

SUBMISSION TO THE EUROPEAN EXTERNAL ACTION SERVICE COUNTRY REPORT ON ISRAEL

2014 ENP PROGRESS REPORT



December 2014

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NGO Monitor

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NGO MONITOR

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.

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INTRODUCTION

This submission, presented by NGO Monitor¹ in advance of the European External Action Service Country Report on Israel – 2014 ENP Progress Report, focuses on the EU's reliance on claims by highly political Israeli, Palestinian, and international NGOs. Previous Progress Reports on Israel have included numerous allegations and conclusions – without question or independent verification – that originated with these NGOs.

The unreserved reliance on NGO statements contributes to the misconstrued picture of Israel that emerges in the Reports and reflects the EU's dysfunctional policy-making process towards Israel, which is characterized by major flaws in its assessment and understanding of Israeli society.

NGO Monitor strongly recommends that, in seeking to attain an accurate picture on human rights in Israel in 2014, the EU subject NGO statements to careful scrutiny and independent verification, and consult a wider range of civil society organizations. Given the numerous instances in which NGO statements on human rights have been shown to be inaccurate or misleading, caution must be exercised in repeating NGO claims in the 2014 ENP Progress Report. Moreover, NGO Monitor urges the EU to discontinue its practice of simultaneously funding and consulting with political NGOs that exert undue influence on EU policy.

As detailed in Part 1 of this submission, previous years' ENP Reports reflect:

1. EU reliance on claims of political advocacy NGOs: By simultaneously receiving funding and serving as consultants for the EU, NGOs exert a pronounced influence on EU policies. The ENP Reports for Israel rely heavily on NGOs statements, without verifying claims, checking sources, or consulting with other parties.
2. Disproportionate focus on the Arab minority, to the exclusion of other ethnic and religious groups: Reports neglect the challenges and complexities of Israel's broad diversity, and misrepresent the economic, social, and cultural situation in Israeli minority communities. Reports focus mainly on Israel's non-Jewish Arabs, to the exclusion of other ethnic and religious minorities.
3. Disproportionate focus on the Arab-Israeli conflict: NGO submissions and statements encourage the EU to focus disproportionately on Israel's relations with the Palestinians, distracting from the assessment of Israel's bilateral relations with the EU.
4. Different standards applied to Israel: Reports show a remarkable inconsistency in terms of human rights norms construal and application with respect to other countries.

¹ NGO Monitor (www.ngo-monitor.org) is a Jerusalem-based research group that aims to promote critical debate and accountability of non-governmental organizations (NGOs) that claim to uphold human rights and humanitarian assistance in the Arab-Israeli conflict zone. We track the statements and activities of NGOs that exploit the language of universal human rights in order to promote politically and ideologically motivated demonization of Israel.

The Reports reflect a double standard applied only to Israel and to no other country in the European neighborhood's Mediterranean Partnership.

Part 2 of this submission summarizes key issues regarding recent events and developments, in anticipation of their inclusion in the 2014 ENP Report.

PART 1: ISSUES FROM THE 2013 AND PREVIOUS ENP REPORTS

EU RELIANCE ON CLAIMS OF POLITICAL ADVOCACY NGOS

ENP Progress Reports on Israel rely extensively on unsubstantiated NGO claims and frequently echo, paraphrase, or cite NGO statements and publications. In the 2013 Report, NGO influence is reflected in the discussions of Arab minorities (see below, Part 1B for more details), Negev Bedouins (see below, Part 2, for more details), Israel's anti-infiltration laws, proposed legislation on NGOs, administrative detention (see below), and the alleged torture and other ill-treatment of Palestinians during arrests and interrogations (see below). The Report also acknowledges close relationships with NGOs through "regular consultations on cooperation and policy issues."

For example, the 2012 and 2013 Reports criticize Israel's use of administrative detention and allege abuses by Israel's security forces. This agenda is driven by NGOs such as Amnesty International,² HaMoked,³ B'Tselem, Association for Civil Rights in Israel,⁴ and Al-Haq.⁵

Contrary to the NGO narrative, administrative detention is a common procedure used in security-related cases by democratic and rights-respecting states around the world, including the US and UK. Israel's use of administrative detention compares favorably⁶ to international standards, and complies with international legal standards. This was addressed by the European Parliament's Foreign Affairs committee at a September 2012 hearing on the issue, where Leonello Gabrici, Head of Division Middle East II in the EEAS (Israel, occupied territories, and MEPP), stated that Israel's actions conform with international law and that Israel takes specific measures to ensure lawful implementation. He also noted that many countries employ administrative detention measures, including European countries, and affirmed that Europe engages in constant dialogue with Israel on the subject. The 2013 ENP Report on Israel does not note the cooperation between Israel and EU on this matter; instead it reflects a

² See http://www.ngo-monitor.org/article/amnesty_s_administrative_detention_report_issues_of_credibility_and_bias.

³ See http://eeas.europa.eu/delegations/israel/projects/list_of_projects/318850_en.htm.

⁴ See http://eeas.europa.eu/delegations/israel/projects/list_of_projects/335481_en.htm.

⁵ See <http://www.alhaq.org/advocacy/targets/european-union/863-al-haq-submission-to-the-eu-on-its-2014-enp-progress-report-on-israel>.

⁶ S. Blum "Preventive Detention in the War on Terror: A Comparison of How the United States, Britain, and Israel Detain and Incapacitate Terrorist Suspects," Homeland Security Affairs, Volume IV, No.3, October 2008, available at <http://www.hsaj.org/?fullarticle=4.3.1>.

narrative put forth by NGOs and condemns Israel's "excessive" and "extensive use of administrative detention without trial of Palestinians."⁷

The 2013 ENP Report also parrots NGO "reports of Palestinian civilian victims of torture/ill-treatment." In fact, these allegations emerged from a joint submission⁸ written by Adalah, Physicians for Human Rights-Israel, and Al Mezan, to inform the Progress Report about Israel's "lack of accountability for violations for international law and the use of torture and/or cruel, inhuman and degrading treatment against Palestinian prisoners and detainees."

