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## Human Rights Watch's anti-Israel Agenda

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### ABSTRACT

The influence of Human Rights Watch (HRW) is reflected in the organisation's intense involvement in institutions that emphasise human rights, including the United Nations and the International Criminal Court. However, HRW and its leaders have been strongly criticised for intense political and ideological bias against Israel and for proliferating unsubstantiated accusations to fit this bias. This article documents the role of Kenneth Roth, Executive Director since 1993, in this politicisation. Roth's direct involvement with Israel-focused activities is fundamentally different from his role on other topics and countries on HRW's agenda, and contrasts strongly with norms of universality and political neutrality.

**KEYWORDS** Human rights; Israel; Human Rights Watch; Kenneth Roth; bias; disproportionality; soft-power

On 19 November 2020, U.S. Secretary of State Pompeo issued a declaration categorising anti-Zionism as a form of anti-Semitism, and particularly the 'Global BDS Campaign as a manifestation of anti-Semitism.' He also directed the Office of the Special Envoy to Monitor and Combat Anti-Semitism to identify organisations that support such campaigns.<sup>1</sup> According to media reports, US-based Human Rights Watch (HRW) is one of the groups most likely to be included in this policy.<sup>2</sup> In this context, the description and analysis of the activities and campaigns undertaken by this organisation that focus on Israel, Zionism, and BDS (boycotts, divestment and sanctions) are of major significance.

Human Rights Watch was founded as Helsinki Watch by the late Robert Bernstein in 1978, and has grown to become one of the most influential international non-governmental organisations active in this arena. As of 2019, HRW had an annual budget of 92 USD million, and its influence is reflected in the organisation's media visibility, as well as intense involvement in many institutions and platforms that emphasise human rights, including the United Nations and the International Criminal Court.

However, the organisation and its leaders have been strongly criticised, including by its own founder, Bernstein, for acting against its original mission, and for deep-seated political and ideological bias, accompanied by

the proliferation of unsubstantiated accusations to fit this bias. In an opinion piece published in the *New York Times*, Bernstein accused HRW officials, including Roth, of abandoning their ‘original mission to pry open closed societies’ and instead focusing on Israel, an open society, in order to ‘turn Israel into a pariah state.’<sup>3</sup>

As demonstrated in this article, Roth’s direct involvement with Israel-focused activities are fundamentally different from other topics and countries on HRW’s agenda. Former board members have referred to ‘a palpable hostility toward Israel among the HRW brass.’<sup>4</sup> In 2011, in the wake of Judge Richard Goldstone’s renunciation of his UN report on the Gaza conflict, a report heavily influenced by HRW’s ‘research,’ Bernstein urged Roth to follow this example and ‘issue his own mea culpa.’<sup>5</sup>

The systematic analysis of Roth’s personal attitudes on Israel and his control of HRW’s agenda for almost three decades are significant because of the influence he and HRW have had on key international institutions, as well as in universities (specifically law schools and human rights programmes), liberal think tanks, media coverage of these issues, and other realms. Furthermore, Roth’s exercise of soft power is amplified by the absence of external review mechanisms or checks and balances within the structure of HRW.

### **Background: the principle of universality in human rights**

International conventions and compacts highlight the centrality of universality and neutrality in human rights. The 1948 Universal Declaration of Human Rights (UDHR) emphasises equality in the title as well as repeatedly in the text. This document was composed in the shadow of the Holocaust, with the objective of marking a clear departure from Nazi racial hatreds and antisemitism. The introduction declares: ‘all human beings are born free and equal in dignity and rights,’ and Article 7 proclaims ‘All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.’

Numerous individuals and institutions, including NGOs such as Human Rights Watch, claim to derive their moral authority from the UDHR, and proclaim a commitment to political neutrality. In practice, their activities often reflect biased agendas. A number of systematic analyses provide evidence of such bias, including detailed studies by Robert Charles Blitt<sup>6</sup> and by Vennesson and Rajkovic, who describe a history of double standards, discriminatory behaviour, and disproportionate criticism, citing bias and contradictory HRW ‘fact finding’ in making accusations.<sup>7</sup> As Michael Ignatieff noted, many NGOs and their officials ‘espouse the universalist language of human rights but actually use it to defend highly particularist causes.’ Ignatieff cites the example of ‘persons who care about human rights

violations committed against Palestinians [who] may not care so much about human rights violations committed by Palestinians against Israelis.<sup>8</sup>

### **The role of Kenneth Roth, HRW executive director**

Kenneth Roth has served as HRW's Executive Director since 1993 and has met with success in expanding its public profile, influence, and fundraising. He is a public figure, frequently representing HRW in the media, the United Nations, international conferences (such as the Davos World Economic Forum) and other venues.

