect against daily attacks on its civilians launched from Hamas-controlled Gaza, the West Bank, and Hezbollah-controlled Southern Lebanon. The civil society (NGO) network in Israel, the West Bank, and Gaza is thriving and often provides valuable humanitarian assistance, including health services, education, and other basic requirements under many difficult and complex conditions. Unfortunately, however, this network also often plays a counterproductive role in the Arab-Israeli conflict.

As NGO Monitor and others have documented systematically, established human rights NGOs often produce reports and launch campaigns that stand in sharp contradiction to their own mission statements claiming to uphold universal human rights values. They regularly obscure or remove the context of terrorism, provide incomplete statistics and images, and disseminate gross distortions of the humanitarian and human rights dimension of the Arab-Israeli conflict. This activity often stresses the rights of Palestinians at the expense of Israelis, and promotes the protection of some human rights such as the “right to work” at the expense of more fundamental rights such as the right to life or the right to self-defense. Moreover, violations of human rights and international humanitarian law committed by Palestinian actors or terror groups such as Hamas are ignored or minimized. As a result, NGO publications and campaigns provide an incomplete and often non-credible picture of the state of human rights in Israel.

Numerous NGOs have submitted lengthy reports to the Human Rights Committee (HRC) regarding the Committee’s July 2010 review of Israel. These organizations include [Conscience & Peace Tax International](#), [Women's Center for Legal Aid and Counselling](#), [COHRE](#), [Adalah - The Legal Center for Arab Minority Rights in Israel](#), [Al Mezan Center for Human Rights](#), and [Physicians for Human Rights](#) (joint submission), [Adalah](#) (separate submission), [FIDH](#), Defence for Children International–Palestine Section, [Badil Resource Center](#), [International Disability Alliance \(IDA\)](#), Negev Coexistence Forum for Civil Equality, and [Al-Haq](#). Although listed, several of the NGO submissions were unavailable for review from the HRC website.

The following examples highlight problematic NGO activity reflected in the submissions to the HRC:

## **Right to Self-Determination (Article 1)**

[Badil Resource Centre for Palestinian Residency and Refugee Rights](#) (Badil), criticizes Israel at length in its submission for violating the Palestinian right to self-determination. The organization, however, delegitimizes Jewish self-determination rights even though they are equally recognized in the ICCPR. Badil characterizes Israel a “regime of racial discrimination” and in particular, claims the Law of Return is “discriminatory.”

All citizens in Israel enjoy equal rights and there are no racial and ethnic restrictions on the ability to acquire Israeli citizenship. Israel’s Law of Return grants a special track to Jews seeking to acquire citizenship; in providing this preference, Israel does not differ from countries such as Germany and Ireland. Notwithstanding this special track, Israeli law does not distinguish between citizens on the basis of the origin of their citizenship. “Returning” citizens enjoy no preferences over any other citizens. Nothing in the law of citizenship discriminates against Israeli citizens of Palestinian Arab origin. Moreover, the Law of Return was enacted to provide a safe haven for Jews, who for centuries have suffered persecution around the world. Jews, no less than other national groups, enjoy the right of self-determination recognized in the UN Charter, the ICCPR, and other treaties. Indeed, Jewish self-determination was specifically recognized and legally grounded in the 1922 Palestine Articles of Mandate issued by the League of Nations. Thus, as noted by legal scholar, [Robbie Sabel](#), “Zionism is perhaps the only national movement that has received explicit support and endorsement both from the League of Nations and from the United Nations.”

Additionally, the ICERD legally mandates the establishment of “special measures” for the “advancement of certain racial or ethnic groups” for protecting the “equal enjoyment or exercise of human rights and fundamental freedoms.” As noted by the UN Committee for the ICERD, this provision is intended to remedy “inequalities resulting from the circumstances of history that continue to deny to vulnerable groups and individuals the advantages essential for the full development of the human personality” and to “prevent[] further imbalances from arising.” The Law of Return is such a measure.

Badil further accuses of Israel of “Judaization.” Such terminology is utilized to erase the Jewish historical connection to the region, as well as to suggest that the very presence of Jews is alien and unacceptable. This term is therefore, an expression of anti-Jewish racism. It is immoral for human rights organizations to use phrases supporting ethnically-based exclusion.

## **Right to Life (Article 6)**

Article six of the [ICCPR](#) states that “[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.”

In support of its claim that Israel violates Article 6, [Defence for Children International-Palestine Section](#) (DCI-PS) lists the names of children killed in four military clashes between Israel and Palestinian groups in Gaza. DCI-PS provides no evidence, however, that these deaths constituted a violation of the ICCPR. There is no indication as to how many of these “children” (defined as anyone under the age of 18) were active combatants for Palestinian militant groups or engaged in activity against Israeli forces, including rocket attacks on Israeli civilians. DCI-PS’s submission does not indicate whether any of these children were voluntarily serving as human shields for Hamas, or had been intentionally put in harms way by militants operating within civilian areas.