Reliance on these three NGOs is highly problematic and may reflect inappropriate lobbying of EU bodies with funds supplied by the EU itself. In 2009-2012, Adalah received a grant of €627,526⁹ from the European Union via the European Instrument for Human Rights and Democracy (EIDHR) for the project "Combating and Preventing Torture and Ill-Treatment of Palestinian Prisoners." This project was in partnership with Physicians for Human Rights-Israel and Al Mezan. Adalah then received another three-year (2013-2016) grant of €717,994¹⁰ for a project with an almost identical description; it is unknown whether Physicians for Human Rights-Israel and Al Mezan are formal partners on this project, as well. As noted below, these three NGOs filed a submission¹¹ on this topic in advance of the 2014 ENP Report on Israel.

As this example shows, NGOs are able to greatly influence Reports because of their unique relationships with EU institutions such as the European Commission, the EU Delegation to Israel, and the EU Representative Office for the West Bank and Gaza Strip. In addition to being beneficiaries of EU funding, NGOs serve as political consultants to the EU. This double-partnership status affords NGOs a large degree of authority within the EU through a closed "echo chamber,"¹² in which EU funding facilitates the very NGO lobbying that informs EU policy. These privileged relationships inhibit debate and help steer future EU funding to like-minded NGO activities.

Other instances of the EU's improper relationships with NGOs include leaked internal documents from EU offices to Israeli NGOs. One case involves the political advocacy group Breaking the Silence, which reportedly received and then disclosed to the media the "2012 EU Head of Mission Jerusalem Report." The report, which recommended various sanctions against Israel and was not shared with the Israeli government, was largely based on unverified statements and prejudicial opinions of NGOs, which themselves receive funding from the EU and European governments.

⁷ European Commission "Implementation of the European Neighbourhood Policy in Israel Progress in 2013 and Recommendations for Action" March 27, 2014, available at http://eeas.europa.eu/enp/pdf/2014/country-reports/israel_en.pdf. Page 19.

⁸ "Joint input to the ENP Country Report on Israel 2013 Human rights of prisoners and detainees held in Israel, with focus on Torture/CIDT" November 2013, available at http://adalah.org/Public/files/English/International_Advocacy/ENP/Joint-input-Prisoners-ENP-Israel-Oct-2013.pdf.

⁹ See http://eeas.europa.eu/delegations/israel/projects/list_of_projects/148034_en.htm.

¹⁰ See http://eeas.europa.eu/delegations/israel/projects/list_of_projects/318873_en.htm.

¹¹ "Adalah, Al Mezan Center for Human Rights, and Physicians for Human Rights-Israel Joint NGO submission to EU ENP Progress Report of Israel 2014" October 29, 2014, available at http://adalah.org/Public/files/English/International_Advocacy/ENP/Adalah-AlMezan-PHR-ENP-Torture-Report-Oct-2014.pdf.

¹² NGO Monitor, "EU Documents Repeat False NGO Claims and Increase Tension" May 14, 2014, available at http://www.ngo-monitor.org/article/highly_sensitive_eu_reports_based_on_false_ngo_claims.

As a result, the EU's close cooperation with selected political advocacy NGOs produces damaging and ill-informed policies. It also violates democratic and diplomatic norms, and stands in stark contrast to good governance standards that require consultation with a wide spectrum of political positions and expertise when formulating policy.

DISPROPORTIONATE FOCUS ON THE ARAB MINORITY, TO EXCLUSION OF OTHER ETHNIC AND RELIGIOUS MINORITIES

Israeli society is complex and diverse, comprising many ethnic, linguistic, cultural, and religious minority groups. However, examination of ENP Progress Reports shows that "minorities" within Israel refer almost exclusively to Israel's non-Jewish Arab citizens, with few exceptions. This is demonstrated, for example, in the Reports' reference to the percentage of Arabs working in the public sector. The numbers of Ethiopian, Mizrahi, Ultra-Orthodox, Druze, Christian, Cherkess, Baha'i, disabled, or other minority and special status groups are not mentioned or of apparent concern.

This reflects a superficial understanding of Israel's social reality, in which challenges are limited only to its non-Jewish Arab population. The Reports also fail to consider Israel's complicated political context in this regard, such as Arab-Jewish tensions, governance in the Arab sector, or Arab community structure.

For example, the 2010 and 2011 Reports mention proposed legislation that is believed to have had an adverse impact on the Arab-Israeli population. The Reports focus on the "Naqba" bill, which prevents state funding to entities that reject Israel as a "Jewish and democratic state" or commemorate Israeli Independence Day as a day of mourning. The law does not prevent Arab-Israelis (or any Israelis) from holding such events if they so choose. Yet, the Reports suggested that this bill can potentially harm freedom of expression and "alienate the Arab Israeli minority."

Such an assertion perpetuates divisive narratives within Israeli society, as well as a hostile attitude toward state institutions. This can lead to less cooperation and further marginalization of the Arab minority by sharpening tensions and differences. As with other ENP countries, the EU should instead encourage the integration of minorities into society.

An additional problem with regard to minorities joins the aforementioned reliance on NGOs with a disproportionate focus on Israeli-Arabs. In the 2013 ENP Report's section on the "rights of people belonging to minorities," which deals primarily with the Arab segment of Israel, the EU writes, "according to **reports**, cuts in the state budget for 2013-2014 will have a negative effect on the incomes of Arab-Israeli families, as national budgetary priorities focus on areas which do not include the Arab-Israeli population" (emphasis added). The nature of and source for these anonymous "reports" are not provided, nor is it clear whether the EU verified these claims.

The allegations from the anonymous "reports" are juxtaposed with concrete data from the Israeli Prime Minister's Office, which specifies the amounts and timeframes of government investment in economic development in the Arab sector. The inclusion of anonymous, unsourced, speculative conjecture, in the face of specific numbers from an Israeli government

source, is but one example of responsible policy-making coming at the expense of a hostile counter-narrative to the Israeli government.

