

# A Comprehensive Guide to Israel Advocacy

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# The Jews of Israel before Zionism

Jews have been living in the land of Israel for thousands (yes THOUSANDS) of years. Our numbers have risen and fallen in the face of conquest, dispersion, persecution, genocide, and return.

The current exile was a result of the Bar Kochba revolt in 130 CE and the subsequent Roman reaction which would wreak devastation on the Jewish people far worse than the initial Roman conquest 50 years earlier.

The Roman legions slaughtered over 500,000 Jewish people out of a total population of around 2 - 4 million. The Romans destroyed over 800 villages and razed the capital of Jerusalem. They built a new city on the ruins and named it Aelia Capitolina, after the hill of pagan worship in Rome<sup>1</sup>. The Romans enslaved countless others, thereby initiating what would become the Ashkenaz diaspora. Hundreds of thousands who were left in the devastated Judea would die of starvation and illness. Emperor Hadrian outlawed the study of Torah, banned Jews from even looking at the ruined Jerusalem, and renamed the province of Judea, Syria-Palestina to embarrass the defeated Jews by reference to the ancient and by then extinct Philistines who had once lived in the land. Whilst the name given by Hadrian is the source of the modern use of the term Palestine<sup>2</sup> it is beyond doubt that modern day Palestinian Arabs are in no way descendants of the ancient Philistines.

Despite the hardship some Jews remained in Judea and were a majority in the land until the 4<sup>th</sup> century<sup>3</sup> or perhaps as late as the 6<sup>th</sup>. They were under constant pressure and persecution by the Byzantine empire and as a result the population declined further. Jews would face better conditions under Muslim rule from the mid-7<sup>th</sup> century until the Crusaders captured Jerusalem and massacred its Jewish inhabitants at the end of the 11<sup>th</sup> century. Ottoman rule from the early 16<sup>th</sup> century was better for the Jewish community though they still were subjected to humiliation and the Dhimmi tax<sup>4</sup>.

There has never been a time when Jews did not live in the land of Israel. The dream of a return to Zion and Jewish sovereignty in the land is more than 1900 years older than the political movement of Zionism, and our connection to our homeland is visceral.

## Zionist Settlement and the British Mandate, 1881-1947

### Early Settlement

The early Zionist mission to develop the land for statehood was somewhat decentralised, Initial lands cultivated by the immigrants were purchased by various Zionist organisations from mostly absentee Arab landholders. As the British Peel commission found this land was largely sparsely populated and uncultivated:

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<sup>1</sup> [Remembering Hadrian, Destroyer of the Jews - The Tower - The Tower](#)

<sup>2</sup> [What was Hadrian's relationship with his Jewish subjects? | Britannica](#)

<sup>3</sup> [An Introduction to Jewish-Christian Relations - Edward Kessler - Google](#) פְּרִים

<sup>4</sup> [The Status of Dhimmis in the Ottoman Empire - The Fountain Magazine](#)

*The Arab claims that the Jews have obtained too large a proportion of good land cannot be maintained. Much of the land now carrying orange groves was sand dunes or swamps and uncultivated when it was bought.*<sup>5</sup>

The Zionists were opposed by the Ottoman authorities, who limited Jewish migration and banned Jews from purchasing land<sup>6</sup>. During World War 1, the Ottomans, fearing subversive elements in Palestine would expel more than 16,000 Jews, hundreds died, and nearly all lost their property<sup>7</sup>. Those that were able to return in 1918 after British control was established. The early Mandate was favourable to the Zionist project and committed to the establishment of a Jewish home in Palestine under the terms of the Balfour Declaration in 1917. The British abolished Ottoman laws restricting Jewish land purchases thus allowing the Zionists to extend their purchases largely from wealthy Arab landowners.

The land purchased was often occupied by Arab tenant farmers engaged in subsistence farming. Because the Zionists were attempting to stimulate growth and develop skills for agriculture, they almost exclusively hired Jewish workers, provoking anger in Arabs who had been deprived of employment opportunities. This policy was criticised by the Zionist Labour parties who sought coexistence and worker solidarity with the local Arabs. The Jewish Agency, attempting to prevent violent reaction offered compensation to the locals affected by land purchases, however this policy did not succeed<sup>8</sup>. Riots and violence followed and ironically intensified Zionist employment policies due to safety concerns<sup>9</sup>.

