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The Soldier and the Global Village: Hypotheses on the Transnational Control of the Military

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*Introduction: Transnational Human Rights Advocacy and Civil-Military Relations*¹

Over the years, globalization – a set of connected processes that lead to a greater interaction capacity in the international system – has transformed social trends and national policies.² Analysts commonly associate globalization with the broadening of security and the rise of new security issues, like atmospheric pollution, terrorism, migration, the drug trade, and infectious diseases.³ Its impact on civil-military relations, however, has been neglected. One of the characteristics of the greater interaction capacity of the international system is the rise of transnational advocacy networks spreading norms related to the human rights regime. Transnational human rights networks span the globe and these network have become more numerous and influential since the 1970s.⁴ These networks are “sets of actors linked across country boundaries, bound together by shared values, dense exchanges of information and services, and common discourses.”⁵

¹. I thank Nikolas Rajkovic for excellent research assistance. I gratefully acknowledge the material and intellectual support of the Robert Schuman Center for Advanced Studies, European University Institute.

². Jeffry A. Frieden, Ronald Rogowski, “The Impact of the International Economy on National Policies: An Analytical Overview”, in *Internationalization and Domestic Politics*, eds. Robert O. Keohane, Helen V. Milner (Cambridge: Cambridge University Press, 1996); Geoffrey Garrett, “Global Market and National Politics: Collision Course or Virtuous Circle?,” (1st ed. 1998) in *Exploration and Contestation in the Study of World Politics*, eds. Peter J. Katzenstein, Robert O. Keohane, Stephen D. Krasner (Cambridge, Mass.: The MIT Press, 1999), 147-84.

³. Michael Brown, et. al., eds., *Global Dangers. Changing Dimensions of International Security* (Cambridge, Mass.: MIT Press, 1995); Victor D. Cha, “Globalization and the Study of International Security”, *The Journal of Peace Research*, 37 (3), 2000, 391-403; Christopher Rudolph, “Globalization and Security: Migration and Evolving Conceptions of Security in Statecraft and Scholarship” *Security Studies*, 13 (1) (Autumn 2003), 1-32.

⁴. Margaret Keck, Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, NY: Cornell University Press, 1998); Sanjeev Khagram, James V. Riker, Kathryn Sikkink (eds.), *Restructuring World Politics: Transnational Social Movements, Networks, and Norms* (Minneapolis, M.N.: University of Minnesota Press, 2002).

⁵. Sanjeev Khagram, James V. Riker, Kathryn Sikkink, “From Santiago to Seattle: Transnational Advocacy Groups Restructuring World Politics,” in *Restructuring World Politics: Transnational Social Movements, Networks, and Norms* (Minneapolis, M.N.: University of Minnesota Press, 2002), 7. See also Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999).

In the name of humanitarian norms, these groups are involved in active and public campaigns of shaming and blaming in order to put pressure on their targets to force them to comply with their international obligations. Transnational actors present their action as grounded in the international law regime, including the Geneva conventions, and the 1948 Human Rights Convention. As Keck and Sikkink explain, transnational actors:

...[pressure] target actors to adopt new policies, and by monitoring compliance with international standards. Insofar as is possible, they seek to maximize their influence or leverage over the target of their actions. In doing so they contribute to changing perceptions that both state and societal actors may have of their identities, interests, and preferences, to transforming their discursive positions, and ultimately to changing procedures, policies, and behaviour.⁶

The influence of these networks is favored by the increasing role of the global media which puts the emphasis on dramatic and spectacular event which resonate with positive social values or their violations.

The purpose of this paper is to further explore the ways in which transnational advocacy networks affect civil-military relations. Specifically, I examine Human Rights Watch's (HRW) attempt to make the Israel Defence Forces (IDF) accountable during the Second Lebanon War of 2006 (Lebanon war) and the December 2008-January 2009 Operation Cast Lead, the IDF incursion in the Gaza Strip (Gaza war). I select the relation between HRW and the IDF, and specifically these two cases, for three reasons. First, the IDF has been engaged in distinct and challenging military operations which have involved a high degree of civilian exposure, e.g. the Palestinian *Intifada*, the conflicts with Hezbollah in Southern Lebanon and Northern Israel, and the problem of Palestinian suicide-bombers. Second, NGOs such as HRW have directed significant resources and effort in monitoring the IDF and publicizing its alleged actions, thus making HRW-IDF relations a rich empirical case. Third, looking at the same actors in two successive wars, allow us to take into account their adjustments and adaptation across time.

My sources are the reports and press releases issued by HRW and Israeli government institutions during and after the Lebanon and Gaza Wars. In addition, newspaper articles dealing with the interaction between HRW and the Israeli government, as well as journalists' assessments in light of assertions made by these competing actors were collected and reviewed (e.g. *New York Times*, *International Herald Tribune*, *The Independent* and the *Jerusalem Post*).

My argument proceeds in three steps. First, I argue that the rise of transnational advocacy networks, characteristic of a globalizing international environment, is a forgotten dimension of the study of civil-military relations and I suggest definitions and hypotheses to help research in that area. Second, I examine the relationship between HRW and the IDF during the Lebanon war and the Gaza war. Finally, I derive from the theoretical discussion and my preliminary empirical findings some broader implications for the impact of globalization on civil-military relations, and I present some avenues for further research.

I / Controlling the Military in the Global Village

§ 1. The Study of Civil-Military Relations in a Globalizing World

Civil-military relations are affected by both domestic and international factors. The few scholars who emphasize the importance of external systemic factors in shaping civil-military relations usually examine the presence of an external threat and, in some cases, the pressures from an influential great power.⁷ The work of Michael Desch, for example, has focused on the impact of the changing security environment on civil military relations. While Desch examined the impact of the threat environment

⁶ Margaret Keck, Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, NY: Cornell University Press, 1998) 3.

⁷ Peter D. Feaver, "Civil-Military Relations," *The Annual Review of Political Science*, 2 (1999), 222.

(internal and external), he acknowledged that threats are not the only dimension of the international context. The external environment is a broad umbrella which brings together heterogeneous factors. At the end of his analysis, he suggested that taking globalization into account should be fruitful for further research on civil-military relations.⁸ He noted that globalization could affect the civilian control of the military in unexpected ways, and trigger both positive and negative consequences. On the one hand, governments' efforts to adapt to the constraints of globalization can lead to economic choices that might conflict with the interests of the military. On the other hand, however, globalization-induced technology related to information and communication, prominent in the "revolution in military affairs," could facilitate the civilian control of the military. In any case, the consequences of a globalizing environment for the civilian control of the military « (...) have not yet been thoroughly explored (...) ».⁹

Ten years later, this assessment remains correct. My argument is not that the civilian control of the military within the familiar state centric framework has ceased to exist, nor that it has lost its importance. The civilian control of the military remains exercised within states, especially in day to day practice. Yet, the control relationship played out on a day-to-day basis, and even during operations, is also shaped by actors, influences and events that are not confined to the state-centric framework. In turn, these globalized dimensions of civilian control interact with the classical way in which civil-military relations are conceived and practiced within states, creating a changed landscape for civil-military relations. Transnational influences might bolster, or on the contrary undermine, domestic processes and logics of control.

While the influence of transnational advocacy networks seems to be a promising avenue for further research on civil-military relations, it has been largely ignored so far. The best survey of the literature shows that the existing research devoted to civil-military relations is firmly grounded in a state-centric conception of civil-military relations.¹⁰ The field largely focuses on the control of the military by the highest civilian authorities within nation-states. In sum, even when scholars probe the external environment of civil-military relations, they ignore transnational forms of control.

§ 2. *The Transnationalized Political Accountability of the Military*

I define globalization as a set of connected political, economic, technological and social processes that increases the interaction capacity in the international system.¹¹ Four dimensions of globalization can, in principle, affect civil-military relations: trade patterns, technology – particularly in the field of communications and transport –, global and multilateral norms and institutions – such as the rise of a norm of justified intervention and the weakening of territory-based political institutions and states (and the concomitant rise of transnational flux). Globalization can be a source of unexpected civil-military friction because it creates and increases pressure on states. For example, globalization is associated with

⁸. Michael C. Desch, *Civilian Control of the Military. The Changing Security Environment* (Baltimore: The Johns Hopkins University Press, 1999), 128-130.

⁹. Michael C. Desch, *Civilian Control of the Military. The Changing Security Environment* (Baltimore: The Johns Hopkins University Press, 1999), 128.

¹⁰. Peter D. Feaver, "Civil-Military Relations," *The Annual Review of Political Science*, 2 (1999), 211-241.