He is also primarily responsible for the biases, disproportionality, and violations of universality in HRW's activities pertaining to Israel, and for the major impact of these activities on the worldwide perceptions of Israel regarding human rights and international law.

Prior to Roth's appointment, the Middle East, and Israel specifically, had not been significant aspects of HRW's agenda. This changed in the mid-1990s, with the addition of staff members with advocacy backgrounds in radical politics criticising Israel.<sup>9</sup> In parallel, HRW began to issue frequent reports of 'grave violations of international humanitarian law' and 'collective punishment' by Israel.<sup>10</sup> It is notable, as reflected in Bernstein's criticism, that as HRW increased the emphasis on Israel, the surrounding countries, undemocratic and with poor human rights records (to understate the case), received far less coverage from HRW.

To some degree, this can be attributed to the political environment which singled out the Jewish state, as reflected in UN General Assembly Resolution 3379 labelling Zionism as a form of racism (1975), and in the UN human rights frameworks, which are major sources of disproportional condemnation.<sup>11</sup> In parallel, extensive media coverage created a feedback loop in which HRW and other NGOs provided media content in the form of allegations of egregious human rights violations, and gained visibility and funding in return.<sup>12</sup>

But beyond these factors, the evidence indicates that Roth has been personally and ideologically invested in HRW's disproportionate focus on Israel. During the period from 2001 to 2004, which was characterised by Palestinian mass bombings and Israeli responses, Roth wrote letters to world leaders backing the Palestinian cause, including the 'right of return' (the Arab/Palestinian euphemism for Israel's destruction via demographic subversion), published opeds, gave numerous media interviews and spoke in international frameworks, repeatedly condemning Israel.<sup>13</sup>

His views and animus were directly reflected in HRW activities. In early 2002, after deadly Palestinian suicide bombings inside Israel killed and wounded hundreds, the IDF entered the Jenin refugee camp, the hub of these attacks. HRW issued 10 reports, press releases, and UN statements accusing Israel for 'indiscriminate' and 'disproportionate' attacks, 'willful killings,' 'summary

executions' and 'war crimes.'<sup>14</sup> In examining HRW's record during this period with respect to other conflicts (for example, Kashmir, Columbia, Sri Lanka), or regimes with the worst human rights records (Syria, Saudi Arabia, Iraq, Iran) the level of activity was significantly reduced relative to issues related to Israel.

Furthermore, the condemnations of Israel for the Jenin incursion, an operation in a very crowded urban area in which 52 Palestinians, a majority of them combatants, and 23 Israeli soldiers were killed,<sup>15</sup> contrasted sharply with the nearly complete absence of HRW comments on the dozens of deadly Palestinian mass terror attacks during that period. In response to criticism of this discrepancy, Roth and HRW provided technical excuses, claiming that human rights and international law applied only to states, and not to non-state actors, including the PLO and Hamas.<sup>16</sup>

In 2004, Roth travelled to Israel to launch HRW's report, 'Razing Rafah,' which excoriated Israel over measures to prevent Palestinian weapons smuggling into Gaza, and repeated accusations of deliberate Israeli attacks against civilians.<sup>17</sup> Roth again denied 'giving Israel disproportionate attention' while emphasising Israel's power and contrasting it with the perceived weakness of the Palestinians.<sup>18</sup>

A detailed study of the number of reports focusing on each of the countries in HRW's Middle East and North Africa (MENA) division between 2005 and 2010 demonstrates the disproportionality.<sup>19</sup> Led by HRW, Israel was 'at the top of human rights hit lists.'<sup>20</sup> Five years later, as the torrent of allegations continued to grow, journalist Jonathan Foreman observed that, 'the overall amount of material put out on Israel, measured by words and pages, is strikingly out of balance and because HRW's reports on Israel are uniquely accompanied in almost every case by high-profile press releases and press conferences. As its executive director, Roth has devoted much of his letter writing and public work to alleged Israeli crimes, to the exclusion of other matters.'<sup>21</sup>

In this and many other cases, the issues, facts and gross human rights violations (in the form of attacks and war crimes committed against Israelis) on which Roth and HRW choose to be largely silent – add to the evidence of built-in bias. Commenting on these blatant omissions compared to Roth's activism during the 2006 Lebanon War, Abraham Foxman observed: 'If the intentions of Syria and Iran are not to be examined, if the takeover of part of a country by a terrorist group committed to the destruction of Israel is not something important ... then ultimately why should anyone take seriously what Human Rights Watch has to say?'<sup>22</sup>

