



הארגון הבינלאומי של עורכי-דין ומשפטנים יהודים  
THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS

Mr. Kofi Anan  
UN Secretary General  
United Nations  
New York

July 20, 2006

Dear Mr Secretary General,

In view of your signal contribution to the important reform you have instituted culminating in the creation of the Human Rights Council, I venture to bring to your attention the enclosed copy of my letter addressed to Madam Louise Arbour, High Commissioner for Human Rights dated July 20, 2006.

In the spirit of your seminal report In Greater Freedom and your inspiring inaugural address on the opening of the Human Rights Council's First Session on 19 June last, I would like to revert to your call for a clean break from the past and your impassioned plea for a change in culture in relation to the Council's key role in ensuring the promotion of human rights.

At the same time you recalled that non-governmental organizations could continue to play an important role in promoting and protecting human rights, at the national, regional and international level, thereby continuing to contribute to the work of the Human Rights Council in the most effective way.

You also expressed the hope on other occasions that the Human Rights Council would avoid the practices of its predecessor of the obsessive selectivity with respect to a single country situation, which has contributed to the failure to pay sufficient attention to dealing with pressing humanitarian and extremely grave human rights concerns, such as continue to prevail in the Darfur region of Sudan.

It is in this context that I would wish to draw to your attention an incident involving the nongovernmental organisation that I have the honour to preside, namely the International Association of Jewish Lawyers and Jurists (IAJLJ) which is set out in the enclosed copy of my letter addressed to the High Commissioner for Human Rights of July 20, 2006, and the attachments to it.

You have rightly commented on the vital role of the High Commissioner in ensuring the success of the future work of the Human Rights Council and the encouragement she deserves to that end in which the NGO community has an important role to play.

It is specifically in this connection that I believe an enquiry into the unfortunate matter affecting the IAJLJ described in my letter to the High Commissioner and the positive steps to which it could lead, might well contribute to creating a more favourable climate between the representatives of civil society and the Secretariat of the Human Rights Council.

I wish to convey to you as well as to the High Commissioner the desire of the IAJLJ as part of the NGO community to participate in overcoming the mistakes of the past and ensuring a more serene and constructive relationship with the Human Rights Council and its Secretariat in promoting the cause of human rights.

Please accept Mr. Secretary General, the expression of my highest esteem.

Alex Hertman, Adv.  
*President*  
Encs. ment.



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THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS

Ms. Louise Arbour  
UN High Commissioner for Human Rights  
Palais Wilson  
Geneva

July 20, 2006

Dear Madam High Commissioner,

I am writing to you in my capacity as the President of the International Association of Jewish Lawyers and Jurists (IAJLJ), on the subject of an unfortunate incident which arose at the first special session of the Human Rights Council (HRC), following which the HRC was convened in special session at the request of 21 of its members acceded to by its President in circumstances on which I shall refrain from commenting.

At that session held on 5 July last, the IAJLJ as an NGO was among the first NGOs, if not the first to register on the Speakers List at 3.00 p.m.

Towards the end of the meeting, the Ambassador for Pakistan acting on behalf of the OIC group of states, moved the closure of the debate to enable a draft resolution to be considered for adoption to which the HRC President agreed. As a result, the representative of the World Bank and six other NGOs including the IAJLJ were unable to make their oral statements at that meeting, doubtless with several others who would not have had time to take the floor in any circumstances.

The HRC Secretariat for its part after noting the concerns expressed by the representatives of these bodies including the IAJLJ, agreed to circulate their interventions as Written Statements if they were submitted by the end of the afternoon of 6 July. The IAJLJ representative accordingly availed himself of this arrangement and his dispatch of the statement that he was to deliver was transmitted by electronic mail in due time and its receipt was duly acknowledged by the HRC Secretariat.

Nothing further was heard till the HRC Secretariat subsequently informed the IAJLJ's representative, 5 days later, on 11 July, also by electronic mail just before 5 p.m. that it considered the statement to be inappropriate and that it should be revised "...on the grounds that the language used was not entirely in accordance with accepted United Nations standards." It then went on to state "While we do not wish to exercise any form of censorship, we hold the view that all contributions from all participants, be it a Government, a non-governmental organisation or anyone else are imbued with the appropriate level of dignity and respect. We hope that the above statement be reviewed in that regard."

In the view of our representative, who is an experienced practising attorney and has more than thirty years experience of UN procedures as a representative of an accredited NGO, notably of the IAJLJ for more than a decade and which I and my colleagues of the Executive Committee of the IAJLJ fully endorse, this communication constitutes an unwarranted interference in the freedom of expression both as to form and substance of the IAJLJ, incompatible *inter alia* with Article 19 of the UN Covenant on Civil and Political Rights.