The exclusion of Arabs from working this land does seem to many an injustice, however exclusivity is a part of fundamental property rights. Jewish capital was invested to pursue Jewish interests within legal means and certainly does not serve as a justification for violence.

I have heard it claimed that the Arab vendors were like naïve Native Americans with no idea about the true value of the land or the consequences for their tenant farmers of transferring ownership. This is patently ridiculous and condescending. Arabs of the period were familiar with property rights; the absentee landowners simply did not care about the impact of their commercial decisions on their tenants, and they sought to escape blame in later years.

In cities of mixed populations such as Jaffa and Ashkelon, Arabs benefited greatly from Jewish migration; population growth and life expectancy of Arabs in mixed areas was far in excess of their counterparts in exclusively Arab areas. The British Mandate was the fastest growing economy in the region thanks to Jewish investment, its growth was only interrupted by Arab revolts in 1929 and 1937<sup>10</sup>.

Many fault the Zionist settlers for coming onto Arab land to build a state, however, at the earliest periods of migration, Palestine was not even a separate province from Syria. There was no semblance of a nation in the sparsely populated region, certainly no national consciousness as we envision it today. Zionists came with the intention of building a Jewish

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<sup>5</sup> [Text of the Peel Commission Report \(jewishvirtuallibrary.org\)](http://jewishvirtuallibrary.org)

<sup>6</sup> [The Ottoman Empire, Zionism, and the Question of Palestine \(1880–1908\) \(cambridge.org\)](http://cambridge.org)

<sup>7</sup> [A Beginning Expulsion of Jews from Tel Aviv by the Turks in 1917 | Institute on the Holocaust & Genocide in Jerusalem \(ihgilm.com\)](http://ihgilm.com)

<sup>8</sup> [JNF-Stein1984.pdf \(emory.edu\)](http://emory.edu)

<sup>9</sup> [Israel Studies: An Anthology - The Yishuv \(jewishvirtuallibrary.org\)](http://jewishvirtuallibrary.org)

<sup>10</sup> [The Mediterranean Response to Globalization Before 1950 - Google Books](http://google.com)

home in their ancestral homeland. Early Zionist thinkers like Herzl, believed the Arabs would willingly sell their lands and enjoy the economic benefits of the Zionist enterprise<sup>11</sup>.

## 1929 Riots

The Zionist aspiration to create a state in the land was actively opposed by many of its Arab residents. Deadly riots were incited by Arab leaders in 1929, claiming the Jews were attempting to conquer al-Aqsa thus leading to the theft, rape, and murder of Jewish people in Jerusalem, Hebron, Ramla and other areas the Mandate<sup>12</sup>.

The riots were put down by the British, with casualties totalling 133 Jews and 116 Arabs killed, and hundreds wounded. While most of the Arabs were killed by the British while actively engaging in hostilities most of the Jews were unarmed civilians some of whom were murdered by their neighbours<sup>13</sup>. The Shaw Commission sent to investigate the cause of the riots concluded that the Arab claims about attempted conquest of al-Aqsa were false and the riots were partially caused by Arab resentment towards Zionist settlement. Perversely and in an early example of victim blaming the commission recommended decreasing Jewish migration to prevent future unrest<sup>14</sup>. Ben Gurion, who previously believed the Arabs could join with the Labor Zionists in class solidarity, became convinced in the wake of the riots that a strong Jewish defence was the only way to proceed<sup>15</sup>. Jewish militias like the Irgun formed to conduct reprisals when Jews were attacked and the Haganah (the forebear of the modern IDF) began its path towards a becoming a professional military force.

## 1936 Arab Revolt

In 1936 the Arab High Command, led by the rabidly antisemitic Grand Mufti, Haj Amin al-Husseini, called for a general strike as well as organised attacks on Jews in the Mandate. An Arab attack on a Jewish bus on April 15, 1936, killed three and led to a series of incidents that escalated into a major Arab rebellion. Attacks took place against civilian targets such as Jewish settlements, secluded Jewish neighbourhoods in the mixed cities, and Jews, both individually and in groups, during the summer of that year. Thousands of Jewish-farmed acres and orchards were destroyed<sup>16</sup>.

