

# HUMAN RIGHTS WATCH, ISRAEL, & ‘A THRESHOLD CROSSED’: AN ADVERSERIAL DISCOURSE

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## 1. Executive Summary

This report aims to examine Human Rights Watch as an organisation, its relationship with Israel, and its report, 'A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution.' The Israeli Government has a predisposition to muzzling human rights critics, particularly those whose findings they disagree with. This is a tactic used to maintain its legitimacy through the construction of human rights organisations as an existential threat. Accusations from an Israeli standpoint posit Human Rights Watch as continually over and disproportionately reporting on Israel. This is, in fact, not the case, with Human Rights Watch reporting consistent with a scenario in which crimes against humanity are taking place. The report 'A Threshold Crossed' is a landmark in Human Rights Watch research as it accuses Israel of the crimes against humanity, apartheid and persecution, for the first time. This report was an organisation-wide effort and uses various methodologies, with interviews with Palestinian victims being a core feature. An examination of the reactions to 'A Threshold Crossed' reveals an attack on Human Rights Watch reporting without any refutation of the factual and legal findings of the report. Further, it revealed several pro-Palestinian reactions to these findings from within Israel. From this research, it is the recommendation of this report that Israel must allow human rights organisations to conduct their work in Israel/Palestine. If Israel wishes to disprove the accusations against them, it must allow them to be investigated. A reengagement with international human rights organisations is pivotal as they play an essential role in the international community. If Israel wishes to be a liberal democracy, it should begin to behave like one and prioritise human rights for all.

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## 2. Introduction

Human Rights Watch (HRW) is an international non-governmental organisation that researches human rights, with advocacy at its core (HRW n.d.). HRW employs a 'naming and shaming' approach to governments committing human rights violations via media coverage and exchanges with policymakers (Rajkovic, & Vennesson 2012, p 413). They investigate facts and apply international human rights and humanitarian law to reach conclusions (Baldwin 2021). They are headquartered in New York City and have 21 additional offices around the world (HRW n.d.). They investigate abuses in 100 countries (World Report 2021 2021, p 2).

On April 27, 2021, HRW published a 213-page report titled 'A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution'. This report is the first time HRW has accused Israel of committing the crimes of apartheid and persecution against the Palestinians (Shakir 2021). HRW is not the only human rights organisation to reach this conclusion, with Amnesty International and B'Tselem (a prominent Israeli human rights group) also publishing similar reports recently. The Israeli Government rejected these findings. However, for decades Palestinians have used the term apartheid to describe the regime they live under (Berger 2022).

This report will first provide some context by outlining the history of the organisation. It will then examine the relationship between HRW and Israel and the associated implications. This report will then analyse the research undertaken by HRW in the preparation of 'A Threshold Crossed', and examine the feedback and reception the report received.

### **3. Literature review**

HRW has attracted much evaluation and criticism since its inception. This literature review will examine existing academic literature that looks at the work of HRW, its work with Israel, and its report, 'A Threshold Crossed.'

Several peer-reviewed articles examine the work of HRW in various areas. Keys (2018) notes the importance of the organisation in encouraging international sporting competitions to promote fundamental freedoms. Jose (2017) examines HRW's impactful work in the norm suppression of targeted killing. These examples note the organisation's impact in these areas and its prominence in the international community and human rights sphere.

There is a considerable amount of literature that evaluates the work of human rights NGOs in Israel/Palestine. Overwhelmingly, this literature comes from a pro-Israel viewpoint. Cohen, Charles, & Freilich (2015) argue that Israel has been the target of delegitimization campaigns by a plethora of actors, including NGOs. These campaigns aim to damage the states standing in the international community and inflict change on their policies. This has resulted in severe damage to Israel's reputation.