Notably, the Reports also fail to credit Israel's institutional avenues for the promotion of diversity and respect for minority rights, such as the Department on Minorities in the Ministry of Economy, the Committee on Arab Education in the Ministry of Education, and representatives of the Arab minorities in Israeli institutional bodies, including ministries, tribunals, and diplomatic posts.

DISPROPORTIONATE FOCUS ON THE ARAB-ISRAELI CONFLICT

ENP Reports focus extensively on the Arab-Israel conflict and Israel's policy toward the West Bank. Comparatively, ENP Reports on other countries do not devote the same attention to conflicts. For example, the Morocco ENP Report only marginally discusses the Western Sahara dispute, and avoids terms such as "occupied territories." The Turkey ENP Report similarly reflects the EU's marginal concern with conflict in Kurdish areas; the Report refers only minimally to internally displaced persons without expanding on armed conflict.

Historically, the separate section devoted to the Arab-Israel conflict ("Israel's Responsibilities in the Occupied Territories") was not part of the EU's ENP Reports on Israel. This section, which deviates from the template of ENP Reports for other countries, was added to the 2011 Report on Israel following significant lobbying efforts¹³ from highly politicized NGOs, further demonstrating an overemphasis on the conflict. This influence that NGOs exert over the ENP process and EU policy led directly to the increased criticism of Israel.

Several NGOs made submissions in advance of the 2014 ENP Progress Report, focusing exclusively on the conflict. For example, Al-Haq, an organization that demonizes Israel by advancing false accusations of apartheid,¹⁴ racism, and colonialism, submitted¹⁵ unsubstantiated allegations of human rights violations, such as "willful killings" of Palestinians on the basis of "anonymous" and unverified "medical reports." The submission also cites publications by UN-OCHA, which also heavily relies on NGOs claims.¹⁶ In so doing, Al-Haq uses a single sentence from the 2005 EU-Israel Action Plan as the basis for a 15-page attack against EU-Israel relations, pushing an agenda that privileges the conflict to the exclusion of all other issues. And, as mentioned above, the political NGOs Adalah, Al-Mezan, and Physicians for Human Rights-Israel wrote a joint submission to the ENP Progress Reports in 2013 and 2014, alleging Israeli use of torture on Palestinian prisoners.

¹³ Euro-Mediterranean Human Rights Network, "A Human Rights Review on the EU and Israel – Mainstreaming or Selectively Extinguishing Human Rights?" December 2005, available at http://electronicintifada.net/sites/electronicintifada.net/files/artman2/1/hr_review_on_eu_and_israel_.pdf. Page 9.

¹⁴ Middle East Project of the Human Sciences Research Council of South Africa, "Occupation, Colonialism, Apartheid: A reassessment of Israel's practices in the occupied Palestinian territories under international law," May 2009, available at <http://www.alhaq.org/attachments/article/232/occupation-colonialism-apartheid-executive.pdf>.

¹⁵ Al-Haq, "Al-Haq Submission to the EU on its 2014 ENP Progress Report on Israel," October 15, 2014 available at http://www.alhaq.org/images/stories/PDF/2012/Al-Haq_Submission_to_the_EU_on_its_Report_on_Israel.pdf.

¹⁶ NGO Monitor, submission to Human Rights Council, Twenty-seventh session, Agenda item 7, "Written statement submitted by the Amuta for NGO Responsibility, a non-governmental organization in special consultative status," August 25, 2014 available at http://ngo-monitor.org/data/images/File/UN_Issues%20Related%20to%20UNOCHA%E2%80%99s%20%E2%80%9CProtection%20Cluster%E2%80%9D%20Regarding%20Gaza.pdf.

The EU's disproportionate focus on the Arab-Israeli conflict is also reflected in EU funding for NGOs in the region. NGO Monitor's analysis¹⁷ of European Instrument for Democracy and Human Rights (EIDHR) funding in 2007-2010 (the most recent available comprehensive data) reveals that funding targeting local projects in Israel, local projects in "OPT," and projects that address Israel and "OPT" jointly (Israel/OPT) received more than € 11 million – more than any other target country. Israel and "OPT" received a majority (57%) of EIDHR country based support funding directed at the Middle East, while Syria, Iraq, Iran, Oman, Saudi Arabia, and the UAE received no funding for EIDHR projects directed at specific countries.

The majority of these grants support NGOs that adopt and promote a Palestinian political narrative and engage in political warfare campaigns against Israel. The EU's disproportional allocation of funding enables these politicized NGOs to exert excessive influence over the Reports' narrative and EU policy, to the detriment of bilateral EU-Israel relations.

DIFFERENT STANDARDS APPLIED IN ISRAEL

NGO Monitor's analysis of ENP Reports indicates that the EU applies different human rights norms and international standards among Southern Neighborhood states. The most significant inconsistencies pertain to minority protection norms and human rights in conflict zones.

With respect to minority rights norms, ENP Reports on Israel often criticize the alleged systemic discrimination of minorities, with a focus on Israeli-Arabs, as noted above. This includes denunciations of a low level of inclusion of Arabs in public office, the alleged restriction on Arab freedom of expression and religion (the latter in reference to security measures that limit access to the Temple Mount during periods of terror and high tension), and criticism of the "Nakba" Law. The highly politicized views in the Reports echo language in publications from EU-funded NGOs, including Adalah,¹⁸ Mossawa,¹⁹ and Association for Civil Rights in Israel.²⁰ Certain European states – France for example – do not recognize the existence of minority rights; Italy, Germany, and the UK only selectively acknowledge minority cultural, linguistic, or religious rights. In addition, **international law does not obligate a state to promote a minority narrative that is contrary or incompatible with the state's principles and views.** In this way, Israel is under no obligation to fund the Palestinian "Nakba narrative," which portrays the 1948 establishment of Jewish sovereignty in Israel as a disaster for Arabs. Finally, regarding Israel's alleged restrictions on freedom of religion, the ENP Reports condemn security measures restricting Muslim access to holy sites in order to prevent violent conflict. However, the Reports apply a double standard by praising Israeli authorities' restriction of non-Muslims' access to the Temple Mount.