The British responded to the riots with immense force and brutality leading to the deaths of thousands<sup>17</sup>. Eighty Jews were murdered by terrorist acts during the labour strike, and a total of 415 Jewish deaths were recorded during the whole of the period 1936-1939. The toll on the Arabs was estimated to be roughly 5,000 dead, 15,000 wounded, and 5,600 imprisoned<sup>18</sup>. In 1937 Lord Peel headed a royal commission, that named Jewish national aspirations as the cause of the violence and suggested partition. The Arab representatives rejected this suggestion, and the idea of partition was thus stillborn. In 1939 and despite the rising tide of

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<sup>11</sup> [Zionist attitudes towards the Arabs: 1902 until today | openDemocracy](#)

1. <sup>12</sup> [1929: Hebron Massacre Begins, With a Big Push From the Mufti - Jewish World - Haaretz.com](#)

<sup>13</sup> [Year Zero of the Arab-Israeli Conflict 1929 - Hillel Cohen - Google Books](#)

<sup>14</sup> [ECF - Economic Cooperation Foundation: Shaw Commission Report - Excerpts - English \(1930\)](#)

<sup>15</sup> [Hebron Riots of 1929: Anti-Jewish Terrorism Predates the 1967 War | National Review](#)

<sup>16</sup> [Text of the Peel Commission Report \(jewishvirtuallibrary.org\)](#)

<sup>17</sup> [Banality of Brutality: British Armed Forces and the Repression of the Arab Revolt in Palestine, 1936–39\\* | The English Historical Review | Oxford Academic \(oup.com\)](#)

<sup>18</sup> [The Arab Revolt \(jewishvirtuallibrary.org\)](#)

Nazi persecution facing the Jews of Europe. Fearing the Arab disruption of the war effort<sup>19</sup>, the British appeased the Arabs by instituting the White Paper which banned Jewish land purchases in all but 5% of the Mandate and restricted total Jewish immigration to 75,000 souls total for the coming 5 years thus condemning millions of Jews to death in the gas chambers of Europe<sup>20</sup>.

## Conclusion

When speaking of the initial waves of Zionist migration in the context of a debate several points must be emphasised:

- Zionists did not steal land;
- Local Arabs did not receive them with open arms; and,
- the British did not exclusively favour one party over the other.

It is likely to be much contention on the last point, for there were periods in which the Zionist side was favoured. However, the Shaw commission, the White Paper, and the policies of Harold MacMichael, the Governor of the Mandate from 1938-1944, were actively antagonistic to the Zionist project<sup>21</sup>. The Zionist success and the Arab -failure under the Mandate can be better attributed to the Zionist success in building institutions and national consciousness rather than favouritism from the British administration.

## The Nakba/War of Independence

No topic stirs as much emotion or hostility as the war prompted by partition, accordingly, the war that resulted from Israel's declaration of Independence has become a ripe target for historiography. To the Jewish people the declaration of Independence and the war instituted by the Arabs opposed to it was the climax of national aspirations after 2000 years of exile and persecution. The prevailing Israeli narrative of the war posits a pure conflict, local Arabs withdrawing unilaterally after heeding Arab calls for evacuation to permit the invading Arab armies to rid the land of Jews. Against all odds, the Israeli David, surrounded and weak, defeated the Arab Goliath in its attempted war of extermination.

The Palestinian narrative asserts a precalculated war of ethnic cleansing by colonisers, who, supported by the West, conquered and colonised their homeland. Surrounding Arab armies intervened to defend their brothers from the Zionist aggressors yet were ultimately defeated by the Zionists backed by the West.

Both narratives are deeply flawed. My recounting focuses less on the actions and battles of the War itself than an effort to clarify the events by which 700,000 Arabs were displaced by the end of 1949, the most important outcome of this war in the field of advocacy.

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<sup>19</sup> [Appeasement in the Middle East: The British White Paper on Palestine, May 1939 on JSTOR](#)

<sup>20</sup> Ibid

<sup>21</sup> [Harold MacMichael and Palestine's future \(tandfonline.com\)](#)

## Partition and Civil War

On 29 November 1947 the UN passed a vote for the partition of what was left of British Mandate Palestine into two states. The Arabs unwilling to give up any of their homeland to what they viewed as a foreign minority rejected the resolution whilst the Zionists accepted it. Even before the vote for partition a violent response was planned by the Arabs. During the period of drafting at the UN Arab member states warned that such a partition would lead to war and violence against their constituent Jewish populations<sup>22</sup>. Fawzi al-Qawuqji leader of the Arab Liberation Army, the Arab league sponsored militia, in Palestine said:

*“We will have to initiate total war. We will murder, wreck and ruin everything standing in our way, be it English, American, or Jewish”*<sup>23</sup>.