DCI-PS omits the context of these military operations, including thousands of rocket and mortar attacks directed at Israeli civilians and arms smuggling by Palestinian terror groups aimed at furthering such attacks. DCI-PS also ignores the financing of this activity by Iran and Syria.

[Al-Haq](#)’s submission similarly describes the “arbitrary deprivation of life by Israeli military forces” as evidence of violations of Article 6. It claims that since 2003, “1782 Palestinians not involved in armed clashes have been killed by Israeli military forces in the Gaza strip.” However, Al Haq provides no evidence for these assertions aside from a citation to Palestinian NGO Al-Mezan. Al Mezan’s reports and statistics have been found by independent researchers to grossly overstate the number of Palestinian civilian casualties as well as to include inflammatory rhetoric and factual and legal distortions.

These organizations have dedicated extremely little, if any, attention to repeated and systematic deliberate attacks on Israeli civilians by Palestinian armed groups including Hamas, Islamic Jihad, Al Aksa Martyrs Brigades, the PFLP, and others, in violation of Article 6. For example, although DCI-PS claims to promote “justice, equality and respect for human dignity” and the ability for children to “enjoy and exercise their human rights without any kind of discrimination,” the organization failed to issue any condemnation of a March 6, 2008 Palestinian terror attack on a Jerusalem school, where 8 children were murdered while studying in the library.

### **Freedom from torture and cruel, unusual and degrading punishment (Article 7)**

The Center on Housing Rights and Evictions ([COHRE](#)) accuses Israel in its submission of violating numerous ICCPR rights, including Article 7 (freedom from torture and cruel, unusual and degrading punishment) and Article 17 (arbitrary or unlawful interference with privacy, family, home or correspondence, or unlawful attacks on honor and reputation.) and claiming that violations of “the right to water and sanitation” and “right to adequate housing” are defined acts of “torture” under international law.

COHRE's submission invents and distorts international law beyond recognition. These accusations represent a manipulation of the UN treaty body system to insert gratuitous and false accusations regarding Israeli policies into the official UN record. The organization repeats claims of "collective punishment" citing statistics published by unreliable political NGOs such as B'Tselem and ICAHD. COHRE quotes a false allegation of Amnesty International that "only Palestinians are systematically denied building permits and risk home demolition for any construction to their existing houses." Such claims are contradicted by information available from [the Jerusalem municipality](#). In addition, a study released by the Israeli newspaper [Ma'ariv](#) notes that house demolitions for Israeli settlers is actually higher than the number of demolitions carried out on Palestinian homes.

### **Rights of the detained (Article 9, 14)**

A joint submission by [Adalah - The Legal Center for Arab Minority Rights in Israel](#), [Al Mezan Center for Human Rights](#), and [Physicians for Human Rights-Israel](#) accuses Israel of "extra-judicial executions". These NGOs include in this category, members of the Hamas police forces killed during the Gaza War as well as Nizar Rayan, a senior Hamas military commander.

On December 27, 2008, the IDF attacked the Gaza City police headquarters and five police stations. Prior to the war, it was [documented](#) that "members of the police force and the other security services were supposed to be widely integrated into Izz al-Din al-Qassam Brigades forces at the expense of their internal security tasks." Hamas police spokesman, Islam Shahwan, admitted that "police forces had been clearly instructed by the leadership to fight against IDF forces."

Several studies compiled after the war confirmed that [more than 75%](#) of those killed in these strikes were indeed [active fighters](#) in Hamas' [al-Qassam brigades](#), making them combatants and legal targets under the laws of war.

Rayan was involved in the planning of many deadly suicide attacks on Israel and was an architect of the Hamas take-over of Gaza in 2007. He sent his own son out on a [suicide bombing mission](#) in 2001 that killed two and wounded many. Journalist [Jeffrey Goldberg](#) called Rayan, "one of the more bellicose Hamas leaders I have known". Rayan told him in a 2007 interview that the "only reason to have a hudna is to prepare yourself for the final battle . . . Israel is an impossibility. It is an offense against God." Rayan's home was part of a complex that served as a [weapons storage site](#) and command center for Hamas. Prior to the attack, the IDF issued several alerts that the buildings would be targeted including specific telephone calls and warning shots "13 minutes and 9 minutes before the strike." Other residents heeded the warnings, but Rayan and his family decided to stay. After the strike, [secondary explosions](#) were observed, confirming the presence of a weapons cache in Rayan's home. It is not known whether the initial

IDF attack or the secondary explosions caused the resulting casualties. These facts completely refute the claims of Adalah, Al Mezan, and PHR-I.

### **Freedom of Movement (Article 12)**

Article 12 of the ICCPR states that every person has “the right to liberty of movement and freedom to choose his residence.” Adalah, Al Mezan, and PHR-I claim Israel is violating Article 12 because “Gaza is now entering the third year of closure; around 1.5 million people are being held indefinitely in what is in effect a prison.”