¹¹. Barry Buzan, Charles Jones, Richard Little, *The Logic of Anarchy. Neorealism to Structural Realism* (New York: Columbia University Press, 1993), 66-80; David Held, Anthony McGrew, David Goldblatt, Jonathan Perraton, *Global Transformations. Politics, Economics, and Culture* (Cambridge: Polity Press, 1999), ch. 1; Robert O. Keohane, Joseph S. Nye Jr., "Governance in a globalizing world", in: Robert O. Keohane, *Power and Governance in a Partially Globalized World* (London: Routledge, 2002), 193-218; Michael Zürn, "From Interdependence to Globalization," in: *Handbook of International Relations*, Walter Carlsnaes, Thomas Risse, Beth A. Simmons, eds (London: Sage, 2002), 235-254; Friedrich Kratochwil, "Globalization: What It Is and What It Is Not. Some critical reflections on the discursive formations dealing with transformative change", in: Doris A. Fuchs, Friedrich Kratochwil, eds., *Transformative Change and Global Order. Reflections on Theory and Practice* (Münster: Lit Verlag, 2002), 25-43.

the rise of private actors, including the rise of private military contractors for example.¹² Their role raises significant new problems of political and democratic control of the action of these private actors. At the same time, the globalizing international environment gives rise to, or empowers, new actors who contribute to the civilian control of the military and who generate new norms which contribute to a redefinition of civil-military relation.

In democracies, leaders and bureaucracies should be accountable to citizens. Citizens have the right to be informed about actions, to hear the justification for them and to make a judgment about how they were performed.¹³ In the complex politics of accountability three categories of actors interact: citizens, representatives and rulers. Accountability has three dimensions: vertical (a bottom-up relation, ultimately the vote being the final potential sanction), horizontal (checks and balances among institutions, including the judiciary and central banks for example), and Schmitter suggested an “oblique accountability” referring to various semi-public units of civil society which plays a greater role in the control of government’s action.¹⁴ He also suggests a temporal dimension of accountability as well and distinguishes three periods: a relatively lengthy period of proposing, discussion and agenda-setting, a more compressed moment during which a decision is made, and a long drawn out process whereby the proposal is implemented and produces its effects.¹⁵ In sum, the question of democratic accountability is about ways to ensure that the people remain in control.

The actors who monitor the military and who define the norms used to evaluate their action have changed. Schmitter’s “oblique accountability” is not only happening within nation-states, it is transnationalized as well. Globalization has created more incentives for civilians, who are not necessary civilian state officials, like NGOs and transnational movements (Human Rights Watch, Greenpeace, the Red Cross, etc.), to include in their objective the monitoring of military organizations in peacetime and during operations. These transnational network use two levers to influence. They target the legitimacy of military action, emphasizing the potential gap between ends and means. They also target political and military leaders’ effort to remain popular. As these transnational advocacy network become more influent, military institutions which violate these norms might be more vulnerable to external pressures and might be constrained to make concessions. These conflicting relations lead to changed domestic conceptions of appropriate types of force employment. The pressure to adhere to humanitarian norms has grown, as the leverage of those who seek to exploit them.

In the realm of civil-military relations, the ways in which transnational actors interact with military organizations seems at first broadly consistent with the general framework defined by Keck and Sikkink.¹⁶ However, this aspect of transnational advocacy does not follow a rudimentary template. Transnational advocacy in civil-military relations is contested. Transnational advocacy networks and military organizations engage in vigorous struggles to shape the perception of military conduct and accountability. Rather than submit to NGOs criticisms and interventions in a passive manner, military organizations often contest the scrutiny of transnational monitoring with sophisticated public relations efforts which take aim at both the veracity of (non)compliance information provided and the credibility of

¹². Peter W. Singer, *Corporate Warriors: the Rise of Privatized Military Industry* (Ithaca, NY: Cornell University Press, 2003); Deborah D. Avant, *The Market for Force: the Consequences of Privatizing Security* (Cambridge: Cambridge University Press, 2005).

¹³. Philippe C. Schmitter, “The Quality of Democracy: The Ambiguous Virtues of Accountability” (Fiesole: Istituto Universitario Europeo, settembre 2003), 22.

¹⁴. In : Schedler et al.

¹⁵. Philippe C. Schmitter, “The Quality of Democracy: The Ambiguous Virtues of Accountability” (Fiesole: Istituto Universitario Europeo, settembre 2003), 22.

¹⁶. Margaret Keck, Kathryn Sikkink, *Activists Beyond Borders* (Ithaca, NY: Cornell University Press, 1998).

the nonstate actors involved. Because the active involvement of transnational advocacy network can encourage certain behaviors and discourages others it can shape interests, behaviors and outcomes. Whether domestic actors will all perceive them in the same way, reach the same conclusion and adjust their behavior accordingly is not a foregone conclusion however. Political and military actors do not sit passively: they perceive problems and solutions through their identities and interests and they are committed to strategic problem solving. Therefore, their responses to these transnationalized forms of accountability in the civil-military relations realm should be investigated, not assumed.

II / Human Rights Watch and the Israel Defense Forces

In this section, I draw the broad contours of the relationship between HRW and the IDF. I first present HRW and I provide an overview of its influence strategy regarding IDF operations in Lebanon and Gaza. Then, I turn to the IDF and show that it has built up its public relations capacity to face public accountability claims at the transnational level.

§ 1. Human Rights Watch and the IDF

HRW: Origin and Mission

What is known today as HRW finds its roots in the human rights network created in the wake of the 1975 Helsinki Accords. The forerunner to HRW was Helsinki Watch, formed in 1978 and founded for the purpose of using “the human rights provisions of the 1975 Helsinki Accords to pressure the Soviet Union and the government of Eastern Europe for change.”¹⁷ Following the institution of Helsinki Watch, other umbrella groups formed, specializing in the different regions of the world: Americas Watch (1981), Asia Watch (1985), Africa Watch (1988), and Middle East Watch (1989). In 1988, these entities were consolidated under the name “Human Rights Watch”.¹⁸ Since its creation, HRW has employed the now famous approach of “naming and shaming” governments for human rights violations through media coverage and direct exchanges with policymakers.¹⁹ As of August 2008, 275 full-time staff were employed by HRW across offices in New York, Berlin, Brussels, Chicago, Geneva, Johannesburg, London, Los Angeles, Moscow, Paris, San Francisco, Tokyo, Toronto, and Washington, D.C. Financial statements filed by HRW in June 2007 reported a net worth in assets of over \$120, 000, 000 USD.²⁰

HRW advertises a research staff of 80, located in the field and organized into five geographic divisions: Africa, Americas, Asia, Europe-Central Asia and Middle East-North Africa. It claims to gather information from “a broad range of sources, and with field-based research at its core” in order to produce “regular” and “systematic” research.²¹ HRW boasts thorough investigations, relying upon a network of local activists, noting various phases in its research, and emphasizing that its findings derive from interviews with victims and witnesses “directly involved.” The goal of its research missions is to “(...) gain enough information about an incident, or about repeated rights violations, to create an accurate picture of what happened.”²²

¹⁷ Keck and Sikkink, *Activists Beyond Borders*, 24; ‘Our History’, *Human Rights Watch*, <www.hrw.org/en/node/75134> (January 24, 2009).

¹⁸ ‘Our History’, *Human Rights Watch*.

¹⁹ Ibid.

²⁰ “Human Rights Watch, Inc., Financial Statements, Year Ended June 30, 2007”, *Human Rights Watch*, http://www.hrw.org/sites/default/files/related_material/finStmt2007.pdf (January 24, 2009).

²¹ ‘Our Research Methodology’, *Human Rights Watch*, <www.hrw.org/en/node/75141> (January 24, 2009).

²² Ibid.

HRW and the IDF

HRW has a lengthy history of reporting on human rights abuses in Israel, the Occupied Territories and Lebanon, and has dedicated significant resources to such oversight. A review of the HRW online archive boasts 329 articles and reports related to Israel and the Occupied Territories alone, and 79 dealing with Lebanon. The work of HRW has targeted political leaders of all factions and addressed a variety of human rights allegations. Specifically, HRW has directed considerable attention and criticism at the IDF, with condemnations reaching a peak in recent years, notably for the IDF's (mis)conduct during the Lebanon and Gaza Wars.²³ In particular, HRW has suggested the need for war crimes accountability for the IDF because of alleged violations of international humanitarian law.

