

June 8, 2015

ACTION *vs. Zermouhi*

His Excellency Ban Ki-Moon  
Secretary-General of the United Nations  
United Nations Secretariat  
New York, N.Y. 10017

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**JUN -8 2015**

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**EOSG/CENTRAL**

**Re: 2015 Report on Children and Armed Conflict**

Dear Mr. Secretary-General,

*15-03515*

We are writing to express our concern regarding an outrageous campaign by Human Rights Watch (HRW) to influence your preparation of the Report on Children and Armed Conflict. In a submission to your office, as well as in letters and other publications, HRW is advocating for the inclusion of Israel in the annex of the Report, on a list that entirely comprises terrorist organizations, armed guerrilla groups, and militias associated with failed states.

Under the standards proffered by HRW regarding Israel, every Western country should also be listed in the Report's annex, all the more so countries like Russia and Ukraine (to name two). However, this is not the case. In line with its ongoing attempts to criminalize Israeli actions and demonize its self-defense measures, HRW has chosen to single out Israel for censure.

Notably, HRW's June 5, 2015 letter to you omitted several grave breaches by Hamas, including the kidnapping and murder of three Israeli teens in June 2014, and its "graduation" of more than 10,000 children from armed camps training to be soldiers for the Islamic terror organization. It similarly ignored the dozens of children killed by misfired Hamas rockets within Gaza, including 11 killed at the Al-Shati refugee camp on July 28. In contrast, in every instance where HRW accuses Israel of killing children, the NGO did not have any access to information regarding targeting, military necessity, or proportionality calculations in order to substantiate its allegations of unlawful killing.

HRW's double standards and disproportionate focus on Israel is the result of several endemic problems with the organization. For more than a decade, NGO Monitor has conducted systematic research studies regarding the reporting practices of HRW. Our research shows the following:

1. HRW does not adhere to a consistent or rigorous research methodology in its publications.
2. HRW frequently misreports the facts in armed conflict situations and applies false or inconsistent legal definitions.
3. HRW possesses limited military knowledge and/or expertise, contributing greatly to the factual and legal errors in its reporting.

The Amuta for NGO Responsibility R.A. (א"ת) # 580465508

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4. HRW's staffing, particularly as it relates to Israel, involves intense bias, personal animus, and even antisemitism.
5. HRW has campaigned on behalf of several highly abusive regimes.

As a result of these severe problems, HRW cannot be viewed as a credible source of information and should not be relied upon without undertaking independent verification of its claims.

We have attached to this correspondence examples of the aforementioned fundamental failures within HRW. These problems led HRW's own founder, Robert Bernstein, to denounce his organization in the pages of the *New York Times*, stating, "Human Rights Watch has lost critical perspective" on Israel instead seeking to turn it into a "pariah state."

In summation, the Secretary General should not give weight to HRW statements regarding its report on Children in Armed Conflict without independently verifying the organizations' claims.

Respectfully Submitted,

Anne Herzberg  
Legal Advisor  
NGO Monitor

NGO Monitor ([www.ngo-monitor.org](http://www.ngo-monitor.org)) is a Jerusalem-based research institution that tracks the activities, campaigns, and funding of NGOs operating in the Arab-Israeli conflict. For more than a decade (following the NGO Forum of the 2001 UN World Conference Against Racism in Durban, South Africa), NGO Monitor has published numerous detailed and systematic research studies on the issues of NGO transparency, accountability, international law, human rights, humanitarian aid, and the laws of armed conflict. These works include "Filling in the Blanks: Documenting Missing Dimensions in UN and NGO 'Investigations' of the Gaza Conflict" (2015); Best Practices for Human Rights and Humanitarian NGO Fact-Finding (Nijhoff 2012), "IHL 2.0: Is there a Role for Social Media in Monitoring and Enforcement" (Israel Law Review 2012), and The Goldstone Report "Reconsidered": A Critical Analysis (2011).

