**UN Human Rights Council COI Report: Defamation and Disinformation**

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NGO Monitor

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On June 8, 2023, the UN Human Rights Council (UNHRC)’s permanent “Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel” (COI) [published a report](https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session53/A-HRC-53-CRP1.pdf) purporting to investigate “attacks, restrictions and harassment of civil-society actors.”

Like in previous publications, the COI parrots terror-linked NGOs, grossly distorts Israeli policy and practice, and contravenes fact-finding best practices including UN standards.

The COI document contains little original research. Rather, it copies-and-pastes from previous UN attacks on Israel – themselves largely based on distorted NGO claims; NGO publications account for nearly 40% of all material cited in the report. Notably, the COI cites to Israeli-designated terrorist entities – including Addameer, Al-Haq, and Bisan – and other terror-linked organizations such as the Palestinian Centre for Human Rights (PCHR) and the Independent Commission for Human Rights (ICHR). Additionally, the COI sources to  NGOs that consistently advance an anti-Israel “apartheid” narrative, rejecting Israel’s right to exist as a Jewish state and advocating for BDS: Human Rights Watch (HRW), Amnesty International, International Federation of Human Rights (FIDH), and B’Tselem.

The COI engages in tokenism, claiming that it “heard from both Israeli and Palestinian civil-society actors,” masking the fact that such organizations are ideologically aligned – and aligned with the COI’s political agenda. The COI refused to meet with key witnesses, or with any stakeholders who did not promote anti-Israel or anti-Zionist viewpoints.

In addition, the COI continues its efforts to advance prosecutions against Israelis at the International Criminal Court (ICC), recommending “that the Office of the Prosecutor of the International Criminal Court prioritize the investigation into the situation in the Occupied Palestinian Territory, including the identification of direct perpetrators, those exercising command responsibility and individuals who aid or abet the commission of crimes under the Court’s jurisdiction.”

**Lack of transparency and methodological flaws**

Reflecting the ongoing secrecy surrounding the COI, this publication relies heavily on unverifiable, anonymous testimonies and politicized NGOs. It is unclear if and how the COI attempted to independently corroborate these sources and to what extent it engaged in any investigation beyond a narrow selection of source material and individuals confirming the COI’s predetermined conclusions.

According to the text, “the Commission relied on 127 interviews, testimonies given during two rounds of hearings, research, discussions with stakeholders and experts, and 20 submissions received following a call for submissions issued on 2 November 2022.” Moreover, the COI wrote that “Only material that met the standard of proof of ‘reasonable grounds to conclude’ was included in this report.”

No interviewees, “stakeholders”, or “experts”, are identified, nor did the COI detail how any of these individuals were selected or how their expertise was determined. No information is provided as to how the COI assessed the “reasonable grounds to conclude” standard.

While preparing this report, in [November 2022](https://www.ngo-monitor.org/submissions/sham-un-hearings-attempt-to-suppress-ngo-monitor-research/) and [March 2023](https://www.ngo-monitor.org/submissions/sham-un-hearings-attempt-to-suppress-ngo-monitor-research/), the COI held a series of public hearings on “shrinking space for civil society,” representing an exceedingly narrow selection of identified participants, including 12 who were unnamed. (For more information on the hearings, see NGO Monitor’s analyses).

In an [August 2022 interview with one of the Commissioners](https://podcasts.apple.com/us/podcast/the-mondoweiss-podcast/id1538511432), it was revealed that they also “are having regular roundtables…with 20 leading academics and journalists and former diplomats.”  Again, none was identified.

However,  based on information provided to NGO Monitor by individuals familiar with the COI, it appears that the COI ignored key witnesses and did not meet with stakeholders who did not promote anti-Israel or anti-Zionist viewpoints. In addition, it appears that the COI did not make any attempt to engage with the individuals and organizations that made submissions to the COI from a perspective that was not overwhelmingly hostile to Israel. As a result of this biased methodology, the entire process clearly has no validity.

**Misrepresentation of Israeli anti-terror policy**

A major dimension of the COI publication is the strong condemnation of  Israel for its October 2021 designation of six Palestinian NGOs as terrorist entities, based on their ties to the PFLP terrorist organization.  In the COI’s presentation, Israel was ostensibly  motivated by a desire to “silence” Palestinian civil society. This distorts and ignores the copious, publicly-available documentation indicating that these NGOs and their officials are closely affiliated to the PFLP, including those who murdered Israeli teenager Rina Shnerb in a 2019 bombing – a killing not mentioned by the COI.