With reference to HRW specifically, a number of sources criticise its work on Israel. It is important to note that Gerald Steinberg, an Israeli academic and the founder and president of NGO Monitor (a pro-Israel policy analysis think tank), authored all of this work. Steinberg (2006) makes a similar argument to Cohen, Charles, & Freilich, in that NGOs place disproportionate emphasis on the Israel/Palestine conflict and

condemnations of Israel. With HRW being one such NGO. Steinberg (2011) critically examines the influence of NGOs in the Israel/Palestine conflict and on Israeli foreign and security policy. He argues that organisations such as HRW should increase transparency, accountability, and regulation. Steinberg, Herzberg, & Fredman (2013) make the argument that policymakers and media outlets should be more critical of the findings of NGOs relating to the laws of war and that inaccuracies in reporting result in 'falsities' in their characterising of Israel. Again, he makes specific reference to HRW. This is by no means the extent of his work on the topic of HRW and Israel. However, his pro-Israel and anti-HRW arguments, as discussed, are featured across his work. This pro-Israel stance shows a gap in the literature for pro-HRW standpoints.

There also appears to be a considerable gap in the academic literature pertaining to 'A Threshold Crossed.' Both from Western and Israeli standpoints. While much of Steinberg's work evaluates the research methods used by the organisation, there was no identified literature evaluating this report specifically. Further, another identified gap is that of the reactions to this report. While reactions can be identified (as discussed below), there is no literature consolidating and evaluating them.

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## 4. Methodology

This report used various methodologies. The author informally interviewed Omar Shakir (the primary author and lead researcher of 'A Threshold Crossed') about his work on the report and the organisation more generally. Further, this report draws on scholarly sources, many of which are peer-reviewed. It also draws upon news articles, legal documents, and quotes from various experts. Importantly, key information was drawn from the HRW website. Specifically, a graph shows data on their coverage output on Israel/Palestine. Finally, this report draws on statements and analyses from pro-Israel organisations to incorporate an Israeli point of view.

While as described, this report is built on extensive research. However, it is important to note that there are some limitations. Further informal discussions with HRW staff could have furthered the scope of this research. In particular, those who were part of the team conducting fieldwork in Palestine for 'A Threshold Crossed.'. Additionally, this research could have been widened from discussions with those from a pro-Israel perspective. However, despite attempts to find such individuals to speak to, there was no interest. Likely due to the fact that AFOPA is a pro-Palestinian organisation.

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## 5. Human Rights Watch: Historical Background

The history of HRW began with the Helsinki Accords. In 1973, the first Conference on Security and Co-operation in Europe (CSCE) took place (Conference On Security And Co-Operation In Europe Final Act 1975, p 2). Later, these conferences evolved into the Organisation for Security and Co-operation in Europe (OSCE) (Foroughi 2017, p 294). From the final conference in Helsinki in 1975 came the Helsinki Accords (or the Helsinki Final Act). The Soviet Union and Western Powers signed this major diplomatic agreement. It enshrined a series of norms and commitments in three areas: human rights, economics-environment, and politico-military (Foroughi 2017, p 294). Formed in 1978, HRW began as Helsinki Watch (HW) (Slezkine 2010, p 346), as human rights groups in the Soviet Union could benefit from a US-based monitoring group consisting of private citizens. This was important as those Soviet activists faced escalating repression, and as such, Western organisations were seen as necessary to lead human rights monitoring (Snyder 2010, p 185). Using a model of legitimacy based on country-specific committees that monitor domestic compliance and noncompliance with international norms (Slezkine 2014, p 346), the purpose of HW was to document and publicise human rights violations of all countries that signed the Helsinki Accords (Slezkine 2014, p 353). Such abuses included denying freedom of movement and immigration for certain groups in the USSR, imprisonment and persecution of Czech signatories to Charter 77, censorship in Spain, and British treatment of political prisoners. Unfortunately, HW did not have the resources to monitor all 35 signatories to the Helsinki Accords. Given the context in which it was formed, it had a considerable focus on the USSR. By 1979, many Soviet human rights



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activists had been persecuted or exiled. As such, HW spent considerable time defending them and acting on their behalf. In HW's first annual report, eight of the nine subsections under the heading of 'Eastern Europe and the USSR' discussed the repression of these activists (Slezkine 2014, p 354).