As the criticism of this bias increased, Roth changed his response: 'It's not that we're exclusively focusing on Israel. But if the question is, "Why are we more concerned about the [Gaza] war rather than on other rights abuses [in Israel]?" Well, we've got to pick and choose – we've got finite resources.'<sup>23</sup>

## Roth's biases

In the absence of concrete and consistent criteria, particularly in the realm of human rights, the process of 'picking and choosing' reflects personal opinions, biases and ideology. Roth's statements on Israel as the nation-state of the Jewish people are clearly reflective of these opinions and biases.

In 2004, responding to criticism, he told an Israeli interviewer, 'I recognize Israel as a Jewish state.' Yet, at the same time, Roth supports the Palestinian claim to a blanket 'right of return,' which would be tantamount to reversing the establishment of Israel.<sup>24</sup> In 2000, he sent letters to President Clinton, PLO Chairman Arafat, and Prime Minister Barak asserting (in contrast to all other historical examples) that this 'right ... persists even when sovereignty over the territory is contested or has changed hands.'<sup>25</sup> In a 2019 interview with journalist Eran Cicurel, Roth repeatedly declined to express support for the core concept of Zionism. Israel, he said 'can define itself any way it wants. I mean, lots of governments define themselves in nationalist terms.' But for him, a Jewish state is unacceptable 'because there are many Palestinians who live in Israel too who are citizens who deserve full rights.'<sup>26</sup>

In reference to Israel, Roth frequently uses language not found in his statements on other issues. In Foreman's view, 'it often feels as if Roth has a religious sense of mission regarding Israel; it's his crusade.'<sup>27</sup> In an exchange with critics who accused him of systematic bias, Roth responded: 'An eye for an eye – or, more accurately in this case, twenty eyes for an eye – may have been the morality of some more primitive moment. But it is not the morality of international humanitarian law.'<sup>28</sup> His use of the phrase 'an eye for an eye' is a highly pejorative reference to the Hebrew Bible, and clearly not the policies of the Israeli government or the IDF, neither of which utilise such language or concepts. As ADL head Abraham Foxman wrote, Roth repeated 'a classic anti-Semitic stereotype.'<sup>29</sup>

Roth often goes further, accusing Israel of being inherently racist. In justifying HRW's prominent role in the infamous NGO Forum of the 2001 UN Durban anti-racism conference that launched the anti-Israel boycott movement, Roth declared, 'Clearly Israeli racist practices are an appropriate topic.'<sup>30</sup> No other country was targeted similarly. In a *Foreign Policy* article (2013), ostensibly about eight countries other than Israel, Roth began by criticising President Obama for refusing to stop the alleged 'Jim Crow-like separate-and-unequal treatment of Palestinians in Israeli-controlled parts of the West Bank.'<sup>31</sup>

He often falsely accuses Israel of deliberately killing civilians in responding to and defending against terror attacks. During the 2006 Lebanon war, in addition to his 'eye for an eye' smear, Roth claimed that the IDF was 'turning southern Lebanon into a free-fire zone' by 'targeting civilian homes and vehicles where there was no Hezbollah military presence.'<sup>32</sup> In another instance, responding to criticism that he was driven by ideology,<sup>33</sup> Roth referred to alleged civilian deaths

as a ‘roadway casualty of Israeli bombing.’<sup>34</sup> Subsequently, when even HRW acknowledged that the ‘homes’ and vehicles were used by Hezbollah for storage and transport of missiles and personnel, Roth did not retract his accusations, nor did he withdraw his blatantly false claim that ‘Even the Israeli government hasn’t produced a single fact to refute Human Rights Watch’s findings.’<sup>35</sup>

Again during the 2014 Gaza conflict, before the battles were over and investigations could be conducted, Roth’s tweets and media statements frequently labelled Israel’s actions as ‘war crimes,’ ‘indiscriminate,’ ‘unlawful,’ and ‘collective punishment.’

