
The Unintended Consequences of the Goldstone Commission of Inquiry on Human Rights Organizations in Israel

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Abstract

Scholarly writings on internationally constituted commissions of inquiry (COIs), as outlined in the introduction to this symposium, give inadequate attention to the effects that they might have on local disputes that these bodies are often created to address. The United Nations Fact-Finding Mission on the Gaza Conflict (2009), popularly known as the Goldstone Commission, had unintended and unforeseen consequences at the domestic level. Specifically, the Commission caused a severe backlash against human rights organizations in Israel (IsHROs). This article analyses the backlash against the Commission and the effect of that backlash on human rights organizations and human rights advocacy in Israel and the Occupied Palestinian Territory in the first few years after the release of the Goldstone report. This case study reveals how a government can use a COI intervention in an ongoing conflict to deflect criticism against it and to delegitimize local human rights organizations and, as a result, to intensify enemy–friend dynamics within a conflict. The findings of this case study thus challenge the assumption of much of the socio-legal literature that the interaction of international human rights institutions with domestic actors leads to positive human rights change. But the case study also adds a new dimension to the academic and policy literature that has been critical of the international human rights enterprise in recent years. Despite delegitimization campaigns, international funding has increased for many IsHROs, and, eventually, some groups have become even more visible and have enjoyed, internationally, a higher reputation and greater credibility. The Commission's experience thus demonstrates that the establishment of COIs in deeply divided conflict societies can have negative, as well as positive, implications on human rights.

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We face three major strategic challenges: the Iranian nuclear program, rockets aimed at our civilians, and Goldstone.

– Israeli Prime Minister Benjamin Netanyahu, 2009

1 Introduction

Part of a symposium on the impact of commissions of inquiry (COIs) on the situations with respect to which they were created,¹ this article reveals how a government can use the intervention of a COI to deflect criticism from it, delegitimize local human rights non-governmental organizations (NGOs) and intensify division at the domestic level. But it also shows that NGOs can derive credibility and legitimacy, as well as greater financial support, from having supported a COI. The United Nations (UN) Fact-Finding Mission on the Gaza Conflict (2009), also known as the Goldstone Commission after its chair, Justice Richard Goldstone, had unintended and unforeseen consequences. Specifically, it caused a severe backlash against human rights organizations in Israel (IsHROs), an issue that has been overlooked by the scholarly literature on COIs. The Goldstone Commission's report accused the Israeli military, *inter alia*, of premeditated war crimes and contained step-by-step follow-up mechanisms that contemplated the eventual referral of the situation to the International Criminal Court (ICC) by the UN Security Council² or foreign prosecutions on the basis of universal jurisdiction.³

The Israeli government refused to cooperate with the Commission,⁴ despite Justice Goldstone's requests, and dismissed the Goldstone report's findings and recommendations, claiming that it reflected 'many misunderstandings and fundamental mistakes with regard to the Gaza Operation, its purposes, and Israel's legal system'.⁵ Yet, these public rejections notwithstanding, the Commission and its report did catalyse developments in Israel. Some of these will, from a human rights perspective, be considered 'positive'. For instance, following the report's release, the Israeli military issued new operational procedures to implement the lessons learned from the Gaza operation,⁶ which emphasize, according to the military, that the protection of civilians is an integral part of a commander's mission.⁷ The procedures require increased attention to civilian matters in operational planning, including research into, and the precise identification of, existing civilian infrastructure.⁸ In addition, upon the chief of the

¹ Becker and Nouwen, 'International Commissions of Inquiry: What Difference Do They Make? – Taking an Empirical Approach', in this issue, 819.

² United Nations Human Rights Council (UNHRC), Report of the United Nations Fact-Finding Mission on the Gaza Conflict (Goldstone report), UN Doc. A/HRC/12/48, 25 September 2009, at 424, para. 151.

³ *Ibid.*, at 399.

⁴ *Ibid.*, at 45.

⁵ Gaza Operation Investigations: An Update (January 2010), UN Doc. A/64/651, 4 February 2010, Annex I.

⁶ Gaza Operation Investigations: An Update (July 2010), UN Doc. A/64/890, 11 August 2010, at 9, Annex I.

⁷ *Ibid.*

⁸ *Ibid.*, at 37–40.

general staff's instructions, a new Standing Order on Destruction of Private Property for Military Purposes was formulated, which addresses in clear terms when and under what circumstances civilian structures may legitimately be demolished in circumstances of imperative military necessity.⁹

Israel reported to the Committee of Independent Experts, one of the follow-up mechanisms set up by the Goldstone report, that the Israeli Defense Forces (IDF) had implemented other operational changes based on lessons learned from the Gaza operation, which included, *inter alia*, regulations regarding safety distances from sensitive facilities, specifically with regard to the use of artillery, and the establishment of a clear doctrine and orders on various munitions that contain white phosphorous.¹⁰ The report also led the Israeli government to mandate the Turkel Commission, an inquiry set up to investigate the Gaza flotilla raid and the blockade on Gaza, as well as to examine whether Israel's mechanisms for investigating complaints of law of war violations conformed with its obligations under international law.¹¹ There is already an established view that the Commission's work, and, more so, the second Turkel Commission's report that followed, has led to changes in Israeli policies in the OPT.¹² Whether or not these measures suffice to address the criticisms set forth by the Commission or the Turkel Commission is quite contested, as demonstrated in a recent report by the Israeli State Comptroller.¹³

This article focuses, however, on another set of consequences of the Commission – namely, consequences on the promotion of human rights that were probably not intended. While the prevailing narrative in the socio-legal literature emphasizes the active role of NGOs in human rights advocacy in times of armed conflict,¹⁴ the aim of which is to pressure government authorities to cease violations and ensure accountability and respect for human rights, this case study points out that a COI's work can in fact undermine these NGOs. As this article will show, a primary consequence of the Commission's work has been a severe backlash against ISHROs working to protect and

⁹ *Ibid.*, at 38–39.

¹⁰ *Ibid.*, at 39.

¹¹ *Ibid.*, at 9; Turkel Commission, Second Report: Israel's Mechanisms for Examining and Investigating Complaints and Claims of Violations of the Laws of Armed Conflict According to International Law, February 2013, available at www.turkel-committee.gov.il/files/newDoc3/The%20Turkel%20Report%20for%20website.pdf.

¹² Goldstone, 'Quality Control in International Fact-Finding Outside Criminal Justice for Core International Crimes', in M. Bergsmo (ed.), *Quality Control in Fact-Finding* (2013) 35 at 50; L. Susser, 'Pushed by Goldstone, Israeli Army Embraces New "Smart" Warfare', *Times of Israel* (15 April 2011), available at <http://jewishstandard.timesofisrael.com/pushed-by-goldstone-israeli-army-embraces-new-smart-warfare/>; Yihdego, 'The Gaza Mission: Implications for International Humanitarian Law and UN Fact-Finding', 13 *Melbourne Journal of International Law* (2012) 1, at 54.

¹³ Operation 'Protective Edge': IDF Activity from the Perspective of International Law, Particularly with Regard to Mechanisms of Examination and Oversight of Civilian and Military Echelons, 14 March 2018, available at www.mevaker.gov.il/he/reports/pages/622.aspx.

¹⁴ Montell, 'Learning from What Works: Strategic Analysis of the Achievements of the Israel-Palestine Human Rights Community', 38 *Human Rights Quarterly* (2016) 928; Golan and Orr, 'Translating Human Rights of the "Enemy": The Case of Israeli NGOs Defending Palestinian Rights', 46(4) *Law and Society Review* (2012) 781.

promote the human rights of Palestinians in the OPT.¹⁵ Such human rights organizations were blamed by the NGO Monitor,¹⁶ a self-proclaimed Israeli watchdog group, for providing the ‘building blocks’ for the Goldstone report, which relied heavily on their submissions and publications.¹⁷

As this article demonstrates, the IsHROs’ cooperation with the Commission angered the Israeli government¹⁸ and galvanized right-wing organizations.¹⁹ Both accused the IsHROs of being active partners in drafting the report, which defamed the Israeli army and the state of Israel.²⁰ These accusations triggered angry responses from different segments of Israeli society, leading to the demonization of the IsHROs. The Israeli Knesset even looked into establishing a parliamentary COI to investigate the IsHROs’ activities and funding but eventually rejected the proposal.²¹ In addition, several bills were introduced in the parliament that aimed to silence, severely restrict the activities and curtail the foreign government funding of these NGOs. Eventually, the Knesset passed two laws, which imposed reporting requirements on NGOs that go beyond the legitimate need for transparency and aimed to constrain their activities. These measures had a chilling effect on the NGOs’ work. In a situation of armed conflict, national identities are hardened and the distinction between a ‘friend’ and an ‘enemy’ is sharpened to such an extent that the government, the army and the majority of the public may perceive those of the other nationality, as well as their sympathizers, as the enemy. These right-wing groups cast the IsHROs, which relied on universal human rights norms and international law to criticize the government and the army, as the enemy.

¹⁵ This article does not examine the consequences of the Commission on Palestinian Non-Governmental Organizations in the Occupied Palestinian Territories.

¹⁶ The NGO Monitor, founded in 2002, produces reports for the benefit of government policy-makers and the general public. It is run by Gerald Steinberg, who was closely affiliated with the Prime Minister’s Office, available at www.ngo-monitor.org/about/about-us/.

¹⁷ NGO Monitor, Goldstone Report: 575 Pages of NGO Cut and Paste, 16 September 2009, available at www.ngo-monitor.org/reports/goldstone_report_pages_of_ngo_cut_and_paste/.