The manner in which HRW has tried to influence the IDF during the Lebanese and Gazan wars can be described as follows. First, HRW made immediate and crisis-directed statements regarding specific events or actions. Press releases and public warnings were issued to the mass media, based upon information provided by HRW operatives and experts operating in the field. These rapid releases were written in a short-article format and crafted for easy consumption by the 24-hour "headline news" media which now dominates Western journalism. In both conflicts, HRW was unreserved in its public condemnation of the IDF for alleged violations of international law, and in its call for immediate prosecution. While most intense vis-à-vis the IDF, HRW's condemnations have extended to all parties involved, including Hezbollah in Lebanon and Hamas in Gaza. This rapid-release strategy, during the operations, was then followed by more thorough investigation and reporting, typically this involved follow-up articles which then culminated in a report. For instance, with respect to 2006 Lebanon war, HRW released in February 2008 a 92-page follow-up report detailing what it considered the IDF's indiscriminate use of cluster-bomb munitions in Southern Lebanon.²⁴ Similarly, during the Gaza War, HRW has released a number of articles directed at the IDF. HRW says it is producing more extensive material on Gaza, however it claims to have been hampered by the IDF because HRW operatives were denied frontline access during hostilities.

§ 2. The IDF: A Military Responsive to Transnational Advocacy?

The IDF was formed in 1948 as the territorial defense force of Israel. Since its founding, the IDF has fought a succession of wars—the 1948 Arab-Israeli War, the 1956 Suez War, the 1967 Six-Day War, the War of Attrition, the 1973 Yom Kippur War, and the 1982 Lebanon War—which have established the Israeli military as a leading conventional military force in the Middle East. However, since the signing of the 1979 Egyptian-Israeli Peace Treaty (the Camp David Accord), IDF operations have shifted from conventional war-fighting to low-intensity urban warfare and counter-terrorism; with operations concentrated in the Palestinian Territories (West Bank and Gaza Strip) and in Southern Lebanon. The result has been military operations which have placed the IDF in close contact with civilian populations, facing challenges which range from pseudo-police operations (e.g. the First and Second Intifadas (1987 & 2000) to high-risk urban warfare against Islamicist paramilitaries (e.g. Hezbollah (Lebanon) and Hamas (Gaza)). The changed nature of this warfare, with the IDF operating within dense civilian areas, has led the IDF to address anticipated humanitarian concerns; something consistent with the IDF's self-identity as a defense force "subordinate to the directions of the democratic civilian authorities and the law of the state."²⁵

²³. 'Frequently Asked Questions', *Human Rights Watch*, <www.hrw.org/en/node/75138> (January 25, 2009); Seymour Feshbach and Aryeh Neier, 'Human Rights Watch and Israel: An Exchange', *The New York Review of Books*, Vol. 53(20) (December 2006), <www.nybooks.com/articles/19751> (January 24, 2009).

²⁴'Flooding South Lebanon', *Human Rights Watch*, February 16, 2008, <www.hrw.org/en/reports/2008/02/16/flooding-south-lebanon> (January 24, 2009).

²⁵"IDF Ethics", *Israel Defense Forces*, <http://dover.idf.il/IDF/English/about/doctrine/ethics.htm> (January 26, 2009).

In 1992 the IDF released a military code of ethics titled “The Spirit of the IDF”; it is said to reflect “international law, Israeli law, Jewish heritage and the IDF’s own traditional ethical code.” The code’s release was an example of the pre-emptive public relations and public accountability strategy that the IDF uses to counter potential human rights critics. “The Spirit of the IDF” publicizes 3 core values, accompanied by 10 secondary values. Key for human rights purposes are the following:

“Human Dignity [Core Value]—The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, gender, status or position; Purity of Arms [Secondary Value]—The soldier shall make use of his weaponry and power only for the fulfilment of the mission and solely to the extent required; he will maintain his humanity even in combat. The soldier shall not employ his weaponry and power in order to harm non-combatants or prisoners of war, and shall do all he can to avoid harming their lives, body, honour and property.”²⁶

In 2004, the IDF also introduced a code of conduct for low-intensity warfare and counter-terrorism. This was notably developed by the holder of the Ethics Chair at Tel Aviv University, Professor Asa Kasher, in conjunction with the Israel Defense Force College of National Defense.²⁷ This ethical code, however, is only one component of the IDF’s approach to managing public accountability. The IDF is also supported by a significant public relations network led by the Israeli Foreign Ministry (IFM) and buttressed by other pro-Israel advocacy groups. The IFM, in particular, provides regular advocacy support to the IDF in the face of accusations made by transnational advocacy groups such as HRW. As will be explored in greater detail in the ensuing section on the Lebanon and Gaza Wars, the IFM issues counter-releases that challenge allegations made by NGOs regarding violations of international law. However, the IFM is not alone in this public relations effort, as other non-governmental groups also publicly intervene on behalf of the IDF. Notable pro-IDF advocates are *The International Association of Jewish Lawyers and Jurists* (www.intjewishlawyers.net.il), *UN Watch* (www.unwatch.org) and *NGO-Monitor*, the latter created to especially target the “accountability of Human Rights NGOs in the Arab Israeli Conflict.”²⁸

In sum, the IDF is prepared for transnational criticism of its action. The nature and complexity of its missions places it at elevated risk for potential breaches of international humanitarian law. The IDF has recognized the existence, and potential influence, of this transnational form of accountability and bolstered its military code and ethical training in response to heightened transnational awareness. At the same time, it has also built up public relations capacities with the ability to contest allegations of wrongdoing.

III / The Politics of Transnational Military Accountability: the Lebanon War and the Gaza War

In this section, I discuss specifically the HRW-IDF relations during, and after, the Lebanon and Gaza wars in order to assess the characteristics and results (if any) of HRW’s efforts to affect the accountability of the IDF. In recent years, relations between HRW and the IDF have grown heated. This can be attributed largely to the increased scrutiny HRW has placed upon the action of the IDF and to the large-scale military operations which the IDF has launched in Southern Lebanon (2006) and Gaza (2009). The goal of this section is to get a closer look at the conflictual interaction between HRW and the IDF, in order to assess the politics of transnational accountability in actual policy practices. I examine this conflicting interaction by looking at specific controversies, the issue of civilian casualties in the Lebanon

²⁶ “The Spirit of the IDF”, *Israel Defense Forces*, <<http://dover.idf.il/IDF/English/about/doctrine/ethics.htm>> (January 26, 2009).

²⁷ Asa Kasher, Amos Yadlin, ‘Military Ethics of Fighting Terror: An Israeli Perspective’, *Journal of Military Ethics*, 4(1) (2005), 3-32. See also: Michael L. Gross, ‘The Second Lebanon War: The Question of Proportionality and the Prospect of Non-lethal Warfare’, *Journal of Military Ethics*, 7(1) (2008), 1-22.

²⁸ ‘About NGO Monitor’, *NGO-Monitor*, <www.ngo-monitor.org/articles.php?type=about> (January 26, 2009).

war and the illegal munitions use during the recent Gaza conflict. Regarding both of these issues, HRW has made persistent accusations that the IDF has committed war crimes and should be held accountable. The allegations have led to a public contest that has included not only HRW and the IDF but other organizations and advocacy groups which have argued on either side of the issue. Further, responses issued by the IDF and its supporters have been vigorous and pointed at HRW, directing allegations of inaccurate research and anti-Israel bias.

§ 1. The Lebanon War 2006: Were Civilians Targets or Shields?

Following an ambush of an IDF patrol and the kidnapping of two Israeli soldiers by militants of the Islamist movement Hezbollah, the Israeli government, on the night of July 12, 2006, decided upon an “immediate and substantive” military assault against Hezbollah elements in Southern Lebanon.²⁹ The decision to react was also prompted by Hezbollah’s continued rocket attacks against towns in Northern Israel. The IDF’s incursion into Southern Lebanon lasted 34 days, ending on August 14, 2006. According to Lebanese authorities, the July-August conflict between the IDF and Hezbollah resulted in 1,194 deaths and 4,409 injured, with more than 900,000 displaced persons.³⁰ The opening of military hostilities in Southern Lebanon sparked the intervention of human rights groups concerned with the fate of civilians non-combatants. HRW took an immediate and leading role, issuing warnings and condemnations against both parties to the conflict, the IDF and Hezbollah. However, HRW directed its most comprehensive and damning criticism against the IDF, and this came in the form of immediate press statements followed later by a larger report at the closing of the war. HRW bluntly accused the IDF of war crimes committed during its Lebanon intervention. How these allegations came to bear and how the IDF responded to HRW is the subject of this analysis.