On receipt of this communication from the HRC Secretariat, the IAJLJ representative responded the following day on 12 July, strenuously objecting to its unprecedented and unacceptable contents of the HRC communication for the above mentioned and other reasons stated in his reply. Twenty-nine minutes later, the HRC Secretariat responded stating in acknowledgement "We will process your original written statement as it is, with no changes."



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No reason was stated for this abrupt *volte face* or other explanation furnished for this extraordinary sequence of events.

Our representative subsequently learned however on 16 July, that the HRC Secretariat had previously decided to publish on its special website "Extranet" the oral statements of the World Bank and five other NGOs denied the opportunity of making their oral statements on 5 July together with the IAJLJ under the heading "Oral statements made [ not delivered ]". It is not clear when this publication on Extranet was made but clearly this decision was taken in full knowledge of the existence of the IAJLJ's statement of which the HRC had been notified on 5 July followed by communication of the text on 6 July. However the IAJLJ was not notified of this facility and its statement was in our view arbitrarily excluded from publication for the same prejudicial and discriminatory reasons which have characterised this entire regrettable incident.

Our representative promptly informed the HRC Secretariat of this additional aggravating factor on 16 July.

I am attaching hereto copies of these exchanges with the HRC Secretariat, the entire sequence of which is relevant in this context, as well as the IAJLJ's original statement.

Madam High Commissioner, the IAJLJ deplors that this regrettable incident should have marred the First Session of the Human Rights Council, which gives rise to concerns with regard to the continued recognition by it of the important role which the representatives of civil society are supposed to play in safeguarding the effective implementation of human rights.

I would therefore request you to be good enough to institute an enquiry into this disquieting occurrence which together with other unfavourable practices of the Commission on Human Rights on which as the UN Secretary General has adversely commented in his opening address on the inauguration of the Council's First Session, should be eschewed by the Commission's successor.

In view of the Secretary General's high expectations of the new Council, I am addressing a copy of this letter to him in the hope that he will use his good offices to influence and encourage improvements in this and related areas of the Council's procedures.

Yours truly,

Alex Hertman  
*President*



**Enclosure 1 – Email exchange between  
the IAJLJ representative and the HRC Secretariat**

**From:** Daniel Lack  
**Sent:** Sunday, July 16, 2006 6:46 PM  
**To:** 'hrcngo OHCHR'  
**Subject:** RE: Written Statement of the IAJLJ with respect to the Special Session of the Human Rights Council Special Session of 5 July 2006

INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS  
(IAJLJ)

16 July 2006

Human Rights Secretariat  
United Nations  
Geneva

I write with further reference to the exchange of correspondence I have had with you on the above captioned matter reproduced below.

It has come to my attention that the utterly disgraceful and unacceptable discriminatory treatment to which my organisation has been subjected did not end with the written advice you sent me on 12 July last, undertaking to circulate the IAJLJ's undelivered oral statement unchanged from the text I submitted to you on 6 July, as a Written Statement together with the undelivered statements of other speakers denied the floor on the afternoon of the HRC's special session on 5 July 2006.

I have discovered only now through my organisation's advice to me earlier today of their shock and dismay at the fact that you published the undelivered oral statements prepared for the HRC special session on 5 July, of the World Bank, and five other NGOs on Extranet and deliberately omitted publication of the oral statement I had prepared of whose existence you were fully aware as of the afternoon of 5 July at 3 pm when I was one of the first, if not in fact the first NGO speaker to register on the speakers list. You had the full text of my statement on the afternoon of 6 July and you could have had the text to which it corresponded even earlier, had you wished to treat this statement on the same basis as the other statements which you published on Extranet under the heading "Oral statements made [ not delivered ]". However it is now clear that you had decided to treat my organisation's statement on a different and highly discriminatory basis from the very outset.

The IAJLJ accordingly requests that I seek a full explanation for this lamentable omission and discriminatory treatment by you together with appropriate redress.

When you wrote to me on July 12 last at 2.06 pm, indicating that you would process my original statement as is, with no changes, in the light of my objections conveyed to you earlier that day, you made no reference to the discriminatory exclusion of my organisation's statement from Extranet without any prior notice to me of this objectionable omission and the alleged grounds therefor. Having now read the other undelivered statements which you did decide to publish on Extranet on which I do not wish in any way to comment, I am forced to observe that the baseless assertions you found fit to make on 11 July on the contents of my organisation's statement five days after its submission on 6 July later, are even more incomprehensible and unacceptable.

Accordingly, I therefore request that in addition to my organisation's insistence that you confirm that you will circulate its statement unchanged as already submitted as a Written Statement in the same format and at the same time as those of the other undelivered statements, without further discrimination and that in addition and by way of partially abating the discriminatory and grossly unfair treatment to which my organisation has been subjected, that you publish it on Extranet forthwith with a suitable apology for its omission.