Roth posted more than 400 tweets from 5 July to 2 September 2014, of which one-quarter condemned Israel; in some weeks, more than half were in this category.<sup>36</sup> In one instance, Roth even appeared to use international law to justify the kidnapping of Israeli soldiers or snatching their bodies to hold for ransom: ‘Tunnels used to attack or capture civilians is a rights violation. Tunnels used to attack or capture soldiers isn’t.’<sup>37</sup> In the same period, there were over 1,700 deaths due to Syria’s civil war, and in Iraq, where ISIS took control, forces drove out the Christian population. ‘Roth did tweet about the crises in both places ... but with nothing remotely like the obsessive energy he brought to the Israel issue.’<sup>38</sup>

Roth’s Israel agenda is typically reflected in significant levels of sarcasm, vitriol, and deep-seated hostility. He frequently refers to Israel using, at best, contested terms such as ‘racist’ and ‘apartheid’ that expose his personal hostility. He denigrates those speaking out against antisemitic attacks linked to the conflict as ‘Israel partisans’ and part of the ‘Hasbarah crowd.’<sup>39</sup>

Roth’s bias has also approached or crossed the line into antisemitism and hate speech. His 2006 reference to ‘an eye for an eye’ in condemning the Israeli response to the Hezbollah attack was a ‘classic anti-Semitic stereotype’, according to the head of the Anti-Defamation League at the time, Abraham Foxman.<sup>40</sup> And in 2017, in the context of the white supremacist march in Charlottesville, Roth tweeted a link to a propaganda piece headlined ‘Birds of a feather: White supremacy and Zionism.’<sup>41</sup> Roth included a picture depicting a Confederate and Israeli flag, commenting ‘Many rights activists condemn Israeli abuse & anti-Semitism. Some white supremacists embrace Israel & anti-Semitism.’<sup>42</sup> Yehuda Mirsky of Brandeis University noted that Roth’s link to a ‘piece casually calling all us Zionists racists is foolish & offensive.’<sup>43</sup>

## Invoking the Holocaust and dismissing antisemitism

In 2004, an Israeli journalist asked Roth ‘What’s a good Jewish boy from Chicago doing at the helm of Human Rights Watch, the famous NGO that many accuse of singling out the Jewish state?’ His response referred to his father’s ‘stories of life in Nazi Germany until he fled in summer 1938.’<sup>44</sup> Similarly, for many years, Roth’s official HRW biography cited his father’s experience in Germany.<sup>45</sup> Rosa Brooks,

a former HRW employee, defended Roth in the *Los Angeles Times* by again highlighting his father's experience in Nazi Germany, and dismissed the evidence and allegations of bias as attempts to silence 'anyone rash enough to criticize Israel'.<sup>46</sup> (Her piece was cited in Mearsheimer and Walt's tendentious book, *The Israel Lobby*.<sup>47</sup>)

On a number of occasions, Roth has referred to the Holocaust in order to condemn Israel. In a 2006 article in the *Weekly Standard*, Joshua Muravchik criticised Roth's silence regarding Hezbollah's terror attacks and repeated threats to destroy Israel. Roth's response ignored the specifics and instead, evoked the Holocaust to minimise the implications of the threats:

For Muravchik, the killing of 39 Israeli civilians by Hezbollah rockets is in the same league with such real genocides as the slaughter of six million Jews in the Holocaust . . . but to call them genocide cheapens a concept whose continued vitality could be a matter of life and death for those who really face it. It also does a disservice to a people whose ancestors have experienced the real horror of genocide.<sup>48</sup>

In 2009, Roth published an op-ed piece in *Haaretz* ('Human Rights Watch Applies Same Standards to Israel, Hamas') again attempting to allay criticism of bias against Israel. As in the past, Roth did not deal with the specifics raised by his critics, but substituted an imagined claim involving the Holocaust, declaring: 'At the heart of our critics' arguments lies the view that we should hold Israel to lower standards. There is no dispute that the country was founded on the ashes of genocide and is surrounded by hostile states and armed groups. But some believe that these circumstances give Israel's democratic government the right to take whatever steps it deems necessary to keep the country safe.'<sup>49</sup>

Roth is also criticised for ignoring or whitewashing genocidal threats against Israel from the Iranian regime, Hamas and others. David Feith observed, 'Tehran will continue to call for Israel's obliteration – and Human Rights Watch will continue to sit back and watch.'<sup>50</sup> HRW founder Bernstein, joined by another former board member and Professor Irwin Cotler, wrote, 'Silence is not a moral option when states threaten genocide – especially when they are on the verge of acquiring nuclear weapons and boast that they can bring about a holocaust in a matter of minutes.'<sup>51</sup> Repeating his justification regarding Hezbollah, Roth responded but did not address the substance of their criticism, 'Many of [Iran's] statements are certainly reprehensible, but they are not incitement to genocide. No one has acted on them.'