Shaming and Blaming the IDF

Israel’s 2006 incursion into Southern Lebanon was met with an immediate warning from HRW. In a press release issued on July 12, 2006, HRW reported that the IDF had “launched air and artillery attacks against targets in Lebanon, including Beirut’s international airport and bridges and highways south of the capital, and instituted an air, sea, and land blockade.”³¹ Further, HRW revealed that 55 civilians had been killed and 100 wounded. As result, HRW cautioned that both “Hezbollah and Israel must not under any circumstances attack civilians in Israel and Lebanon... [and that] attacks on civilians, or acts to intimidate civilians, clearly violate international humanitarian law, and may constitute war crimes....”³² The general warning was soon followed by specific accusations directed at the IDF. On July 16, 2006, HRW reported that a convoy of 16 people had been killed by an IDF air strike while attempting to flee a Lebanese village near Israel’s border. HRW demanded that “the IDF...investigate this attack on a civilian convoy and provide more details about the circumstances.” Further, it instructed, “having warned civilians to evacuate their village, Israeli forces should have been aware that civilians would be using this road and should have taken great care to avoid harming them.”³³ This rebuke was followed by further demands on July 19 and July 20, where the IDF was asked to “...allow relief convoys safe entry into and passage

²⁹ Israel Ministry of Foreign Affairs, ‘Special Cabinet Communiqué—Hizbullah attack’, 12 July 2006; State of Israel, ‘Winograd Committee for Investigating the Events of the Second Lebanon War’, <http://www.vaadatwino.org.il/reports.html#null> (January 29, 2009).

³⁰ United Nations Human Rights Council, ‘Report of the Commission of Inquiry on Lebanon Pursuant to Human Rights Council Resolution S-2/1, A/HRC/3/2, 23 November 2006, <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.3.2.pdf>> (January 29, 2009).

³¹ Human Rights Watch, ‘Lebanon/Israel: Do not attack Civilians’, 12 July 2006.

³² Ibid.

³³ Human Rights Watch, ‘Israel: Investigate Attack on Civilians in Lebanon’, 16 July 2006.

inside Lebanon, and take all feasible precautions to avoid attacking them”³⁴ as well as to “...allow civilians safe passage out of Lebanon’s embattled south...[and]...avoid attacks likely to cause indiscriminate or disproportionate loss of civilian life.”³⁵ HRW accused the IDF of targeting “clearly marked” relief convoys and continued air strikes that killed and injured fleeing civilians.

The assessments made by HRW were soon corroborated by UN officials and Western media reports. On July 24, the UN emergency relief coordinator, Jan Egeland, issued a public appeal that the IDF re-open Lebanese land, air and sea routes to aid. This was followed by media coverage on mounting civilian casualties caused by IDF aerial attacks.³⁶ Subsequent warnings were further issued by both UN coordinator Egeland and the UN High Commissioner for Human Rights, Louise Arbour, on the risk IDF and Hezbollah fighters run for war crimes prosecution.³⁷

The worst condemnation was yet to come for the IDF. On July 30, the Israeli air force struck a civilian household in the Southern Lebanese village of Qana.³⁸ HRW quickly condemned the bombing, announcing that 54 civilians had been killed in the attack.³⁹ HRW attributed the deaths to “...an indiscriminate bombing campaign that the IDF have waged in Lebanon over the past 18 days, leaving an estimated 750 people dead, the vast majority of them civilians.”⁴⁰ Hezbollah was similarly denounced for rocket attacks which had killed 18 civilians in Northern Israel.⁴¹ However, HRW was adamant in its criticism of the IDF on the basis that “war crimes by one party to a conflict never justify war crimes by another.”⁴² Moreover, Israeli insistence that the IDF did conform to international humanitarian law was met with public outrage by HRW: decrying as “fantasy” the IDF’s claim of legality.⁴³

On August 4, 2006, HRW unveiled its 50-page report which detailed IDF wrongdoing in Lebanon. The investigation, entitled “Fatal Strikes: Israel’s Indiscriminate Attacks Against Civilians in Lebanon”, accused the IDF of “serious violations of international humanitarian law” through a “systematic failure to distinguish between combatants and civilians.”⁴⁴ The report documented “war crimes” committed by the

³⁴ *Human Rights Watch*, ‘Lebanon/Israel: Israel must provide Safe Passage to Relief Convoys’, 19 July 2006.

³⁵ *Human Rights Watch*, ‘Lebanon/Israel : Israel Must Allow Civilians Safe Passage’, 20 July 2006.

³⁶ Nicholas Blanford, ‘Fleeing Lebanese dodge aerial fire’, *Christian Science Monitor*, 24 July 2006, 10; Sabrina Taverise, ‘Night of Death and Terror for Lebanese Villagers’, *New York Times*, 31 July 2006, 1.

³⁷ James Bone, ‘War Crimes warning as civilian deaths increase’, *The Times*, 25 July 2006, 29.

³⁸ Sabrina Tavernise, Steven Erlanger and Myra Noveck, ‘Civilians Lose as Fighters Slip into Fog of War’, *New York Times*, 3 August 2006, 1; Sabrina Tavernise, Steven Erlanger and Myra Noveck, ‘Civilians Lose as Fighters Slip into Fog of War’, *New York Times*, 3 August 2006, 1; Leonard Doyle, ‘Civilian deaths “should be seen as war crime”’, *The Independent (London)*, 4 August 2006, 4; Jonathan Pearlman and Ed O’Loughlin, ‘We thought building was empty before strike: Israel’, *The Age (Melbourne)*, 4 August 2006, 1.

³⁹ After much criticism from Pro-Israel advocates, HRW scaled down its death toll figure to 28. *Human Rights Watch*, ‘Israel/Lebanon: Qana Death Toll at 28’, 1 August 2006.

⁴⁰ *Human Rights Watch*, ‘Israel/Lebanon: Israel Responsible for Qana Attack’, 29 July 2006.

⁴¹ Dan Izenberg, ‘Mother 2 daughters die as rocket lands in their garden: Human Rights Watch tells Hizbullah to stop firing’, *Jerusalem Post*, 6 August 2006, 3; ‘Human Rights Watch cancels Beirut conference in response to anger—Hezbollah TV’, *BBC Monitoring Middle East-Political*, 30 August 2007; Alia Ibrahim, ‘Report Accuses Hezbollah of Indiscriminate Attacks on Civilians in ‘06 War’, *Washington Post*, 30 August 2007, A15; Hassan M. Fattah, ‘Rights Group Accuses Hezbollah of Indiscriminate Attacks on Civilians in Israel War’, *New York Times*, 31 August 2007, 10.

⁴² *Ibid.*

⁴³ *Human Rights Watch*, ‘White flags, not a legitimate target’, 30 July 2006; *Human Rights Watch*, ‘Questions and Answers on Hostilities Between Israel and Hezbollah’, 1 August 2006.

⁴⁴ *Human Rights Watch*, ‘Fatal Strikes: Israel’s Indiscriminate Attacks Against Civilians in Lebanon’, 18(3), August 2006, 3.

IDF through an analysis of Israeli air and artillery attacks that had claimed 153 civilian lives. The findings of HRW served as a wholesale indictment against IDF actions in Lebanon.⁴⁵ HRW's allegations helped to involve the United Nations. On August 11, 2006, the UN Human Rights Council established a special "high-level commission of inquiry" which criticized the IDF in its November 23, 2006 report.⁴⁶

However, advocacy by HRW extended well past the formation and conclusions of the UN inquiry,⁴⁷ in the months and years following the conflict it produced additional statements and reports which disclosed the findings of its own post-bellum investigation into the 2006 war.⁴⁸ Moreover, in response to allegations of bias made by pro-Israel advocates, HRW issued in August 2007 a 126-page report condemning Hezbollah for indiscriminate attacks against Israeli civilians.⁴⁹ In September 2007, HRW published a 249-page report which reviewed both IDF and Hezbollah infractions of international humanitarian law. In this report, HRW emphasized that the high civilian death toll in Lebanon was a product of the IDF's failure to abide by the laws of war.⁵⁰

Pushing Back: How the IDF and its Advocacy Network Responded to HRW

The allegations made during the 2006 War placed the IDF in a precarious position vis-à-vis Western public opinion. Charges expressed by HRW and other human rights groups, that the IDF had committed war crimes in Lebanon, were serious and thus one could expect that the state of Israel and pro-Israel advocates would respond. The question was, however, what the character of that response would be. Initially, Israeli and IDF statements centred upon 'anti-terror' messages, largely ignoring questions of human rights impropriety. Yet, as HRW escalated its condemnation of the IDF, the Israeli government and its supporters began to directly confront HRW and its accusations, to eventually question the integrity of HRW as an even-handed observer. The most biting attacks against HRW were not delivered directly by Israeli authorities but rather by third-party advocacy groups.