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Without prejudice to the above, I am obliged in these changed circumstances to reserve on the IAJLJ's behalf its rights to redress for this entire regrettable incident whether this be at the highest level within the United Nations or before an appropriate forum external thereto.

Yours truly,

Daniel Lack  
IAJLJ Representative at UNOG

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**From:** hrcngo OHCHR [mailto:hrcngo@ohchr.org]  
**Sent:** Wednesday, July 12, 2006 2:06 PM  
**To:** Daniel Lack  
**Subject:** Re: Written Statement of the IAJLJ with respect to the Special Session of the Human Rights Council Special Session of 5 July 2006

Dear Mr. Lack,

Thank you for your prompt response. We will process your original written statement as it is, with no changes.

Sincerely,

Human Rights Council Secretariat

To "hrcngo OHCHR" <hrcngo@ohchr.org>

cc

12.07.2006 13:37

Subject Re: Written Statement of the IAJLJ with respect to the Special Session of the Human Rights Council Special Session of 5 July 2006

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Human Rights Council Secretariat

Dear Sir / Madam,

I am simply amazed at the contents of your e-mail of 11 July 2006 with regard to the above captioned written statement submitted by the International Association of Jewish Lawyers and Jurists.

Having made statements on behalf of various NGOs in consultative status with the UN for many years and as an active lawyer engaged in professional practice and conversant with human rights issues and the laws of defamation in many jurisdictions, I find your comments both incomprehensible and unacceptable.

Please indicate by return the language in that statement that you allege "is (was) not entirely in accordance with accepted United Nations standards" and which is supposedly not "...imbued with the appropriate level of dignity and respect." These are such wide and ill defined terms as to render them inapplicable and as indeed constituting unacceptable censorship.

May I ask you at the same time, while rejecting categorically your actual and implied assertions, to specify whose dignity you claim is being adversely affected? That of the Human Rights Council or of Governments?



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Having followed the proceedings of both the Commission on Human Rights and the First Session of the HRC and the Commission of Human Rights for upwards of thirty years, I can affirm without fear of contradiction that the reference to "accepted United Nations standards" allows of very considerable latitude indeed, having myself made interventions objecting to statements by members of Government delegations and other entities allowed to address the Commission on Human Rights and now the HRC, on the grounds of their racist and vituperative language forming part of the official record, to which the presiding officer of the meeting did not deem it necessary to react.

I believe that you do not realise the very grave implications of what you have written to me.

Surely you are familiar with the contents of Article 19 of the UN Covenant on Civil and Political Rights?

I reproduce its terms as follows:

"Article 19:

Everyone shall have the right to hold opinions without interference.  
Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.  
The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:  
For respect of the rights or reputations of others;  
For the protection of national security or of public order (ordre public), or of public health or morals."

Surely you are not alleging that the IAJLJ statement is incompatible with the respect for the rights or reputation of others or that it is in any way prejudicial to any state's national security or public order or that it violates public health and morals.

Your objections to the IAJLJ statement as currently worded gives rise to the most serious implications and is tantamount to gagging the free expression of opinion of an accredited NGO formulated in parliamentary language and eminently suited for publication of legitimate views as a statement made in good faith and in a highly relevant context.

I reserve all the rights of my organisation and if I do not receive a prompt and adequate reply to my response to your regrettable communication, the IAJLJ will consider itself free to take whatever action it deems appropriate both on its own behalf and in the public interest in these quite extraordinary circumstances.

Yours truly,

Daniel Lack  
IAJLJ Representative at UNOG

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>-- Original Message --



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THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS

>To: <danlack>  
>Subject: Re: Written Statement of the IAJLJ with respect to the Special  
>Session  
>of  
> the Human Rights Council Special Session of 5 July 2006  
>From: hrcngo OHCHR <hrcngo@ohchr.org>  
>Date: Tue, 11 Jul 2006 16:54:24 +0200  
>  
>  
>Dear Mr. Lack,  
>  
>With reference to the written statement submitted by the International  
>Association of Jewish Lawyers and Jurists on 6 July 2006 for the special  
>session of the Human Rights Council, the Secretariat has noted that the  
  
>language used was not entirely in accordance with accepted United Nations>  
>standards.  
>  
>While we do not wish to exercise any form of censorship, we hold the view  
>  
>that all contributions from all participants, be it a Government, a  
>non-governmental organization, or any else are imbued with the appropriate  
>  
>level of dignity and respect. We hope that the above statement be reviewed  
>  
>in that regard.  
>  
>Regards,  
>  
>Human Rights Council Secretariat  
>  
>