He later said:

*“We must expel the Jews from the Arab part of Palestine and limit them in that small area where they live and they must remain under our supervision and guard. Our war is Holy. Women, children, and prisoners must not be harmed.”*<sup>24</sup>

Arab irregulars began attacking the day the partition resolution passed. Jewish settlements and civilians across the area earmarked for the Jewish State were under attack in what was effectively a civil war.

The United States seeking to stay out of the brewing conflict imposed an arms embargo on both sides. In 1947, Congressman Emanuel Celler (D-NY) would comment that:

*“The embargo on arms to the Middle East may seem equitable at first glance, but I do believe that if its end result will be that of sufficient arming of the Arabs and none for the Jews, such embargo would be most reprehensible”*<sup>25</sup>.

On the 2<sup>nd</sup> of December, 3 days after the vote for partition, the Ulema, or council theology and sacred law, of Al-Azhar University in Cairo—one of Islam’s supreme authorities—proclaimed a “worldwide jihad in defence of Arab Palestine”<sup>26</sup>. Living in perpetual fear of the Arab “street” who, motivated by nationalism and religious fervour<sup>27</sup> called for violence, Arab leaders were forced into action<sup>28</sup>. The military objectives of the Arab armies are still unknown however what is clear is that Egypt and Jordan intended to annex territory of the new Israeli state.<sup>29</sup> Arab leaders pandered to the street with the genocidal rhetoric of “throwing the Jews into the sea” and ridding Palestine of the “Zionist plague”<sup>30</sup>. Funds, arms, and volunteers flowed from Syria, Jordan and Egypt into the Mandate primarily joining the Arab Liberation Army to aid in the defeat and destruction of the Zionist project<sup>31</sup>.

In February 1948 Arab irregulars cut off the supply lines to Jerusalem<sup>32</sup> thus instituting what became a siege of that city. The Haganah, waiting for smuggled weapons to arrive from

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<sup>22</sup> Ibid pg. 70

<sup>23</sup> Morris, 2008, 1948 : A History of the First Arab-Israeli War Pg. 61

<sup>24</sup> Ibid pg.90

<sup>25</sup> [The US and UN Arms Embargo: November 1947–May 1948 \(Chapter 10\) - Israel’s’ Moment \(cambridge.org\)](#)

<sup>26</sup> Morris, 2008, 1948 : A History of the First Arab-Israeli War Pg. 65

<sup>27</sup> [Morris 1948-as-jihad](#)

<sup>28</sup> Morris, 2008, 1948 : A History of the First Arab-Israeli War Pg. Pg. 66

<sup>29</sup> Ibid Pg. 396

<sup>30</sup> Ibid Pg. 396

<sup>31</sup> Ibid pg. 90

<sup>32</sup> ibid Pg. 105



Czechoslovakia, were on the defensive until early April<sup>33</sup>. By the expiry of the Mandate in mid-May of 1948 the Haganah had gained the initiative and were regularly defeating the Arab irregulars<sup>34</sup>. The looming danger of a pan-Arab invasion, and the violence raging around them convinced a large number of upper and middle-class Arabs to evacuate<sup>35</sup>. The absence of this leadership during the war undoubtedly contributed to the chaos that would lead many lower-class Arabs to also leave their homes. Arab military power was crushed and whatever society existed before fell apart as hundreds of thousands fled inland or out of the country all together<sup>36</sup>. War was declared immediately after the Declaration of Independence on May 17, 1948, and the pan Arab invasion that the Haganah had been preparing for began immediately.

