UK-DFID Funding for NGO “Lawfare”: Description and Analysis

NGO Monitor (www.ngo-monitor.org), a Jerusalem-based research organization, provides information and analysis, promotes accountability, and supports discussion on the reports and activities of NGOs (non-governmental organizations) claiming to advance human rights and humanitarian agendas. Since 2002, NGO Monitor has conducted dozens of detailed and systematic research studies on the issues of NGO funding, transparency, accountability, international law, human rights, humanitarian aid, and the laws of armed conflict.

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Summary
1. The UK’s Department for International Development (DFID) has provided the Norwegian Refugee Council (NRC) with two grants totaling £6 million (FY10/11-14/15) for an extensive legal advocacy project targeting Israeli policy in East Jerusalem and the West Bank.

2. This is one of the largest disbursements from a government to a non-governmental organization (NGO) in the context of the Arab-Israeli conflict. NGO Monitor is unaware of any similar DFID grant anywhere in the world, in both size and scope, targeting the judicial system of a democratic state.

3. This massive DFID funding, which is in turn transferred by NRC to Israeli and Palestinian NGOs, is being used to pursue hundreds of legal cases aimed at influencing Israeli policies, to lobby for international sanctions against Israel, and to support international campaigns of demonization. A lawyer connected to the program reportedly stated that the strategy is to “try every possible legal measure to disrupt the Israeli judicial system… as many cases as possible are registered and that as many cases as possible are appealed to increase the workload of the courts and the Supreme Court to such an extent that there will be a blockage” – in other words, to deliberately sabotage Israeli courts.

4. The scope of interference in the Israeli justice system is unprecedented in relations between democratic countries. As of May 2013, UK funding financed 677 cases that received “full legal representation at the relevant court/administrative body.” According to one assessment, the data suggest that 35% of all legal cases dealing with housing, land, and property claims in East Jerusalem and Area C of the West Bank are funded by the UK via NRC.

5. According to documents relating to the funding, “NRC hopes to obtain legal precedents in public interest cases.” However, “without DFID funding, [NRC’s] capacity to take on public interest cases would be greatly reduced and the strategy of using such cases to highlight key issues of concern and increase international pressure on Israel would be less effective.”

6. As part of this project ostensibly focused on Israel, NRC also financed a complaint against Canada at the UN Human Rights Committee, impugning the Canadian justice system and calling for censure of Canada.

7. The activities being carried out by NRC and its NGO partners are deceptive, and part of a hostile campaign aimed at undermining Israeli democracy and its institutions. These efforts amplify images of Palestinian victimization and Israeli culpability, thereby fuelling the conflict and interfering with peace negotiations.

8. The information available on the British government’s Development Tracker website reflects limited transparency. Details on the NGO recipients of funding disbursed by NRC are “withheld.” Additionally, NRC’s “low visibility policy” suggests a deliberate attempt to prevent public scrutiny and to avoid accountability vis-à-vis the Israeli democratic process.

9. The evidence suggests that the British government has little control over how NRC uses taxpayer funds and was unable to prevent the resulting abuse and damage. It also appears that further funding was provided to NRC without proper accountability or careful consideration of the implications of British government support for NRC’s legal advocacy.

10. UK funding for this project represents a manifest violation of sovereignty and diplomatic relations between democratic countries.
Background – The “Durban Strategy”

11. In August 2001, the UN held the World Conference Against Racism in Durban, South Africa. At the NGO Forum, which ran parallel to the governmental conference, 1,500 non-governmental organizations (NGOs) adopted a strategy of singling-out Israel as a “racist” and “apartheid” state, and isolating it through campaign based on lawfare and boycotts, divestment, and sanctions. Lawfare is the exploitation of legal frameworks to advance the political war against Israel.

12. The NGO Durban declaration also called for the “adoption of all measures to ensure [the] enforcement” of international humanitarian law, including “the establishment of a war crimes tribunal to investigate and bring to justice those who may be guilty of war crimes, acts of genocide and ethnic cleansing and the crime of Apartheid . . . perpetrated in Israel and the Occupied Palestinian Territories.”