In February 2023, NGO Monitor published “[Clear and Convincing: The Links between the PFLP and the European Government-funded NGO Network](https://www.ngo-monitor.org/reports/pflp-report/).”  The report catalogs myriad links between the designated NGOs and the PFLP, including:

* Three senior NGO officials – Samer Arbid, Walid Hanatsheh, Abdel Razeq Farraj – indicted and standing trial for their alleged involvement in a deadly August 2019 bombing that killed an Israeli teenager. All of them have been claimed by the PFLP as members of the terror group and praised by the PFLP for carrying out the “heroic operation”.
* Nine NGO officials convicted for their involvement in planning or executing other terrorist attacks.
* Thirty-seven additional NGO officials affiliated with the PFLP.
* Five financial institutions – Citibank, Arab Bank, American Express, Visa, Mastercard – [shut down](https://www.uklfi.com/credit-card-donations-to-terrorist-linked-ngos-terminated) online donations and accounts of PFLP-linked NGOs.
* In 2022, the Dutch government announced the results of an 18-month audit conducted by a Dutch firm that identified 34 individuals who held positions in both UAWC and the PFLP between 2007-2020. As a result, the [Netherlands canceled its contract with UAWC](https://www.tweedekamer.nl/kamerstukken/brieven_regering/detail?id=2022Z00093&did=2022D00176).

Of particular importance is the fact that the COI made no effort to contact or interview the family of Rena Shnerb, the 17-year-old murdered by PFLP terror operatives – who were also senior NGO officials, even though this event was the primary catalyst for the Israeli investigation and subsequent terror designation of these NGOs.

A credible inquiry should also have called attention to the Dutch investigation and included interviews with key witnesses. That the COI only “investigated” one side highlights its ongoing bias and inability to carry out its work in accordance with standard fact-finding procedures and UN codes of conduct.

In another instance, the Commission refers to an Israeli-Arab citizen on trial for incitement, claiming it as an example of an indictment “based on Arabic social-media posts that may have been inaccurately translated and interpreted by the police and judiciary.” Here, [the COI ignores multiple examples of incitement](https://www.nevo.co.il/psika_html/shalom/SH-15-11-4480-11.pdf) for which the defendant was convicted – including amplifying calls for violence issued by Palestinian Islamic Jihad. Instead, it focused only on a single instance in which the judge rejected the translation of a poem provided by the prosecution.

**IHRA Definition**

In the report, the COI attacks the International Holocaust Remembrance Alliance (IHRA) consensus working definition of antisemitism, labeling it as “controversial” and claiming that as a result of the broad acceptance of the definition, “legitimate criticism of Israeli policies and actions is increasingly reframed as antisemitism.”

This gratuitous attack again reflects the COI’s emphasis on parroting and amplifying the self-serving NGO campaign to undermine IHRA in order to deny the right of the Jewish people to self-determination and advance discriminatory BDS campaigns.

In contrast to the COI narrative, the IHRA [working definition of antisemitism](https://www.holocaustremembrance.com/sites/default/files/press_release_document_antisemitism.pdf) has been adopted by [40 countries](https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antisemitism/adoption-endorsement)and endorsed by UN officials, the EU Parliament, and other international bodies.

In his September 2019 [report on antisemitism](https://undocs.org/Home/Mobile?FinalSymbol=A%2F74%2F358&Language=E&DeviceType=Desktop&LangRequested=False), UN Special Rapporteur Ahmed Shaheed wrote, “The working definition of antisemitism developed by the International Holocaust Remembrance Alliance can offer valuable guidance for identifying antisemitism in its various forms…the Special Rapporteur recommends its use as a critical non-legal educational tool that should be applied.”

Likewise, when UN officials disparage IHRA, they are widely condemned. ​​In October 2022, after the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance E. Tendayi Achiume [attacked the IHRA definition](https://twitter.com/IsraelinUN/status/1587234802691981315) in a presentation to the General Assembly, dozens of countries, including the United States, Canada, and the European Union spoke out against this maligning of the IHRA definition and strongly rejected her false claims.