Roth's avoidance of engagement on the subject of antisemitism has also drawn criticism. In 2004, he turned down an invitation from former Israeli Minister Natan Sharansky to participate in the Global Forum on Antisemitism, explaining: 'we tend to focus on violence. We have sort of decided not to get involved around attitudes per se . . . For [antisemitism] to be a human rights violation one

would need to see governments in Europe either embracing antisemitism, condoning antisemitic violence, not genuinely trying to stop the violence.’

On other occasions, Roth ‘dismissed Jewish concerns about anti-Semitism by holding up the banner of ‘free speech’ or by suggesting . . . that Israel’s occupation of Palestinian territories is the reason’ for the rise in murderous attacks on Jews and on Jewish institutions.<sup>52</sup>

Roth has also embraced memes that compare Israeli actions to those of the Nazis – an example of antisemitism cited in the International Holocaust Remembrance Association’s working definition of antisemitism. During the 2014 Gaza confrontation, he endorsed an advertisement from a shadowy group calling itself the Jewish Anti-Zionist Network in the *New York Times* and *Guardian* that equated ‘Nazi genocide’ with ‘the massacre of Palestinians in Gaza.’ The text condemns Israel for ‘colonialism, racism, and genocide,’ and unnamed ‘right-wing Israelis’ are compared to Nazis.<sup>53</sup> Following a series of attacks on Jews in Germany, Roth blamed Israel’s conduct during the Gaza War, and journalist Jeffrey Goldberg issued a sharp rebuke: ‘Just as Jews (or Jewish organizations, or the Jewish state) do not cause antisemitism to flare, or intensify, or even to exist, neither do black people cause racism.’<sup>54</sup>

Roth’s references and attitude towards the Holocaust and to antisemitism broadly and particularly in comparisons of Israel to Nazi-like behaviour reinforce the perception that his relationship with and criticism of Israel is influenced by personal views. In this regard, as with other dimensions, Roth undermines his and HRW’s position as ‘neutral and impartial’ analysts of universal human rights.

## Focusing on the UN and ICC

In many of their activities related to Israel, Roth and HRW effectively mirror the political environment which singles out the Jewish state, as reflected in UN General Assembly Resolution 3379 labelling Zionism as a form of racism (1975), and in the UN Commission on Human Rights (changed to Council in 2006), which added a specific permanent agenda item focused on Israel and has none for other countries.

Roth and HRW have played leadership roles aimed at involving the United Nations and the International Criminal Court in the Israeli-Palestinian agenda. Already in 1998, during the final negotiations for the Rome Treaty that created the ICC, Roth lobbied intensively to promote the strategy in conference presentations and media platforms.<sup>55</sup>

As noted, Roth guided HRW’s role in the 2001 Durban conference, organised by the UN Human Rights Commission. Since then, he has been among the most vocal and visible figures in calling for UN investigations of allegations of violations, which, given the structural biases, were guaranteed to condemn Israel. This pattern was clearly evident in Roth’s statements in 2002 (Jenin), 2006 (the

Lebanon war), 2009, 2014, 2019 (regarding Gaza), and in a number of additional cases. He and other HRW employees lobbied intensively in support of the UNHRC's contribution to the BDS movement, in the form of a database, or blacklist, of businesses ostensibly involved in West Bank settlements.

Roth has also advocated for and defended the series of 'experts' appointed to the position of the UN Human Rights Council's Special Rapporteur on the Situation of Human Rights in Palestine. Richard Falk, perhaps the most notorious in this group, who held the post from 2008 to 2014, was on HRW's Santa Barbara (California) fund-raising board until widespread criticism of Falk's obsessive demonisation of Israel forced his removal.

During and after the three week Gaza conflict at the end of 2008 and early 2009, HRW again accused Israel of deliberately killing civilians, demanding an 'independent investigation' under the UN Human Rights Council. Roth wrote a number of articles repeating his standard accusations against Israel, such as acting with 'a determination to make Gazans suffer for the presence of Hamas – a prohibited purpose for using military force.'<sup>56</sup>

Following the standard practice, the Council voted to establish a commission to investigate Israel alone, and Judge Richard Goldstone – who was close to Roth and a member of HRW's International Advisory Board – was selected to head it. In September 2009, Goldstone's UN Commission issued a report that was largely based on NGO accusations, including substantial input from HRW, and ominously concluded that 'some of the actions of the Government of Israel might justify a competent court finding that crimes against humanity have been committed.'<sup>57</sup> (The phrase 'competent court' is a reference to ICC prosecutions.) When the allegations and details were demonstrated to be false or unfounded, Goldstone recanted,<sup>58</sup> effectively ending this phase. Undaunted, Roth insisted 'the report will live on.'<sup>59</sup>