Israel's public relations strategy at the opening of the Lebanon war stressed a 'counter-terrorism' theme. The frame expressed, by those such as Prime Minister Ehud Olmert, was of Israel as the victim of Hezbollah terror attacks and that the IDF was acting legitimately in self-defense by going after Hezbollah in Lebanon.⁵¹ Only after two weeks of conflict did Israeli messages change to address mounting humanitarian criticisms directed at the IDF. The first evidence of this revised approach was manifest following a meeting between Israeli PM Olmert and US Secretary of State Condoleezza Rice on July 25, 2006.⁵²

More specific responses followed as Israeli forces became faced with serious allegations of impropriety. For instance, on July 28, the IFM issued a communiqué on behalf of the IDF regarding an

⁴⁵ Ibid.

⁴⁶ United Nations Human Rights Council, 'Report of the Commission of Inquiry on Lebanon Pursuant to Human Rights Council Resolution S-2/I, A/HRC/3/2, 23 November 2006, <<http://www2.ohchr.org/english/bodies/hrcouncil/docs/specialsession/A.HRC.3.2.pdf>> (January 29, 2009), 2, 3-4.

⁴⁷ Hilary Leila Krieger, 'Rights group slams UN Body for anti-Israel bias', *Jerusalem Post*, 19 September 2006, 2.

⁴⁸ Tim Butcher, 'UN urged to act on Lebanon "war crimes"', *The Daily Telegraph (London)*, 13 July 2007, 18.

⁴⁹ *Human Rights Watch*, 'Civilians under Assault: Hezbollah's Rocket Attacks on Israel in the 2006 War', August 2007, 19(3), 9.

⁵⁰ *Human Rights Watch*, 'Why they Died: Civilian Casualties on Lebanon during the 2006 War', 19(5), September 2007', 5.

⁵¹ *Israel Ministry of Foreign Affairs*, 'Special Cabinet Communique-Hizbullah', 12 July 2006:

⁵² *Israel Ministry of Foreign Affairs*, 'PM Olmert meets with US Secy of State Rice', 25 July 2006.

attack on civilian convoy organized by the Australian embassy, in which the IDF disclosed its warnings to the Australian embassy and denied all responsibility for a mortar attack which had inflicted casualties upon the convoy.⁵³ On July 30, the IFM issued a communiqué reporting on the IDF's attack upon the village of Qana, justifying its strike against "missile launch sites" on the basis that Hezbollah used the village to launch "hundreds of missiles" into Israel. The IDF expressed regret for "any harm to uninvolved civilians", however it also emphasized Hezbollah's "contemptible use of Lebanese civilians as human shields."⁵⁴ Further, the IFM noted that the IDF had given advanced evacuation warnings to all Lebanese villagers south of the Litani River. Notwithstanding, in light of the Qana bombing, the IDF announced temporary "self-imposed restrictions with regard to the targeting of structures in Lebanon."⁵⁵

In short, responses issued by Israeli authorities were rarely addressed at HRW. Instead, allegations were challenged through the use of counter-facts and counter-explanations delivered by senior Israeli officials, as exemplified by the interview given by Israeli ambassador Dan Gillerman to the *New York Times*: "Hezbollah [has] used Lebanese civilians as human shields and [has] deliberately exposed them to danger in the hopes of stirring expressions of outrage against Israel. [...] Lebanese civilians may have been killed by Israeli fire but they are the victims of Hezbollah, victims of terror."⁵⁶

Direct confrontation with HRW, and other human rights NGOS, was thus reserved for third-party advocacy groups sympathetic to Israel. One such entity, that played an immediate role during the conflict, was the Jerusalem-based *NGO-Monitor*, which issued opinion articles critical of HRW. On July 30, 2006, the first such article appeared in the *Jerusalem Post*, authored by *NGO-Monitor* director Gerald Steinberg. In the article, Steinberg attacked the unregulated conduct of human rights NGOs and, further, the anti-Israeli bias of HRW.⁵⁷ In addition, in response to HRW's 50-page report, released on August 4th, *NGO-Monitor* published a rebuttal on August 27 in the *Jerusalem Post*. In the piece, *NGO-Monitor* director Gerald Steinberg took sharp aim not only at the substance of HRW allegations but launched a personal attack against HRW Executive Director, Kenneth Roth.⁵⁸ The force of this pro-IDF backlash was substantial, so much so that a Jewish member of the HRW board, Kathleen Peratis, had to issue a public response in defense of HRW and Kenneth Roth. Peratis' August 30 article, published by the *Washington Post*, noted the "ferocious" criticism directed at both HRW and Roth by New York-area Rabbis, the *New York Sun*, the *Anti-Defamation League*, and *NGO-Monitor*.⁵⁹

This back-and-forth exchange between Pro-Israel advocates, HRW and other human rights groups became a dominant characteristic of Western (English-language) media coverage.⁶⁰ Yet, a distinction

⁵³ Israel Ministry of Foreign Affairs, 'IDF response regarding convoy in southern Lebanon', 28 July 2006.

⁵⁴ Israel Ministry of Foreign Affairs, 'Incident at Kafr Qana', 30 July 2006; See also Israel Ministry of Foreign Affairs, 'Completion of Inquiry into July 30th incident in Qana', 2 August 2006.

⁵⁵ Ibid.

⁵⁶ Warren Hoge, 'U.N. Deplores Civilian Deaths, But Cease-Fire Call is Blocked', *New York Times*, 31 July 2006, 10.

⁵⁷ Gerald Steinberg, 'NGOs that take sides', *The Jerusalem Post*, 30 July 2006, 13.

⁵⁸ Gerald M. Steinberg, 'Ken Roth's blood libel', *The Jerusalem Post*, 27 August 2006, 14.

⁵⁹ Kathleen Peratis, 'Diversionary Strike On a Rights Group', *Washington Post*, 30 August 2006, A19. See also the counter-reply of NGO-Monitor: Gerald Steinberg, 'Double Standard on Israel', *Washington Post*, 20 September 2006, A24.

⁶⁰ See Alan Dershowitz, 'What is 'Human Rights Watch' watching?', *Jerusalem Post*, 25 August 2006, 4; Caroline B. Glick, 'Terrorist theatre tricks', *Jerusalem Post*, 29 August 2006, 15; Alan Dershowitz, 'Amnesty International redefines 'war crimes'', *Jerusalem Post*, 31 August 2006, 15; Gerald M. Steinberg, 'Human-rights falsehood: Israel tries to defend itself', *Washington Times*, 23 October 2006, A19; Gerald Steinberg, 'Watching the watchdog', *The Courier Mail (Australia)*, 29 May 2007, 18; Gerald M. Steinberg, 'HRW's damage can't be undone', *Jerusalem Post*, 6 September 2007, 15; Samuel Sockol, 'Israel Faulted in Deaths of Civilians in Lebanon: Rights Groups Cites Failure to Distinguish Targets', *Washington Post*, 7 September 2007, A15; Oakland Ross, 'Lebanon war rebuke 'nonsense', Israelis say', *The Toronto Star (Canada)*, 7 September 2007, AA01; Dan Izenberg, 'Human Rights Watch, Foreign Ministry clash over Lebanon civilian deaths', *Jerusalem Post*, 7 September 2007, 3; Hizbollah 'did not use civilians as cover', *The Independent (London)*, 7 September 2007, 32; Carolynne

emerged in that third-party entities supporting Israel began to make their own public relations initiatives. One example of this development was the release, in early December 2006, of a report by an Israeli research group, the *Intelligence and Terrorism Information Center*, entitled “Hezbollah’s use of Lebanese civilians as human shields.”⁶¹ The report, which relied upon declassified material provided by the IDF (e.g. photographs, video images and prisoner interrogation data), alleged that “Hezbollah stored weapons in mosques, battled Israelis from inside empty schools, flew white flags while transporting missiles and launched rockets near United Nations monitoring posts.”⁶² The report received leading coverage in the December 5, 2006 issue of the *New York Times*. Additional examples of such initiatives include the 2008 reports published by *NGO-Monitor* which analyze bias and double standards allegedly applied toward Israel by HRW and other leading human rights NGOs.⁶³

Pro-IDF rebuttals extended beyond NGOs, such as HRW, and also engaged international organizations critical of the IDF, such as the earlier discussed UN Inquiry. The findings of the UN Inquiry, which held that the IDF was deliberate in its failure to discriminate between civilians and combatants, was subjected to public critique by another pro-Israeli watchdog, *UN Watch*. In a press release issued on November 26, 2006, and entitled “The Ever-Predictable UN Human Rights Council”, *UN Watch* took aim at what it alleged was one-sided bias by the UN Inquiry because of its mandate to investigate only IDF wrongdoing.⁶⁴

Conclusion on the Lebanon War

This overview of the interactions between HRW and the IDF during the Lebanon war, provides evidence that the transnational monitoring of military operations is different from the conventional view of the rise of transnational advocacy. The conflictual character of relations between HRW and the IDF during the Lebanon war shows a disputed political contest, not the linear rise of an uncontested monitoring and regulation. Rather, this empirical examination revealed a contentious struggle in which the IDF and the Israeli authorities sought to expand the scope and playing field of transnational accountability to include the scrutiny of human rights NGOs as well. What the IDF and its supporters attempted to do was to degrade the label of neutral observer which human rights NGOs typically advertise, by challenging the popular belief that such monitors were beyond error, criticism or political commitments. An attack was mounted against the objective self-identity promoted by HRW, pointing to the political values and alleged obscure agendas which such activism could intentionally or unintentionally support. Successful or not, the fact that such efforts could be observed, offers a useful insight into a profoundly political, and contested, process which is the hallmark of transnational civilian control. The conceptualization of transnational accountability of the military needs to include an adversarial processes in which multiple actors are involved.