The COI has no mandate to be offering commentary on the IHRA definition. None of the COI members has any expertise on the issue of antisemitism, nor did the COI consult such experts or officials involved in the drafting of the definition.

Most egregiously, each of the commissioners has made antisemitic comments or sought to erase and deny blatant antisemitism within the COI’s ranks. In June 2022, following the COI’s presentation of its first report to the Human Rights Council, one of the Commissioners, Chris Sidoti, [dismissed the working definition as “the definition of antisemitism promoted by the government of Israel, and its GONGOS](https://media.un.org/en/asset/k1f/k1fqe02cux).” He also contended that “accusations of antisemitism are thrown around like rice at a wedding,” offensively and falsely claiming that such actions “legitimize” antisemitism.

In July 2022, Commissioner Miloon Kothari also made antisemitic comments on a[podcast](https://mondoweiss.libsyn.com/39-investigating-israel-itself-a-conversation-with-un-human-rights-commissioner-miloon-kothari), claiming that the “Jewish lobby” controls social media and questioned whether Israel should have UN membership. In a [letter to UNHRC President Federico Villegas](https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20from%20Chair%20of%20the%20COI%20on%20the%20OPT%2C%20including%20East%20Jerusalem%2C%20and%20Israel%20to%20HRC%20President.pdf), COI commissioner Navi Pillay refused to condemn Kothari’s remarks, stating his comments “have deliberately been taken out of context…[and] deliberately misquoted.”

Many governments, as well as UN Special Rapporteur Ahmed Shaheed, and HRC President Villegas have condemned these remarks. (Read NGO Monitor’s [letter to United Nations Human Rights Council President Federico Villegas calling on him to initiate an assessment of the UNHRC’s Commission of Inquiry on Israel for violations of the mandate and UN codes of conduct](https://www.ngo-monitor.org/press-releases/letter-to-unhrc-coi/) as well as NGO Monitor’s [joint letter to the UNHRC President calling for the removal of the Commissioners due to their antisemitic biases](https://www.ngo-monitor.org/ngo-monitor-signs-joint-letter-to-unhrc-president-regarding-the-un-commission-of-inquiry/). NGO Monitor has also[thoroughly documented](https://www.ngo-monitor.org/reports/anti-israel-bias-and-ngo-links-of-unhrcs-gaza-committee-of-inquiry-members/) the Commissioners’ prior anti-Israel biases and their links to Palestinian NGOs in[detailed reports](https://www.ngo-monitor.org/reports/initial-report-uns-permanent-coi-targeting-israel/).)

Nevertheless, no punitive action was taken against the COI or its commissioners, and the subsequent October 2022 COI report made no mention of the controversy. As a result, following the presentation of the latter report, many countries, including Albania, Bulgaria, Czech Republic, Federated States of Micronesia, Germany, Guatemala, Hungary, Liberia, Marshall Islands, Palau, Republic of Nauru, and the United States, again condemned the antisemitism exhibited by the Commissioners. Many of these countries also denounced the inaction of the United Nations to repudiate these statements or remove the Commissioners from their positions.

Once again, Navi Pillay ignored this glaring criticism, and made several false and dismissive statements in response to the State remarks. Pillay falsely claimed, “This has been dealt fully by the President of the Human Rights Council, who is the proper authority to clear up criticism of the mandate and clear up criticism of those he selected for appointment as commissioners. So I do encourage you to look at the President’s website on that.” To date, the President has taken no action. Pillay also rejected claims of antisemitism, stating that “I’m 81 years old now, and this is a very first time I’ve been accused of antisemitism. In my own country, that will not be received well because everybody knows the role I played, and similarly with the other two commissioners. So let me make absolutely clear, we are not antisemitic.” These remarks represented yet another attempt by Pillay to whitewash the clear antisemitism expressed by the Commissioners and to absolve herself and the COI from taking the necessary concrete steps to address the deep-seated problems.