¹⁷ NGO Monitor "EIDHR: Additional European Funding for Mideast Conflict Groups," March 16, 2010 available at http://www.ngo-monitor.org/article/eidhr_additional_european_funding_for_mideast_conflict_groups0.

¹⁸ Joint submission from Adalah, "The EU and the Palestinian Arab Minority in Israel" February 2011 available at https://www.scribd.com/fullscreen/117502230?access_key=key-1cz23wdtubk1siks1otk&allow_share=true&escape=false&view_mode=scroll.

¹⁹ Joint submission from The Mossawa Center, "Suggested Issues for Consideration Regarding Israel's Combined 14th, 15th, and 16th Periodic Report to the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD)," January 2012 available at http://www.mossawacenter.org/my_documents/publication2/2011%20CERD%20Submission.pdf.

²⁰ The Association for Civil Rights in Israel, "The Nakba Law" November 9, 2011 available at <http://www.acri.org.il/en/knesset/nakba-law/>.

No other state in the region expected to abide by the same minority protection standards as stipulated in the ENP Report on Israel. For instance, the Morocco ENP Reports discuss the Berber minority and focus almost exclusively on their linguistic rights and Morocco's duty to promote education in Amazigh language. Reports on the Palestinian Authority only marginally deal with the freedom of the Christian minority, praise the mere six seats out of 132 in the Legislative Council reserved for Christians, and neglect the existence of an Armenian minority. Reports on Turkey do not subject it to the same standards as Israel with regard to the treatment of the Kurdish, Armenian, and Christian minorities, despite Turkey's poor record of minority protection.

Furthermore, ENP Reports do not subject other states involved in conflict and ongoing territorial disputes to the same evaluation standards as Israel. Reports on Morocco, for instance, do not refer to the state's imposed security measures on the local population, deemed to be "occupied." Similarly, Reports on Turkey do not take a clear position on the country's military policies.

PART 2: CURRENT ISSUES

ISRAEL CITIZENS UNDER ATTACK

Operation Protective Edge

On July 8, 2014, Israel launched Operation Protective Edge in response to intense rocket fire from Hamas in Gaza. The purpose of the operation was to seek out and destroy Hamas terrorist infrastructure, including rockets and tunnels from Gaza into Israel. During this operation, thousands of rockets and mortar shells were launched into Israel by terrorist organizations in Gaza, resulting in the deaths of six Israeli civilians, the wounding of hundreds, and the displacement of thousands.²¹ Sixty-six Israeli soldiers were killed fighting in and around Gaza.

Throughout the conflict, highly politicized Israeli, Palestinian, and international NGOs issued numerous statements²² advancing an anti-Israel political agenda. These NGOs made unverifiable claims, distorted international law, and continued to fuel the flames of the international delegitimization campaign against Israel. At the same time, NGOs did little to acknowledge or condemn deliberate Palestinian terrorist attacks against Israeli civilians or the use of Palestinian population centers and even UN installations to carry out terror activity and hide weapons.

As with the discredited 2009 Goldstone process,²³ NGOs initiated calls for a UN "fact-finding" investigation of the conflict and submitted statements to the UN that alleged "deliberate, sys-

²¹ "Families abandon homes near Gaza border, head north" *The Times of Israel*, August 23, 2014 available at <http://www.timesofisrael.com/defense-minister-idf-will-help-southerners-move-north/>.

²² NGO Monitor, "Analysis of NGO Agendas and Distortions on the Gaza Conflict," updated August 17, 2014 available at http://www.ngo-monitor.org/article/analysis_of_ngo_agendas_and_distortions_on_the_gaza_conflict.

²³ Richard Goldstone, "Reconsidering the Goldstone Report on Israel and war crimes," *The Washington Post*, April 1, 2011 available at http://www.washingtonpost.com/opinions/reconsidering-the-goldstone-report-on-israel-and-war-crimes/2011/04/01/AFg111JC_story.html.

tematic, and widespread targeting of Palestinian civilians”; “collective punishment”; “war crimes and crimes against humanity”; and “grave violations of international humanitarian law.” These accusations were echoed in the UN Human Rights Council’s (UNHRC) resolution, which created another Goldstone-like inquiry of Israel’s conduct, to be headed by Professor William Schabas.²⁴ The EU delegate to the UNHRC described²⁵ the resolution as “unbalanced” and the inquiry as having “prejudged the findings even before it was formed.”

One of the central questions sure to be addressed by the Schabas inquiry is that of casualty statistics. In this regard, the Palestinian narrative is articulated by three main NGOs that accuse Israel of deliberate attacks against large numbers of civilians: Israel-based B’Tselem and Gaza-based Palestinian Center for Human Rights (PCHR) and Al Mezan. These groups also work with the UN Office for the Coordination of Humanitarian Affairs (OCHA), as part of its “Protection Cluster.”²⁶ Along with the Hamas-controlled Health Ministry in Gaza, these are the main sources for claims about casualty numbers.

The fact-finding methodologies of B’Tselem, PCHR, and Al Mezan are not in-line with best practices²⁷ for a human rights fact-finding investigation.

PCHR and Al-Mezan determine civilian status at Gaza hospitals and morgues. These NGOs do not conduct independent research on the status of a casualty. If there is no conclusive evidence, for instance a terrorist arriving with a weapon, these NGOs will ask biased sources, such as family or terrorist organizations, if the casualty was a member. These NGOs do not conduct²⁸ investigations into the background of casualties. Independent research concluded that some of these alleged “civilians” were actually members of terrorist groups.²⁹ In some cases, uniformed members of Hamas security forces were deemed “totally civilian” by these NGOs despite evidence that many were in fact terrorists.³⁰

²⁴ Tovah Lazaroff, “Known Israel critic to lead UNHRC Gaza probe,” *The Jerusalem Post*, August 11, 2014 available at <http://www.jpost.com/Arab-Israeli-Conflict/UN-names-three-experts-to-Gaza-investigation-commission-370772#comment-1576920497>.