¹⁸ Prime Minister Netanyahu, the foreign minister at the time Avigdor Liberman and Ron Dermer, the director of policy planning in the Prime Minister’s Office at the time.

¹⁹ Im Tirtzu and the NGO Monitor. Im Tirtzu (If You Will It), which was founded in 2006, is a grassroots Zionist non-governmental organization (NGO) in Israel (<https://imti.org.il/en/>).

²⁰ Socio-legal literature has focused on the role and influence of NGOs in mitigating human rights and international humanitarian law (IHL) violations, emphasizing that human rights organizations directly pressure states to change their practices and indirectly pressure third party states, individuals and organizations. See Murdie and Davis, ‘Shaming and Blaming: Using Events Data to Assess the Impact of Human Rights NGOs’, 56 *International Studies Quarterly* (2012) 1, at 3; B. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (2009); M. Keck and K. Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (1998); T. Risse and K. Sikkink, ‘The Socialization of International Human Rights Norms into Domestic Practices: Introduction’, in T. Risse, S.C. Ropp, and K. Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change* (1999)¹. This study is somewhat related to their line of inquiry and yet distinct from it because it focuses on the effects of cooperation with the Goldstone Commission on nine human rights NGOs in Israel.

²¹ Ravid and Lis, ‘Liberman Blasts PM, Likud Ministers for Refusing to Probe Left-Wing Groups’, *Haaretz* (18 July 2011), available at www.haaretz.com/liberman-blasts-pm-likud-ministers-for-refusing-to-probe-left-wing-groups-1.373815.

The sociological study of the influence of international human rights in domestic settings has been at the forefront of human rights scholarship in recent years.²² International COIs are often established to promote and harness human rights in domestic settings and thus provide an excellent context to examine the impact of international human rights law on local communities. As noted in the introduction to this symposium, despite being an organization that embodies the international/national interface in the context of human rights, there is little empirical analysis dealing with COIs' actual impact. This study supplements this void with an analysis of the contours of the Goldstone Commission's backlash and its effect on human rights organizations and human rights advocacy in Israel and the OPT in the aftermath of the Goldstone report. As the following analysis reveals, the Commission's case does not merely complement the socio-legal human rights scholarship with a context that has not been previously explored. Rather, the findings of this particular case problematize and challenge the implicit assumption in the socio-legal literature that the interaction of international human rights institutions with domestic actors mobilizes positive human rights change.²³ This case study also adds a new dimension to the academic and policy literature that has been critical of the international human rights enterprise in recent years.²⁴ By shedding light on the factors and conditions that can impede or prevent positive human rights change from taking place, the Commission's experience demonstrates that the establishment of COIs in deeply divided conflict societies can have negative, as well as positive, implications on human rights.

2 Methodology and Data

The research conducted for this article relied on process tracing. It examined a wide range of data pertaining to the context in which the Goldstone Commission operated and in which its report was received with a view to analysing whether and how

²² Simmons, *supra* note 20; Keck and Sikkink, *supra* note 20.

²³ Most of the socio-legal literature mainly examines the international human rights treaty system with a view to evaluating its impact in practice. Some of the earlier studies have suggested that treaty ratification does not lead to an improvement in human rights performance by states and may even have a connection to a deterioration in standards. These studies included research carried out by Keith, 'The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior', 36(1) *Journal of Peace and Conflict Resolution (JPCR)* (1999) 95; Hathaway, 'Do Human Rights Treaties Make a Difference?', 111 *Yale Law Journal* (2002) 1935; Burton and Tsutsui, 'Justice Lost! The Failure of International Human Rights Law to Matter Where Needed Most', 44(4) *JPCR* (2007) 407. Yet a range of recent empirical studies, both quantitative and qualitative, provide that the ratification of human rights treaties is associated with a positive impact on human rights standards within states, and affects domestic politics by altering the national agenda, leveraging litigation and empowering political mobilization. See De Burca, 'Human Rights Experimentalism', 111(2) *American Journal of International Law* (2017) 277; B. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (2009), at 148; Neumayer, 'Do International Human Rights Treaties Improve Respect for Human Rights', 49(6) *Journal of Conflict Resolution* (2005) 925.

²⁴ For recent critics, see S. Moyn, *The Last Utopia: Human Rights in History* (2012); E. Posner, *The Twilight of Human Rights* (2014); S. Hopgood, *The Endtimes of Human Rights* (2014).

the Commission and its report related to subsequent developments affecting human rights NGOs. The data were gathered from official reports (Goldstone report²⁵ and the subsequent report from the Commission of Inquiry into Operation Protective Edge²⁶); reports and press releases of IsHROs and the NGO Monitor and ImTirtzu; publications from the Israeli Foreign Ministry and the IDF; petitions and decisions from the Supreme Court of Israel and news articles and op-eds in the Israeli and international media. Data were also collected through in-depth, semi-structured interviews with the general directors and international advocacy staff of nine IsHROs: B'Tselem, the Israeli Information Centre for Human Rights; Gisha, the Legal Centre for Freedom of Movement; the Association for Civil Rights in Israel (ACRI); the Public Committee against Torture in Israel (PCATI); HaMoked, the Center for the Defense of the Individual; Yesh Din, Volunteers for Human Rights; Adalah, the Legal Center for Arab Minority Rights in Israel; Physicians for Human Rights, Israel (PHRI); and Breaking the Silence (BTS).²⁷ Finally, data were obtained through personal participation in the meetings of the Board of Directors of Adalah, in my capacity as a board member and later as the chairperson,²⁸ where we discussed the organization's cooperation with the Commission, the follow-up international advocacy regarding the Goldstone report's implementation, the cooperation with the Committee of Independent Experts²⁹ and how to tackle and react to the virulent attack against the organization and the overall backlash against the IsHROs.

3 The Goldstone Commission: Background and Key Findings

From 27 December 2008 to 18 January 2009, the IDF and Palestinian armed groups engaged in a fierce battle in Gaza that resulted in the killing of 1,400 Palestinians and 13 Israelis. Civilian homes and infrastructure, hospitals, mosques and a UN facility were severely damaged or destroyed in Gaza.³⁰ Following the cessation of hostilities, the UN Human Rights Council (UNHRC) established the Goldstone Commission.³¹ The Commission's initial mandate was to investigate all violations of international humanitarian law (IHL) and international human rights law (IHRL) by Israel as the occupying power against the Palestinian people throughout the OPT, particularly in Gaza.³² South African Justice Richard Goldstone agreed to chair the Commission only after the mandate was widened to also include the actions taken by the Palestinian

²⁵ Goldstone report, *supra* note 2.

²⁶ UNHRC, Report of the Independent Commission of Inquiry on the 2014 Gaza Conflict, UN Doc. A/HRC/29/52, 24 June 2015.

²⁷ Breaking the Silence (BTS) was not part of the collective action of this group.

²⁸ See the first, unnumbered, note in this article.

²⁹ UNHRC, Report of the Committee of Independent Experts, UN Doc. A/HRC/15/50, 23 September 2010.

³⁰ Goldstone report, *supra* note 2, at para. 151.

³¹ UNHRC Resolution S-9/1, UN Doc. A/HRC/S-9/L.1, 12 January 2009.

³² *Ibid.*, para. 14.

Authority and Hamas.³³ Consequently, the Commission's mandate read: '[To investigate] all violations of International Human Rights Law and International Humanitarian Law that might have been committed at any time in the context of the military operations that were conducted in Gaza from 27 December 2008–18 January 2009, whether before during, or after.'³⁴

In keeping with its view that the UNHRC is a highly politicized body that unfairly singles out Israel,³⁵ the Israeli government refused to cooperate with the Commission. The government refused to allow the Commission's members to enter Israel, to meet with officials or to travel to the West Bank.³⁶ The Commission attempted to make up for this disadvantage, in part, by relying on informal witnesses and reports from IsHROs as well as on IDF reports.³⁷ The Commission embarked on a thorough investigation over three months, including a visit to Gaza via Egypt, and conducted 188 interviews and reviewed more than 300 reports.³⁸ In establishing its findings, the Commission relied primarily and whenever possible on information it had gathered first-hand. According to the Commission, information produced by others, including reports, affidavits and media articles, was used primarily as corroboration.³⁹ In the implementation of its mandate,⁴⁰ the Commission noted that it was guided by a resolution of the UN Commission on Human Rights that urged '[g]overnments to refrain from all acts of intimidation or reprisal against (a) those who seek to cooperate or have cooperated with representatives of UN human rights bodies, or who have provided testimony or information to them'.⁴¹

The IsHROs gathered primary source information concerning alleged violations of the laws of war by the IDF during the Gaza operation, as they documented the conflict each day, collecting testimonies from victims and witnesses, obtaining medical records and taking photographs. They submitted a joint report to the Commission with detailed findings concerning these violations⁴² as well as an appendix, which included a list of their publications, the relevant information gathered and the contact persons from each organization.⁴³ These publications included, *inter alia*, urgent appeals to the Israeli authorities to stop targeting civilian population centres and infrastructure, letters to the Israeli attorney general calling on him to conduct independent

³³ Goldstone, *supra* note 12, at 46–47.

³⁴ Goldstone report, *supra* note 2; Goldstone, *supra* note 12, at 46–47.

³⁵ D. Gold, *Degrading International Institutions: The United Nations Goldstone Report*, available at http://jcpa.org/degrading_international_institutions_un_goldstone_report/.

³⁶ Goldstone report, *supra* note 2.

³⁷ Goldstone, *supra* note 12, at 48.

³⁸ Goldstone report, *supra* note 2, at 15.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, at 40.