These organizations ignore subsection 3 of Article 12 which limits the right to movement for purposes “necessary to protect national security, public order, public health or morals or the rights and freedoms of others.” Moreover, under international law, countries have an absolute right to control their borders and to set conditions for entry. And such conditions can be made based on the nationality of those who seek to enter. There is no right for Gazans under international law to be granted access to Israel. In addition, these NGO accusations ignore the many terror attacks that have taken place at [Israeli border crossings](#), including an April 9, 2008, attack on the Nahal Oz fuel depot and a May 22, 2008 truck bomb attack at the Erez crossing.

### **Right to Freedom of Expression and to Hold Opinions (Article 19)**

In its submission, Al Haq claims that Israel issues “travel bans on political activists, professors, and human rights defenders prevent[ing] them from attending conferences, lectures and meetings” and that such bans constitute a violation on freedom of expression.

It raises the case of its Executive Director, Shawan [Jabarin](#), to allege that Israel is “using the pretext of security” to “effectively suppress[] critical voices from disseminating information about Israeli practices in the OPT.” Al Haq appears to miss the blatant irony in its claims. It is unclear how Israel has “effectively suppressed” Jabarin from “disseminating information about Israeli practices in the OPT” given that his 73-page statement, purporting to do exactly that, is posted on the UN website. In addition, Al Haq regularly updates its website and issues publications that are freely available in Israel and those other countries that respect the rights of ICCPR Articles 18 and 19. Al Haq staffers routinely travel around the world to appear at conferences and to engage in anti-Israel advocacy, including filing a lawsuit in September 2009 for the arrest of Israeli Defense Minister, Ehud Barak, in the UK. Jabarin, himself, was able to appear via video conference before the Goldstone mission in July 2009 to advance his political agenda and charges against Israel.

Notably, Al Haq obscures in its submission that Jabarin has been [linked to the Popular Front for the Liberation of Palestine terror organization](#). In 1985, Jabarin was [convicted](#)

for recruiting members on behalf of the PFLP. Jabarin was also found guilty of arranging PFLP training outside Israel, and was sentenced by Israeli courts to twenty-four months imprisonment, of which he served nine. In 1994, he again was arrested for continued involvement with the PFLP. For similar reasons, Jordan denied Jabarin entry in 2003.

At his hearings regarding the travel restrictions, the [Israeli Supreme Court](#) has noted Jabarin “is among the senior activists of the terrorist organisation, The Popular Front for the Liberation of Palestine”. It also stated

“[Jabarin] is apparently active as a Dr. Jekyll and Mr. Hyde, in part of his hours of activity he is the director of a human rights organisation, and in another part he is an activist in a terrorist organisation which does not shy away from acts of murder and attempted murder, which have nothing to do with rights, and, on the contrary, deny the most basic right of all, the most fundamental of fundamental rights, without which there are no other rights – the right to life.”

The Court’s 2009 decision found that “material pointing to [Jabarin’s] involvement in the activity of terrorist entities is concrete and reliable.”

Jabarin’s organization Al Haq repeatedly calls terrorist attacks on Israeli civilians to be “resistance”. Jabarin [himself complained](#) that after 9/11, “the United States succeeded in establishing linkages between legitimate resistance against occupation and terrorism.” Al Haq’s former General Director, [Randa Siniora](#) also stated,

Although resistance against occupation and its arbitrary practices is legitimate under international law, and these acts are considered a part of the Palestinian people’s resistance and struggle against occupation in order to achieve their right to liberation and independence, the occupation forces call it ‘terrorism’ or ‘destructive acts.’

### **Right to Self-Defense**

Many of the NGOs involved in submitting reports to the HRC disregard Israel’s unequivocal international legal right to self-defense when condemning Israeli anti-terror operations. Human Rights Watch ([HRW](#)), Amnesty International (Amnesty), and FIDH are three such NGOs that ignore this cornerstone of the UN human rights framework. For example, HRW [failed to condemn](#) Hezbollah’s July 2006 cross-border attack killing eight Israeli soldiers and kidnapping two as an act of aggression even though the attack on Israel was illegal under any interpretation of international law, and there is both a



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moral and legal basis for distinguishing between aggressor and defender under the laws of war. Instead, HRW focused the [majority of its criticisms](#) on Israel's legitimate efforts to protect its civilians. Similarly, rather than acknowledging Israel's right to self defense, Amnesty [labels](#) Israel's attempts to stop daily rocket attacks on its civilian population launched from Gaza as "collective punishment" or "war crimes."

Moral and ethical principles highlight the Committee's final report be credible, accurate and impartial. Reliance on NGOs engaged in tendentious political advocacy documented herein is entirely inconsistent with this requirement. The obsessive condemnations of Israeli responses to daily attacks on its civilians, as well as disproportionate criticism of attempts to balance rights in the context of asymmetrical warfare, and blatant double standards, further highlight this issue.

Similarly, a [recent study](#) conducted by the Conflict Analysis Resource Center on Colombia reveals that the lack of reliability of NGO reporting is not limited to the Israeli-Arab conflict. On this basis, we urge the Human Rights Committee to carefully examine the credibility and biases in these reports in order to prevent the further weakening of universal human rights through the activities of politicized NGOs. We hope that this information will assist the HRC in its review process.

Respectfully Submitted,

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