1981 saw the formation of a sister organisation to HW – Americas Watch (AW). Monitoring the Americas, notably, the civil wars in El Salvador and Guatemala between the US-backed governments and leftist rebel groups, as well as the civil war between the Sandinista Government and the US-backed Contras in Nicaragua. Human rights (as defined in UDHR and other such documents) provided no legal justification for monitoring these conflicts. To combat this, humanitarian law was incorporated into the mandate of AW. As such, they were able to hold non-state actors (who were not subject to international human rights law) to the same standard as governments (Slezkine 2014, p 358). This also set the organisation on the path of expansion. As separation from the Helsinki Framework had occurred, it meant that the organisation was no longer limited in its scope. It began to stand for human rights generally. In 1985, Asia Watch was established, followed by Africa Watch in 1988, and Middle East Watch in 1989. Geographically, they could cover most regions in the world, so they began to use the combined name Human Rights Watch. (Slezkine 2014, p 361). As such, HRW, as we know it today, was born.

The 1990s were a difficult time for human rights. However, it allowed for some changes in HRW reporting. Genocide and ethnic cleansing in Rwanda and the Balkans prompted in-depth documentation to advocate for prosecutions of war criminals. To that end, HRW

became involved in drafting the Rome Statute and creating the International Criminal Court (HRW, n.d.). During the 1991 Persian Gulf War, the organisation covered violations of the laws of war from bombing campaigns. The 1990s also saw the expansion of HRW research to focus on abuses against specific vulnerable groups, such as women, children, refugees, migrant workers, and members of the LGBTQI+ community (HRW n.d.). HRW was a founding member of the International Campaign to Ban Landmines, which pushed to universalise the Mine Ban Treaty and ensure compliance from signatories (Hansen 2004, p 366). In 1997, HRW shared a Nobel Peace Prize for its work in this campaign (Hansen 2004, p 367). HRW was also a founding member of the International Freedom of Expression Exchange and the Coalition to Stop the Use of Child Soldiers (HRW n.d.).

During the 2000s, HRW reported violations stemming from world events such as the War on Terror. They researched counterterrorism laws, practices, and policies that violated human rights. The HIV/AIDS pandemic also led to significant research in the area of human rights and health. In 2008, the organisation played an essential role in the treaty banning cluster munitions (HRW n.d.).

Today on the HRW website, their research is divided into country-by-country cases and specific topics. These are as follows: arms, business, children's rights, crisis and conflict, disability rights, environment, free speech, health, LGBT rights, refugees and migrants, rights of older people, international justice, technology and rights, terrorism/counterterrorism, torture, united nations, and women's rights (HRW n.d.).

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## 6. Human Rights Watch and Israel

### 6.1. Israel and Human Rights Critics

The Israeli Government is known for suppressing human rights organisations and those openly critical of the Israeli state. In 2021, the Israeli Government proscribed six established Palestinian NGOs as terrorist organisations under Israel's *2016 Counter Terrorism Law*. The organisations (Addameer, Bisan Center for Research and Development, Defence for Children International Palestine, Al-Haq, Union of Agricultural Work Committees, and the Union of Palestinian Women's Committees) had no history of violence (Gee et al. 2021, p 1). Their work focused on children, women and girls, prisoners, low-income families, and activists. Groups that face discrimination and violence in Israel and Palestine (UN 2021). UN human rights experts stated that:

*...these organisations speak the language of universal human rights... Silencing their voices is not what a democracy adhering to well-accepted human rights and humanitarian standards would do. (UN 2021)*

While such a drastic approach is not realistic against international human rights organisations, Israel does find ways to combat and outright block the work of organisations critical of its practices in Palestine. In February 2022, Israel announced it would not accommodate a special commission by the UN human rights body, Human Rights Council, to investigate abuses against Palestinians in light of the bombings of Gaza in May 2021. Citing biases, the already tense relationship between Israel and

Human Rights Council, worsened. Meirav Eilon Shahar (Israel's ambassador to the UN) wrote in a letter:

*It is obvious to my country, as it should be to any fair-minded observer, that there is simply no reason to believe that Israel will receive reasonable, equitable and non-discriminatory treatment from the Council, or from this Commission of Inquiry.*

(Keaten & Federman 2022)

Exacerbating these longstanding accusations of biases against Human Rights Council was the fact that the commission's chair, Navi Pillay, endorsed the claim that Israel is an apartheid state. Something which Israel vehemently rejects (Keaten & Federman 2022).