Members of NGO Monitor's Advisory Board include Nobel Peace Prize Laureate Elie Wiesel; Harvard Professor Alan Dershowitz; Colonel Richard Kemp, former commander of British forces in Iraq and Afghanistan; Hon. Alexander Downer AC, former Foreign Minister of Australia, UN Special Advisor to the Secretary General on Cyprus, and currently Australian High Commissioner to the UK; Hon. Michael Danby MP, senior member of the Australian Labor Party; R. James Woolsey, former US Director of Central Intelligence; former Member of Italian Parliament, Fiamma

Nirenstein; US Jurist and former Legal Advisor to the State Department, Abraham Sofaer; UCLA Professor and President of the Daniel Pearl Foundation, Judea Pearl; Harvard Professor Ruth Wisse, former US government official, Elliot Abrams; Einat Wilf, former member of Knesset with the Israel Labor Party and advisor to Shimon Peres; Douglas Murray, Director of the Centre for Social Cohesion, best-selling author and commentator; and British journalist and international affairs commentator, Tom Gross.



## Appendix: Examples

### 1. HRW does not adhere to a consistent or rigorous research methodology in its publications

HRW has refused to adopt generally accepted procedures for fact-finding, such as the Lund-London Guidelines issued by the International Bar Association. Its missions often lack terms of reference, a clear agenda, selection procedures for team members, detailed descriptions of on-site methodology, distinction between direct evidence and inferences from indirect evidence, and almost exclusive reliance on claims of parties with conflicts of interest and non-independent interviews with "witnesses" based in areas fully-controlled by armed groups. Professor Robert Charles Blitt notes that "no prerequisite or certification is required for pursuing classic [human rights organization] activities, and none is in place to distinguish or legitimize [human rights organizations] from any other third party." This absence of standards "necessarily detracts" from the "ability to authoritatively ascertain truth or falsity [in NGO publications] with any degree of legitimacy, and moreover, from the industry as a whole."<sup>1</sup> In other words, there is no clear distinction between the reliability of a report from NGOs like HRW and that from any individual reporting from the ground.

### 2. HRW frequently misreports the facts in armed conflict situations and applies false or inconsistent legal definitions.

During the 2006 war between Israel and Hezbollah, HRW's publications were almost entirely derived from interviews with Lebanese located in areas controlled by Hezbollah. In one incident, HRW issued a press release a few hours after a strike in the Lebanese town of Qana, accusing Israel of killing at least 54 civilians in Qana in "an indiscriminate bombing campaign." HRW based the casualty number solely on the testimony of a Lebanese resident whose affiliations with Hezbollah were unknown, and ignored an official statement issued that same day by the Lebanese Red Cross reporting 28 casualties.<sup>1</sup> Ultimately, HRW admitted that only 28 people had died, but the original incorrect claim remains on its website.<sup>2</sup>

A study conducted by Professors Gerald Steinberg and Abraham Bell of Bar Ilan University on HRW's reporting in Lebanon, found that in "nearly every case, [HRW's] initial estimation of Lebanese casualties was exaggerated," and "the lack of reliable

<sup>1</sup> Robert Charles Blitt, "Who will watch the watchdogs? Human rights, Nongovernmental Organizations and the case for regulation," *Buffalo Human Rights Law Review*, 10 (2004), pp.335-39

<sup>2</sup> Murphy, Kim, *Officials Say 28 Died in Qana, Not 54*, L.A. TIMES, 4 August 2006, available at <http://articles.latimes.com/2006/aug/04/world/fg-qana4>

sources of information [was] prominent." The study concludes that "[HRW's] reports were closer to unverified claims than researched conclusions."<sup>3</sup>

William Arkin, an independent researcher and former senior military analyst for HRW, conducted an independent analysis of the Lebanon War while serving as the military advisor to a UN fact-finding mission, entitled "Divining Victory: Airpower in the 2006 Israel-Hezbollah War" (2007). The study contradicted many of HRW's claims, noting:

Based upon on-the-ground inspections, discussions with Israeli and Lebanese officials, imagery analysis, and a close reading of government and international organization materials, a good majority of the reports of damage in Lebanon are incorrect or downright fraudulent.