Roth repeated a similar strategy again during the 2014 Gaza war and the violent confrontations along the border between Gaza and Israel in 2018 and 2019. However, when asked about UNHRC's disproportionate focus on Israel and his role, he asserted that this image is a 'caricature that comes up in the Israeli press that the Human Rights Council, somehow, only looks at Israel.'<sup>60</sup>

In parallel, Roth and HRW are active in the lawfare campaigns aimed at Israelis, including the effort (2002–3) to conduct a 'war crimes trial' of Prime Minister Ariel Sharon in Belgium.<sup>61</sup> Roth has lobbied the prosecutor of the ICC directly to open investigations in partnership with Al Haq ('the Law'), the leading Palestinian lawfare organisation. In 2011, Roth appointed Al Haq's executive director, Shawan Jabarin, to HRW's MENA advisory board. Jabarin was convicted and served time in prison for membership in the Popular Front for the Liberation of Palestine terror group, and in 2007, the Israeli High Court of Justice referred to Jabarin as a 'human rights defender by day, and a terrorist by night.'<sup>62</sup> Responding to the appointment of Jabarin, Robert Bernstein declared 'I am of

course shocked but even more saddened that an organization dedicated to the rule of law seems to be deliberately undermining it.<sup>63</sup>

Roth's many media statements and Twitter posts reflect his emphasis on the ICC lobbying effort, including dozens of posts promoting this strategy, with repeated calls for addressing Israel's alleged 'impunity',<sup>64</sup> in addition to the claim that the court has jurisdiction, despite the fact that Israel is not a signatory and Palestine is not a state. HRW submitted material to the ICC Prosecutor regarding the 2009 Gaza conflict, calling for an investigation.<sup>65</sup> Roth later advocated for Palestinian ratification of the ICC statute, to 'diminish the accountability gap for serious international crimes, including war crimes, and contribute to justice for victims of abuses.'<sup>66</sup>

In April 2012, Roth denounced ICC prosecutor Ocampo's deferral on the jurisdiction decision: 'Today's decision appears to close the door for now on access to the ICC for victims of international crimes committed in the Palestinian Territories.'<sup>67</sup> Roth tweeted 'ICC prosecutor says Palestine statehood status rests with UN General Assembly (which is why #Israel is so worried)<sup>68</sup> and in November, following more Hamas rocket attacks and IDF responses, he asked: 'Since #Israel insists it doesn't commit war crimes, why not call PA bluff & welcome #ICC to deter Hamas rocket attacks?'<sup>69</sup> He also criticised President Obama for 'protecting Israel' from the ICC.<sup>70</sup>

After Fatou Bensouda replaced Ocampo, Roth met with her,<sup>71</sup> and called for moving beyond the 'endless ICC preliminary examination of Israel-Palestine' by initiating a 'formal investigation.'<sup>72</sup> Between 2012 and May 2020, Roth's Twitter feed contained dozens of posts promoting this effort.<sup>73</sup> In December 2019, when Bensouda seemed to accept the jurisdiction claim, but then requested that a panel of ICC judges endorse her finding, Roth told journalists 'Bensouda's decision to seek guidance from the court's judges nearly five years into her preliminary inquiry means that perpetrators of serious crimes will not face justice at the ICC anytime soon. Palestinian and Israeli victims have faced a wall of impunity for serious violations committed against them for long enough.'<sup>74</sup>

For Roth, ICC investigations and prosecutions of Israelis continue to be a primary objective, reflecting his personal ideological and political priorities, in sharp contrast to the concepts of universality and neutrality that constitute the normative foundations of human rights. This narrow investment of 'finite' resources is another example of what HRW founder Bernstein characterised as Roth's pursuit of an anti-Israel agenda, and a major departure from the original purpose of the organisation.

## **Bias in HRW senior appointments on Israel**

As Executive Director of HRW, Roth is centrally involved in the hiring of senior staff members – particularly those dealing with Middle Eastern and

Israeli-Palestinian issues. An examination of HRW's employees working on areas of armed conflict demonstrates a departure from neutrality though the presence of many individuals with backgrounds in anti-Israel advocacy stands out. By contrast, a comparison of the backgrounds of staffers who work on Columbia, Sri Lanka, central African conflicts or the India/Pakistan dispute, for example, reveals minimal records of advocacy, bias, and lack of neutrality that characterise HRW's Israel-focused personnel.