**Human Rights Defenders**

The Office of the High Commissioner for Human Rights (OHCHR) [defines human rights defenders](https://www.ohchr.org/en/special-procedures/sr-human-rights-defenders/about-human-rights-defenders) (HRDs) as “people who, individually or with others, act to promote or protect human rights.” OHCHR explains that individuals must accept the **universality of human rights** and partake only in **peaceful action**in order to be considered HRDs. Importantly, according to the definition, an individual may not be considered a human rights defender if he or she denies “some human rights” but claims “to be a human rights defender because he or she is an advocate for others.”

However, the COI identifies specific HRDs, including those involved in violence and linked to internationally-designated terrorist organizations. It also appears that the COI did no investigation of primary source material. Instead, it simply repeated self-serving claims of terrorist operatives.

Salah Hamouri

In 2005, Salah Hamouri was convicted for plotting the assassination of former Israeli Chief Rabbi Ovadia Yosef. The COI attempts to downplay this episode, laconically referring to one of the preeminent religious figures of the time as “the founder of the Shas party.”

Hamouri was released in [December 2011 as part of a swap of over 1,000 Palestinian prisoners for Israeli soldier Gilad Shalit](https://www.timesofisrael.com/israel-frees-french-palestinian-after-13-months-without-trial/). [According to the PFLP](https://web.archive.org/web/20180826035741/http%3A/pflp.ps/english/2011/12/20/comrade-salah-hamouri-on-his-release-there-is-no-option-but-resistance/), upon his 2011 release in a prisoner exchange between Israel and Palestinian terrorist organizations, Hamouri stated that “there is no option for the Palestinian people except resistance because it is the only way for us to achieve our people’s rights, our freedom, and our self- determination.”

In an October 2011 statement, the PFLP referred to Hammouri as a “[comrade](https://web.archive.org/web/20180826035741/http%3A/pflp.ps/english/2011/12/20/comrade-salah-hamouri-on-his-release-there-is-no-option-but-resistance/),” and in September 2022, the PFLP again [identified](https://pflp.ps/post/21090/30-%D9%85%D8%B9%D8%AA%D9%82%D9%84%D8%A7-%D9%85%D9%86-%D8%A7%D9%84%D8%AC%D8%A8%D9%87%D8%A9-%D8%A7%D9%84%D8%B4%D8%B9%D8%A8%D9%8A%D8%A9-%D9%8A%D8%AE%D9%88%D8%B6%D9%88%D9%86-%D9%85%D8%B9%D8%B1%D9%83%D8%A9-%D8%A7%D9%84%D8%A5%D8%B6%D8%B1%D8%A7%D8%A8-%D8%B9%D9%86-%D8%A7%D9%84%D8%B7%D8%B9%D8%A7%D9%85)Hamouri as a group member.

Mohammed el-Halabi

In 2016, Israel arrested the director of World Vision operations in Gaza, Mohammed el-Halabi, accusing him of diverting funds and materials to Hamas.  The COI complained that “His continuing deprivation of liberty clearly constitutes arbitrary detention, given the serious due process violations.”

In June 2022, el-Halabi was [convicted](https://www.ngo-monitor.org/nm/wp-content/uploads/2022/06/%D7%94%D7%9B%D7%A8%D7%A2%D7%AA-%D7%93%D7%99%D7%9F-%D7%9E%D7%95%D7%97%D7%9E%D7%93-%D7%97%D7%9C%D7%91%D7%99.pdf)in Be’ersheva District Court of the following offenses in relation to his diversion of humanitarian aid to Hamas while employed by the NGO World Vision:

* Contact with a foreign agent
* Membership in a terror organization: “The defendant took an active and significant part in the activities of Hamas and assisted Hamas over the years in a variety of ways, including transferring monies and equipment that he knew would be used to fund terrorism and assisting terrorists, as detailed in the indictment. The defendant even participated in military actions such as marking exit points for tunnel openings on the Israeli side of the Erez Crossing…”
* Illegal use of property for terror purposes
* Providing information to the enemy
* Illegal military training
* Possession of weapons and ammunition

Moreover, as revealed in court documents, in 2015, a Gaza-based accountant for World Vision informed his employers that he suspected el-Halabi of diverting funds to assist Hamas. He was fired and then interrogated by Hamas. Damningly, el-Halabi had a copy of the interrogation on his personal computer.