There is no evidence that Israel intentionally attacked any proscribed medical facilities, no real proof that it "targeted" ambulances (and certainly not because they were ambulances engaged in protected activity), no evidence that it targeted mosques or other religious structures, and there were no intentional attacks on schools. The Qreitem "Old Lighthouse" in Beirut was attacked because it housed radar and observation posts used to target Israeli ships. Grain silos were hit incidental to attacking a naval base exclusively used by Hezbollah. Even in cases where Israel did attack or damage many objects, the Lebanese government, news media, and many nongovernmental organizations (NGO) consistently described things as having been "destroyed" when they were not destroyed or only peripherally damaged.<sup>4</sup>

Similar conclusions were reached by Andres Ballesteros, Jorge Restrepo, Michael Spagat and Juan Vargas of the University of London and the Conflict Analysis Resource Center (CERAC), a Bogota-based conflict think tank. In their 2007 study, "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia,"<sup>5</sup> they found that HRW followed a "non-systematic approach that includes opaque sourcing and frequent changes in the objects they measure." Moreover, their research showed "a failure to specify sources, unclear definitions, an erratic reporting template and a distorted portrayal of conflict dynamics" among the methodological

<sup>3</sup> Bell, Abraham and Gerald M. Steinberg, *Methodologies for NGO Human Rights Fact-Finding in Modern Warfare: The 2006 Lebanon War as a Case Study*, Report to the Israel Science Foundation, October 2011.

<sup>4</sup> William M. Arkin, "Divining Victory - Airpower in the 2006 Israel-Hezbollah War," Air University Press (August 2007), available at [http://www.4shared.com/document/NRfziHeq/Divining\\_Victory\\_-\\_Airpower\\_in.html](http://www.4shared.com/document/NRfziHeq/Divining_Victory_-_Airpower_in.html). P.xviii

<sup>5</sup> "The Work of Amnesty International and Human Rights Watch: Evidence from Colombia," CERAC, [http://www.ngo-monitor.org/data/images/File/evidencefromcolumbia\\_feb2007.pdf](http://www.ngo-monitor.org/data/images/File/evidencefromcolumbia_feb2007.pdf).



problems with HRW's publications. Furthermore, the report accuses HRW of "bias against the government relative to the guerrillas."

HRW reporting has also been at issue at the International Criminal Court. In the case of *Prosecutor v. Callixte Mbarushimana*, the defense objected to the admission of materials by HRW. Ruling that these reports were of limited probative value, the court remarked:

78. The evidentiary weight to be attached to the information contained in documents emanating from Human Rights Watch will be assessed on a case-by-case basis. As a general principle, the Chamber finds that information based on anonymous hearsay must be given a low probative value in view of the inherent difficulties in ascertaining the truthfulness and authenticity of such information.

Thus, the Court held that the HRW materials could only be used for the purpose of corroborating other evidence already accepted into evidence. Nevertheless, the Court dismissed the charges against Mr. Mbarushimana for insufficient evidence.

### **3. HRW possesses limited military knowledge and/or expertise, contributing greatly to the factual and legal errors in its reporting**

HRW has "little expertise about modern asymmetrical war."<sup>6</sup> Instead of credible evidence and military assessments that reflect knowledge and experience, HRW publications emphasize technical and legal claims that are unfounded or irrelevant, but present the façade of expertise. These include references to satellite imaging, precise GPS coordinates, and weapons specifications. Unlike HRW's emphasis on anecdotal suffering derived from brief on-site surveys and interviews, other investigators have noted that "images of bomb damage and enumerations of a relentless effort could also end up conveying exactly the opposite of the actual meaning." In fact, "divining Israeli and Hezbollah intent through examining destruction on the ground" for instance, "can, if one is not careful, convey a much distorted picture."<sup>7</sup> HRW's lack of military expertise has led to fundamental errors in its reporting.

For example, in a June 30, 2009 publication, HRW accused the IDF of using drones to launch precise weapons during December 2008-January 2009 Gaza conflict, leading to civilian deaths in the absence of military necessity. "The analysis is based on 6 case studies involving an alleged 29 civilian deaths." HRW claimed that these deaths should

<sup>6</sup> Bernstein's November 10, 2010, speech at University of Nebraska at Omaha see <http://www.unwatch.org/site/apps/nlnet/content2.aspx?c=bdKKISNqEmG&b=1317489&ct=8884881>.

<sup>7</sup> William M. Arkin, "Divining Victory - Airpower in the 2006 Israel-Hezbollah War," Air University Press (August 2007), available at [http://www.4shared.com/document/NRfziHeq/Divining\\_Victory\\_-\\_Airpower\\_in.html](http://www.4shared.com/document/NRfziHeq/Divining_Victory_-_Airpower_in.html). P.xviii

have been avoided, and that IDF drone operators failed to act accordingly. Using the term “incredibly precise,” HRW claimed: “With these visual capabilities, drone operators should have been able to tell the difference between fighters and others directly participating in hostilities, who are legitimate targets, and civilians, who are immune from attack, and to hold fire if that determination could not be made.”