²⁵ Office of the High Commissioner of Human Rights, “Human Rights Council establishes Independent, International Commission of Inquiry for the Occupied Palestinian Territory,” July 23, 2014 available at <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14897&LangID=E>.

²⁶ NGO Monitor, “B’Tselem’s Credibility in the UNOCHA Protection Cluster: Casualty and Legal Allegations in the 2014 Gaza War,” August 20, 2014 available at http://www.ngo-monitor.org/article/b_tselem_s_credibility_in_the_unocha_protection_cluster_casualty_and_legal_allegations_in_the_gaza_war.

²⁷ Gerald M. Steinberg, Anne Herzberg, and Jordan Berman, “Best Practices for Human Rights and Humanitarian NGO Fact-Finding,” Martinus Nijhoff Publishers (2012) available at http://www.ngo-monitor.org/article/best_practices_for_human_rights_and_humanitarian_ngo_fact_finding.

²⁸ “Numbers Game,” *The New Republic*, May 6, 2009 available at <http://www.newrepublic.com/article/politics/numbers-game>.

²⁹ The Meir Amit Intelligence and Terror Information Center, “Preliminary, partial examination of the names of Palestinians killed in Operation Protective Edge and analysis of the ratio between terrorist operatives and non-involved civilians killed in error,” July 28, 2014 available at http://www.terrorism-info.org.il/Data/articles/Art_20687/E_124_14_1121292827.pdf.

³⁰ The Meir Amit Intelligence and Terror Information Center, “Mounting evidence indicates that during Operation Cast Lead (and in ordinary times) members of Hamas’s internal security forces served as commanders and operatives in Hamas’s military wing (Izz al-Din al-Qassam Brigades),” March 25, 2009 available at <http://www.terrorism-info.org.il/en/article/18297>.

It should also be noted, that the simplistic comparison of civilian death counts, which creates the impression that armed conflicts are merely a “numbers game,”³¹ cannot serve as basis for accusations of violations of international law of the kind often heard in NGOs reports and statements. In actuality, according to international law, military objectives should be proportionate to the civilian harm caused. This test takes into account the subjective information that the military commander has at the time of the planning of an attack. However, NGOs have no capacity for assessing military objectives or the access to intelligence information possessed by the military commanders on the ground.

Furthermore, these NGOs have a history of inflating casualty statistics. During and after Operation Cast Lead (the December 2008 - January 2009 Gaza War), these groups published unsupported allegations that the vast majority of Palestinian casualties were civilians, claiming that the number of dead was 1,387 (B’Tselem), 1,417 (PCHR), and 1,410 (Al Mezan). The discredited Goldstone report repeated these numbers.

However, in a November 2010 interview³² given by Hamas Interior Minister Fathi Hamad to the *Al-Hayat* newspaper, Hamad acknowledged that **600-700 Hamas members were killed in the Gaza fighting**. This is more than double the number of combatants acknowledged by the NGOs’ and Goldstone’s unreliable version of events, and halves the number of civilian deaths. There is no reason to suspect that Hamas and other Palestinian terror groups have operated differently during the most recent conflict.

Kidnapping and murder of three Israeli teens

On June 12, 2014, three Israeli teens were abducted³³ by Palestinian terrorists. Naftali Fraenkel (16), Gilad Shaer (16), and Eyal Yifrah (19) were kidnapped and subsequently murdered while attempting to hitchhike a ride to their homes. Israel launched Operation Brother’s Keeper in an attempt to locate and rescue the teens. During this operation, many Hamas leaders were arrested, including the leader of the terrorist cell³⁴ that carried out the abduction.

On June 22, 2014, Israeli NGO B’Tselem initiated a campaign³⁵ to criticize Israel’s rescue attempts. Even the campaign’s name – “Hitching a ride”³⁶ – was an immoral and cynical exploitation of the kidnapping’s circumstances. B’Tselem accused Israel of “cynically exploiting the deep concern for the abducted teens” to “implement sweeping actions which intensify harm to

³¹ Anne Herzberg, “The Gaza Numbers Game,” *The Jerusalem Post*, July 14, 2014, available at <http://www.jpost.com/Opinion/Op-Ed-Contributors/The-Gaza-numbers-game-362782>.

³² “Hamas Admits 600-700 of its Men Were Killed in Cast Lead,” *Ha’aretz*, November 9, 2010, available at <http://www.haaretz.com/news/diplomacy-defense/hamas-admits-600-700-of-its-men-were-killed-in-cast-lead-1.323776>.

³³ William Booth and Ruth Eglash, “Israel says 3 Missing Teens Were Kidnapped By a Terrorist Group,” *The Washington Post*, July 14, 2014, available at http://www.washingtonpost.com/world/middle_east/israel-searches-for-teens-who-went-missing-in-the-west-bank-on-thursday/2014/06/14/d60a0778-f3df-11e3-a4a8-8ac203a4c406_story.html.

³⁴ “Palestinian Suspect Held over Kidnap Murders of 3 Israelis: Police,” *Yahoo News*, August 5, 2014, available at <http://news.yahoo.com/palestinian-suspect-held-over-kidnap-murders-3-israelis-232132557.html>.

³⁵ B’Tselem. (2014, June 6) Hitching a Ride. [Photograph] Retrieved from <https://www.facebook.com/photo.php?fbid=10152127798401570&set=a.416625281569.201864.169981156569&type=1&theater>.

³⁶ Ibid.

the human rights of Palestinians.” The posters B’Tselem created to accompany the campaign featured pictures of Prime Minister Benjamin Netanyahu and Defense Minister Moshe Yaalon, reflecting the NGO’s partisan, political agenda.

On June 30, 2014, the bodies of the three teenagers were found³⁷ north of Hebron, and it was revealed that they were murdered immediately after their abduction. Despite extensive efforts of Israeli forces, the murderers were not located until September 23. They were killed after opening fire on Israeli forces.