In addition, in an attempt to to vindicate el-Halabi and World Vision and bolster its false narrative of alleged persecution of civil society, the COI cited to an Australian investigation of World Vision, while ignoring detailed public records documenting accounting and other management improprieties by the local World Vision entity.  Crucially absent from the COI’s re-telling is also the fact that the Australian government, one of World Vision’s largest donors, suspended funding to World Vision projects in the West Bank and Gaza following el-Halabi’s arrest.  Furthermore, regarding the investigation, according to [then-Australian Ambassador to Israel Dave Sharma](http://aijac.org.au/news/article/in-the-world-vision-gaza-case-words-matter), “the Department of Foreign Affairs and Trade conducted a review of its aid management and found nothing to indicate **any awareness on our part**of Mr El-Halabi’s alleged wrongdoing” (emphasis added). In other words, in contrast to the version proffered by the COI, the investigation narrowly looked at whether the Australian government knew of the aid diversion prior to el-Halabi’s arrest, and did not examine the specifics regarding his alleged activity.

Also missing from the COI was any reference to a publicly-available audit and related documentation regarding World Vision’s operations in the West Bank and Gaza that revealed substantial evidence of financial misconduct, poor management, and lack of oversight by the NGO, which allowed el-Halabi to divert funds and materials. It appears, therefore, that the COI suppressed (or never bothered looking for) evidence that contradicted its claims, in violation of its obligations as fact-finders.

(For more information on the Halabi case, see NGO Monitor’s “[Verdict in case of Mohammad El-Halabi/World Vision Diversion of Funds to Hamas](https://www.ngo-monitor.org/verdict-mohammad-el-halabi-world-vision/)” and “[In-depth Audit Says World Vision Totally Incompetent, Funded Hamas](https://www.ngo-monitor.org/reports/in-depth-audit-says-world-vision-totally-incompetent-funded-hamas/)”)

Nasser Nawaja

Without naming him explicitly,the COI refers to the arrest of B’Tselem researcher Nasser Nawaja, labeling him an HRD.  According to the COI, “In August 2022, ISF arrested a Palestinian HRD from Khirbet Susiya, questioned him and reportedly accused him of ‘causing all the trouble in the area’, **which he took**to refer to his human rights work.” (emphasis added)

Nawaja was arrested by Israeli authorities, indicted for assaulting an Israeli police officer in September 2021.

Notably, in a [January 8, 2015 expose](http://www.tabletmag.com/scroll/196483/prominent-israeli-lefties-caught-entrapping-palestinians-trying-to-sell-them-land) on an Israeli investigative news program (“Uvda”, Channel 2), Nawaja and extremist Israeli activist Ezra Nawi discussed informing the Palestinian Authority security services about a Palestinian man who allegedly intended to sell land to Jews in the West Bank. The sale of Palestinian land to Israelis is punishable by death under Palestinian Authority law, and according to Nawi, suspects are tortured and then killed.

Massfar Yatta altercation

Regarding an altercation between Palestinians and Israelis in Massfar Yatta in the West Bank, the COI writes, “In September 2022, a Palestinian HRD was attacked by five settlers while he was working on his farm in Massafar Yatta. The settlers broke both his arms, while he defended his head with a hoe he was using for farming. While the HRD received treatment for his injuries he was informed of his arrest on suspicion of attempted murder and attacking the settlers and spent 10 days in Ofer Prison. He was later released by a military judge with conditions: payment of bail and barring access to his land for 30 days.”

[According to an Israeli media account](https://www.ynet.co.il/news/article/h1vvd1pxi#!/replace), an altercation began between two Israeli civilians and approximately 30 Palestinians, during which one of the Palestinians attacked an Israeli with a hoe, critically injuring him, and one of the Israeli civilians fired and lightly wounded one Palestinian.

In addition to this crucial and absent context, it is unclear on what grounds the COI seeks to confer HRD status to this unidentified Palestinian.

Outdated sources

The COI claims to have “documented dozens of cases of HRDs who had been prosecuted and convicted through the military courts system. The cases share common elements, including intimidation through interrogation, ISF harassment and the use of plea-bargains under duress to obtain convictions without needing to provide sufficiently compelling evidence.”

These assertions are sourced to a 16-year-old and unverified report by the Israeli NGO Yesh Din.