In the mid-1990s, HRW's first Israel-related reports and advocacy campaigns were led by Joe Stork, Fatemeh Ziai and Shira Robinson, whose prior political activities displayed clear hostility towards the Jewish state.<sup>75</sup> In 2004, Roth hired Sarah Leah Whitson to be the director of the Middle East and North Africa division, a position she retained until January 2020.<sup>76</sup>

Whitson was born in the Armenian Quarter of Jerusalem's Old City (then under Jordanian occupation), and her family reportedly moved to the US in 1960.<sup>77</sup> Prior to joining HRW, she had been active with the Arab-American Anti-Discrimination Committee, MADRE and the Centre for Social and Economic Rights (CESR) – organisations that ran campaigns referring to Israel using charged terms such as 'apartheid,' 'matrix of control,' and 'brutality.'

At HRW, Whitson's intense anti-Israel agenda was reflected in the publications she co-authored and supervised, as well as her media interviews and opinion pieces.<sup>78</sup> In May 2009, Whitson went to Saudi Arabia seeking donors, emphasising HRW's 'work on Israel and Gaza, which depleted HRW's budget for the region,' and the need to stand up to 'pro-Israel pressure groups,' which 'strongly resisted the [Goldstone] report and tried to discredit it.' Critics noted the irony of eliciting support from the repressive Saudi regime to campaign against democratic Israel.<sup>79</sup> Whitson also travelled to Libya in 2009, where she promoted the Qaddafi family as 'human rights reformers.'<sup>80</sup>

Whitson has echoed classic antisemitic tropes and Jewish conspiracy theories. She accused American Jewish supporters of Israel of racism, and compared Israeli responses to Palestinian violence to segregation in the United States (similar to Roth's 'Jim Crow' accusations).<sup>81</sup> In January 2015, Whitson commented on the US Holocaust Museum's display of 'death and torture in Syria,' stating that the Museum should 'also show pics of death and destruction in #Gaza' – equating the 2014 war with Hamas to the Holocaust and the extermination of six million Jews.<sup>82</sup> In February 2019, in reference to intense criticism of anti-semitism in the British Labour Party, she asked 'Why is this #Israel interference in domestic UK politics acceptable? Is it only a problem when Russia does this?'<sup>83</sup> In 2020, during the Corona virus pandemic, Whitson (no longer at HRW) posted a tweet referring to Israeli internal quarantine measures, which she compared to the Gaza counterterrorism blockade, echoing the classic blood libel theme: 'Such a tiny taste. Missing a tablespoon of blood.'<sup>84</sup>

For the position of HRW's 'Israel/Palestine director,' Roth and Whitson brought in a series of political activists including Lucy Mair (2006–7),<sup>85</sup> Sari Bashi (2014–16),<sup>86</sup> and Omar Shakir (2016–present). Like the others, Shakir was an experienced activist, involved in Israel-focused campaigns at Georgetown University and Stanford, including the promotion of BDS. Shakir's 2010 Israel Apartheid Week event at UC Irvine was named 'Apartheid IsReal.'<sup>87</sup>

Shakir's initial application for an Israeli work visa was rejected, citing evidence that 'this organization's public activities and reports have engaged in politics in the service of Palestinian propaganda, while falsely raising the banner of "human rights."<sup>88</sup> The Interior Ministry labelled HRW as a 'blatantly hostile anti-Israeli organization whose reports have the sole purpose of harming Israel with no consideration whatsoever for the truth or reality.'<sup>89</sup> Roth responded by attacking Israel as joining 'an unsavory group in denying access to an @HRW researcher: Cuba, N Korea, Sudan, Uzbekistan, Venezuela.'<sup>90</sup> (He would repeat similar lines of attack many times over the next three years.)

The Israeli government suddenly reversed the decision in March 2017, for reasons that remain unclear, and Shakir received a one-year visa.<sup>91</sup> From this position, Shakir led an expanded campaign through pressure on high-visibility businesses like California-based Airbnb to participate in boycott activities, on FIFA, the international football (soccer) association, to ban Israel, and in lobbying the UN Human Rights Council for publication of its first and only 'blacklist' of businesses, in this case targeting those allegedly 'in support of the occupation.'<sup>92</sup> In addition, Shakir and HRW hired a number of Palestinian political activists to further amplify the organisation's messaging targeting Israel.<sup>93</sup> This policy is also unique – HRW does not employ local political activists in other conflict zones or priority areas.