⁴¹ UNHRC Resolution 2005/9, UN Doc. E/CN.4/RES/2005/9, 14 April 2005.

⁴² Submission of Human Rights Organizations Based in Israel to the Goldstone Inquiry Delegation, June 2009, available at www.acri.org.il/en/wp-content/uploads/2009/06/Submission-to-Goldstone-Inquiry-English-final.pdf. B'Tselem and BTS were not part of the joint submission.

⁴³ Appendix: List of Publications and Relevant Information, available at www.adalah.org/uploads/oldfiles/newsletter/eng/jun09/goldstone%20report_and_appendix%5B1%5D.pdf.

and impartial investigations into the military's conduct, complaints to the Military Advocate General regarding the holding conditions of detainees from Gaza and more.⁴⁴ The organizations viewed the Commission's work as being critical since the attorney general had rejected their appeal to establish an independent mechanism to investigate harm to Palestinian civilians in Gaza.⁴⁵ The representatives of the IsHROs also met with the Commission investigation team abroad.⁴⁶

In the Goldstone report, published in September 2009, the Commission concluded that the Israeli military and Palestinian armed groups were each responsible for perpetrating grave breaches of the Geneva Conventions.⁴⁷ It also accused Israel of carrying out a policy of targeting civilians in Gaza, although Justice Goldstone subsequently withdrew his support for this statement.⁴⁸ However, the three other Commission members stood firm by their conclusions and rejected the call for reconsideration.⁴⁹ The report confirmed the accounts of many Palestinian, Israeli and international human rights organizations and strongly refuted Israel's claims that its investigatory mechanisms into violations of the laws of war complied with its international law obligations. The Commission recommended a series of actions, including carrying out further investigations into the allegations raised in the report⁵⁰ as well as a detailed implementation mechanism to try to secure accountability. The report recommended that the UNHRC bring the report to the attention of the UN Security Council and that the UN Security Council should refer the situation to the ICC if genuine domestic investigations were not undertaken.⁵¹

4 Reactions to the Goldstone Report

The Commission's report attracted worldwide attention and triggered diplomatic debates. While some saw the report as being deeply flawed and excessively harsh on

⁴⁴ *Ibid.*

⁴⁵ Letter of the IsHROs to the Attorney General, 20 January 2009, available at www.acri.org.il/pdf/Gaza200109.pdf; Letter from the Attorney General to the IsHROs, 24 February 2009, available at www.acri.org.il/pdf/Gaza240209.pdf.

⁴⁶ Goldstone report, *supra* note 2, at 432–433.

⁴⁷ Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, 75 UNTS 31; Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 1949, 75 UNTS 85; Geneva Convention III relative to the Treatment of Prisoners of War 1949, 75 UNTS 135; Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War 1949, 75 UNTS 287.

⁴⁸ Goldstone report, *supra* note 2, at 61; Goldstone, 'Reconsidering the Goldstone Report on Israel and War Crimes', *Washington Post* (1 April 2011); Eldar, 'What Exactly Did Goldstone "Retract" from his Report on Gaza?', *Ha'aretz* (12 April 2011), available at www.haaretz.com/print-edition/features/what-exactly-didgoldstone-retract-from-his-report-on-gaza-1.355454.

⁴⁹ Jilani, Chinkin and Travers, 'Goldstone Report: Statement Issued by Members of UN Mission on Gaza War', *The Guardian* (14 April 2011), available at www.theguardian.com/commentsfree/2011/apr/14/goldstone-report-statement-un-gaza.

⁵⁰ Goldstone report, *supra* note 2, ch. xxx.

⁵¹ *Ibid.*, ch. xxxi, at 423–424.

Israel, others commended it as being fair and accurate.⁵² Academic commentary on the report was also sharply split.⁵³ The IsHROs called upon the government to take the report seriously and to refrain from automatically rejecting its findings or denying its legitimacy.⁵⁴ They also called on Israel to conduct independent, impartial investigations into the allegations and to cooperate with follow-up international monitoring mechanisms.⁵⁵

In response, the Israeli Ministry of Foreign Affairs asserted that the Goldstone report presented a major challenge to all democracies fighting terror as it, *inter alia*, called into question the legitimacy of national legal systems and investigations, promoted criminal proceedings against forces confronting terrorism in foreign states and sought to expand the jurisdiction of the ICC beyond its statute.⁵⁶ Then president of Israel Shimon Peres described the report as a mockery of history that gave legitimacy to terrorism, failing to distinguish between aggressor and defender.⁵⁷ He and then finance minister Yuval Steinitz launched a personal attack on Justice Goldstone.⁵⁸ Prime Minister Benjamin Netanyahu condemned the report during his 2009 speech at the UN General Assembly, stating that Israel had justly defended itself against terror and that the report was biased.⁵⁹ In the Knesset, Netanyahu declared: 'We face three major strategic challenges: the Iranian nuclear program, rockets aimed at our civilians, and Goldstone.'⁶⁰ The attorney general disparaged the report as a serious threat that would

⁵² 'Opportunity Missed', *The Economist* (17 September 2009), available at www.economist.com/node/14455609; 'The Goldstone Report: A History', *The Guardian* (14 April 2011); Dershowitz, 'The Case against the Goldstone Report: A Study in Evidentiary Bias', available at <https://dash.harvard.edu/bitstream/handle/1/3593975/dershowitzgoldstone.pdf?sequence=2>.

⁵³ For a sympathetic reaction, see, e.g., A. Horowitz, L. Ratner and P. Weiss (eds), *The Goldstone Report: The Legacy of the Landmark Investigation of the Gaza Conflict* (2010). For a critical account see, e.g., Berkowitz, 'The Goldstone Report and International Law: The March of Politics under the Banner of Law', *162 Policy Review* (2010) 13.

⁵⁴ 'Israel Must Investigate "Operation Cast Lead"', *Btselem* (15 September 2009), available at www.btselem.org/press_releases/20090915.

⁵⁵ *Ibid.*: Letter to Prime Minister Benjamin Netanyahu, 25 January 2010, available at www.adalah.org/uploads/oldfiles/newsletter/ara/jan10/HR%20organization%20independent%20investigation%2024.1.10.pdf.

⁵⁶ According to Israeli Foreign Ministry, the report states that 'the Prosecutor may determine that for the purposes of Article 12, paragraph 3, under customary international law Palestine qualifies as "a state"'. Goldstone Fact-Finding Report: A Challenge to Democracies Fighting Terror, 17 September 2009, available at http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Pages/Goldstone%20Fact-Finding_Report_Challenge_democracies_fighting%20_error.aspx.

⁵⁷ Shuki Sadeh Peres, 'Goldstone a Small Man Out to Hurt Israel', *Haaretz* (12 November 2009), available at www.haaretz.com/news/peres-goldstone-is-a-small-man-out-to-hurt-israel-1.267149.

⁵⁸ Peres called him 'a technocrat with no real understanding of jurisprudence' who led 'a one-sided mission to hurt Israel'. Quoted in *ibid.*; Steinitz suggested that Justice Goldstone, who is Jewish and has deep ties to Israel, was an 'anti-Semite' of a kind to 'despise and hate our own people'; A. Cassese, 'We Must Stand behind the UN Report on Gaza', *Financial Times* (14 October 2009), available at www.ft.com/cms/s/0/aaf309e8-b859-11de-8ca9-00144feab49a.html?ft_site=falcon&desktop=true#axzz4g6CEsN08.

⁵⁹ For the full text of speech, see Address by Prime Minister Benjamin Netanyahu to the United Nations General Assembly General Debate—64th Session, 5th plenary meeting, UN Doc. A/64/PV.5, 24 September 2009, at 35.

⁶⁰ Prime Minister Netanyahu's speech at the Knesset Special Session, 23 December 2009, available at <http://online.knesset.gov.il/app/#/player/peplayer.aspx?ProtocolID=5504>.

‘continue to haunt us and take away our legitimacy’, adding that Israel must initiate its own probes into the Gaza war in order to counter Goldstone.⁶¹ Despite this scathing critique, the report led to some changes in the Israeli military’s legal perspectives and to other measures to address the challenges it posed.⁶²

Richard Falk has argued that interest in the report greatly increased following the furious responses of the Israeli political leaders and the media and that they differed in tone and language from previous reactions to external criticism.⁶³ I argue that the unprecedented reaction to the report emanated from the fact that it was the first UN-backed report to reject the Israeli system of investigations into allegations of wrongdoing by the military, finding it not to be in compliance with the international principles of independence, impartiality, effectiveness, transparency and promptness.⁶⁴ The report created a fury by asserting a lack of good faith on the side of the Israeli military. Moreover, by calling these procedures into question, the report suggested that Israeli soldiers could actually stand trial before foreign courts under the principle of universal jurisdiction or before the ICC.⁶⁵

5 Subsequent Developments to the Goldstone Report

The UNHRC and the UN General Assembly endorsed the report and called upon both sides to undertake credible and appropriate investigations concerning the allegations made against them.⁶⁶ Both the Israelis and the Palestinians subsequently conducted some investigations or clarified their stance on the alleged crimes.⁶⁷ Israel admitted to a number of intelligence and operational errors and a few instances in which IDF soldiers had violated the rules of engagement, but it categorically denied allegations of systematic and deliberate infringements of international law, including any policy of deliberate targeting of civilians.⁶⁸ The Palestinian governments (both in Ramallah and Gaza) have, or claim to have, carried out investigations, but they have not addressed the main charges incriminating the Hamas armed groups.⁶⁹

⁶¹ The outgoing Attorney General Menachem Mazuz in an interview to *Haaretz*, available at www.haaretz.com/menachem-mazuz-israel-must-probe-gaza-war-to-counter-goldstone-1.262381.