## Deir Yassin and Other Massacres

The events of Deir Yassin, the most notorious of the massacres that occurred during the War for Independence is worthy of special examination due its omnipresence in discussions of the conflict. In April 1948, a group of non IDF militias, the Lechi and Irgun, aimed to take a village that sat astride the crucial Latrun corridor to Jerusalem. Though the village had participated in the Arab revolt in 1939 they had an unbroken peace treaty with the neighbouring Givat Shaul and had resisted previous attempts from Arab irregulars to use the village as a base. Nevertheless, the Irgun insisted on its capture. The attackers had intended to warn the villagers to evacuate before they entered but the truck carrying the speakers broke down and it is unknown whether the residents heard the warning. After an unexpectedly hard battle Lechi and Irgun members committed several war crimes against captured combatants and civilians including theft, rape, and murder.

The Irgun Commander, Ra'anan, told a news conference in Jerusalem that night that 254 villagers had died. But the Haganah officer Yehoshua Arieli, who later moved in and was responsible for the burial of the bodies, spoke of “all told—about 110 dead”<sup>37</sup>. Whilst the toll was terrible this was not large-scale organized massacre in the sense that people were herded together for deliberate, organized slaughter<sup>38</sup>.

In an effort to lionise Arab resistance to the Zionist enemy Arab radio stations would made much of the event and exaggerated its brutality. Ironically, the broadcast bolstered the flight of Arabs from the nascent Israel out of fear of similar violence befalling them<sup>39</sup>.

Massacres of Jews by Arab Legionnaires occurred in Kfar Etzion in May 1948 leaving 106 dead. Mobs of local Arabs poured into the captured settlements screaming “Dier Yassin”, whilst pillaging and massacring prisoners<sup>40</sup>.

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<sup>33</sup> Ibid pg. 78

<sup>34</sup> Ibid pg. 179

<sup>35</sup> Morris, 2004, The Birth of the Palestinian Refugee Problem Revisited pg. 134, Morris, 2008, 1948 : A History of the First Arab-Israeli War Pg. 94

<sup>36</sup> Ibid pg. 93

<sup>37</sup> [Full article: The Historiography of Deir Yassin \(tandfonline.com\)](http://tandfonline.com)

<sup>38</sup> Ibid

<sup>39</sup> Ibid

<sup>40</sup> Morris, 2008, 1948 : A History of the First Arab-Israeli War pg. 170

In assessing the actions of Jewish militias, it is important to contextualise the conflict with other bi-national struggles for independence such as the division of India and Pakistan in the 1940s and the breakup of the former Yugoslavia in the 1990s. In such conflicts massacres were common and were of far larger scale and brutality. Benny Morris estimates between 800-900 Palestinian civilians and prisoners of war were killed in the War of Independence in which Israel captured approximately 400 Arab villages. In contrast 200-300 Jewish civilians and prisoners of war were killed by Arab forces which only captured 12 Jewish villages<sup>41</sup>.

When faced with a specific example such as Deir Yassin it is important to acknowledge that these events did take place but were fringe cases and were never reflective of any Israeli policy. These events are ripe for exaggeration so an advocate must be ready to counter false claims. Further reading of Benny Morris is recommended with regards to Tuntara, usually the second most cited massacre<sup>42</sup>.

## Plan D

The Haganah's Plan D was designed to secure the contiguity of Jewish settlement and protect against the oncoming assault and was implemented Haganah in April of 1948. The goal of this plan remains a matter of dispute among historians and advocates alike, many of those who are more sympathetic to the Palestinian narrative argue it was a "blueprint for ethnic cleansing"<sup>43</sup> and evidence of Israel's expansionist ambitions. Others explain it as a defensive plan in preparation for the pan-Arab invasion that had the added benefit of adding more land to the new state. Orders for the operation called for the destruction of hostile villages leaving the fate of the other villages in the hands of officers<sup>44</sup> Benny Morris explains:

*"The essence of the plan was the clearing of hostile and potentially hostile forces out of the interior of the territory of the prospective Jewish State, establishing territorial continuity between the major concentrations of Jewish population and securing the future State's borders before, and in anticipation of, the invasion [by Arab states]. The Haganah regarded almost all the villages as actively or potentially hostile.<sup>45</sup> ... The plan was neither understood nor used by the senior field officers as a blanket instruction for the expulsion of 'the Arabs'."*<sup>46</sup>

