THE UNITED KINGDOM CHANGES ITS UNIVERSAL JURISDICTION LAW

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**Background:** In the past, British universal jurisdiction laws formerly allowed private citizens to seek politically-motivated arrest warrants against individuals who had allegedly committed international crimes.  The laws faced increased criticism, particularly following an attempt by a Hamas-linked NGO to trigger the arrest of Tzipi Livni, Israel’s former foreign minister and current opposition leader, for “war crimes.”  Widespread protest led to demands for a change in the universal jurisdiction law to prevent further abuse by private litigants.

NGOs including Amnesty International, Coalition of Women for Peace, War on Want, and others have issued statements supporting the former universal jurisdiction framework in the U.K. In their opposition to the amendments, these NGOs falsely claim that the new law will prevent prosecutions under universal jurisdiction and will permit impunity for human rights violations.

## **Changes to the law:**

* The new law [requires](http://services.parliament.uk/bills/2010-11/policereformandsocialresponsibility.html) the consent of the Director of Public Prosecutions before an arrest warrant is issued for a privately-instigated prosecution in which universal jurisdiction offenses (e.g. war crimes, torture, genocide, crimes against humanity) have allegedly occurred.
* Prior to the bill’s passage, there were few restrictions on the capacity for a private individual to seek an arrest warrant and the private prosecutorial function became highly politicized.
* [Formerly](http://www.parliament.uk/documents/joint-committees/human-rights/Nick_Herbert_to_Chair_110125.pdf), the requirements for the issuance of an arrest warrant were less stringent than those necessary for a prosecution to proceed.  Thus foreign individuals were under threat of arrest even if there was insufficient evidence to initiate a viable prosecution.
* Now, all private prosecutions [must be approved](http://www.publications.parliament.uk/pa/bills/lbill/2010-2012/0086/lbill_2010-20120086_en_12.htm#pt4-pb3-l1g153) by the Director of Public Prosecutions.

## **NGOs and lawyers behind politically-motivated universal jurisdiction cases in the United Kingdom:**

* Daniel Machover (co-founder Lawyers for Palestinian Human Rights and head of civil litigation for Hickman & Rose Solicitors) – in concert with the Palestinian Center for Human Rights (PCHR) and Yesh Gvul –[submitted evidence files](http://www.ngo-monitor.org/data/images/File/lawfare-monograph.pdf) to the Anti-Terrorist and War Crimes Unit of the London Metropolitan police regarding former IDF Southern Command Chief Maj. Gen. (res.) Doron Almog.  When police declined to act on the files, lawyers applied for an arrest warrant.  Almog traveled to London, but did not leave the plane once he learned of the arrest warrant (Aug. 2005).  An unsuccessful suit was filed in 2004 against Shaul Mofaz. **PCHR is funded by the EU, Ireland, Denmark, Norway, Ford Foundation, Open Society Institute, Oxfam NOVIB; Yesh Gvul’s funding is completely non-transparent**.
* Al Haq and Al Mezan – with the assistance of London law firms Irvine, Thanvi, Natas and Imran Khan & Partners – [sought an arrest warrant](http://www.ngo-monitor.org/data/images/File/lawfare-monograph.pdf) for Israel’s Defense Minister Ehud Barak, but were declined on immunity grounds (Sept.2009).  ).  **Al Haq’s funders include NGO Development Center (Switzerland, Sweden, Denmark, the Netherlands), Norway, Diakonia (Sweden), ICCO and Kerk in Actie (funds originated with Dutch government), Ireland, Spain, and Open Society Institute; Al Mezan is funded by NGO Development Center, Norway, Open Society Institute, Diakonia (Sweden), and the EU.**
* The Hamas NGO TAWTHEQ [filed an arrest warrant](http://www.ngo-monitor.org/data/images/File/lawfare-monograph.pdf) for Tzipi Livni which was revoked once it was deemed she was not present in the UK (Dec. 2009).
* A military delegation [canceled a trip](http://jurist.org/paperchase/2010/01/israel-officers-abandon-uk-visit.php) to the UK over arrest fears (Jan. 2010).
* Media outlets [reported](http://www.independent.co.uk/news/world/middle-east/israel-ambushes-hague-over-arrest-warrants-2124578.html) that Deputy Prime Minister Dan Meridor canceled a private trip to the UK after he was advised he could face charges (Nov. 2010).
* MK Amir Peretz [escaped](http://www.israelnationalnews.com/News/News.aspx/145483) an arrest in the United Kindgom by changing his flight plans (July 2011).

## **NGO campaigns against changes to the law:**

* Amnesty International [responded](http://www.guardian.co.uk/uk/2010/dec/01/police-reform-bill-amnesty) harshly to the proposed changes, stating in March 2011 that the bill “sends out the unmistakable message that the UK is soft on crime if those crimes are war crimes and torture. It introduces dangerous delays that could mean even people suspected of the worst imaginable crimes are less likely to face arrest. Even Libyan government officials might escape justice in the UK if this lumbering arrangement is set up.”
* Following the bill’s passage, PCHR [stated](http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=7714:uk-changes-universal-jurisdiction-law-to-provide-safe-haven-to-suspected-israeli-war-criminals&catid=131:new): “The Palestinian Centre for Human Rights (PCHR) affirms that this effort intends to grant impunity under the veil of law. Rather than fulfilling its obligation to pursue accountability, the United Kingdom has enacted legislation establishing an effective ‘safe-haven’ for war criminals.” (Sept. 2011)
* In an [article](http://jfjfp.com/?p=22367) for the group Jews for Justice for Palestinians, attorney Daniel Machover wrote: “If the law is changed, suspects from a list of ‘protected countries’ that includes Israel, America, China, Saudi Arabia and potentially others, such as Bahrain, will visit our shores with impunity, making us a safe haven for some war criminals and torturers. This outcome would be a sick parody of true universal jurisdiction.” (Mar. 2011)

## **NGO Monitor Impact:**

* NGOM was one of the first organizations to highlight the problem of NGO lawfare in 2008 with the publication of the the first edition of NGO ‘Lawfare’:  Exploitation of Courts in the Arab-Israeli Conflictmonograph and a November 5 [op-ed](http://online.wsj.com/article/SB122583394143998285.html) in the Wall Street Journal (Europe).
* Since 2008, NGO Monitor representatives have met with dozens of diplomats to inform them of the organizations responsible for these lawsuits as well as their funding sources.
* Attorney General Baroness Scotland referred to politically-motivated NGO lawsuits in her lecture entitled “Lawfare” at the Hebrew University in January 2010 noting that legal procedure in the UK was being abused for “political and other unjust purposes” and that “energetic efforts [were] being made to find a resolution to the problem.”
* Deputy Foreign Minister Danny Ayalon hosted NGO Monitor at a press conference in December 2010 to present the second edition of the lawfare monograph.