⁶² See Gaza Operation Investigations: An Update (July 2010), *supra* note 6, at 37–41.

⁶³ Falk, ‘The Goldstone Report: Neither Implemented Nor Ignored’, 16 *Palestine Yearbook of International Law* (2010) 5, at 10.

⁶⁴ Goldstone report, *supra* note 2, at 390.

⁶⁵ Goldstone Fact-Finding Report, *supra* note 56. The military called the rejection of Israeli investigative mechanisms a campaign of ‘lawfare’ representing a serious threat to Israeli soldiers.

⁶⁶ UNHRC, The Human Rights Situation in the Occupied Palestinian Territory, Including East Jerusalem, UN Doc. A/HRC/RES/S-12/1, 21 October 2009; UN General Assembly, Follow-Up to the Report of the United Nations Fact-Finding Mission on the Gaza Conflict, UN Doc. A/RES/64/10, 1 December 2009.

⁶⁷ UNHRC, First Report of the Committee of Independent Experts, UN Doc. A/HRC/15/50, 23 September 2010; UNHRC, Second Report of the Committee of Independent Experts, UN Doc. A/HRC/16/24, 18 March 2011.

⁶⁸ Gaza Operation Investigations: An Update (July 2010), *supra* note 6.

⁶⁹ Second Report of the Committee of Independent Experts, *supra* note 67, at 14–17.

Although the Israeli authorities publicly rejected the Goldstone report, the IDF also claimed that it had adopted reforms to its war-fighting policies.⁷⁰ Moreover, officers' training courses now include study of the laws of war. In an army in which there is a consensus that the way in which military actions are perceived is at least as important as their physical impact,⁷¹ this measure is a response to what the former Military Advocate General and the current attorney general of Israel Avichai Mandelblit has called 'the Goldstone effect': the decreased international standing of the Israeli army due to the international condemnation by the report.⁷² Another effect of the Goldstone Commission relates to the Israeli military's fear of legal prosecutions in foreign jurisdictions. A special unit was established in the Justice Ministry in 2009 to give legal advice to Israeli officers who planned to travel abroad in order to protect them from criminal proceedings in foreign states.⁷³ And a military committee recommended that the full names of Israeli officers not be published in the media.⁷⁴

6 Backlash against the IsHROs and the Political Context

Against the backdrop of the Goldstone report, a fierce campaign was launched against IsHROs and the US-based New Israel Fund (NIF), a large donor to these organizations. A few hours after the report was published, the NGO Monitor circulated a press release characterizing the report as an NGO 'cut and paste' document.⁷⁵ The NGO Monitor maintained that many of the report's findings were based on reports of 'biased' human rights organizations and that the Commission's reliance on their publications was 'inconsistent with the claim to have conducted a "fact finding mission." By adopting the flawed methodologies and false claims from the NGOs, Goldstone renders his entire report and its conclusions invalid'.⁷⁶ According to the NGO Monitor, by exposing Israeli violations in their reports, the IsHROs not only harm Israel's international reputation, but they also provide incriminating evidence in the criminal cases filed against Israelis in foreign courts exercising universal jurisdiction.⁷⁷

⁷⁰ Gaza Operation Investigations: An Update (July 2010), *supra* note 6 at 37–41; Susser, *supra* note 12.

⁷¹ Susser, *supra* note 12.

⁷² From a presentation by the former Military Advocate General at a discussion on the application of international law between 'Cast Lead' and 'Protective Edge' operations, available at https://idclawreview.org/2013/03/06/cast_lead_cloud_pillar_2013/.

⁷³ Rosenzweig and Shany, 'Establishment of a Legal Department by the Israeli Security Cabinet to Deal with Issues of International Jurisdiction', 12 *Terrorism and Democracy*, available at <http://185.6.64.65:5300/en/analysis/terrorism-and-democracy/issue-no-12/establishment-of-a-legal-department-by-the-israeli-security-cabinet-to-deal-with-issues-of-international-jurisdiction/>.

⁷⁴ David, 'Because of Fear of Legal Persecution: The IDF Will Conceal the Identity of Officers', *M'ariv nrg* (5 July 2011), available at www.nrg.co.il/online/1/ART2/256/655.html.

⁷⁵ See note 16 above. According to NGO Monitor, the Goldstone report includes more than 500 direct citations from politicized NGOs that lack credibility.

⁷⁶ NGO Monitor, 'House of Cards: NGOs and the Goldstone Report', 1 October 2009, available at www.ngo-monitor.org/reports/_house_of_cards_ngos_and_the_goldstone_report/.

⁷⁷ NGO Monitor, 'Made in Europe: How Government Funded NGOs Shaped the Goldstone Report', 1 October 2009, available at www.ngo-monitor.org/reports/european_government_funding_ngos_and_the_goldstone_report/; Gordon, 'Human Rights as a Security Threat: Lawfare and the Campaign against Human Rights NGOs', 48(2) *Law and Society* (2014) 311, at 322.

Joining the NGO Monitor in this campaign was the ultra-nationalist group Im Tirtzu.⁷⁸ Their strategy was to delegitimize the IsHROs in the public eye by representing them as a security threat to Israel, in addition to establishing a wedge between them and their donors. Im Tirtzu published a study on the IsHROs' influence on the Goldstone report in which they calculated that 14 per cent of its references came from publications of NIF-funded organizations.⁷⁹ These findings were published in a front-page article in the widely circulated *Ma'ariv* newspaper entitled: 'Our contribution to the materials from which Goldstone is made.'⁸⁰ According to Im Tirtzu, Israel's international reputation was at an unprecedented low, and international pressure, including calls for economic sanctions, was increasing. It alleged that all of these problems were fuelled by the report, which was, in turn, fuelled by IsHROs that were funded by the NIF.⁸¹ Im Tirtzu also launched a harsh, provocative billboard campaign against the NIF's president, former Knesset member Naomi Chazan,⁸² and the Israeli media spent hours talking about whether the NIF and the IsHROs had betrayed their country.⁸³ Many journalists joined the attack and demanded that the government ban the human rights groups.⁸⁴

The Netanyahu government joined the campaign and also attacked international human rights organizations such as Human Rights Watch and Amnesty International. Ministers began painting the IsHROs as a fifth column.⁸⁵ Ron Dermer, the director of policy planning in the Prime Minister's Office at the time, said: 'We are going to dedicate time and manpower to combating these groups. We are not going to be sitting ducks in a pond for the human rights groups to shoot at us with impunity.'⁸⁶ Then Foreign Minister Avigdor Lieberman accused the IsHROs of aiding terror and of trying 'to weaken the IDF and its resolve to protect Israel's citizens'.⁸⁷

⁷⁸ See note 19 above.

⁷⁹ Im Tirtzu, 'The Influence of New Israel Fund Organizations on the Goldstone Report', available at <https://imti.org.il/wp-content/uploads/2015/09/NIFGoldstone.pdf>.

⁸⁰ Ben Kaspit, 'Ma'ariv', 30 January 2010, available at www.nrg.co.il/online/1/ART2/046/583.html.

⁸¹ *Ibid*; Im Tirtzu, *supra* note 79, at 6.

⁸² On the billboard, Naomi Chazan was portrayed with a horn on her head (in Hebrew, the word for horn is *keren*, which also means fund). The advertisement reads: 'Naomi Goldstone-Chazan: Naomi Chazan's "New Fund" Stands behind the Goldstone Report.'

⁸³ Gordon, *supra* note 77, at 329–330.

⁸⁴ Ben-Kaspi, *supra* note 80; B. Yamini, 'A Kick of a Horn', *nrg* (2 February 2010), available at www.nrg.co.il/online/1/ART2/048/442.html.

⁸⁵ P. Weiss and A. Horowitz, 'Israel vs. Human Rights. Israel's Latest Strategy for Responding to Allegations of Human Rights Abuses: Kill the Messenger', *The Nation* (30 September 2009), available at www.thenation.com/article/israel-vs-human-rights/.

⁸⁶ C. McGreal, 'Israel "Personally Attacking Human Right Group" after Gaza War Criticism', *The Guardian* (13 November 2009), available at www.theguardian.com/world/2009/nov/13/israel-human-rights-watch-gaza.

⁸⁷ M. Mualem, 'Lieberman: Leftist Groups Are Terrorists Collaborators', *Haaretz* (11 January 2011), available at www.haaretz.com/lieberman-leftist-groups-are-terrorist-collaborators-1.336294.

Other government officials referred to the IsHROs as ‘Trojan horses’, casting them as traitors while spreading misinformation about their activities.⁸⁸

The political environment in Israel became increasingly hostile towards human rights, in general, and human rights organizations, in particular, because of Israel’s escalating ‘legitimation crises’ in the international arena. Israel’s prolonged occupation and colonization of the Palestinian territories and East Jerusalem, the diminishing likelihood of a two-state solution, the absence of a political horizon and the intensification of the hardship of Palestinians living under Israeli occupation had generated increased international pressure for ending the occupation.⁸⁹ Therefore, the Goldstone report was one among several factors increasing international pressure on the government, which spurred in response a backlash undercutting human rights protections in Israel and the OPT. Feeling under international attack by the Commission, actors within Israel used the report to legitimize legal and political measures against human rights activists.