It is true that Israel expanded the territory allocated to it by partition under this plan. The Arabs had rejected partition and were threatening a war of annihilation. The borders proposed by partition were militarily indefensible with the Jewish state comprised of several loosely connected enclaves. Notwithstanding the claim that the plan was indicative of a Zionist initiated war of expansion, Ben Gurion rejected Yigal Allon's proposal to conquer the West Bank because:

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<sup>41</sup> Morris, Reconsidering the 1948 Arab-Israeli War [https://youtu.be/oEn2o\\_Jr3VA?si=vBRpsY1vFO6jSePI](https://youtu.be/oEn2o_Jr3VA?si=vBRpsY1vFO6jSePI)

<sup>42</sup> [The Tantura Myth](#)

<sup>43</sup> [Plan Dalet: Blueprint for the Ethnic Cleansing of Palestine | IMEU](#)

<sup>44</sup> Morris, 2008, 1948 : A History of the First Arab-Israeli War pg. 128

<sup>45</sup> Morris, 2004, The Birth of the Palestinian Refugee Problem Revisited, p. 164

<sup>46</sup> Ibid pg. 165

*“Like most Israelis, Ben-Gurion had given up the dream of the whole land and had internalized the necessity, indeed inevitability, of partition and a two-state solution, be it because the Great Powers would not allow Israel to have it all or because of the unattractive prospect of coopting the more than half a million additional Arab inhabitants of the West Bank in the Jewish state.”<sup>47</sup>*

## **IDF report**

By June of 1948 300,000-400,000 Palestinians had fled their homes. An IDF intelligence report recently declassified implies 70% of the total was due to military operations - essentially fear of being caught in a war with the remaining 30% a combination of expulsions, evacuation orders by advancing Arab armies and fear of massacres. Around 14 out of a total of 250 Arab villages with a total prewar population of 20,000 were evacuated under orders by the Haganah.

*“There, amid the frightening, threatening boom of guns, the loss of confidence in Arab might, the flight of relatives and friends, the abandonment of nearby towns, and a general, vast fear of the uncharted future, one will find the bulk of the pre-June Palestinian refugees.”<sup>48</sup>*

## **Lydda and Ramle**

The largest expulsions of the war occurred in Lydda and Ramle in July 1948 as part of Operation Dani, the operation to capture and secure strategic areas surrounding Tel Aviv. By the time Israel controlled the 2 towns at least 10,000 of Ramle’s and a majority of Lydda’s Arabs remained. The nascent State was faced with the difficult reality of having a concentration of hostile people behind their front lines during an offensive operation. In those circumstances Ben Gurion approved their expulsion. The decision was criticised by the left wing Mapam party, yet their concerns were dismissed without too much argument over fears of division in a time of war<sup>49</sup>.

## **1949**

In later operations following the temporary ceasefire with the Arab armies there was still no Cabinet or IDF General Staff-level decision to expel:

*“Indeed, the July fighting (the "Ten Days") was preceded by an explicit IDF General Staff order to all units and corps to avoid destruction of Arab villages and expulsion of Arab communities without prior authorisation by the defence minister<sup>50</sup>”*

However, despite this order there was still a significant number of expulsions due to line officers’ concerns with securing the new Jewish state.

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<sup>47</sup> Morris, One State, Two States : Resolving the Israel/Palestine Conflict, pg. 79

<sup>48</sup> [The causes and character of the Arab exodus from Palestine](#)

<sup>49</sup> [Operation Dani and the Palestinian Exodus from Lydda and Ramle in 1948 on JSTOR](#)

<sup>50</sup> Morris, 2004, The Birth of the Palestinian Refugee Problem Revisited, p. 596

## Stopping Return

What is clear is that during and after the War the Israeli government made efforts to prevent the return of Arab refugees to Israel by demolishing houses and in some cases poisoning wells<sup>51</sup>. This was due to the fear of a large hostile Arab population undermining and potentially causing the downfall of the new state. Indeed, this was the perspective of the surrounding Arab states who advocated for full return, denying the Israeli offer of a readmittance of 100,000 refugees for peace. In 1949, Mohammed Sala el Din Bin Bey, then Foreign Minister of Egypt, declared that the returning Arabs would “*return as masters...More clearly, they envisage the liquidation of Israel.*”<sup>52</sup>. There is certainly an ethical question regarding letting refugees back into Israel immediately after the conflict. The conflicting aims of the Jews to safety and national self-determination and the Arabs to return to their homes makes the question impossible to answer, yet in the history of such conflicts the former has always prevailed.