Wheeler, ‘Israeli air strikes killed civilians indiscriminately, rights group says: Hezbollah presence in villages exaggerated, Human Rights Watch report concludes’, *The Globe and Mail (Canada)*, 7 September 2007, A18; Ed O’Loughlin, ‘Israel ‘broke laws of war’ in Lebanon’, *The Age (Melbourne)*, 7 September 2007, 11; David Frum, ‘Misinformation warfare’, *National Post (Canada)*, 2 February 2008, A23.

⁶¹ Reuven Erlich, ‘Hezbollah’s use of Lebanese civilians as human shields: the extensive military infrastructure positioned and hidden in populated areas. From within the Lebanese towns and villages deliberate rocket attacks were directed against civilian targets in Israel’, *Intelligence and Terrorism Information Center at the Center for Special Studies*, November 2006, <http://www.terrorism-info.org.il/malam_multimedia/English/eng_n/pdf/human_shields.pdf> (January 29, 2009).

⁶² Greg Myre, ‘Offering Video, Israel Answers Critics on War’, *New York Times*, 5 December 2006, 1.

⁶³ *NGO-Monitor*, ‘NGO Monitor’s 2007 Report on HRW: Bias and Double Standards Continue’, 29 April 2008, <www.ngo-monitor.org/article.php?operation=print&id=1910> (January 30, 2009); *NGO-Monitor*, ‘Watching the Watchers: The Politics and Credibility of Non-Governmental Organizations in the Arab-Israeli Conflict’, 2008, < <http://www.ngo-monitor.org/data/images/File/watchingthewatchers-small.pdf>> (January 28, 2009).

⁶⁴ *UN Watch*, ‘The Ever-Predictable UN Human Rights Council’, 29 November 2006, <www.unwatch.org/site/apps/nl/content2.asp?c+bdKKISNqEM> (January 29, 2009).

Moreover, the analysis of the interactions between HRW and the IDF shows the difficulty to assess whether, and in what ways, transnational advocacy networks actually succeed to control the military in operations. The IDF certainly reacted to transnational pressures and adjusted some elements of its internal codes of conduct and communication strategy, but it is unclear that it actually changed its actual policies and practices in response to transnational contestation. One potential way to address this issue is through comparative analysis over time. By looking at how a specific military, involved in transnational contestation, conducts itself from one war to another we can reach more specific conclusions. The IDF provides a unique opportunity to study such a process both because of the IDF's continued public exposure and the chronic warfare it faces over time. The IDF's recent incursion into the Gaza Strip in 2009, and the public controversy it generated, allows for a useful comparison with the 2006 Lebanon war. What similarities and differences can be identified is now the focus of the ensuing empirical paragraph.

§ 2. *Gaza and the IDF's Operation Cast Lead (2009)*

The war in Gaza between the IDF and the Islamist movement Hamas is too recent to go much beyond preliminary observations concerning the interaction between HRW and the IDF. However, the few weeks of Operation Cast Lead and its aftermath have produced a sizable amount of material on the interaction between the IDF and HRW, making it possible to assess their characteristics and compare them with the Lebanon war.

*"...Israel is a state in which we learn from our own experience": The IDF, Gaza, and the Lessons of Lebanon*⁶⁵

On December 27, 2008, IDF aerial attacks on Hamas targets in the Gaza Strip marked the beginning of 'Operation Cast Lead'. On January 3, 2009, the IDF began a ground invasion of the Gaza Strip intended to degrade the political and military capacity of Hamas in the Palestinian territory. One of the most notable feature of the 2009 Gaza incursion was the extent to which the IDF had prepared the operation in advance and launched an assault at the time of its choosing. In contrast to the Lebanon war, the IDF did not react but rather executed a campaign characterized by lengthy preparations and detailed planning. Most apparent was also the extent to which the IFM had prepared a public relations campaign meant to thwart foreseeable human rights and war crimes allegations.

Israeli authorities were better prepared to face transnational attempts at making the IDF accountable compared to the 2006 Lebanon incursion. This was manifest in both the volume and quality of public relations interventions and material which Israeli officials issued during the Gaza conflict. The IDF's public relation strategy was so pervasive and thought-out that Israel's third-party advocates were less needed and relied upon. The IFM, in particular, unveiled a public relations campaign designed to seize the accountability agenda and pre-empt criticism which was anticipated from HRW and other human rights groups. This time around, officials were not content to react to events but wanted to shape public perceptions from the outset. Numerous crafted public relations messages marked the opening days of Operation Cast Lead. Israeli authorities made "international opinion" a strategic objective in the Gaza war, and immediate efforts were taken to frame IDF operations as both politically legitimate and compliant with international humanitarian law.

First, at the outset of the war, the IFM issued a five-page legal brief which addressed "Issues of Proportionality" with respect to IDF warfare in Gaza.⁶⁶ Second, within the first 24-hours of air strikes,

⁶⁵ Comments of Israeli Foreign Minister Tzipi Livni to Christiane Amanpour of CNN, *Israel Ministry of Foreign Affairs*, 'CNN Interview with FM Livni by Christiane Amanpour', 4 January 2009, <http://www.mfa.gov.il/MFA/About+the+Ministry/Foreign+Minister+Livni/Speeches+interviews/FM_Livni_CNN_interview_4-Jan-2009.htm> (January 31, 2009).

individual press briefings on the operation were given by Israeli Prime Minister Olmert (December 27), Israeli President Shimon Peres (December 28) and Israeli Foreign Minister Tzipi Livni (December 28). Livni's address in particular, given to the foreign diplomatic corps and set in border town of Sderot, used the firing of Hamas rockets into Israel as a backdrop while Livni spoke. Further, the words of Livni's address made express mention of how the IDF was concerned to avoid civilians casualties, while Hamas exploited civilians as human shields.⁶⁷ Beyond Livni's remarks, there were more indications of the extent to which the IDF and Israel were prepared to address human rights concerns. For instance, during the three week conflict, the IFM issued over 40 communiqués—a number which dwarfed the amount of IFM communiqués issued during the Lebanon war.

Further, both the IDF and the IFM provided electronic slide-show presentations summarizing Israel's position regarding the Gaza war; presenting extensive information on the number of rockets fired by Hamas into Israel, how Hamas allegedly used civilians as human shields in Gaza and on the concrete efforts the IDF made to supply tonnes of humanitarian relief to Gaza during the war.⁶⁸ Moreover, on January 6, the IFM publicized an 81-page study performed by the Israeli *Intelligence and Terrorism Information Center* which alleged that Hamas was systematically exploiting Gaza civilians as human shields.⁶⁹ Finally, Israeli officials executed a diplomatic and public relations blitz, visiting western capitals and leaders, speaking with foreign media outlets⁷⁰ and, most importantly, holding press conferences on a frequent basis, as demonstrated again by Israeli FM Livni on December 31, 2008.⁷¹

However, the adaptations made by Israeli officials were not exclusive to public relations. Evidence also emerged that the IDF had modified its field operations in anticipation of human rights monitoring and potential charges. For instance, the *International Herald Tribune* reported, on January 12, that the IDF had tailored a new weapon to:

...the Hamas tactic of asking civilians to stand on the roofs of buildings so Israeli pilots will not bomb. The Israelis counter with missiles designed, paradoxically, not to explode. They aim the missiles at empty areas of the roofs to frighten residents into leaving the buildings, a tactic called 'a knock on the roof.'⁷²

⁶⁶ *Israel Ministry of Foreign Affairs*, 'Responding to Hamas Attacks from Gaza—Issues of Proportionality Background Paper', December 2008, <<http://www.mfa.gov.il/MFA/Government/Law/Legal+Issues+and+Rulings/Responding+to+Hamas+attacks+from+Gaza+-+Issues+of+Proportionality+-+March+2008.htm>> (January 26, 2009).