Commenting on the publication, Robert Hewson, editor of *Jane's Air-Launched Weapons*, stated, “Human Rights Watch makes a lot of claims and assumptions about weapons and drones, all of which is still fairly speculative, because we have so little evidence.”<sup>8</sup> Similarly, retired British army colonel Richard Kemp, a veteran of Iraq and Commander of British forces in Afghanistan, in responding to HRW claims that a launch platform could be determined solely by sound, “questioned whether such distinctions could be made, not least as the Spike’s range is 8 km (5 miles) – enough to put helicopters or naval boats out of earshot. In a battlefield, in an urban environment, with all the other noises, it’s certainly more than likely you would not hear something five miles away.”<sup>9</sup>

**4. HRW’s staffing, particularly as it relates to Israel, involves intense bias, personal animus, and even antisemitism.**

HRW’s reporting not only lacks transparency and gross factual and legal errors, but its staffing, particularly as it relates to Israel involves a lack of objectivity and intense bias. There is extensive secrecy regarding the individuals conducting HRW’s “investigations,” but another serious problem relates to the background and activities of NGO staffers that raise considerable questions as to their impartiality and ability to credibly and objectively report on the Arab-Israeli conflict

For over a decade, NGO Monitor has documented and analyzed the highly obsessive targeting of Israel by HRW’s Executive Director Ken Roth, in order to promote his personal and ideological objectives. These comments have also included the expression of extreme hostility towards Judaism and Jews, such as during the 2006 Hezbollah war when Roth penned an op-ed that exclusively singled out Judaism for rebuke, referring to it as “primitive.” The 2014 Gaza conflict was no exception, and if anything, Roth’s activities, particularly on Twitter, reflected even greater personal animus and provided more evidence that Roth is incapable of impartially and objectively evaluating Israel’s policies and activities. NGO Monitor catalogued more than 400 Ken Roth tweets about Israel between July 5 and September 2, 2014.

<sup>8</sup> Dan Williams, “Human Rights Watch accuses Israel over Gaza drones,” Reuters, June 30, 2009, <http://www.reuters.com/article/worldNews/>

<sup>9</sup> *Id.*



Although Roth's feed is intended to broadly address global issues, on average, the number of tweets on Israel constituted a quarter of his feed. During some periods, this number approached 50-60 percent. Roth's tweets included significant levels of sarcasm, vitriol, and deep-seated hostility. The content consisted almost entirely of condemnations and attacks against Israel. Many involved retweeting of antagonistic articles and false or unverified claims, based on rumors, from fringe sources. Common themes included labeling Israel's actions in Gaza as "war crimes," "indiscriminate," "unlawful," and "collective punishment"; denying Hamas human shielding and other fundamental violations; sarcastic comments solely towards the Israeli leadership; promotion of Hamas propaganda while attacking Israeli PR efforts; silence on the rise in global antisemitism and denigration of those speaking out against it; and obsessive attacks on critics as "Israel partisans" and part of the "Hasbarah crowd." No similar sarcasm or animosity was expressed towards pro-Palestinian activists.

In August 2014, Ken Roth, Executive Director of Human Rights Watch retweeted on his Twitter feed a highly propagandistic advertisement published in The New York Times and The Guardian equating "Nazi genocide" with "the massacre of Palestinians in Gaza." (Professor Deborah Lipstadt refers to this as soft-core denigration of the Holocaust.) This advertisement was placed in the names of 327 "Jewish survivors and descendants of survivors and victims of Nazi genocide" who "unequivocally condemn the massacre of Palestinians in Gaza." In the text, Israel is condemned for "colonialism, racism, and genocide," and unnamed "right-wing Israelis" are compared to Nazis; it ends with support for BDS in the form of a "cultural, and academic boycott of Israel." (The ad was sponsored by the International Jewish Anti-Zionist Network.)