## Conclusion

The exact number expelled as opposed to left of their own accord will never be known. We do know that a purist view of the struggle for independence does not correspond to the reality of the conflict. The full truth of each aspect of the war will likely never be known and it would in any event depend on perspective. I advise against seeing Israel as idealised and without fault as for however many apologists you encounter there will be twice as many quoting the New Historians like Avi Shalem and Illan Pappé, arguing for Israel’s complete guilt<sup>53</sup>. In such an argument of black and white, guilt or innocence, an advocate who can stand in the grey seems to have a far better grasp of the oft grey reality of conflict.

Overall, were all the expulsions justified by military necessity? probably not. Would Israel and the Jewish people have been able to survive with a hostile Arab majority embedded in their tiny land? also unlikely.

-War and nation building make leaders and soldiers face impossible decisions. Israel, emerging from the ashes of the Holocaust, facing a hostile population within and enemy armies without, was fighting for its survival and the future of the Jewish people. It was in the context of a war that had been declared against their existence that expulsions occurred. Had there not been a rejection of partition, widespread violence against Jews in the Mandate, and a pan-Arab invasion, the situation would likely have been different. Even acknowledging the context, the suffering of the local Arab population was significant and to deny it is immoral. What we choose to focus on in the war will always be a function of our loyalties, yet we gain much and lose little when we acknowledge the experience of the other side, even for just a moment.

-I will always be thankful for the creation of Israel and those who defended it from destruction, but history is not a clean thing and our attempts to make it so is a net negative for all involved.

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<sup>51</sup> Ibid pg. 341-414

<sup>52</sup> [American Journal of International Law, Vol-72.](#)

<sup>53</sup> For a thorough debunking of Illan Pappé see [newrepublic.com](#)

# Palestinian Identity

An argument commonly made by Israeli advocates is that Palestinians as a national identity did not exist until the 60s and were only formed as part of resistance to Israel's existence<sup>54</sup>.

This attitude is best demonstrated in Golda Meir's statement, "*There was no such thing as Palestinians*" in an interview she gave in 1969<sup>55</sup>. This statement is ahistorical.

The exact date of the genesis of a Palestinian national identity is unknown but Palestinian identity appeared amongst elite Arabs as early as the 1920s following the separation from the province of Syria, the creation of the mandate, and the division of the mandate into Transjordan and Palestine in 1921.

Regardless the movement such as it was failed to build sufficient national consciousness and build institutions to the same quality and quantity as Zionists. Most Arabs living on the land at the time of independence were not concerned with the nationalist aspirations of the Arab elites. Poorer, more rural Arabs, subscribed to a more general pan-Arab identity or identified with local tribal identities. The War of Independence and Nakba eventually became the catalyst for an all-encompassing national identity for the Arabs who had once lived in the Mandate, forming the Palestinian people<sup>56 57</sup>.

People who claim a later genesis of the Palestinian people point to their lack of call for independence in the West Bank and Gaza in the period between 1949 and 1967 when those areas were occupied and controlled by Egypt and Jordan. The lack of pressure for Palestinian sovereignty under Jordanian and Egyptian occupation can be attributed to the willingness of those populations to be subject to government by other Arabs and the lack of unified Palestinian leadership following the Nakba, not to the notion that no Palestinian identity existed<sup>58</sup>.

However, the claim there was a Palestinian national identity before the advent of Zionism is simply false, yet this does not mean, as some Israel arguments imply, that the Palestinian nation is therefore illegitimate. Not only is it ridiculous to imply that a nation can just disband after learning the "truth" of its origins, but it is also false. As much as some people are loathed to accept it nations are created in all manner of ways, most African nations are an arbitrary creation of European map drawing, yet that does not mean they are not a nation. Certainly, today the Palestinians are a people with a national narrative and national aspirations. What that may entitle them to in the face of roughly 100 years of rejectionism and failed attempts to destroy Israel is a matter of debate.