Evidently, the Israeli criticism of human rights advocates and organisations occurs both at the local and international levels. HRW is no exception. The Israeli reaction to HRW reporting has become increasingly hostile. During the 2006 Lebanon War, a pro-Israeli think tank, NGO Monitor, issued a rebuttal to HRW's 50-page report published on the issue. This rebuttal rebuked the legitimacy of HRW allegations and took on a new approach in the form of a personal attack on the executive director of HRW. This back-and-forth dynamic between pro-Israeli advocates and HRW (and other similar organisations and groups) remains a dominant characteristic of Western English language media coverage (Venesson and Rajkovic, p 415). Further, in 2019, Omar Shakir (the Israel/Palestine director of HRW) was deported from Israel (Erakat 2020, p 128). A US citizen and graduate of Stanford and Georgetown universities (HRW n.d.), Shakir has been the Israel/Palestine director since 2016. Upon his arrival in Israel, the

organisation Shurat HaDin filed a lawsuit claiming that Shakir's admission into Israel violated the 2017 amendment to the *1952 Entry into Israel Law* that allows for the denial of entry to Boycott, Divestment, and Sanctions (BDS) activists, and the *2011 Law for Prevention of Damage to the State of Israel through Boycott* that allows for Israeli citizens to sue boycott activists (Erakat 2020, p 127). Despite HRW not advocating in support of the BDS movement, nor Shakir on their behalf (FRANCE 24 English 2019), this led to an investigation, which ultimately led to the Israeli Government ordering the deportation of Shakir in 2018. This order led to a year and a half of legal battles. Nonetheless, the deportation went ahead, and Shakir left Israel in 2019 (Erakat 2020, p 128). He now works out of Jordan (Erakat 2020, p 135).

Evidently, there has been a serious deterioration of the relationship between Israel and HRW. In an interview with Omar Shakir, he made note of this. The tension between the two parties has become increasingly adversarial, with a real deterioration in recent years. Previously, the organisation could get staff in and out of the West Bank, exchange correspondence, and even meet with the Israeli Government. Now, there are serious limits access-wise (referencing his deportation) and a lack of channels to engage the Israeli Government. Meetings have become fewer over the years. While they still sometimes receive substantive replies to their letters and requests for information – most of the time, they do not.

Securitising actors (such as NGOs, academics, think tanks, policymakers, and legislators) attempt to limit the scope of human rights research and advocacy in several ways (Gordon 2014, p 311). In the context of Israel, civil society has raised concerns about human rights

research and advocacy and put it on the public agenda. They have successfully lobbied legislators and policymakers and, as a result, swayed opinion in many areas of Israeli society. As such, liberal human rights NGOs are constructed as an existential threat to Israeli society. This posits the rights of the nation as something that must be protected, even at the expense of human rights (Gordon 2014, p 338). This discourse is consistent with the behaviour of the pro-Israeli actors described above. The constant blocking of access, outlawing, and otherwise discrediting of those who are critical of Israel is a way in which the state attempts to maintain its legitimacy. If Israel were to open itself to human rights investigations, it would not be able to continue to deny that the formation of Israel only occurred due to severe impositions on the human rights of millions of Palestinians. Abuses that remain to this day and ensure the continued existence of Israel as a state for only Jews.

## **6.2. HRW Reporting on Israel**

The first report published by HRW on Israel/Palestine was in 1983, with a second published in 1990 (HRW n.d.). From a pro-Israel perspective, HRW has faced criticism for allegedly reporting disproportionately on Israel (Mandel 2009, p 43). Figure 1 depicts the output of the Middle East and North Africa (MENA) Division, which includes Israel/Palestine, from 2011 to 2021.