⁶⁷ *Israel Ministry of Foreign Affairs*, 'FM Livni briefing in Sderot-Opening remarks', 28 December 2008, <http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2008/FM_Livni_briefing_Sderot_Opening_remarks_2_8-Dec-2008.htm> (January 28, 2009).

⁶⁸ *Israel Defense Forces, IDF Spokesperson Unit*, 'Operation Cast Lead Newsletter', January 2009, <<http://dover.idf.il/NR/rdonlyres/BBAD9702-A783-43A7-97C2-1FCD95EF9813/0/newsletter104.pdf>> (January 27, 2009); *Israel Ministry of Foreign Affairs*, 'Israel's Operation against Hamas: Defeating Terror, Promoting Peace', January 2009, <<http://www.mfa.gov.il/NR/rdonlyres/100C3EB5-B451-452F-900F-221DB96D803A/0/MFAHamasOpPresentation.pdf>> (January 29, 2009).

⁶⁹ *Israel Ministry of Foreign Affairs*, 'Hamas Exploitation of Civilians as Human Shields', 6 January 2009; *Intelligence and Terrorism Information Center at the Israel Intelligence Heritage and Commemoration Center (IICC)*, 'Hamas Exploitation of Civilians as Human Shields', January 2009.

⁷⁰ A complete list of Israeli diplomatic visits and formal press interviews performed during Operation Cast Lead is provided by the IFM. See *Israel Ministry of Foreign Affairs*, 'Israel strikes back against Hamas terror infrastructure in Gaza', 21 January 2009.

⁷¹ *Israel Ministry of Foreign Affairs*, 'FM Livni press conference on IDF operation in Gaza', 31 December 2008, <http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2008/FM_Livni_press_conference_IDF_operation_Gaza_31-Dec-2008.htm> (January 30, 2009).

⁷² Steven Erlanger, 'Both sides in Gaza use lethal new tricks: Traps and ruses mark bitter urban battle', *International Herald Tribune*, 12 January 2009, 6.

Further, on January 8, the *International Herald Tribune* revealed that in response to IDF scrutiny of the Lebanon war, the IDF imposed a number of restrictions designed to limit information from leaving the Gaza war zone.⁷³ Finally, on January 23, 2009, the *Los Angeles Times* reported on how the spectre of war crimes charges and human rights lawsuits⁷⁴ had prompted the IDF to enact procedures that protected its soldiers from human rights recriminations.⁷⁵

Lastly, beyond pre-emptive PR measures taken by Israeli authorities, it was also apparent that the IDF and the IFM had augmented capacities to respond to real-time allegations and unforeseen events. This was most visible regarding the much publicized Jebaliya school bombing on January 6,⁷⁶ accusations of illegal white phosphorus use,⁷⁷ and heated calls which later emerged for IDF officers to be charged with war crimes.⁷⁸ Regarding these types of allegations, Israeli authorities displayed a rapid ability to issue public responses which directly challenged media allegations of wrongdoing, as illustrated in both the case of the IFM press release on Jebaliya⁷⁹ and a later IFM memorandum on Hamas war crimes in Gaza.⁸⁰ Finally, in addition to the IFM's improved ability to defend the IDF, pro-Israel, third-party advocates were also active. *NGO-Monitor*, for instance, published a January 21 memorandum entitled "The NGO Front in the Gaza War: Exploitation of International Law".⁸¹ Public opinion articles were also released which directly challenged allegations made by HRW, Amnesty International and Oxfam.⁸²

HRW and War Crimes Allegations

In comparison to the Lebanon war, HRW was quick to refer to war crimes in its monitoring of the 2009 Gaza conflict. This was most evident in the controversies HRW generated on how the IDF used its weaponry in the Gaza conflict, specifically HRW's allegations over how 155-mm 'White Phosphorous' artillery shells were used in urban combat. This was a change in approach relative to the Lebanon war

⁷³ Steven Erlanger, 'Israel struggles to avoid pitfalls of Lebanon war', *International Herald Tribune*, 8 January 2009, 1.

⁷⁴ Ashraf Khalil, 'Israel pledges to defend soldiers against calls for war crimes probe', *Los Angeles Times*, 26 January 2009, 4.

⁷⁵ Jeffrey Fleishman, 'Charges fly in battle over what happened in Gaza', *Los Angeles Times*, 23 January 2009, 1.

⁷⁶ Taghreed El-Khodary and Sabrina Tavernise, 'U.N. Warns of Refugee Crisis in Gaza Strip', *New York Times*, 13 January 2009, 5.

⁷⁷ Joshua Mitnick, 'Gaza images raise cries of 'war crimes': Israeli assault toll tops 1,000', *Washington Times*, 15 January 2009, A01.

⁷⁸ Joshua Mitnick, 'Gaza images raise cries of 'war crimes': Israeli assault toll tops 1,000', *Washington Times*, 15 January 2009, A01; Steven Erlanger, 'Carnage in Gaza: Is it a war crime? Both sides in the conflict accused of putting civilians at undue risk', *International Herald Tribune*, 17 January 2009, 1.

⁷⁹ See *Israel Ministry of Foreign Affairs*, 'Behind the Headlines: The tragedy at the school in Jebaliya', 6 January 2009, <http://www.mfa.gov.il/MFA/About+the+Ministry/Behind+the+Headlines/Tragedy_school_Jebaliya_6-Jan-2009.htm> (January 29, 2009).

⁸⁰ See *Israel Ministry of Foreign Affairs*, 'Behind the Headlines: The truth about Hamas crimes in Gaza', 29 January 2009, <http://www.mfa.gov.il/MFA/About+the+Ministry/Behind+the+Headlines/Hamas_crimes_in_Gaza_29-Jan-2009.htm> (January 25, 2009).

⁸¹ NGO-Monitor, 'The NGO Front in the Gaza War: Exploitation of International Law', 21 January 2009, <www.ngo-monitor.org/article.php?operation=print&id=2251> (January 24, 2009).

⁸² Gerald M. Steinberg, 'Can Israel win the 'soft power' war in Gaza', *Jerusalem Post*, 29 December 2008, 13; Gerald M. Steinberg, 'Human Rights Watch: White (phosphorous) lies', *Jerusalem Post*, 18 January 2009, 14; Rebecca Anna Stoil, 'Gaza war heads to the courts: Many overseas lawsuits simply aim for 'attention'', *Jerusalem Post*, 19 January 2009, 6; Anne Herzberg, 'NGOs aid Hamas PR campaign', *Jerusalem Post*, 12 January 2009, 15; Gerald Steinberg, 'For HRW, Israel is always guilty', *Jerusalem Post*, 26 January 2009, 15; Lanny J. Davis, 'Israel, Gaza and the double standard', *Washington Times*, 26 January 2009, A04.

where HRW emphasized a general theme of “indiscriminate” aerial bombardment by the IDF. In Gaza, HRW seemed to stress a more particular message: the improper use of specific weaponry. The extent such a change could be attributed to the pre-emptive PR efforts made by the IFM and the IDF is difficult to ascertain, but such an inference is plausible.

HRW reacted to the start of the Gaza war by declaring upfront the need for war crimes investigation. On December 30, 2008, HRW issued a general warning to both the IDF and Hamas to avoid civilian casualties.⁸³ Yet, the bulk of this press release dealt with HRW investigations of three IDF air strikes in Gaza. HRW claimed that the attacks “raised particular concern about Israel’s targeting decisions and require independent and impartial inquiries to determine whether the attacks violated the law of war.” It later condemned Hamas for firing more than 100 rockets into Israel between December 27 and 28. Warning that the deliberate firing of “indiscriminate weapons into civilian populated areas, as a matter of policy, constitutes a war crime.”⁸⁴ On January 4, 2009, HRW repeated its warnings to “both sides” to take “all feasible precautions” to protect civilians in response to the IDF’s announced ground offensive in Gaza.⁸⁵ HRW was most critical of the IDF, pointing to how previous HRW studies of IDF incursions into the West Bank and Gaza found evidence of “unlawful killings by Israeli forces.” Further, HRW emphasized that the IDF “[failed] to punish soldiers for serious abuses” committed during those earlier raids.⁸⁶

The substance of HRW’s criticism shifted substantially on January 10, 2009, when the rights-group issued a release condemning the IDF’s use of “white phosphorus” artillery shells.⁸⁷ In particular, HRW charged, the IDF was “using white phosphorus in military operations in densely populated areas of Gaza”, and while white phosphorus was not a prohibited weapon it was known to have an incendiary effect that inflicted severe burns and set civilian objects on fire. Thus, HRW alleged, the use of white phosphorus artillery shells in dense urban areas, such as Gaza, violated “the requirement under international humanitarian law to take all feasible precautions to avoid civilian injury and loss of life.”⁸⁸

The accusations regarding white phosphorus became a focal point for public scrutiny. Western media outlets reported on the allegations made by HRW,⁸⁹ and a public exchange developed between HRW, the IDF, the International Red Cross and third-party experts over whether white phosphorus had been used in accordance with international law.⁹⁰ The allegations made by HRW, however, were not limited to white phosphorus, as it also accused the IDF of firing heavy artillery shells into Gaza’s crowded residential areas. In a press release issued on January 16, 2009, HRW accused the IDF of firing 155-mm artillery shells into residential areas of Gaza city, in violation of the “prohibition under the laws

⁸³ *Human Rights Watch*, ‘Israel/Hamas: Civilians Must Not be Targets’, 30 December 2008, <<http://www.hrw.org/en/news/2008/12/30/israelhamas-civilians-must-not-be-targets>> (January 24, 2009).