Surveillance of terror-linked actors

According to the COI, “Israeli authorities are increasingly using surveillance to monitor the activities of HRDs, including planting spyware on mobile phones. In November 2021, the Pegasus spyware of the Israeli NSO group was discovered on the mobile phones of six Palestinian human rights workers.”

According to the [Front Line Defenders report](https://www.frontlinedefenders.org/en/statement-report/statement-targeting-palestinian-hrds-pegasus), upon which the [COI based its claim](https://www.amnesty.org/en/latest/research/2021/11/devices-of-palestinian-human-rights-defenders-hacked-with-nso-groups-pegasus-spyware-2/), this software was found on devices belonging to members of three NGOs designated as terrorist entities by Israel due to their PFLP ties – Al-Haq, Addameer, and Union of Agricultural Work Committees (UAWC) – including Salah Hamouri and Ubai Aboudi.

Aboudi was [convicted of PFLP membership and recruitment](https://www.ngo-monitor.org/nm/wp-content/uploads/2020/10/CamScanner-08-20-2020-11.46.02.pdf) in June 2020, and a [2005 Israeli MFA report](https://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Counter-terrorism%20Jan-Mar%202005.aspx) identifies him as a member of a cell that “planned to perpetrate a terrorist attack at the IDF Armored Corps Museum at Latrun, using two suicide terrorists and a car bomb.”

Three other individuals whose devices allegedly contained this software were unidentified.

**Reprisals against NGO Monitor**

Since the launch of the permanent COI in May 2021, it has launched numerous reprisal attacks against NGO Monitor.

For example, following the presentation of the COI’s initial report in June 2022, COI commissioner Chris Sidoti disparaged the IHRA working definition of antisemitism, claiming – among other statements – that “accusations of antisemitism are thrown around like rice at a wedding” (see above section on IHRA).

NGO Monitor’s Legal Advisor attempted to engage with Sidoti to discuss his [highly offensive and inappropriate remarks](https://media.un.org/en/asset/k1f/k1fqe02cux) and explain why they were inaccurate and hurtful to the Jewish community. Rather than engage substantively, he callously responded, “We’ve heard enough from you today,” in an apparent reference to the scant 90 second oral statement NGO Monitor’s official had made to the Council during the debate.

NGO Monitor’s [attempt](https://www.ngo-monitor.org/nm/wp-content/uploads/2022/08/220824_Letter-from-Joshua-Kern-and-Anne-Herzberg-to-President-of-the-Human-Rights-Council-and-Annexes-1.pdf) to [address](https://www.ngo-monitor.org/ngo-monitor-signs-joint-letter-to-unhrc-president-regarding-the-un-commission-of-inquiry/) COI commissioner Miloon Kothari’s antisemitic remarks and calling for the UNHRC President to launch an investigation, led to further defamation by the COI.

During COI-convened hearings in Geneva in November 2022, Kothari solicited defamatory comments about NGO Monitor from participants. For example, Kothari asked Israeli lawyer Michael Sfard, representing Al-Haq: “Have you personally looked into this organization (NGO Monitor) in terms of their functioning, in terms of their funding? They seem to be behind a lot of what is going wrong.”

The reprisals are continued in the current COI report, which defames NGO Monitor and accuses us of “engag[ing] in well organised smear campaigns against human rights organisations and individuals.” No evidence is provided for these defamatory claims.

Instead, this language strongly resembles 2022 submissions to the COI by PFLP-linked NGOs Al-Haq, Addameer, Al Mezan, and the Palestinian Center for Human Rights (PCHR), with the COI falsely accusing NGO Monitor of being “right wing,” playing a “key role” in “silencing” civil society, and engaging in “well-organized smear campaigns against human rights organizations and individuals, alongside government actions…” (NGO Monitor is a project of the independent and non-partisan Institute for NGO Research.)

At no point has the COI contacted NGO Monitor to discuss the claims made against us or our research.  Like most of its work, such behavior violates basic investigatory and fact-finding standards as well as UN rules of conduct, and further reflects the COI’s lack of professionalism and inherent bias.