Immediately following the Gaza conflict, the Israeli elections held in February 2009 brought a right-wing government coalition to power.⁹⁰ The new Israeli government dismissed the human rights organizations as biased, unreliable and treacherous and began to crack down on them in an attempt to silence their reporting and criticism.⁹¹ One of the government’s measures, which will be further discussed in the following section, was its establishment of a parliamentary COI to investigate the IsHROs’ activities and funding. This initiative came about after the Goldstone report’s publication, which relied on the ‘incriminating’ information submitted to it by the IsHROs. Knesset member Faina Kirschenbaum, who was from the right-wing party Yisrael Beiteinu that had proposed this parliamentary inquiry, accused the IsHROs of undermining the image and the existence of the state of Israel. She went so far as to say that the human rights organizations are ‘legal organized crime organizations, which are using democracy to defame Israel and to portray the Israeli army as war criminals, and intensifying the delegitimization of Israel in the international arena’.⁹²

The government’s coalition members also introduced a flood of unprecedented anti-Arab and other anti-democratic bills – some of which were enacted into law

⁸⁸ D. Danon, ‘Who Really Funds the NIF’, *Ynet* (18 February 2010), available at www.ynetnews.com/articles/0,7340.L-3850957,00.html; D. Scheindlin, ‘Strategic Choices Facing Israeli Rights Group during the Current War’, *Open Democracy* (4 August 2014), available at www.opendemocracy.net/openglobalrights/dahlia-scheindlin/strategic-choices-facing-israeli-rights-group-during-current-war.

⁸⁹ I. Saban, ‘Israel: The Political Counter-Reaction to Its Constitutional Revolution’, 10th World Congress of Constitutional Law, Seoul, 18–22 June 2018.

⁹⁰ A right-wing government in the Israeli context is a government that is led by the Likud Party and others that mainly wish to sustain and continue the occupation and reject the two-state solution.

⁹¹ A. Gross, ‘Democracy, Delegitimization and Denial in Israel’, *972 Blog* (15 January 2011), available at <https://972mag.com/democracy-delegitimization-and-denial-observing-a-sea-change-in-israel/8605/>.

⁹² 18th Knesset Committee Session no. 150, 2 February 2011, available at <http://main.knesset.gov.il/Activity/committees/Pages/AllCommitteeProtocols.aspx?ItemID=2019055>. A. Fuchs and D. Blander, *Anti-Democratic Legislation in the 18th Knesset (2009–2013)* (2015), at 192.

– that targeted, *inter alia*, human rights organizations.⁹³ This legislation included, for instance, the Nakba Law (2011), which authorizes the finance minister to reduce funding to an institution that holds an activity that is deemed to deny the existence of Israel as a ‘Jewish and democratic state’ or that commemorates ‘Israel’s Independence Day or the day on which the state was established as a day of mourning’.⁹⁴ Another statute is the Boycott Law (2011), which makes it a civil wrong to call for an economic, cultural or academic boycott against a person or entity merely because of its affiliation to the state of Israel or to a specific region under Israeli control.⁹⁵

The parliamentary opposition lost significant power around this time, and the IsHROs became the main, vocal opposition to the government’s policies. However, due to the delegitimation campaign, they had lost much of their legitimacy in the public discourse.⁹⁶ It is therefore no surprise, according to Ishai Menuchin, the former general director of the PCATI, ‘that since the backlash, the Israeli media started to often attach titles such as “radical left organization” to the name of an IsHRO’.⁹⁷ IsHROs that work to defend the human rights of Palestinians in the OPT have been subjected to rigorous criticism by Israeli government officials and groups since they appeared on the political stage in the late 1980s. However, the NGO Monitor appears to be the first organization to argue that they constitute a national security threat to the state of Israel.⁹⁸ The establishment of the NGO Monitor in 2002 exemplifies the changing tide towards a more concerted effort of civil society organizations against IsHROs. These organizations used the Goldstone Commission to stoke public opposition to the IsHROs. The Commission operated in this atmosphere of delegitimization and, arguably, also played a role in fostering an even greater attack on human rights advocates.

Before the Goldstone report, these right-wing organizations did not have a strong case to advance their views against the IsHROs among the Israeli public and political leadership. From the Israeli government’s point of view, the report challenged not only its policies but also its right to defend itself in future conflicts, and, therefore, it had to attack the ‘ideological opposition’ that cooperated with the Commission and provided it with ‘incriminating’ information.⁹⁹ Further, the report demonstrated that the IsHROs’ activities could actually lead to changes that could bring an end to Israel’s

⁹³ Adalah, ‘Discriminatory Laws and Bills, 2019–2012’, April 2013, available at www.adalah.org/uploads/2009-2012_Discriminatory_laws_and_bills_English.pdf; Fuchs and Blander, *supra* note 92, at 17; Association for Civil Rights in Israel (ACRI), Overview of Anti-Democratic Legislation in the 20th Knesset, June 2017, available at www.acri.org.il/en/wp-content/uploads/2016/09/June-Overview-of-Anti-Democratic-Legislation-2017.pdf.

⁹⁴ Budget Foundations Law on Reducing Budget or Support for Activity Contrary to the Principles of the State, Amendment no. 4, 30 March 2011.

⁹⁵ Law for Prevention of Damage to the State of Israel through Boycott, 11 July 2011.

⁹⁶ Golan and Orr, *supra* note 14, at 809.

⁹⁷ Interview with Ishai Menuchin, former general director of the Public Committee against Torture in Israel (PCATI), 21 November 2016.

⁹⁸ Steinberg, ‘NGOs Make War on Israel’, 11 *Middle East Quarterly* (2004) 13.

⁹⁹ Interview with Hagai El-Ad, former general director of the ACRI, 27 November 2016.

prolonged occupation of the OPT. Based on the information provided by the IsHROs, the report's findings engendered enormous international political pressure on Israel to reconsider its policies *vis-à-vis* the OPT.¹⁰⁰ Moreover, at a time in which the government was already struggling with attempts in Spain and the United Kingdom to prosecute senior Israeli officials there,¹⁰¹ the report made the threat of prosecuting Israeli soldiers in international arenas more tangible. These conclusions caused the government to launch its strong attack against the IsHROs.

Arguably, the Israeli public's faith and trust in the IDF was a crucial factor in rallying opposition to the Goldstone process and the demonization of the IsHROs. Military service is mandatory for all Jewish citizens of Israel; it is the Jewish people's army. The IDF has a powerful presence in the education system, in family life and in the national culture. It is viewed as a symbol of the nation's spirit, strength and ethical values and is regarded as one of the Israeli society's most important institutions. It influences the country's security, economy and politics. Of all of the country's institutions, it enjoys the highest degree of trust among the Jewish public, as the Israeli Democracy Index illustrates (Figure 1).¹⁰²

As the report impugned the IDF's integrity, it hit at the heart of Israeli society, and the groups taking aim against the IsHROs thus found a ready audience for their polemics. The campaigns provoked public animosity towards the IsHROs. A public opinion poll was conducted three months after the publication of reports by NGO Monitor and Im Tirtzu about how the Commission used the information supplied by the IsHROs. It found that when asked whether IsHROs that uncover and publish immoral acts perpetrated by Israel should be allowed to operate freely, 58 per cent of Jewish Israelis responded that they should not be allowed or that they should be allowed only to a very limited degree.¹⁰³ In a 2011 public opinion poll, only 41 per cent of the Israeli Jewish public had a positive view of IsHROs; when asked about organizations defending Palestinian human rights, the number dropped to 21 per cent.¹⁰⁴

At the climax of the delegitimization campaigns against the IsHROs in 2011, in an op-ed published in the *Washington Post*, Justice Goldstone retracted his support from

¹⁰⁰ Interview with Michael Sfar, the legal advisor of Yesh Din, 19 February 2017; Golan and Orr, *supra* note 14, at 809–810.

¹⁰¹ G. Tremlett, 'Spain Investigates Claims of Israeli Crimes against Humanity in Gaza', *The Guardian* (29 January 2009), available at www.theguardian.com/world/2009/jan/29/spain-israel-gaza-crimes-humanity; R. McCarthy, 'British Government Will Fight Legal Attempts to Indict Israeli Leaders in UK', *The Guardian* (5 January 2010), available at www.theguardian.com/world/2010/jan/05/israel-war-crimes-warrants-britain.

¹⁰² T. Herman, 'The Israeli Democratic Index 2016', at 115, available at <https://en.idi.org.il/media/7811/democracy-index-2016-eng.pdf>.

¹⁰³ Ariel Bar Tal Eylon, *Freedom of Expression Poll* (2010); O. Kashti, 'Poll: Majority of Israel's Jews Back Gag on Rights Groups', *Haaretz* (28 April 2010), available at www.haaretz.com/israel-news/poll-majority-of-israel-s-jews-back-gag-on-rights-groups-1.285120.

¹⁰⁴ D. Scheindlin, 'Human Rights and Public Opinion in Israel: Anger vs. Pragmatism', *Open Democracy* (26 October 2016), available at www.opendemocracy.net/openglobalrights/dahlia-scheindlin/human-rights-and-public-opinion-in-israel-anger-vs-pragmatism; Gordon, *supra* note 77, at 333.