⁸⁴ Ibid.

⁸⁵ *Human Rights Watch*, ‘Israel: Gaza Ground Offensive Raises Laws of War Concerns’, 4 January 2009, <<http://www.hrw.org/en/news/2009/01/04/israel-gaza-ground-offensive-raises-laws-war-concerns>> (January 24, 2009).

⁸⁶ Ibid.

⁸⁷ *Human Rights Watch*, ‘Israel: Stop Unlawful Use of White Phosphorus in Gaza’, 10 January 2009, <<http://www.hrw.org/en/news/2009/01/10/israel-stop-unlawful-use-white-phosphorus-gaza>> (January 24, 2009).

⁸⁸ Ibid.

⁸⁹ *Associated Press*, ‘IDF: We’re not using illegal weapons. Rights group: Israeli shells contain white phosphorus, which can cause serious burns’, *Jerusalem Post*, 12 January 2009, 4; Robert Marquand and Nicholas Blandford, ‘Gaza: Israel under fire for alleged white phosphorus use’, *Christian Science Monitor*, 14 January 2009, 7; Ian Black, ‘International: Weaponry: Israel accused of war crimes over phosphorus use’, *The Guardian (London)*, 20 January 2009, 19.

⁹⁰ Mitnick, ‘Gaza images raise cries of ‘war crimes’’, *Washington Times*, 15 January 2009, A01.

of war against indiscriminate attacks....”⁹¹ HRW’s military researcher for Gaza, Marc Garlasco, exclaimed that the “firing of 155-mm shells into the center of Gaza City...[would] likely cause horrific civilian casualties.”

Condemnation by HRW escalated after Israel’s self-proclaimed ceasefire on January 18. In a release dated January 22, 2009, and penned by HRW executive director Kenneth Roth, HRW asserted that “hundreds of Palestinian civilians” were “not the only casualty” of the IDF assault, but also “was the credibility of the IDF.”⁹² In this news release, Roth supplied a list of issues which he alleged discredited Israeli assertions that the IDF took “extraordinary care to spare civilians.” In particular, Roth elaborated on the alleged “denial and obfuscation” tactic of the IDF regarding white phosphorus shells in Gaza, listing the kinds of evidence obtained by HRW which proved the illegal use of white phosphorus in populated urban areas. Further, the executive director also noted the evidence obtained by HRW regarding the IDF’s use of 155-mm shells in densely populated residential areas, emphasizing how 155-mm shells “...injure civilians from blast and fragmentation...[within] a radius of as much as 300 meters.”⁹³

In response, the IDF announced that it would launch an internal inquiry into allegations surrounding white phosphorus use and the wrongful deaths of civilians (e.g. the UN compound in Jebaliya).⁹⁴ On January 27, 2009, HRW demanded “an impartial international investigation into allegations of serious violations of the laws of war by Israel and Hamas....”⁹⁵ This call was echoed by the United Nations Secretary-General, the United Nations High Commissioner for Human Rights, Amnesty International, and the Arab League Secretary-General (vis-à-vis Israel only).⁹⁶ On February 2, 2009, it was also reported that the Chief Prosecutor of the International Criminal Court, Luis Moreno-Ocampo, was looking at how to prosecute Israeli commanders over alleged war crimes in Gaza.⁹⁷

Conclusion: The Politics of the Transnational Control of the Military

Transnational advocacy networks contribute to the control of the military and in so doing they are reshaping the ways in which political accountability of military institutions and force employment is envisioned and practiced. But the effects of these transnational advocacy networks on civil-military

⁹¹ *Human Rights Watch*, ‘Israel: Stop Shelling Crowded Gaza City’, 16 January 2009, <http://www.hrw.org/en/news/2009/01/16/israel-stop-shelling-crowded-gaza-city> (January 29, 2009).

⁹² *Human Rights Watch*, ‘The Incendiary IDF by Kenneth Roth’, 22 January 2009, <<http://www.hrw.org/en/news/2009/01/22/incendiary-idf-kenneth-roth>> (January 25, 2009).

⁹³ Ibid.

⁹⁴ Pater Beaumont, ‘Israeli military says it will investigate claims of use of white phosphorus’, *The Irish Times*, 22 January 2009, 13; ‘Ban calls for full investigation into shelling of three UN sites’, *The Irish Times*, 21 January 2009, 11; Yaakov Katz, ‘IDF smoking out the truth about alleged use of phosphorus shells. Amnesty Int’l claim ‘indisputable evidence’ of use of ordinance in residential areas’, *Jerusalem Post*, 20 January 2009, 2.

⁹⁵ *Human Rights Watch*, ‘Israel/Gaza: International Investigation Essential’, 27 January 2009, <<http://www.hrw.org/en/news/2009/01/27/israelgaza-international-investigation-essential>> (January 28, 2009).

⁹⁶ “Ban calls for full investigation into shelling of three UN sites”, *The Irish Times*, 21 January 2009, 11; ‘A thousand tragedies. But is it a crime? Gaza and the laws of war’, *The Economist*, January 17 2009; Rod Nordland, Christopher Dickey and Sophie Grove, ‘Israel has fewer friends than ever, Even in America,’ *Newsweek International*, 2 February 2009; Rory McCarthy, ‘Gaza: Fatal burns never seen before Israel’s war; Injuries consistent with use of phosphorus: Evidence suggests breach of international law’, *The Guardian (London)*, 21 January 2009, 24; Ashraf Khalil, ‘U.N. chief tours Gaza, Israeli town; Ban calls destruction in Palestinian territory ‘shocking’. In Sderot, he called rocket attacks on civilians ‘appalling’, *Los Angeles Times*, 21 January 2009, 3.

⁹⁷ Catherine Philp and James Hider, ‘Prosecutor looks at ways to put Israeli officers on trial for ‘war crimes’ in Gaza’, *The Times (London)*, 2 February 2009, 32-33.

relations are complex and contingent, not universal or uniform. This paper suggests that it is worthwhile to take seriously the impact of transnational advocacy networks – one of key underlying force behind the interaction capacity of the international system -- for civil-military relations.

The transnational accountability of the military – in this case of the IDF vis-à-vis HRW -- is more complicated than a linear rise of new forms of control. Transnational accountability is a contested political arena, where established human rights NGOs such as HRW and the Israeli government argue over the legality of IDF conduct regarding specific events or actions. What more, this contest is waged in the ‘courtroom’ of the mass media, involving public statements from multiple actors, such as varying government institutions (e.g Israeli foreign ministry, the IDF, the US Air Force), competing expert analysts (e.g. ex-military officers, international lawyers), NGOs (e.g. HRW, Amnesty International) and international organizations (e.g. International Committee of the Red Cross/Crescent). The process of civil-military accountability, as demonstrated in the HRW-IDF case, should be understood as a sophisticated and acrimonious political contest.

Further, when overt warfare erupts, this contest intensifies as the assessment of accountability is taking place in real time as the operations unfold, not just after the fact. Serious charges made by HRW are confronted by the IDF with counter-information campaigns which challenge not only the validity of information provided but also questions the objectivity and even-handedness of HRW. Thus, the process of transnational accountability goes beyond a simple exposure and shaming exercise. Instead, the alleged object of criticism, the IDF, has developed its own capacities to challenge interpretations offered by HRW and thus expand the scope of accountability to include the conduct of NGOs themselves. The characteristics of HRW-IDF relations have morphed from one-way audits into an accountability conflict, where the monopoly of assessment and presumed objectivity of HRW is challenged by a military actor (the IDF) with growing political sophistication.