Shakir's central role was also highlighted during the Hamas-organised 'March of Return' violence along Gaza's border that began in March 2018. In a flood of opinion articles, media interviews, and social media posts, he repeatedly accused Israel of 'entrenched discrimination,'<sup>94</sup> and 'cag[ing]' Palestinians,<sup>95</sup> while erasing the orchestrated attacks from Gaza. These allegations were repeated in HRW's statement before the UN Human Rights Council. Roth was extensively and visibly involved in these campaigns, as reflected in numerous statements and social media posts.

Citing these and other activities, Israeli courts affirmed that Shakir had violated the terms of his work visa as a 'human rights expert' and was not entitled to a renewal. During this period, Roth made a point of travelling to Israel twice, accompanied by a number of HRW officials and a media team to ensure wide coverage. With Shakir, Roth held highly publicised meetings with diplomats and journalists, gaining endorsements for the campaign. During the lengthy court process, Roth repeatedly compared Israel to North Korea and Venezuela, condemning the final decision of the High Court in November 2019 as part of

a campaign to silence ‘the human rights violations at the heart of the oppressive, discriminatory occupation.’<sup>96</sup>

Roth’s public lobbying and statements during the Shakir campaign again highlighted his commitment to a political agenda that focuses on attacking Israel, under the guise of human rights activism.

## Conclusions

HRW is one of the world’s most influential NGOs focusing on human rights, a movement that at its core emphasises universality. Given HRW’s central role in shaping the soft-power political impact of human rights and international law, the blatant departures from universality and impartiality under the leadership of Ken Roth offer an important lens through which to examine these dimensions of international politics.

Roth has led HRW since 1993, and, as documented, his personal hostility towards Israel has shaped the organisation’s publications, policies, staffing and activities. Beyond the evidence of disproportionality, his emotional expressions throughout this period, such as the multiple references to Jewish themes and to the Holocaust in his harsh criticisms of are not found in other aspects of his involvement in human rights issues. The fact that, uniquely, the key HRW officials hired by Roth to report on Israel and the Middle East had backgrounds in political advocacy that were consistently condemnatory adds to the evidence that Israel is subject to unique treatment.

The consistent and preponderant evidence of bias has led to growing criticism of HRW and Roth. His responses that minimise the threats posed to Israel, and on the need to ‘pick and choose’ [Israel] because ‘we’ve got finite resources’ do not address the pointed allegations of bias and persistent immorality. As Daniel Kohn observed in the liberal *Forward*, Roth’s ‘animus towards Israel and its supporters is expressed regularly and assertively ... For the past two decades, Roth has used his organization to support Israel’s opponents.’<sup>97</sup> Similarly, Foxman observed that ‘despite painting itself as a great moral arbiter, in fact Human Rights Watch’s approach to these problems is immorality at the highest level.’<sup>98</sup>

In 2009, when HRW founder Robert Bernstein denounced HRW’s leadership role in campaigns seeking to ‘turn Israel into a pariah state,’ and a number of the organisation’s funders withdrew their support, Roth successfully survived the challenge. He found new funding sources, and greatly increased the available resources. There is no evidence that the members of HRW’s board, many of whom joined after the departure of Bernstein and his founding group, were concerned about Roth’s personal bias.

The absence of checks and balances on a powerful organisation and its top officials, combined with the lack of transparency, including regarding donors (in 2020, an internal leak exposed a 470,000 USD ‘donation’ to HRW in 2011

from a Saudi billionaire),<sup>99</sup> further amplify the impact of Roth's biases on HRW and the execution of its mission.

This blatant violation of the norms of neutrality and impartiality in advancing a highly personal agenda is broadly symptomatic of a wider problem among political advocacy NGOs and their officials, particularly in the realm of human rights. The details of Roth's hostility towards Israel highlight the dangers of particularism, in contrast to the universality that is essential to all human rights activities. To the degree that 'the role of moral universalism is not to take activists out of politics but to get activists to discipline their partiality,' the case of Roth and HRW demonstrate the inherent difficulties.<sup>100</sup>

## Notes

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4. Birnbaum, "Minority Report."
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11. See, for example, Cohen and Freilich, "War by other means," 1–25.
12. Ron, Ramos and Rodgers, "Transnational Information Politics: NGO Human Rights Reporting," 557–587.
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28. Roth, “Getting It Straight.”
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## Disclosure statement

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