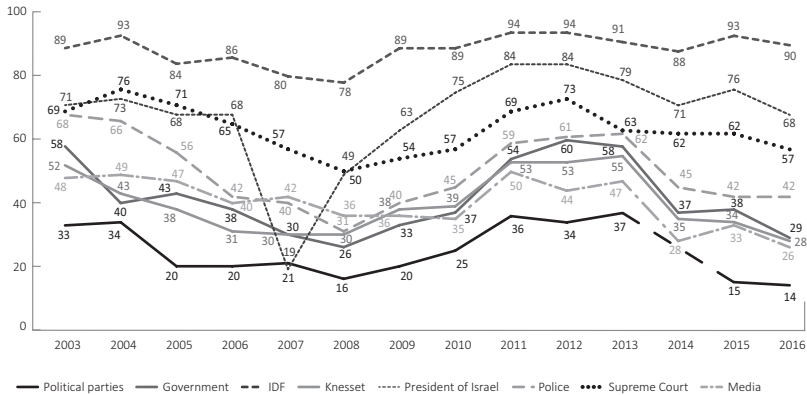


Figure 1: Overview of trust in institutions (trust ‘very much’ and ‘quite a lot’: Jews; by year; percentage). Tamar Hermann, et al. *The Israel Democracy Index 2016*, the Israel Democracy Institute.

the report’s finding that the Israeli military intentionally targeted civilians in Gaza as a matter of policy.¹⁰⁵ Goldstone’s retraction undermined the credibility and effectiveness of the report, and, in the words of Rina Rosenberg, Adalah’s international advocacy director, ‘Justice Goldstone’s retraction utterly killed the Report, put it in a coffin and essentially buried it’.¹⁰⁶ Arguably, with Goldstone’s remarks in the op-ed, the Commission also lost much of its prestige and legal standing *vis-à-vis* the Gaza conflict, and, most importantly, Goldstone diminished the value of independent fact-finding and legal expert assessment as well as the legitimacy of the whole process of international COIs.

7 Measures Adopted in the Knesset that Aimed to Silence and Severely Restrict the IsHROs’ Activities

The virulent media offensive against the IsHROs was followed by measures in the Israeli Knesset. In early 2011, members of the government put forward a proposal to create a parliamentary COI into the funding and activities of human rights groups that ‘delegitimize Israel and abet terror ... especially those that helped the Commission by submitting 90 percent of the skewed and false information to it’.¹⁰⁷ The proposal sought to intimidate the IsHROs and to give the impression that they were funded by illegal sources. However, due to criticism, Prime Minister Netanyahu announced that he did not support the inquiry.¹⁰⁸ Knesset members and the government coalition also

¹⁰⁵ Goldstone, *supra* note 48.

¹⁰⁶ Interview with Rina Rosenberg, Adalah’s international advocacy director, 21 December 2016.

¹⁰⁷ Ravid and Lis, *supra* note 21; R. Sofer, ‘Knesset Approves Probe against Leftist Groups’, *Ynet* (5 January 2011), available at www.ynetnews.com/articles/0,7340,L-4009515,00.html. The initiative was proposed by Knesset member Faina Kirshenbum and approved by a majority of 47 Knesset members, while 16 voted against it.

¹⁰⁸ Ravid and Lis, *supra* note 21; D. Sokatch, ‘We Won the Battle...’, *New Israel Fund* (17 February 2010), available at www.nif.org/news-media/out-loud/we-won-the-battle/.

introduced numerous bills seeking to curtail the IsHROs' work, three of which will be discussed in this article. Two bills sought to restrict the IsHROs' funding from foreign state entities.¹⁰⁹ According to the Israel Democracy Institute, 'these bills have an impact, even though they do not always pass in the Knesset and become law. There is no doubt that legislative maneuvers such as those that target human rights organizations have delegitimized these organizations, even if the bills themselves were voted down'.¹¹⁰

The first bill – the Associations Law (Amendment: Banning Foreign Diplomatic Entities' Support of Political Associations in Israel) – set monetary limitations on contributions to IsHROs.¹¹¹ These groups would not be allowed to receive donations of more than 20,000 new Israeli sheqels (roughly US\$6,000) from a foreign government source. The second bill – the 2011 Bill for Amendment of the Income Tax Order (Taxation of Public Institutions That Receive Donations from a Foreign State Entity) – sought to tax funding from foreign state entities to Israeli NGOs at a rate of 45 per cent.¹¹² Both of these bills would have essentially 'dried up' funding to the IsHROs and caused them to cut their activities or to close down. The third bill – the 2010 Associations (Amutot) Law (Amendment – Exceptions to the Registration and Activity of an Association) – sought to outlaw associations that provide information to foreigners or that are involved in litigation abroad against senior officials of the Israeli government and/or army chiefs for war crimes.¹¹³ The bill would prohibit the registration of such groups, while any existing NGOs would be shut down under the proposed law for engaging in such activity. The text of the bill refers directly to the Goldstone report to justify its provisions:

The UN's one-sided and controversial report by Judge Goldstone ... brought Israel to an unprecedented low in terms of publicity. ... It is very troubling that ... we find that Israeli NGOs and associations, through passing of information (mostly incorrect and even fraudulent) to foreign authorities who are our enemies, and through public agreement or approval that Israel is guilty of war crimes. ... The underlying assumption behind this bill is that this type of activity must be made illegal.¹¹⁴

The three bills were ultimately frozen due to a lack of political support for them. The USA, the European Union (EU), EU member states and others widely criticized these bills for seeking to restrict foreign government funding.¹¹⁵ However,

¹⁰⁹ The bills in English are available at www.adalah.org/en/content/view/7583.

¹¹⁰ Fuchs and Blander, *supra* note 92, at 17.

¹¹¹ Associations Law (Amendment: Banning Support by a Foreign State Entity), 13 November 2011.

¹¹² Amendment to the Income Tax Order (Taxation of Public Institutions That Receive Donations from a Foreign State Entity), 7 February 2011.

¹¹³ Associations (Amutot) Law (Amendment: Exceptions to the Registration and Activity of an Association), Legislative bill no. P/18/2456 (2010), available at www.adalah.org/newsletter/eng/apr10/bill.pdf (in English).

¹¹⁴ *Ibid.*

¹¹⁵ B. Ravid, 'U.S., EU Pressure Netanyahu to Scrap Proposed Bill against Israeli NGOs', *Ha'aretz* (13 November 2011), available at www.haaretz.com/u-s-eu-pressure-netanyahu-to-scrap-proposed-bill-against-israeli-ngos-1.395220.

in 2011, the Knesset passed the Foreign Government Funding Law, which requires NGOs to publish quarterly reports on any funding received from foreign governments or publicly funded foreign donors, including the purpose of such funding.¹¹⁶ The law also requires these details to be published on the NGOs' websites and the website of the Registrar of Associations in the Ministry of Justice. While the law's declared aim is transparency, the NGOs argued that the new law was unnecessary since Israeli law already required such disclosures to the Registrar of Associations.¹¹⁷

In 2016, after a long battle, the Knesset passed the Law on Disclosure Requirements for Recipients of Support from a Foreign Political Entity requiring NGOs that receive more than 50 per cent of their funds from foreign governments to declare that they are reliant on foreign funding in all publications, including letters to the government and public officials.¹¹⁸ While this law does not specifically refer to IsHROs, it will apply to around 25 such groups; settler groups supporting the occupation do not fall under the law as they rely on private donations. According to the European Commission, 'the reporting requirements imposed by the new law go beyond the legitimate need for transparency and seem aimed at constraining the activities of these civil society organizations'.¹¹⁹ Earlier versions of the law had even more onerous restrictions, including the requirement that affected NGO representatives must wear identifying badges and declare their funding sources when speaking at parliamentary committees. Ultimately, the law has come to be seen as labelling IsHROs as foreign political associations and imposing more burdens on them. The Knesset's repeated attempts to adopt legislation to limit the IsHROs' activities and the government's persistent opposition to these organizations have made deep inroads into public opinion, as the Israeli Democracy Index shows.¹²⁰

¹¹⁶ Law on Disclosure Requirements for Recipients of Support from a Foreign State Entity, *Book of Statutes*, 2 March 2011, at 2279, available at www.adalah.org/uploads/oldfiles/Public/files/Discriminatory-Laws-Database/English/65-Law-on-Disclosure-for-Recipients-of-Support-from-a-Foreign-Political-Entity-Law-NGO-Foreign-Government-Funding-Law-2011.pdf (in English).

¹¹⁷ See the ACRI's position paper on the bill, 23 February 2010, available at www.acri.org.il/en/2010/02/25/acri-responds-to-proposed-transparency-bill/.

¹¹⁸ An English summary of the law is available at <http://www.acri.org.il/en/wp-content/uploads/2016/07/Summary-of-NGO-Law.pdf>; see Adalah's position paper on the bill, 5 January 2016, available at www.adalah.org/uploads/Adalah-Letter-NGO-Bill-Eng-5-Jan-2016.pdf.

¹¹⁹ P. Beaumont, 'Israel Passes Law to Force NGOs to Reveal Foreign Funding', *The Guardian* (12 July 2016), available at www.theguardian.com/world/2016/jul/12/israel-passes-law-to-force-ngos-to-reveal-foreign-funding.

¹²⁰ T. Herman *et al.*, 'The Israeli Democracy Index' (2016), at 132, available at <https://en.idi.org.il/media/7811/democracy-index-2016-eng.pdf>.

8 The IsHROs' Reaction to the Backlash

The IsHROs adopted several defensive measures to counter the campaigns against them. In February 2010, they established the Directors' Forum, a coalition of the heads of 10 organizations that were defending, *inter alia*, the human rights of Palestinians in the OPT. The forum served as a space for the organizations to deliberate joint actions to take in response to the anti-NGO incitement against them.¹²¹ The Directors' Forum created a plan to organize a workshop for strategic thinking on ways to achieve their human rights goals in the OPT, to develop new tools for coping with the attacks and to find new partners and allies to support their struggle. According to the forum's directors, the biggest challenges were the hostile Israeli public opinion towards the IsHROs and the restrictive legislation. The directors decided to prepare position papers challenging the constitutionality of the NGO bills, to address the Israeli media to explain that such bills were undermining democratic values and to brief embassy representatives to generate international pressure on the government to freeze the bills. The Directors' Forum also sought to recruit Jewish liberals from around the world to support their human rights work.