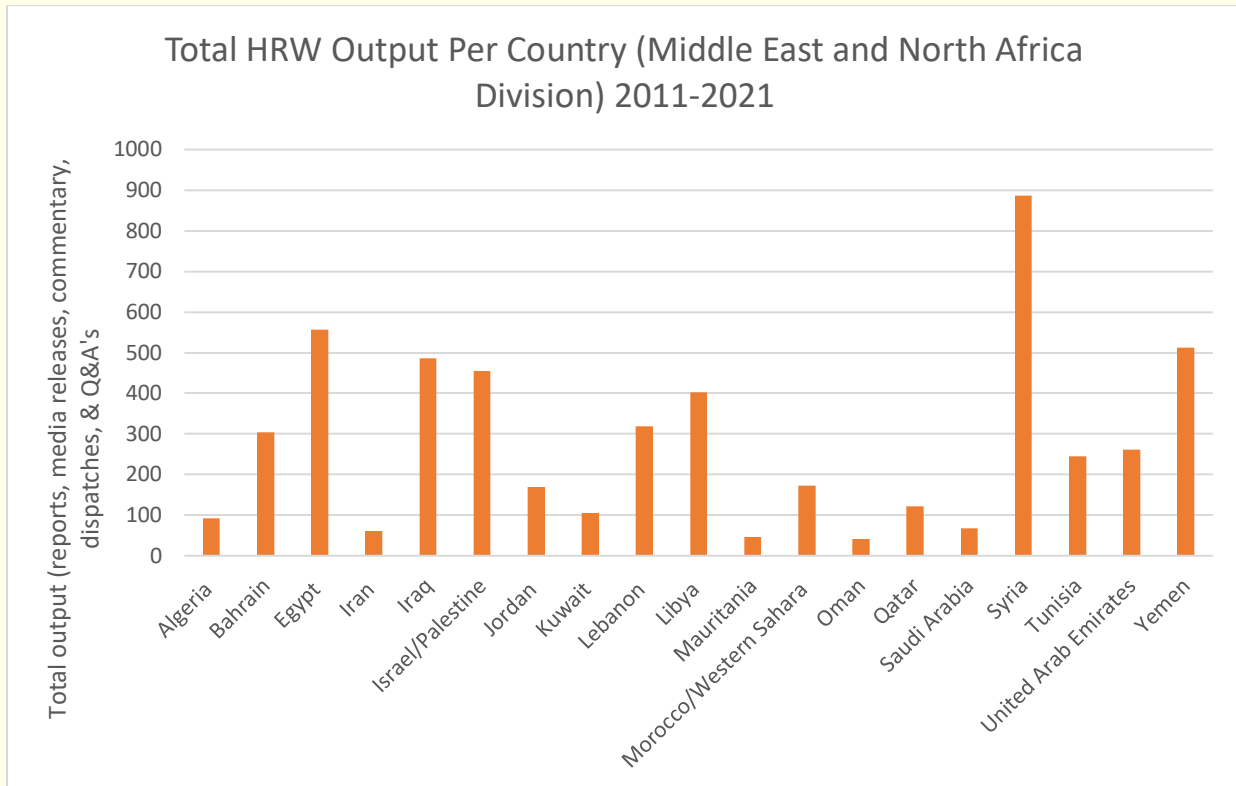


Figure 1: bar plot depicting the HRW output for the Middle East and North Africa (MENA) Division 2011-2021. Syria is the most reported on, followed by Egypt, Yemen, Iraq, and Israel/Palestine (HRW n.d.). Data sourced from HRW MENA division homepage.

Israel/Palestine is the fifth most reported on MENA region by HRW.