**Israeli legislation and policy**

The COI cites a series of Israeli laws and practices that it claims proves undue restrictions on civil society: “Israeli authorities have passed laws to reduce and restrict civil-society activities. These include amendment no.40 to the Budgets Foundations Law 2011 (known as the “Nakba law”), the 2011 Anti-Boycott Law, the 2016 amendment to the Law of Associations, the 2016 Counter-Terrorism Law, and Amendment no.28 of March 2017 of the Entry into Israel Law.”

It also claims “Israeli authorities in the OPT [occupied Palestinian territories] use lengthy or indefinite administrative detention, based on secret evidence, without charge or trial, to punish and restrict HRDs, journalists, students, members of NGOs and people expressing their opinions on social-media.”

The COI’s presentation is distorted and incomplete – simply parroting NGO claims without comparative research or meaningful analysis.

Administrative detention

The COI appears to be referring to  [Samer Arbid](https://www.ngo-monitor.org/pdf/PFLP_report.pdf#page=17) and [Walid Hanatsheh](https://www.ngo-monitor.org/pdf/PFLP_report.pdf#page=19) – two PFLP operatives indicted by Israel for planning and perpetrating the August 2019 bombing that murdered an Israeli teenager and other acts of terrorism. Both had served previous stints in administrative detention prior to that attack. Similarly, Salah Hamouri, has also been incarcerated in administrative detention (see section on Human Rights Defenders).

The report almost offhandedly asserts that Israel places “people expressing their opinions on social-media” in administrative detention, without providing a source for the claim. Such allegations were made in a 2022 report issued by Addameer and other Palestinian organizations. Notably, Arbid and Hamouri are both former Addameer employees, and the organization is one of the NGOs designated as a terrorist entity by Israel due to its close PFLP ties.

More broadly,  the COI refused to consider that administrative detention could be used to combat terrorism and failed to compare Israeli practice to its use by other democratic countries. This, too, reveals the COI’s  lack of expertise and disinterest in professional investigative and fact-finding practices. (See Appendix A for more information regarding Israel’s use of administrative detention)

Amendment no.40 to the Budgets Foundations Law (2011)

The “Nakba Law” (officially titled “Amendment No. 40 to the Budgets Foundations Law [2011]”) [limits state funding to entities that reject Israel as a “Jewish and democratic state” or commemorate Israeli Independence Day as a day of mourning](https://www.ngo-monitor.org/reports/rejoinder_rebuttal_of_adalah_s_response_to_our_research_in_the_jerusalem_post0/). The law does not prevent Israeli citizens or organizations from holding, promoting, or supporting such events.  It does not restrict civil society activity.

Anti-Boycott Law (2011)

According to the law, “[He who knowingly publicizes a public call for boycotting the State of Israel](https://www.ngo-monitor.org/reports/background_and_analysis_regarding_knesset_anti_boycott_law_/) [In this law, ‘boycott of the State of Israel’ – deliberate abstention from economic, cultural or academic ties with a person or with another body, only due to their affinity to the State of Israel, its institutions or an area that is under its control, in such a way that may harm him economically, culturally or academically], and according to the content of the call and the circumstances in which it has been publicized there is a reasonable possibility that the call will lead to the imposition of a boycott, and the he who published the call was aware of this possibility, does a civil wrong and civil tort law [new version] will be applied to him.”

Other countries and legal frameworks make similar efforts to protect business activity from interference.  For example, the [U.S. Export Administration Act of 1979](https://www.acquisition.gov/dosar/652.225-71-section-8a-export-administration-act-1979-amended.) prohibits, *inter alia*, “Refusing, or requiring any U.S. person to refuse to do business with or in Israel, with any Israeli business concern, or with any national or resident of Israel, or with any other person, pursuant to an agreement of, or a request from or on behalf of a boycotting country.”

In [France, courts have upheld laws](https://www.lemonde.fr/police-justice/article/2015/11/06/l-appel-au-boycott-de-produits-israeliens-est-illegal_4804334_1653578.html) making anti-Israel boycotts illegal.

Moreover, legal principles regarding tortious behavior apply legal penalties to those advocating for the breach of contracts between business entities – such as those pressuring artists to cancel concerts, or for companies to cease operations in the country – for discriminatory or other improper purposes.

2016 amendment to the Law of Associations

The amendment in question does not limit civil society organizations in any way.  The amendment requires organizations that receive a majority of their funding from foreign governmental bodies to report such funding in filings with Israeli authorities, their publications, and communications with government officials. Similar disclosure laws exist in other Western countries, including the United States.