During this period, some of the organizations received harassing telephone calls, including curses and rants directed at their staff.¹²² Some physicians working with the PHRI were strongly criticized by their colleagues in Israeli hospitals and called 'enemies of the state'.¹²³ Most of the IsHROs' directors confirmed that, as a result of the harassment, they adopted security measures in their offices including installing alarms, intercoms and closed circuit television systems. The general director of the PCATI at the time reported that he instructed his staff to lock the office door throughout the workday, not to open it without first checking who was at the door and not to stay alone in the office late at night.¹²⁴ He also instructed the staff not to use Wi-Fi because it jeopardized the data in the computer system. Other organizations reported that they took computer servers out of their offices and placed them off-site in more secure locations.¹²⁵

The IsHROs further struggled with the question of whether and how to change their strategies in order to improve their interaction with Israeli society. Many groups preferred to focus on policy-makers or opinion shapers, which they believed were more influential actors *vis-à-vis* the Israeli government than the public. The Directors' Forum decided to hire a consultant to lead a year-long process of developing strategies to boost the efficacy of their outreach to Israeli society.¹²⁶ The process included meetings

¹²¹ Eight of the nine directors of the IsHROs interviewed for this article were part of the Directors' Forum. The only general director who was not part of the forum was the general director of BTS.

¹²² The main organizations that received such threats were B'Tselem, the PCATI and BTS.

¹²³ Interview with Hadas Ziv, the former general director of Physicians for Human Rights, Israel (PHRI) and its current public outreach coordinator, 22 November 2016.

¹²⁴ Interview with Menuchin, *supra* note 97.

¹²⁵ Interview with Jessica Montell, former general director of B'Tselem, 21 November 2016.

¹²⁶ D. Scheindlin, 'In Israel, Public Opinion Matters More When It's against You', *Open Democracy* (23 September 2015), available at www.opendemocracy.net/openglobalrights/dahlia-scheindlin/in-israel-public-opinion-matters-more-when-it%E2%80%99s-against-you.

with focus groups and conducting a survey in which participants were asked to express their attitudes towards mainstream political figures, human rights in general and broad topics related to the Israeli–Palestinian conflict. The process culminated in insights that helped to identify committed supporters of the human rights NGO community and Palestinian rights – generally, the self-defined left wing – and also opponents and more resistant groups to the ISHROs' goals.¹²⁷ An analysis of the survey findings revealed that the ISHROs would be able to mitigate the negative impressions of a significant part of Israeli society by taking a more even-handed approach and acknowledging human rights abuses by both Israelis and Palestinians.¹²⁸

9 Consequences of the Backlash

The backlash against the ISHROs had at least two opposite effects: a chilling effect on the work of human rights organizations and unexpected benefits for some of the organizations.

A *Chilling Effects*

The backlash against the ISHROs affected each organization in a different way and had four different kinds of chilling effects: (i) changing strategy and attempting to appeal to a broader audience; (ii) adopting a cautious attitude to international advocacy; (iii) limiting engagement with the Commission of Inquiry into Operation Protective Edge, which was headed by William Schabas and Mary McGowan Davis; and (iv) refraining from petitioning the Supreme Court of Israel during Operation Protective Edge.

1 *Changing Strategy: Attempting to Appeal to a Broader Audience*

For most ISHROs, the backlash destabilized their relationship with the Israeli public and made them take urgent measures to address their legitimacy crises, repair the damage and expand their local base of support. For example, the PHRI reported that at the time it had planned to participate in a workshop for social activists on 'the right to health' in the southern city of Beer Sheva. However, right-wing activists successfully pressured the municipality to remove the organization's logo from all advertising and called PHRI staff 'traitors who want to lead Israeli soldiers to The Hague'.¹²⁹ To counter these claims, the PHRI subsequently altered its discourse to better appeal to Israeli audiences. For instance, it began to place greater emphasis on demonstrating the human suffering on both sides of the conflict and toned down certain political aspects of its arguments. In the aftermath of the 2014 war on Gaza, in addition to its report on the human rights of Palestinians in Gaza, the PHRI also published a report on the ways in which Israeli children in Sderot, a Jewish town close to the Gaza border, were traumatized by the war. For the ACRI (the Israeli equivalent to the American

¹²⁷ *Ibid.*

¹²⁸ *Ibid.*

¹²⁹ Interview with Ziv, *supra* note 123.

Civil Liberties Union), the fear of a measurable loss in public support generated an evaluation of the organization's approach and the preparation of new action plan, which included steps to better appeal to the Israeli public. The ACRI decided to put more emphasis on its less controversial activities, such as social rights, including petitions to court regarding cuts to electricity and water for poor families and the right to housing, which affected large segments of the Israeli public.¹³⁰ Adalah's Board of Directors concluded that the incitement campaign might put the very existence of the organization – the only Palestinian-run IsHRO in the group – at risk and thus decided to take several measures. Adalah hired Unik, a public relations firm, to get more media attention for its economic and social rights cases in order to counter the Hebrew media's negative focus on Adalah for the publication of incriminating reports on the human rights violations committed by Israeli soldiers in Gaza.¹³¹ Adalah, like the ACRI, knew that these kinds of cases were less controversial with the Israeli public. Unik helped Adalah to switch the media's focus, at least in part.¹³²

2 Adopting a Cautious Attitude to International Advocacy

For some IsHROs, the delegitimization campaign and decline in Israeli public support as a result of the backlash had a chilling effect on their international advocacy activities. In the case of the ACRI, its main constituency is the Israeli Jewish public and its main work is to protect their rights before Israeli courts and authorities and in the Knesset. A small part of its work targets international decision-makers in order to influence the Israeli government. The ACRI decided to be even more cautious in conducting advocacy activities with international actors, including careful consideration before meeting with particular figures or political bodies. As the ACRI's chief legal counsel put it, 'we don't want to wash [Israel's] dirty laundry abroad'.¹³³ This stance may also help explain the ACRI's reluctance to publicly support the principle of universal jurisdiction in relation to the Israeli–Palestinian conflict.¹³⁴

Adalah received a clear message from the Israeli Supreme Court regarding the doctrine of universal jurisdiction, in response to a petition it submitted in 2007 together with two Palestinian OPT-based human rights organizations.¹³⁵ The petition demanded that the Israeli authorities open a criminal investigation into the killings and injuries of Palestinian civilians in Gaza in 2004 and relied heavily on the doctrine of universal jurisdiction.¹³⁶ The Court unanimously rejected the petition in 2011 contending that it was too general and that it was filed too late. However, Chief Justice Beinisch remarked during a hearing that if the petitioners intended to seek a legal remedy outside the state's borders then they appeared before the Court with 'unclean

¹³⁰ Interview with Dan Yakir, chief legal counsel for the ACRI, 22 November 2016.

¹³¹ Interview with Rosenberg, *supra* note 106.

¹³² *Ibid.*

¹³³ Interview with Yakir, *supra* note 130.

¹³⁴ *Ibid.*

¹³⁵ Interview with Hassan Jabareen, Adalah's general director, 20 November 2016.

¹³⁶ High Court of Justice (Israel) 3292/07, *Adalah, The Legal Center for Arab Minority Rights in Israel v. Attorney General*, 11(120) PD 689.

hands'.¹³⁷ In the decision, she wrote that the petitioner's reliance on the universal jurisdiction principle had sent an implied threat to the respondents and to the Court.¹³⁸ While the petitioners pursued this case through appropriate legal channels, the Court's decision nevertheless accused the petitioners of threatening it and aiming to delegitimize the state.¹³⁹ While this particular case was not related to the Goldstone report, the threat with universal jurisdiction was parallel, and the Court's response must be understood as being part of the backlash that the report triggered.¹⁴⁰ The Court issued its decision two years after the report's publication, during the height of the backlash, and this event, together with other legal considerations, affected Adalah's future petitions to the Supreme Court. As a result of these events, Adalah decided that it must clarify and counter the many lies being proclaimed in the media regarding its legal and international advocacy work. Adalah told the media that it had not appeared before the ICC or before foreign national courts to encourage them to rely on universal jurisdiction since it was not part of Adalah's mandate to undertake this litigation. While stressing that these forums are extremely important human rights arenas and legitimate, Adalah maintained that it had not petitioned these courts.¹⁴¹ As a result of the backlash, the boundaries of Adalah's work became more defined.

3 *Limiting Engagement with the Schabas/Davis Commission of Inquiry into Operation Protective Edge*

One of the most important consequences of the backlash was the IsHROs' more limited involvement with the Schabas/Davis Commission, which was established by the UNHRC on 23 July 2014 in the aftermath of the next Gaza conflict, also known as Operation Protective Edge. This COI sought to investigate all violations of IHL and IHRL occurring between 13 June 2014 and 26 August 2014 across the OPT – in particular, in Gaza – and in Israel and to determine whether such violations had been committed.¹⁴² Palestinians and Israelis were profoundly shaken by the intensive hostilities in the summer of 2014 that resulted in the killing of 2,251 Palestinians and 73 Israelis. In Gaza, in particular, the scale of the devastation was unprecedented.¹⁴³

While many IsHROs worked intensively to document the events of the 2014 Gaza war and sent letters, independently and together, to the Israeli authorities objecting to the IHL and IHRL violations, as well as engaging with the IDF about the civilian populations' humanitarian needs, their work before the Schabas/Davis Commission differed markedly from their activity before the Goldstone Commission. The backlash

¹³⁷ Jabareen, chief legal Counsel for the petitioners, described the justices' remarks and questions to him as 'political and defensive'.