The co-founder of HRW, Robert Bernstein, echoed claims of disproportionate reporting:

*Human Rights Watch had as its original mission to pry open closed societies, advocate basic freedoms and support dissenters. But recently it has been issuing reports on the Israeli-Arab conflict that are helping those who wish to turn Israel into a pariah state... the organization, with increasing frequency, casts aside its important distinction between open and closed societies. Nowhere is this more evident than in its work in the Middle East. The region is populated by authoritarian regimes with appalling human rights records. Yet in recent years Human Rights*

*Watch has written far more condemnations of Israel for violations of international law than of any other country in the region. (Bernstein 2009)*

It is Bernstein's view that HRW attributes a disproportionate amount of critical attention to Israel, a supposedly open democracy. He is critical of the organisation for straying from the original Helsinki Framework and adopting a more universalist mandate. The organisation has come to stand for human rights in general (Slezkine 2014, p 364). However, it is fundamentally flawed to be a human rights organisation (that investigates human rights abuses generally) that does not investigate abuses in both open states and closed societies. States that are democratic should not be held to a different standard regarding human rights. In fact, given liberal democratic ideals, human rights should be of an even higher emphasis for such states. While granted, the human rights record for the MENA region is poor, Israel's status as a democracy does not prevent it from committing atrocities in the same ways undemocratic regimes in the region do. On the ground, Apartheid is the reality for millions of Palestinians, and as Omar Shakir maintained in an interview, HRW reporting is consistent with a situation of such gravity. Further, as figure 1 demonstrates, Israel/Palestine is the fifth most reported on region in the MENA division. While this is high, it is by no means the highest, especially given the context in which crimes against humanity are taking place.



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## 7. 'A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution'

### 7.1. Precis

'A Threshold Crossed' examines the policies and practices of Israeli authorities toward Palestinians living in the Occupied Palestinian Territories (OPT) and makes a comparison to Jewish Israelis also living in these territories. The report assesses them against crimes against humanity as defined under international law – specifically apartheid and persecution (A Threshold Crossed 2021, p 9). The report indeed finds that the Israeli Government is committing the crime of apartheid. As it has demonstrated the intent to maintain the domination of Jewish Israelis over Palestinians and spurs inhumane acts and systemic oppression. Further, the report finds that Israeli authorities are guilty of the crime of persecution against the Palestinians. Discriminatory policies deprive Palestinians of fundamental rights based on their ethnicity, such as private property, residency, and access to land, resources, and services (A Threshold Crossed 2021, p 10). The report does not compare apartheid in South Africa to the situation in Israel/Palestine. Nor does it try to determine if Israel is an apartheid state. It does examine whether specific Israeli acts and policies amount to apartheid and persecution as defined under international law (A Threshold Crossed 2021, p 9).

The finding that Israeli authorities are guilty of committing apartheid is particularly significant. 'A Threshold Crossed' is a landmark in HRW Israel/Palestine reporting as it is the first time that the organisation has accused Israel of apartheid. In speaking with Omar

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Shakir, he highlighted several key reasons why the decision was made for this report to be published. The first is legal relevance. As a crime, apartheid has existed in international criminal law since the Apartheid Convention of 1973 (Dugard 2008, p 1). In 1998, apartheid was added to the Rome Statute (Dugard 2008, p 2). According to Shakir, this gave the crime much more prominence in the legal sphere. Palestine acceded to the Rome Statute in 2014 (International Criminal Court 2015). As such, it was legally much more relevant for HRW to look at it as there is jurisdiction under international law. This is crucial as HRW is an organisation that examines abuses and applies international law. Secondly, several things changed factually. In the report, there are three criteria for the crime of apartheid, one of which is the intent to dominate (A Threshold Crossed 2021, p 44). In the past, the Israeli Government has been clear in its statements regarding the temporary nature of the occupation and emphasised a peace process (A Threshold Crossed 2021, p 2). From 2017 onwards, the pretence was dropped, and the Government was more straightforward in that it intends to dominate Palestinians for the foreseeable future. Shakir used the example of the *2018 Nation State Law* to demonstrate this. The law invoked widespread criticism, described as racist, divisive, and undemocratic (Waxman & Peleg 2020, p 185). The law stipulates that only Jews have the right to national self-determination in Israel (Waxman & Peleg 2020, p 187). It enshrines that certain rights do not, and never will, belong to Arab Palestinians. The third factor was the framing of the question. From viewing the HRW website, one can see that their research tends to examine specific issues in specific areas (HRW n.d.). According to Shakir, the organisation decided it must look at Israel's treatment of Palestine across the board in the context of crimes against humanity.