13. In implementing the Durban strategy since 2001, political advocacy NGOs have exploited courts in democratic countries in order to harass Israeli officials with civil lawsuits and criminal investigations for “war crimes,” “crimes against humanity,” and other alleged violations of international law.

14. The UK has been an important venue for promoting this lawfare strategy. On several occasions, anti-Israel NGOs have sought to interfere with UK foreign policy and diplomatic relations by attempting to secure ex parte arrest warrants against Israeli officials travelling to the UK for high-level government meetings and charity events. These same NGOs have filed civil lawsuits (all subsequently dismissed) against British ministries to block economic relations between the UK and Israel. In 2011, the British Parliament amended the Police Reform and Social Responsibility Bill 2010-11, to prevent further abuse and exploitation of its judicial system by these organizations.

15. NGOs have also promoted a strategy to discredit the Israeli justice system and to falsely paint Israel as an anti-democratic state. The strategy has encompassed specifically targeting the Israeli Supreme Court. In November 2010, the Palestinian NGO, Al Haq, issued a report, “Legitimising the Illegitimate? The Israeli High Court of Justice and the Occupied Palestinian Territory.” Al Haq advocated for an NGO “campaign against the Court,” proposing that “the legal community flood[] the Court with petitions in the hope of obstructing its functioning and resources” (emphasis added). Al Haq has also called for the international community to “actively engage and exert pressure on the Israeli judiciary to comply with international law in manner that respects the international consensus” regarding evictions in East Jerusalem.

Overview of DFID Funding to NRC

16. The Norwegian Refugee Council (NRC) describes itself as “an independent, humanitarian, non-profit, non-governmental organisation which provides assistance, protection and durable solutions to refugees and internally displaced persons worldwide.” Its budget for Palestine in 2013 alone was 56 million NOK (~£5.5 million), with the bulk coming from governments: the UK, the EU, Norway, and Sweden.

17. Between December 2010 and March 2013, DFID transferred £2,990,599 to NRC for the “Information, Counselling and Legal Assistance Programme in the Occupied Palestinian
Territories.” The stated goal of this funding is “Improved access to justice in the Occupied Palestinian Territories for refugees, internally displaced persons, and persons/communities at risk of displacement or affected by displacement.”

18. NRC is currently receiving an additional £3 million for FY 13/14-14/15 for a seemingly identical project, “Legal Assistance to prevent displacement and demolitions in the Occupied Palestinian Territories (OPTs).”

19. These grants are unprecedented in content, scope, and size. NGO Monitor is unaware of similar funding for NGO legal advocacy in the context of another conflict region or another democratic country.

20. The UK’s Development Tracker website provides a certain level of transparency regarding these grants – including a breakdown of spending in each financial year, as well as highly detailed documents on the activities undertaken by NRC with UK funding and a number of DFID evaluations.

21. However, there is also a marked lack of transparency regarding NRC’s expenditures. According to the Development Tracker, £2,890,599 of the first grant was disbursed as “Aid to civil society organizations/NGOs.” Yet, the final recipients of the funds are “withheld” and unidentified. The same language is used regarding the single disbursement to date (£189,679) from the second project.

22. Therefore, concerned citizens in the UK and Israel cannot know which organizations are receiving and spending British taxpayer funds. As seen below, NGO Monitor was able to independently reconstruct some of the sub-grants by cross-referencing the partial information provided by DFID with NGO financial statements.

23. DFID is also providing an additional £7,629,435 over three years (FY11/12-13/14) to NRC, as part of a Programme Partnership Arrangement. An unknown amount is earmarked for NRC’s shelter coordination and housing reconstruction projects in Gaza.

**NRC’s Non-transparent Role**

24. NRC uses British government funds to provide legal assistance and legal training, as well as “research and advocacy” on alleged “violations of international law by Israel.” This is accomplished, “in the vast majority of cases,” by transferring funds to “local lawyers and NGOs to carry out legal counselling and represent cases in court.”