Attacks against Israeli civilians

Even before the events that began in June 2014, which lead to Operations Brother’s Keeper and Protective Edge, Israeli civilians faced unrelenting terror attacks in 2014. According to the General Security Services (GSS), between January and May 2014, there were 670 attacks on Israeli civilians.³⁸ This includes 131 rockets and mortar shells launched into Israel from Gaza and two rockets launched from the Sinai desert at the city of Eilat in February 2014.³⁹ On the eve of the Jewish holiday of Passover, a terrorist shot and killed an Israeli man driving his family to a Passover Seder.⁴⁰ In June, a large increase in terror attacks lead up to the start of Operation Protective Edge.

In addition, there were numerous incidents of rock and firebomb throwing, in addition to IED and small arms attacks. GSS data shows that in May 2014 alone there were 14 IED attacks, 88 firebombing incidents, and 4 small arms attacks. Stone throwing continues to be a significant security threat.⁴¹ On August 23, 2014 a car was stoned north of Hebron.⁴² The Israeli civilian driving was critically wounded after being hit in the head by a melon-sized rock and his vehicle overturned; his wife and infant daughter were not seriously wounded.

In late October 2014, a number of indiscriminate attacks were perpetrated against Israeli civilians, including vehicular attacks and stoning of public transportation shared equally by Jews and Arabs. On October 22, a 21-year old Palestinian rammed his car into a group of passengers waiting at the Ammunition Hill Light Rail station. The attack left two dead, including a three-month old baby, and seven injured.

On October 30, Jewish activist Yehuda Glick was shot and seriously injured in an assassination attempt. The main suspect was later shot and killed while resisting arrest.

³⁷ “Bodies of Three Kidnapped teenagers found; Netanyahu Calls Families.” *The Times of Israel*, June 30, 2014, available at <http://www.timesofisrael.com/bodies-of-three-kidnapped-teens-found/>.

³⁸ Israel Security Agency, “Terror Data and Trends: Reports,” <http://www.shabak.gov.il/English/EnTerrorData/Reports/Pages/default.aspx>.

³⁹ Israel Security Agency, “Terror Data and Trends: Monthly Summary- February 2014,” <http://www.shabak.gov.il/English/EnTerrorData/Reports/Pages/Report0214.aspx>.

⁴⁰ Yifa Yaakov, “West Bank Shooting Victim Named as Baruch Mizrahi, 47,” *The Times of Israel*, April 15, 2014, available at [west-bank-shooting-victim-named-as-baruch-mizrahi](http://www.timesofisrael.com/west-bank-shooting-victim-named-as-baruch-mizrahi).

⁴¹ Israel Security Agency, “Terror Data and Trends: Monthly Summary- May 2014,” <http://www.shabak.gov.il/English/EnTerrorData/Reports/Pages/Monthlysummary0514.aspx>.

⁴² Shlomo Petrokovsky, “Rocks are Just as Dangerous as Gun and Rocket Fire,” (Hebrew), August 24, 2014, available at <http://www.inn.co.il/News/News.aspx/282574>.

Unrest and high tension continued during the first three weeks of November, when nine Israelis were killed and 23 injured in various vehicular, stoning, and stabbing attacks by Palestinians. This violence peaked on November 18, when two Palestinian men from East Jerusalem entered a synagogue in the Har Nof neighborhood of Jerusalem during morning prayers, opened fire and attacked the worshippers with axes. Four worshippers were killed and eight others wounded, four seriously. A Druze police officer was also killed.

These and other blatant violations of Israeli human rights are largely ignored by NGOs, contributing to a distorted narrative of the conflict and an erosion of human rights protections.

VIOLENCE AGAINST PALESTINIANS/ “PRICE TAG” ATTACKS

In 2014 vandalism attacks against Palestinian communities (“Price Tag” attacks) continued. While any violent activity is of concern, the number of alleged attacks by Jews against Palestinians is miniscule compared to the number of attacks against Israelis, as discussed above. ENP Progress Reports on Israel give the opposite impression, however, due to claims provided by NGOs such as Al-Haq⁴³ and Mossawa.⁴⁴

The murder of Mohammad Abu Khdeir is a notable exception. On July 2, 2014, Mohammad Abu Khdeir was abducted from the east Jerusalem neighborhood of Shoafat by three Israelis – an adult and two minors.⁴⁵ The three kidnappers proceeded to a forest on the outskirts of Jerusalem where they beat and burned him to death. When word of his murder spread, massive rioting ensued in Arab neighborhoods of Jerusalem, damaging infrastructure and leading to attacks on police.⁴⁶ Riots also spread to Arab-Israeli towns throughout Israel. Israeli police swiftly arrested a number of suspects four days after the murder. Three of these suspects confessed and claimed they acted out of “revenge” for the murder of the three Israeli teens.⁴⁷ The suspects are now in custody awaiting trial. The murder of Mohammad Abu Khdeir was condemned by Prime Minister Netanyahu, as well as by members of Knesset from across the political spectrum.⁴⁸

Publications from political opposition NGOs that attempt to pressure Israel by accusing it of human rights abuses have frequently made false claims regarding the Israeli government’s response to “Price Tag” attacks. Contrary to the NGO claims, the Israeli government and

⁴³ Al-Haq, “Al-Haq Submission to the EU on its 2014 ENP Progress Report on Israel,” October 15, 2014, available at <http://www.alhaq.org/advocacy/targets/european-union/863-al-haq-submission-to-the-eu-on-its-2014-enp-progress-report-on-israel>.

⁴⁴ The Mossawa Center, “Mossawa’s Briefing Paper for the ENPI Progress Report on Israel,” October 15, 2013, available at http://www.mossawacenter.org/my_Documents/pic002/ENP_Report_with_Annex_1_and_2.pdf.

⁴⁵ Ilan Ben Zion and Lazar Berman, “Arab Teen Killed in Capital; Revenge Attack Suspected,” *The Times of Israel*, July 2, 2014, available at <http://www.timesofisrael.com/palestinian-teen-said-found-dead-in-jerusalem-forest/>.