¹³⁸ *Adalah*, *supra* note 136, at 21.

¹³⁹ *Ibid.*, at 22. Justice Rubenstein alleged that the petitioners' real aim was to delegitimize the state.

¹⁴⁰ Interview with Jabareen, *supra* note 135, concurs with the existence of such a connection as well.

¹⁴¹ Interview with Rosenberg, *supra* note 106.

¹⁴² UNHRC Res. S-21/1, UN Doc. A/HRC/S-21/1, 24 July 2014.

¹⁴³ UNHRC, Report of the Independent Commission of Inquiry on the 2014 Gaza Conflict, UN Doc. A/HRC/29/52, 24 June 2015, at 6.

from the Goldstone Commission greatly subdued their activities after the 2014 conflict, which we can readily discern by simply comparing the IsHROs' involvement with the Goldstone Commission and with the Schabas/Davis Commission. For the Schabas/Davis Commission, the IsHROs did not have a joint submission, nor did they coordinate their involvement with the inquiry in the way that they did for the Goldstone Commission. The IsHROs' collective action before the Goldstone Commission strengthened their stance before the Israeli authorities. However, by 2014, the backlash had shaken the IsHROs' unity, at least in their international work.¹⁴⁴ In the end, only Adalah, the PHRI and the PCATI officially cooperated with the Schabas/Davis Commission. HaMoked, the Center for the Defence of the Individual, did submit a report but did not cooperate further with the Schabas/Davis Commission. The ACRI and B'Tselem, the Israeli Information Centre for Human Rights, did not make any direct submissions to the commission as they did not want to be associated with it, publishing only their own reports on the 2014 war. The remaining NGOs did not do anything in response to the inquiry.

The attack against the IsHROs, as well as the legislative measures to curtail their activities, in large part, caused them to change their policies towards cooperating with international COIs, at least publicly. They began to concentrate their efforts locally rather than internationally; they also appealed to the Israeli attorney general to open an investigation rather than ask the UNHRC to establish an international COI. Based on the interviews that I conducted, it appears that most IsHROs now hesitate to openly call upon international bodies to conduct inquiries into future combat situations.

4 Refraining from Petitioning the Israeli Supreme Court during Operation Protective Edge

Another chilling effect of the Commission was that no petitions were filed by any of the IsHROs to the Israeli Supreme Court regarding IHL and IHRL violations committed during the 2014 conflict.¹⁴⁵ In previous armed conflicts, IsHROs had filed petitions about the rules of engagement and the killings of civilians as well as other violations of the laws of war. For instance, during the 2008–2009 conflict in Gaza, IsHROs submitted several petitions, the most renowned of which were: (i) concerning the need for urgent supply of power and fuel to the Gaza Strip;¹⁴⁶ (ii) demanding a cessation of attacks on medical crews providing aid and evacuating the wounded within the Gaza Strip;¹⁴⁷ and (iii) demanding that the Israeli military cease all use of white phosphorus for creating smoke screens during military operations.¹⁴⁸ As Avigdor Feldman has

¹⁴⁴ Interview with Ziv, *supra* note 123; Interview with Rosenberg, *supra* note 106.

¹⁴⁵ A. Feldman, 'A War without the High Court', *Haaretz* (3 September 2014), available at www.haaretz.com/opinion/.premium-a-war-without-the-high-court-1.5262832.

¹⁴⁶ High Court of Justice (Israel) 248/09, *Physicians for Human Rights-Israel et al. v. The Prime Minister et al.* (not reported).

¹⁴⁷ High Court of Justice (Israel) 201/09, *Physicians for Human Rights-Israel et al. v. The Prime Minister et al.* (not reported).

¹⁴⁸ B'tselem, 'HCJ Dismisses Petition Demanding the Military Cease Use of White Phosphorous' (14 July 2013), available at www.btsalem.org/firearms/20130717_white_phosphorus_ruling.

argued, ‘the High Court is like a finger puppet. It doesn’t move or talk unless there’s a finger inside moving it’.¹⁴⁹ Arguably, the backlash had paralysed the IsHROs, and, as a result, there was no finger moving the Supreme Court. The silence over the ‘Hannibal Directive’ is the most telling sign of this paralysis. The legality, validity and use of the Hannibal Directive, a military order set in motion in 1986 to prevent the abduction of Israeli soldiers during Operation Protective Edge and which led to the killing of over 100 Palestinian civilians in Gaza, was not brought before the Israeli Supreme Court (it was officially in force until 2000 and was never published).

In addition to the backlash against the IsHROs in response to the Goldstone report, several other reasons, including strategic ones, have affected the IsHROs’ decision not to petition the Court. Some scholars and practitioners argue that the ‘tamed’ Supreme Court of recent years is not the appropriate forum to challenge the military and government in times of conflict and could lead to less, rather than greater, protection of human rights and international law.¹⁵⁰ Others conclude that the long and persistent dialogue between civil society and the Court may have mitigated some human rights violations but that, overall, this work has a troubling legitimizing effect of the occupation.¹⁵¹ In my view, the latter position gained momentum during the years following the release of the Goldstone report. These positions may have already been shifting in these directions before the report, but the backlash that resulted from the report served as an important catalyst for their consolidation.

B Unexpected Benefits

For some IsHROs, the backlash did not lead them to change the core of their work in the longer term, whilst it did have the unexpected benefit of increasing their funding. Indeed, most IsHROs reported funding increases at the time of the backlash since donors understood the special circumstances that they faced.¹⁵² Some organizations reported that the more they were demonized locally the more they became visible and enjoyed a higher reputation and greater credibility internationally. Such was the case for BTS, an organization of IDF veterans that is dedicated to publicizing the reality of everyday life in the OPT. According to the former general director, Dana Golan, when the organization released dozens of anonymous soldiers’ testimonies from the Gaza war in July 2009, describing indifference to civilian targets, the Israeli government ‘went ballistic’, and BTS was vilified in the media and by the prime minister.¹⁵³ Previously scheduled television interviews were abruptly cancelled, and the IDF spokesperson’s office refused to appear on television with the BTS leaders. A popular radio host stated: ‘The question is why don’t the strong people among us break their

¹⁴⁹ The High Court is the same as the Supreme Court. Feldman, *supra* note 145.

¹⁵⁰ M. Sfar, *The Wall and the Gate: Israel, Palestine, and the Legal Battle for Human Rights* (2018), at 433–452; D. Kretzmer, *The Occupation of Justice: The Supreme Court of Israel and the Occupied Territories* (2002), at 191; Montell, *supra* note 14; Golan and Orr, *supra* note 14, at 809.

¹⁵¹ Sfar, *supra* note 150, at 449–452.

¹⁵² Based on the interviews with the general directors of the IsHROs.

¹⁵³ Interview with Dana Golan, former general director of BTS, 21 March 2017.

bones and send them home with scars?’¹⁵⁴ The Israeli Foreign Ministry asked the Dutch, Spanish and British governments to freeze funding for the group.¹⁵⁵

Although BTS did not directly cooperate with the Goldstone Commission, the Commission did draw on BTS’s report and was the main target of the backlash. Here was a former soldiers’ organization – a group from the most trusted institution in the country – which was directly contradicting the Israeli government’s narrative. Arguably, this group constituted the greatest threat, as they are from within the army and participated in, or witnessed, the events first-hand. In the long run, the backlash generated a massive increase in funding to BTS, giving it the means to enlarge its activities and try to reach a wider audience.¹⁵⁶

10 Conclusion

The Goldstone Commission exacerbated ethnic divisions and intensified enemy–friend dynamics, especially in Israeli society, which has witnessed even greater nationalism and militarism in the public narrative over the last few years. The IDF’s centrality in the public account has provided a vital instrument for rallying the rejection of the Goldstone report and demonizing IsHROs. The Israeli government has portrayed the Commission as an enemy of Israel and IsHROs as assisting this enemy by providing it false, biased information. Branding IsHROs as ‘Trojan horses’ and ‘abettors of terror’ has delegitimized them in the public eye and has had chilling effects on their activities and their willingness to cooperate with future international COIs. However, many organizations also saw a substantial increase in their funding as a result of the backlash and increased international visibility, which ultimately has increased their reputation and credibility internationally.

The findings of this study challenge the implicit assumption by those supporting the creation of international COIs that such mechanisms are mostly harmless and, at best, could mobilize positive human rights change. These findings further complicate the trend in socio-legal literature to document only the positive public mobilization effects of international human rights advocacy.¹⁵⁷ The experiences of IsHROs following the Goldstone Commission demonstrate the often overlooked potential pitfalls in the establishment of COIs against the backdrop of relative support among academics and human rights activists. It remains unclear as to how local NGOs, in deeply divided conflict societies that participate in the work of COIs, can avoid the same fate. Can COIs do a better job of finding ways to involve NGOs without making them more vulnerable? Can NGOs come up with better ways of establishing the terms of their involvement with COIs in order to pre-empt attacks? These are just some of the questions raised by the Goldstone Commission and its report.

¹⁵⁴ ‘A Response to WSJ’s Attack on “Breaking the Silence” (Jerry Haber)’, +972 Blog (20 October 2010), available at <https://972mag.com/why-%E2%80%9Cbreaking-the-silence%E2%80%9D-is-short-listed-for-the-sakharov-prize-by-jeremiah-haber/3860/>.

¹⁵⁵ Interview with Golan, *supra* note 153.

¹⁵⁶ According to the interview with Golan, *ibid.*, as a result of the backlash, the organization got wide international media exposure.

¹⁵⁷ De Burca, *supra* note 23.