25. NRC acknowledges that it engages in “policy change work,” consisting of “research and advocacy….through engagement with the diplomatic community and use of international justice mechanisms. NRC will also take on public interest cases that highlight discriminatory laws and practices and will carry out related advocacy on these cases.”

26. According to the documents available through Development Tracker, NRC engages in a “low_visibility_policy,” obscuring its involvement in legal advocacy and political activities. This is “to ensure that their legal status to carry out their work is not threatened” – most likely referring to restrictions against activities that are not strictly humanitarian upon which entry into Israel is conditioned.
27. NGO Monitor repeatedly attempted to contact NRC’s representatives in Israel and the Palestinian Authority in order to discuss their activities and learn more about the project. Reflecting the lack of transparency and secrecy regarding the NRC’s activities, however, the organization did not respond.

**Scope and Damage of NRC’s Legal Advocacy**

28. The scope of NRC’s interference in the Israeli legal system is staggering. Among other activities, UK funding financed 677 cases that received “full legal representation at the relevant court/administrative body.”

29. According to an evaluation conducted in April 2012 and discussed in the [Project Completion Review](#), NRC is responsible for 51% of all house demolition cases in Area C of the West Bank. According to another assessment, the data suggest that 35% of all legal cases dealing with housing, land, and property claims in East Jerusalem and Area C of the West Bank are funded by NRC.

30. Additionally, NRC has a focus on “public interest cases that highlight discriminatory laws and practices and will carry out related advocacy on these cases.” These cases are highly important, as “NRC hopes to obtain legal precedents in public interest cases that will likewise increase the pressure to change policy and practice” – in other words, to manipulate the Israeli democratic system.

31. According to a report by a Dutch national, who attended a presentation by a lawyer apparently affiliated with this NRC program, these cases are an attempt to “try every possible legal measure to disrupt the Israeli judicial system… as many cases as possible are registered and that as many cases as possible are appealed to increase the workload of the courts and the Supreme Court to such an extent that there will be a blockage” (emphasis added, translation from original Dutch by NGO Monitor).

32. Another lawyer connected to the project has advocated for universal jurisdiction lawsuits, blacklists, and other harassment against justices of the Israeli Supreme Court, including the widely respected Aharon Barak, for their alleged “legalizing [of] Israeli violations.”

33. In addition to manipulating Israeli democracy and attempting to sabotage the Israeli justice system, NRC used this project to call upon various UN bodies – the Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, and the Special Rapporteur on Adequate Housing – to sanction Israel.

34. In a highly irregular and improper deviation from the project’s focus on Israel, NRC used UK funds to finance a [complaint against Canada](#) at the UN Human Rights Committee, impugning the Canadian justice system and calling for censure of Canada. The complaint was a punitive attack against the independence of Canada’s justice system, following repeated losses in Canadian courts by NRC’s partners.

35. NRC also created a “hub network… to provide an electronic ‘working space’ for legal experts and litigators to share information and experiences about international litigation and legal developments.” In other words, to better facilitate international cases (“lawfare”) against Israel.
36. Regarding the 2010-2013 project, it appears that turning to “international mechanisms” was not part of the original “Business Case Intervention Summary.” Rather, the planned “preventative legal response” was expanded to include these international initiatives. In contrast, the “Business Case Intervention Summary” for 2013-2015 highlights the use of “international justice mechanisms” and the importance of international advocacy and “international pressure for policy change.”

Channeling of UK Funds to Local NGOs
37. As noted above, the Development Tracker website does not list the names of the NGOs that received UK government funds via NRC.

38. A review of the documents posted on the Development Tracker website reveals the names of several NGO partners that participated in the NRC project. These include Yesh Din, Israeli Committee Against House Demolitions (ICAHD), St. Yves, Community Action Center, Palestinian Centre for Human Rights (PCHR), and Palestinian Centre for Democracy and Conflict Resolution. However, the documents do not indicate whether these groups received British government funds, and if so, in what amounts.