2016 Counter-terrorism Law

The 2016 law expands the definition of terrorist organization to include groups that actively support terrorist organizations, including by funding them. Such action is in keeping with UN Security Council resolution 1373, enacted pursuant to Chapter VII of the UN Charter and as such, binding international law.

2017 amendment of Entry into Israel Law

The 2017 amendment denies visas into Israel and permits of residence “if the person, or the organization or body that the person represents, has knowingly publicized a call to boycott the state of Israel, as defined in the 2011 Law to Prevent Harming the State of Israel through Boycott, or has pledged to participate in such a boycott.”

[According to the Israeli Administration of Border Crossings, Population and Immigration](https://www.gov.il/he/departments/policies/bds_activits_criteria_for_entering_israel), for an organization to be classified as supporting boycotts for purposes of this legislation, it must do so “in a manner which is active and continuous.”  It adds that “the fact that an organization is anti-Israel or pro-Palestinian, or maintains an agenda which is critical of Israeli government policy,  does not represent, in and of itself, justification for denying entry into Israel.”

Under international law and practice, every state has an absolute right to control its borders and determine which individuals are entitled to entry.  No country is obligated to grant entry to foreigners seeking to harm it and its citizens.

**Israeli legislative proposals**

Private member bills

The COI claims that “The Government is also considering several other bills that could negatively affect civil-society. They include a bill to impose a tax rate of 65 percent on the income of associations receiving support from ‘foreign governmental entities’, a bill to require foreign-funded associations to state that they are supported by foreign governmental entities in every petition submitted to the High Court of Justice, a bill forbidding waving in public the flag of an enemy country, a terror organisation or the Palestinian Authority (PA), and a bill forbidding the filming of soldiers on duty.”

The bills in question are all private member bills, not government-backed bills.  None have advanced to a first-reading.  Notably, on the dates in which they were introduced in the Knesset, between 100-130 additional private member bills were introduced, highlighting the fact that Members of Knesset introduce bills at a staggering rate, the majority of which are never seriously considered, let alone adopted.

Moreover, on May 27, the [government announced that it was shelving the bill](https://www.timesofisrael.com/likud-bill-targeting-ngos-foreign-funding-set-to-be-shelved-amid-uproar-report/)taxing funds from foreign governmental entities.

**Appendix A – Administrative Detention**

In December 2021, Israel submitted information in the context of its 6th periodic review by the UN’s Committee Against Torture (CAT).  [The following paragraphs of that submission](https://www.ecoi.net/en/file/local/2067427/cat_c_isr_6_E.pdf#page=7)relate to administrative detention:

1. Administrative detention is an exceptional measure, applied only where there is clear, concrete and trustworthy evidence that an individual is engaged in acts that endanger the security of the state or human life. It is always used only as a preventative measure of last resort, where the security risk cannot be addressed by other legal means, such as criminal prosecution.
2. The legal basis for administrative detentions in Israel is the Emergency Authorities (Detention) Law 5739-1979. This instrument is designed primarily as a domestic security measure, which typically applies to individuals posing a severe threat to state security, and accords the Minister of Defense the authority to issue such warrants.
3. In addition, the respective local legislation in the West Bank grants all relevant security detainees the right to appeal the order to the Military Court of Appeals, for judicial review. Petitioners may be represented by counsel of their choice at every stage of these proceedings and have a right to examine the unclassified evidence against them. All individuals have the additional right to petition the HCJ for a repeal of the order. The judicial organs reviewing each and every order carefully examine whether the criteria outlined in case law and legislation are fully met.
4. Detainees are given an explanation of the grounds for the administrative order and have a right to examine the unclassified evidence against them.
5. An administrative detention order is limited to a period of six (6) months and its extension requires the reevaluation of the relevant intelligence and enables further judicial review and appeal.
6. Issuance of administrative detention orders against detainees who pose a danger to public security in the West Bank, in those cases outlined above, is recognized by international law and is in full conformity with Article 78 of the Fourth Geneva Convention 1949.
7. Between the end of 2016 and August 2018, the number of Palestinian administrative detainees has dropped by 37%.