⁴⁶ Yifa Yaakov and Itamar Sharon, “East Jerusalem Riots Spread to Arab Israel Towns,” *The Times of Israel*, July 5, 2014, available at <http://www.timesofisrael.com/taybe-tira-residents-clash-with-security-forces/>.

⁴⁷ Attalia Somfalvi, Omri Efraim, and Itay Blumental, “Three Suspects in Murder of Arab Teen Confess to Crime,” *Yedioth Ahronot*, July 7, 2014, available at <http://www.ynetnews.com/articles/0,7340,L-4538864,00.html>.

⁴⁸ Lahav Harkov, “MKs Unanimously Condemn Murder of Muhammad Abu Khdeir and Shelly Dadon,” *The Jerusalem Post*, July 6, 2014, available at <http://www.jpost.com/National-News/MKs-unanimously-condemn-murder-of-Muhammad-Abu-Khdeir-and-Shelly-Dadon-361679/>

Knesset⁴⁹ repeatedly condemned these attacks in 2014.⁵⁰ Treasury Minister Yair Lapid even called these attacks “terrorism.”

According to Yesh Din, the “IDF and the Israel Police do not provide the necessary protection to Palestinians attacked by Israeli civilians.”⁵¹ In fact, the Israeli police and prosecutor’s office have arrested and indicted a number of suspects. These include: 1) July 8, 2014, an Israeli man indicted for slashing the tires of dozens of cars in the Israeli Arab village of Abu Ghosh and for spraying racist graffiti on walls in the village;⁵² 2) May 28, 2014, a young man indicted for slashing the tires of cars owned by Arab Israelis;⁵³ and 3) February 5, 2014, three Israelis indicted for burning cars⁵⁴ and spraying graffiti in a Palestinian village in the northern West Bank, among other cases.⁵⁵

ISRAEL AS A JEWISH STATE

ENP Reports on Israel have in the past expressed the concern about the definition of Israel as a Jewish State as implying inherent discrimination of non-Jewish minorities. Several NGOs support this view, including Adalah⁵⁶ and Mossawa.⁵⁷

These NGOs take issue with Israel’s “Law of Return,” which allows direct citizenship to Jewish immigrants. While international law prohibits the discrimination against one cultural, ethnic or religious group in specific, there is no norm that impedes a state from identifying its cultural and national character with one national community, to which it may accord privileges in the acquisition of citizenship and rights – as repeatedly stated by the Israeli High Court of Justice.

This is the essence of the nation-state, common to several European countries, including Italy and Ireland, which recognize privileges in the automatic acquisition of citizenship to individuals of Irish or Italian descent, respectively. By comparison, Reports do not comment on Tur-

⁴⁹ Isaac Herzog. (2013, April 30). The Writing was on the Wall. (Hebrew) [Photograph] Retrieved from <https://he-il.facebook.com/IsaacHerzogKnesset/photos/a.638337189542582.1073741840.161648040544835/728074667235500/?type=1>

⁵⁰ Idan Kollar, “Lieberman Denounced the “Price Tag” and Attacked the Arab MKs, “ (Hebrew) *Galgalatz*, April 20, 2014, available at <http://glz.co.il/1064-40857-he/Galatz.aspx>.

⁵¹ Yesh Din, “Indictment: Settlers Attacked Palestinian Boy, Beat Him, Threw Stones at Him and Set Their Dog on Him,” February 19, 2013, available at <http://www.yesh-din.org/infoitem.asp?infocatid=272>.

⁵² Noam Dvir, “A Year After the “Price Tag” in Abu Gosh- Charges,” (Hebrew) *Yedioth Achronot*, June 8, 2014, available at <http://www.ynet.co.il/articles/0,7340,L-4527951,00.html>.

⁵³ Achiya Rabid, “14 Suspicions of “Price Tag” are Brought to One Indictment,” (Hebrew), *Yedioth Achronot*, May 8, 2014, available at <http://www.ynet.co.il/articles/0,7340,L-4524736,00.html>.

⁵⁴ Naama Cohen Friedman, “Charges of “Price Tag”: Palestinian Cars Torched,” (Hebrew) *Yedioth Achronot*, February 5, 2014, available at <http://www.ynet.co.il/articles/0,7340,L-4485093,00.html>.

⁵⁵ Achiya Rabid, Raanan Ben Tzur, Hasan Shala’an, and Noam Dvir, “Settlers with Flammable Material, On Way to Building Inspector,” *Yedioth Achronot* (Hebrew), January 10, 2014, available at <http://www.ynet.co.il/articles/0,7340,L-4475263,00.html>.

⁵⁶ Adalah, “The Inequality Report: The Palestinian Arab Minority in Israel,” March 2011, available at https://www.scribd.com/fullscreen/117503114?access_key=key-24s6e33nqtlyiahjygw&allow_share=true&escape=false&view_mode=scroll.

⁵⁷ The Mossawa Center, “Mossawa’s Briefing Paper for the ENPI Progress Report on Israel,” October 15, 2013, available at http://www.mossawacenter.org/my_Documents/pic002/ENP_Report_with_Annex_1_and_2.pdf.

key's definition as the state of the Turkish nation, the Palestinian Authority's endorsement of pan-Arabic aspirations and of a clear Arab and Islamic national identity, and Morocco's designation of Islam as the religion of the state and Arabic as first language.

FREEDOM OF EXPRESSION

Israeli NGOs such as the Association for Civil Rights in Israel (ACRI) and Adalah have issued reports that claim the Israeli government "escalated its attacks on expression of dissenting opinions," citing a number of laws which they term "restrictive bills," "discriminatory laws"⁵⁸ or "Anti-Democratic Initiatives."⁵⁹ Examples include the "Anti-boycott Law," which permits the filing of civil suits against individuals and groups calling for boycotts of Israel; the "Nakba Law," which denies state funding for events marking Israeli Independence Day as a day of mourning; and proposed "NGO Foreign Funding Bills," which sought to limit foreign government funding for Israeli NGOs. These groups claim these bills harm the "freedom of expression and association."