39. Independent research by NGO Monitor identified additional partners, including Bimkom, HaMoked, and Jerusalem Legal Aid Center (JLAC), as well as the following information on funding from NRC to local NGOs:

<table>
<thead>
<tr>
<th>NGO</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bimkom</td>
<td></td>
<td>204,295 NIS</td>
<td>6,287 NIS</td>
</tr>
<tr>
<td>HaMoked</td>
<td>482,392 NIS</td>
<td>746,753 NIS</td>
<td>598,559 NIS</td>
</tr>
<tr>
<td>Yesh Din</td>
<td>409,920 NIS</td>
<td>205,310 NIS</td>
<td></td>
</tr>
<tr>
<td>JLAC</td>
<td>$518,722.00</td>
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40. In 2012, the Global Initiative for Economic, Social and Cultural Rights received $5,850 from NRC. This grant appears to be for the aforementioned complaint against Canada.

Conclusions
41. With UK funding, NRC has engaged in political warfare against Israel, manipulating Israeli democracy and attempting to sabotage the Israeli justice system. NRC has also initiated international campaigns against Israel and Canada, targeting the judiciaries of those countries.

42. This exploitation of human rights and international relations is magnified by the misuse of massive amounts of British taxpayer funds.

43. The ongoing funding for NRC raises serious concerns about violations of best practices within the British government, as well as possible misconduct by NRC staff.

44. This funding violates diplomatic norms and accepted relations between states.

45. By outsourcing its NGO support to NRC, the British government has lost control of over £6 million in taxpayer funds, which are being used to undermine British interests in Israel.
46. It appears that funding for NRC was renewed without sufficient due diligence by officials from DFID and other government offices.

47. The extent to which British government officials have been aware of NRC and its partners’ activities is unknown. At the very least, there is a lack of understanding regarding the implications of the activities being supported.

48. NRC’s “low visibility policy” suggests a deliberate attempt to prevent public scrutiny and to avoid accountability vis-à-vis the Israeli government.

49. In particular, it is possible that NRC’s legal activities in Israel put its staff at risk for violating the terms of their visas, which most likely preclude such political advocacy. It is also unknown if NRC staff gained entry into Israel under false humanitarian pretenses.

50. There are also serious implications for how Israelis perceive the UK, in light of the manipulation of Israeli democracy and attempts to disrupt the Israeli justice system:

51. Due to funding for NRC, as well as other support for NGOs, the UK cannot be seen to be a fair or credible partner in the Middle East peace process.

52. This recalls longstanding UK efforts to interfere with and prejudice negotiations between Israelis and Palestinians, including UK funding for the Palestinian Negotiations Affairs Department and Negotiations Support Unit.

53. Legal-political advocacy projects, such as the one conducted by NRC, may lead to further populist efforts in Israel to prohibit NGOs from receiving funds from the British and other governments.

54. The British government would not tolerate a similar situation in the UK, where a foreign government was funding hundreds of lawsuits in British courts involving private property disputes and UK foreign and anti-terror policies. Indeed, when faced with the abuse and exploitation of its own legal system by these same NGO actors, the British government amended its law to stop it.

**Recommendations**
55. On the basis of the findings discussed in this submission, NGO Monitor recommends that the UK:

56. Immediately freeze all funding to the Norwegian Refugee Council (NRC) pending a public investigation.

57. Commission an independent evaluation of all aspects of UK funding for NRC, including an audit of funds disbursed to other NGOs, activities undertaken, and potential violations of democratic norms and Israeli law. This evaluation should be made public.

58. Correct the lack of transparency by publishing (a) the complete list of NRC’s NGO partners; (b) the amounts given to each NGO, as well as a description of the activities undertaken with them; (c) the names of all attorneys employed as part of the NRC project; and (d) a comprehensive list of cases that were enabled by British taxpayer funds.

59. Reconsider the UK’s ongoing partnership with NRC.