The ad was posted, under the tagline "'Never again' must mean NEVER AGAIN FOR ANYONE!," by HRW European Media Director Andrew Stroehlein, and was also tweeted by HRW EU Director Lotte Leicht and retweeted by Roth. In another instance, in September 2014, Roth issued a statement blamed attacks on Jews in Germany and the rise of antisemitism in Europe on Israel's conduct during the Gaza War. Journalist Jeffrey Goldberg rebuked Roth for his comment:

It is a universal and immutable rule that the targets of prejudice are not the cause of prejudice. Just as Jews (or Jewish organizations, or the Jewish state) do not cause antisemitism to flare, or intensify, or even to exist, neither do black people cause racism, nor gay people homophobia, nor Muslims Islamophobia. Like all prejudices, anti-Semitism is not a rational response to observable events; it is a manifestation of irrational hatred. Its proponents justify their antisemitism by pointing to the (putatively offensive or repulsive) behavior of their targets, but this does not mean that major figures in the world of human-rights advocacy should accept



HRW's Director of its Middle East and North Africa Division, Sarah Leah Whitson, has also exhibited similar animus and bias. Whitson's Twitter account includes comments such as:

- #Netanyahu vengeance in action: RT @guardian Israel destroys #Gaza buildings, Palestine teen +shot dead
- When is magic nondemocratic line crossed? Already there @bennunanat: Peres at Rabin Square: Israel cannot remain democratic without peace;
- not first time or first war either: #Israel deliberately attacking medical workers in #Gaza, Amnesty says <http://electronicintifada.net/blogs/charlotte-silver/israel-deliberately-attacking-medical-workers-gaza-amnesty-says> ...

Like Roth, Whitson frequently relied upon fringe sources that frequently traffic in bizarre anti-Israel and antisemitic conspiracy theories. She has called Israel "medieval," has expressed extreme antagonism towards the US Jewish community, and praised demagogues like Norman Finkelstein (author of a book trafficking in antisemitic stereotypes entitled "The Holocaust Industry"), remarking, "I continue to have tremendous respect and admiration for him, because as you probably know, making Israeli abuses the focus of one's life work is a thankless but courageous task that may well end up leaving all of us quite bitter." In 2009, Whitson invoked an antisemitic canard while fundraising in Saudi Arabia, citing the need to counter pro-Israel "pressure groups." In February 2015, Whitson appeared to equate the 2014 Gaza War to Nazi Genocide:

Sarah Leah Whitson @sarahleah1 @BBCKimGhattas @DRovera  
@HolocaustMuseum @BBCNewsUS should also show pics of death and  
destruction in #Gaza 12:40 PM - 5 Feb 2015

Prominent journalists and commentators widely criticized Whitson for her actions. Robert Satloff, Executive Director of the prominent Washington Institute also commented, "Sorry - @HolocaustMuseum shd be reserved for genocide. To include Gaza is insult to real genocide victims." Roth's and Whitson's bias against Israel and their wider moral failures are consistent with other expressions of extreme hostility, as demonstrated in numerous examples over the past several years, including:

- HRW's "senior military expert" and author of many reports on Israel was exposed as obsessed with Nazi memorabilia. Despite this shocking revelation and his leaving the organization, HRW continues to post his reports on their website. It is unknown if the NGO ever did a review to determine the extent to which his Nazi obsession tainted his reports on Israel.

- Ken Roth's denial that Iran's President Ahmedinajad engaged in incitement to genocide, claiming that he was merely engaging in "advocacy" for genocide instead;
- HRW's "Emergencies Director" was exposed making prejudicial statements about Israel on a secret Facebook group, including commenting on a report as "typical IDF lies."

**5. HRW has campaigned on behalf of several highly abusive regimes.**

In addition to extreme bias against Israel, HRW has campaigned on behalf of highly abusive regimes, further calling its credibility into question. In addition to HRW's fundraising effort with Saudi elites (described above), Ken Roth appeared to endorse Saudi gender segregation on Twitter:

"Of new #Saudi reforms for women—municipal voting, Olympics – a greater work role, **even if segregated**, will matter most." (emphasis added)

In 2009, Sarah Leah Whitson, Director of the Middle East and North Africa Division, visited Libya, claiming to have discovered a "Tripoli spring." She praised Muammar Qaddafi's son Seif Islam as a leading reformer and for creating an "expanded space for discussion and debate."

In 2011, HRW appointed a suspected senior activist in the PFLP terrorist organization to its Mid-East advisory board.