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## 7.2. Methods

The report results from two years of dedicated fieldwork, built upon years of existing HRW research (A Threshold Crossed 2021, p 22). Shakir was the lead researcher and author of the report (A Threshold Crossed 2021, p 212). In an interview, he noted that the number of people involved in the preparation of the report is challenging to quantify as it was an organisation-wide effort. Counting anyone that was involved in its preparation the number would easily reach 100. However, the research and review of the report was a much smaller group limited to the names found in the acknowledgement section. The case studies explored in the report are from 40 interviews conducted by Shakir and other HRW staff. As a result of Covid-19, more interviews took place via phone or video than usual. However, some interviews were conducted pre-Covid or at times during the pandemic when there was an ease in restrictions. These interviews were with Palestinian victims, lawyers, NGO staff, and current and former officials (A Threshold Crossed 2021, p 22). The report also sought the input of the Israeli Government. HRW wrote to them to seek their perspective nine months before the report was published. However, there was no reply. To still include the Israeli perspective, however, the report examined policy planning documents, public statements, and justification by officials (A Threshold Crossed 2021, p 9). This reflects a mix of methodologies.

At the heart of HRW research is interviews. The method used for sourcing interviews during fieldwork universal for HRW (and human rights research in general) is snowball

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sampling (HRW n.d.). As it is a human rights methodology, it is not sampled scientifically as there is no control group. Speaking with people with firsthand experience is crucial when the goal is to document abuses. The methodology involves utilising already established networks. It is a 'snowball' in that from one interview, you can source others from those individuals' own social networks (Cohen & Arieli 2011, p 424). HRW researchers begin by interviewing individuals from their already established networks (i.e., local activists and human rights organisations, members of civil society, etc.). From these discussions, researchers can identify and locate victims and witnesses (HRW n.d.). Israeli critics take issue with this methodology as they believe HRW cherry picks victims and witnesses for their accounts and, as a result, warps their findings (HRW 2009). However, HRW does not solely rely on interviews with victims. Researchers will also confer with an array of experts (i.e., UN representatives, medical experts, lawyers and legal scholars, community leaders, diplomats, law enforcement, etc.) to verify the testimony of victims and witnesses and to gain a better understanding of the issue at hand (HRW n.d.). Outside of Israeli objections, there are notable criticisms of snowball sampling. This methodology cannot truly represent a population and cannot meet the criteria of random samples statistically. However, in social science, this form of methodology is suitable as researchers are seeking non-random sampling. In this instance, generalisation, representativeness, and external validity are unnecessary. Additionally, other criticisms note that research is at risk of distortion. The referral process is dependent on selection bias, as it uses the researchers' resources and contacts, which are obviously limited (Parker, Scott & Geddes 2019, p 4). As such, the sample could become predominantly female or from one ethnic background (Parker, Scott & Geddes

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2019, p 5). Again, in the context of ‘A Threshold Crossed,’ this is desirable as one ethnic group is the victim to the human rights abuses being investigated. Focusing on one specific group is not a limitation but rather a necessity. While, again, HRW does not base its research solely on interviews with victims, they are at the heart of the methodology. Without victims, one cannot get an accurate picture of the scope and impact of the abuse that has occurred.

### **7.3. Reactions**

The Israeli Government and supporters of the Israeli Government rejected the findings of ‘A Threshold Crossed.’ Israel’s foreign ministry called the report a “propaganda pamphlet” that demonstrates the organisation’s “longstanding anti-Israeli agenda” (Holmes 2021). Michael Biton, Israel’s Minister for Strategic Affairs, told the Jewish News Syndicate that “the distorted reality presented by Human Rights Watch is part of its ongoing political and obsessive campaign against Israel in recent years” (Jewish News Syndicate 2021). NGO Monitor told BBC News that the report is evidence of a “vindictive vendetta... against Israel as the nation state of the Jewish people” (BBC News, 2021). The Zionist Federation of Australia President Jeremy Leibler responded to the report by saying:

*By distorting the meaning of apartheid to fit its anti-Israel agenda, Human Rights Watch has betrayed the memory of the victims of apartheid and weakened the necessary fight against racism wherever it appears in the world. (Zionist Federation of Australia 2021)*

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These objections seek to discredit HRW reporting and do not address the accusations at hand. These criticisms take issue with HRW as an organisation but do not refute the legal and factual findings of the report. Further, 'A Threshold Crossed' does not make comparisons to apartheid in South Africa, it only seeks to determine if Israeli policies amount to apartheid under international law.

Many governments have ignored the report and its findings. Some have made a point of stating that the findings of 'A Threshold Crossed' are not consistent with their own findings. Notably, on the 27th of April 2021, US Presidential Press Secretary Jen Psaki responded to a journalist's question asking if the White House sees the findings of 'A Threshold Crossed' to be accurate or inaccurate. She stated:

*...the State's Department has its own rigorous process for making atrocity determinations and reports on human rights abus- — issues globally on an annual basis through the Human Rights Report that they issue, they do briefings on, and they put out publicly. The Department has never used such terminology. As to the question of whether Israel's actions constitute apartheid, that is not the view of this administration. (The White House 2021)*

This response is unsurprising, given Israel's close ties with the US and other Western nations.

However, there have been several positive responses to the report. The Palestinian Ministry of Foreign Affairs and Expatriates welcomed the report by saying:

*The report exposes the nature of Israel's colonial occupation as an entrenched regime of Jewish supremacy and domination over the Palestinian people, designed to legitimize its settlement enterprise in the occupied territory of the State of Palestine and affecting every facet of Palestinian life. (Ministry of Foreign Affairs and Expatriates 2021)*

There have been positive reactions in more unlikely areas too. Current Knesset member Aida Touma-Suleiman tweeted in 2021:

*A @hrw report published today provides a detailed legal interpretation of what we have witnessed on the ground for years – Israel is implementing a policy of apartheid and persecution. (Touma-Suleiman 2021)*

Former Israeli ambassadors to South Africa, Ilan Baruch and Alon Liel, referred to the report in an article condemning their own governments' practices in the OPT:

*Human Rights Watch recently concluded that Israel has crossed a threshold and its actions in the occupied territories now meet the legal definition of the crime of apartheid under international law... It is time for the world to recognize that what we saw in South Africa decades ago is happening in the occupied Palestinian territories too. (Baruch & Liel 2021)*

The Palestinian response is unsurprising. However, the Israeli reactions here are quite significant, and it shows a shifting dynamic among some Israelis. Touma-Suleiman's tweet, in particular, is encouraging. While she is Arab-Israeli (Reback 2015) – as a Knesset member, she is visible in a primarily Jewish Israeli space.

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## 8. Conclusion and Recommendations

This report has examined the history of HRW, its relationship with Israel, and the nature of accusations of disproportionate reporting against the organisation. It has also examined the HRW report 'A Threshold Crossed,' its research methods, and the reactions it has received. It found that Israel is no stranger to attempting to suppress human rights organisations. Its construction of these organisations as a threat to the state demonstrates an attempt to maintain its own legitimacy. Further, it concluded that HRW reporting is not disproportionate but rather appropriate for a state which is committing crimes against humanity. This report also examined the research methods used in 'A Threshold Crossed.' In particular, it concluded that the methodology of snowball sampling was appropriate in the context of this report and human rights research more generally. Finally, this report examined an array of reactions to 'A Threshold Crossed.' It found that there have been a number of positive responses inside Israel/Palestine. From these findings, this report recommends that Israel reengage with international human rights NGOs (including HRW) prominent in the international community, even if there are fundamental disagreements on the merits of human rights research. A lack of accountability, and the denial of access to human rights researchers, does not mean abuses do not occur. If the Israeli Government wishes to disprove the abuses it so strongly objects to, it must allow access to those who wish to investigate them.



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