In contrast to their claims, these bills do not prevent in any way the holding and expression of opinions.⁶⁰ Israeli citizens are free to commemorate the "Nakba." The "Anti-boycott Law" has not yet been implemented, pending a decision by the Israel High Court of Justice (HCJ) on its legality.⁶¹ Most of the various NGO funding bills did not pass the initial stages of the legislation process, and have no impact on NGO activities. It should be noted that only in the case of Israel, does an ENP report discuss a bill that was merely proposed but did not pass parliamentary voting.

The sole legislation on foreign government funding for NGOs that was put into law was the "Transparency Law" (2011), which requires NGOs to file quarterly reports on foreign government funding they receive. This law serves as a model of real-time transparency, and allows the Israeli public to know the extent of foreign funding for NGOs.

THE BEDOUINS

Complex issues related to the unrecognized Bedouin villages in the Negev have become highly politicized by NGOs. Allegations of human rights violations are often unsupported and stripped of context. The multi-dimensional relationship between the Israeli government and the Bedouin population, coupled with the complex and at times unclear land registration and land tenure legacy of the Ottoman Empire and the British mandate, have compounded the issue.

The Negev Bedouin population lives a semi-nomadic life inside Israel's borders, making it difficult to deliver services and collect revenue and information. One of the six Israeli civilians killed during Operation Protective Edge was Ouda Lafi al-Waj, a Bedouin civilian living in an

⁵⁸ Adalah, "Discriminatory Laws in Israel," available at <http://adalah.org/eng/Israeli-Discriminatory-Law-Database/>

⁵⁹ The Association for Civil Rights in Israel, "Anti-Democratic Initiatives," available at <http://www.acri.org.il/en/category/democracy-and-civil-liberties/anti-democratic-legislation/>.

⁶⁰ NGO Monitor, "Israeli NGOs: Foreign Funding, Transparency, and Knesset Legislation," http://www.ngo-monitor.org/article/ngo_transparency_boycotts_and_knesset_legislation.

⁶¹ Revital Hovel, "State Defends Anti-Boycott Law: Freedom of Expression in Israel Isn't Like the U.S.," *Ha'aretz*, February 16, 2014, available at <http://www.haaretz.com/news/national/.premium-1.574597>.

unrecognized village near Dimona.⁶² A number of other Bedouins were injured by Gazan rocket fire.

Many NGOs involved in this issue, such as ACRI, Negev Coexistence Forum, Rabbis for Human Rights, Bimkom, and Adalah, have consistently promoted a partisan position in opposition to Israeli government policies. This includes an unequivocal demand to recognize maximalist land ownership claims without acknowledging the complexities noted above, nor taking into account other state needs (such as master plans, environmental and social concerns, and building and zoning laws.) The NGOs accuse Israel of having a “racist” agenda, and discriminating against the “indigenous” Bedouins in the Negev. The rhetoric and the language that the organizations use deny the Israeli government’s obligation to apply its laws and sovereignty in these areas.⁶³

The government implementation team (Praver Committee) intended to resolve many of the relevant land issues and submitted recommendations in May 2011.⁶⁴ During this process, as part of their continuous political opposition to the Israeli government, NGOs condemned the report and its recommendations without offering constructive alternatives. ACRI and Bimkom strongly condemned the plan, saying it would “cause the displacement and forced eviction of dozens of villages and tens of thousands of Bedouin residents, dispossessing them of their property and historical rights to their lands...”⁶⁵ Amnesty International-Israel released a statement saying that the new plan is “discriminatory and contradicts international law standards.”⁶⁶ On April 18, 2013, ACRI and Adalah submitted their reservations, claiming that the “bill ethnically labels, is indiscriminate and overly general, and has no factual foundation.”⁶⁷

In December 2013, the government halted the plan.⁶⁸

It should be noted that Israel is the only country singled out for censure on this issue in the 2013 ENP Reports, despite the fact that Israel is the only state that invests in measures to solve the problems of its Bedouin minority and recognizes the importance of Bedouin integration into society. EU Reports on Lebanon, for example, a country in which more than 90% of its Bedouin population is subjected to oppression and denied citizenship,⁶⁹ do not mention the issue at all.

⁶² Israel Ministry of Foreign Affairs, “Ouda Lafi al-Waj,” July 19, 2014, available at <http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Victims/Pages/Ouda-Lafi-al-Waj.aspx>.

⁶³ See Seth J. Frantzman, Seth J., Havatzelet Yahel, and Ruth Kark. “Contested Indigeneity: The Development of an Indigenous Discourse on the Bedouin of the Negev, Israel,” *Israel Studies*, 17:1, Spring 2012, 78-104.

⁶⁴ Prime Ministers Office, “Cabinet Approves Plan to Provide for Status of Communities in, and the Economic Development of, the Bedouin Sector in the Negev,” September 11, 2011, available at <http://www.pmo.gov.il/English/MediaCenter/Spokesman/Pages/spokenegev110911.aspx>.

⁶⁵ The Association for Civil Rights in Israel, “ACRI Expresses Dismay as Knesset Passes First Reading of Bedouin Settlement Bill,” June 25, 2013, available at <http://www.acri.org.il/en/2013/06/25/begin-plan-vote/>.

⁶⁶ Amnesty International, “Bill Regulating Bedouin Settlement: Discriminatory, and Against Law and International Standards,” (Hebrew) May 6, 2013, available at <http://www.amnesty.org.il/?CategoryID=183&ArticleID=1461>.

⁶⁷ The Association for Civil Rights in Israel, “Regarding: Memorandum of Law Regulating Bedouin Settlement in the Negev, 2013,” April 18, 2014, available at <http://www.acri.org.il/he/wp-content/uploads/2013/04/unrec-villages180413.pdf>.

⁶⁸ Ofer Aderet and Jonathan Lis, “Israeli Governments Halts Controversial Plan to Resettle 30,000 Bedouin,” *Ha’aretz*, December 12, 2013, available at <http://www.haaretz.com/news/national/1.563200>.

⁶⁹ See <http://www.rsc.ox.ac.uk/about/connect/rsc-newsletter-winter-2011.pdf>