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>  
>"Daniel Lack"  
>06.07.2006 18:07  
>Please respond to  
><  
>  
>  
>To  
><hrcngo@ohchr.org>  
>cc  
><Igiinsborg@ohchr.org>  
>Subject  
>Written Statement of the IAJLJ with respect to the Special Session of the  
>  
>Human Rights Council Special Session of 5 July 2006  
>  
>  
>  
>Dear Madam, dear Sir,  
>  
>Please find attached hereto, the Written Statement submitted by the  
>International Association of Jewish Lawyers and Jurists  
>on the above captioned matter  
>  
>Yours sincerely,  
>



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THE INTERNATIONAL ASSOCIATION OF JEWISH LAWYERS AND JURISTS

>Daniel Lack  
>IAJLJ Representative at UNOG  
>  
>Attachment: IAJLJ337.doc





**Enclosure 2 – The original Written Statement submitted by The International Association of Jewish Lawyers and Jurists (IAJLJ) at the special session of the Human Rights Council of July 5, 2006**

The International Association of Jewish Lawyers and Jurists (IAJLJ) as an accredited NGO in consultative status with the United Nations wishes to submit the following written statement regarding the Special Session of the Human Rights Council of July 5, 2006:

The IAJLJ considers that the grounds on which the 21 Member States of this Council have petitioned for convening this special session do not correspond to the relevant facts and accordingly do not justify its meeting in special session for the reasons which the petitioning States erroneously invoke.

The two victims of the unjustified convening of this session are the truth and this Council which should be protected from an abuse of its procedures.

Making concessions to the patent attempt of the group of Arab and Islamic States, to enable the promotion of its own political agenda is a throwback to the troubling sessions of the late lamented Commission on Human Rights whose disreputable record of sterile politicisation brought about its downfall.

The very terms of reference on which this request is based are a complete travesty of the facts. For a year the Hamas and Fatah terrorist groups have been repeatedly firing Kassam and other rockets aimed indiscriminately at civilian targets in Israel reaching Sderot and more recently Ashkelon and other population centres. These are cities in the heart of Israel whose sovereignty is undisputed. To this must be added the deliberate and unprovoked attack into Israel territory from the Gaza strip of another Hamas terrorist group at the end of June who abducted an Israeli soldier whose fate is unknown. At the same time, other Hamas related terrorists abducted an 18 year old Israeli civilian whom they promptly murdered.

Hamas whose charter calls for politicide of Israel and the genocide of its population in unmistakably explicit terms rivalling those of Hitler's *Mein Kampf*, has accepted responsibility for the kidnapping of the soldier and other terrorist actions. Its terrorist leader who masterminded this attack resides in Damascus sheltered by the Syrian authorities.

The response of the Israeli government and Defence Forces is firmly based on Article 51 of the UN Charter stipulating the inherent right of self defence against armed attacks which have been repeated throughout the past year since Israel's withdrawal on its own initiative from the Gaza strip, in the form of these unceasing rocket attacks suicide bomb attacks in crowded areas and other terrorist actions, renewed by the recent assault and kidnapping incidents already cited.

The military action that was the inevitable response has been restrained, avoiding harm to the maximum extent possible to the Palestinian civilian population.

The strikes against the Hamas administrative and military installations and against a power station have been made in the context of an extensive terrorist apparatus deliberately embedded in civilian population centres in violation of the Geneva humanitarian law conventions, thus making make any distinction between combatants and non-combatants extremely difficult.

The argument that the Hamas government was empowered in democratic elections and therefore allegedly has legitimacy, is unsustainable. It is a clear principle of international human rights law that the enjoyment of one important political right, namely conducting elections for political office, leaving aside the credentials



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of the political aims of the group elected, in this case what is termed the Hamas political wing, cannot be interpreted as a licence to engage in any activity or perform any act aimed at the destruction of the rights and freedoms of others, specifically the right to life of both the Palestinian and Israeli civilian population . The Nazi party under Adolf Hitler was elected to office in seemingly democratic elections during the Weimar Republic of Germany to succeed President Hindenburg's government. But this did not enable the Nazi German Government to earn any legitimacy in the light of its subsequent conduct.

Not until the Hamas terrorist movement and its leaders have renounced violence and their openly avowed and publicly proclaimed criminal aims of politicide and genocide, should it or its supporters be given any credence by this Council or any other organ of the UN.

The above reasons constitute compelling reasons for the Council to reject the specious grounds invoked by the 21 petitioning States for convening this special session.

The Council is accordingly urged to reject the submissions of the petitioning States and unequivocally condemn the Hamas acts of repeated aggression against Israel's sovereign territory in the form of incessant rocket attacks indiscriminately directed at population centres in southern Israel as well as its grave violation of international humanitarian law by the abduction of an Israeli soldier as well as of an Israeli teenager who was subsequently brutally murdered by his abductors.

D, Lack  
IAJLJ Representative,  
Geneva