## Right of Return

The Palestinian demand for "Right of Return" for those displaced by the War of 1948 and all of their descendants has been a core issue in the Israeli-Palestinian conflict contributing to

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<sup>54</sup> [What keeps the Palestinian identity alive? - Historian Efraim Karsh \(youtube.com\)](#)

<sup>55</sup> [There was no such thing as Palestinians - Wikipedia](#)

<sup>56</sup> [A Palestinian Past: National Construction and Reconstruction on JSTOR](#)

<sup>57</sup> [Project MUSE - Palestinian Identity: The Construction of Modern National Consciousness \(review\) \(jhu.edu\)](#)

<sup>58</sup> *ibid*

the failure of Camp David and many other attempts at peace. The alleged “Right” is central to the national narrative of Palestinians but has no legal basis in international law. As the number who identify as Palestinian grows by birth past 7 million<sup>59</sup>, the practical impossibility and demographic risk of offering them a home in Israel cements Israel’s position against it whilst at the same time wedging the Palestinian leadership into a position where they simply can’t or won’t start the process of leading their people toward what might be possible in any negotiated settlement.

## A Unique Case

Unlike all other refugees in the world, Palestinian “refugees” are not under the purview of the 1951 Refugee Convention and are the only group to be explicitly excluded from any legislation. Instead, Palestinian refugees are defined and administered by the United Nations Relief and Works Agency (UNRWA) which acts contrary to international standards in several ways<sup>60</sup>.

- Under Article I(c)(3) of the 1951 U.N. Convention and Protocol Relating to the Status of Refugees, a person is no longer a refugee if, for example, he or she has “acquired a new nationality, and enjoys the protection of the country of his new nationality.”<sup>61</sup> UNRWA’s definition of a Palestinian refugee, which is not anchored in treaty, includes no such provision. Hence for example a second or third generation descendant of a refugee from the War of Independence is considered a refugee by UNRWA regardless of the fact that they or their parents are citizens of another country.
- In 1965, UNRWA changed the eligibility requirements to include third-generation descendants, and in 1982, it extended it again, to include all descendants of Palestine refugee males, including legally adopted children, regardless of whether they had been granted citizenship elsewhere<sup>62</sup>.

To quote Lt. Gen. Alexander Galloway the head of UNRWA in 1952

*“It is perfectly clear that Arab nations do not want to solve the Arab refugee problem. They want to keep it as an open sore, as an affront against the United Nations and as a weapon against Israel. Arab leaders don’t give a damn whether the refugees live or die”*<sup>63</sup>

Palestinian refugees in Syria cannot be provided with asylum and medical assistance administered by the UNHCR because they fall under UNRWA’s jurisdiction. This has led to the deaths and injury of thousands<sup>64</sup>. Palestinians in Lebanon are denied services by the Lebanese government, banned from working in many careers, and suffer severe restrictions on freedom of movement<sup>65</sup> <sup>66</sup>. The Lebanese Government justifies this mistreatment by assigning the responsibility for these “refugees” to UNRWA.

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<sup>59</sup> [What Is UNRWA? Who Are the Palestinian Refugees It Serves? And Why Are Countries Freezing Their Funding? - Israel News - Haaretz.com](#)

<sup>60</sup> [UNRWA Has Changed the Definition of Refugee – Foreign Policy](#)

<sup>61</sup> [Convention and Protocol Relating to the Status of Refugees | UNHCR](#)

<sup>62</sup> [\(51\) A Brief History of UNRWA to 1975: Organizational Adaptation and Changing Contexts | Alex Joffe - Academia.edu](#)

<sup>63</sup> [Palestine Refugee Program: Hearings Before the Subcommittee on the Near East ... - United States. Congress. Senate. Committee on Foreign Relations - Google](#) ספריים

<sup>64</sup> [Palestinians From Syria: The Worst Treatment of All | Council on Foreign Relations \(cfr.org\)](#)

<sup>65</sup> [Where We Work | UNRWA](#)

<sup>66</sup> [Palestinians in Lebanon: A Forgotten People - TIME](#)

## Legal Foundation

There are multiple legal means by which people seek to establish a Right of Return for Palestinians including the Geneva Convention, Hague Conventions, Refugee Convention, and customary international law. Notwithstanding these efforts and as detailed below the right of return is not recognised in international law and in fact simply does not exist.

### Geneva convention

Article 49 states that “[i]ndividual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country is prohibited”<sup>67</sup> this article is irrelevant because it only applies to occupied territory. Israel was not a military occupier of a hostile nation’s territory during the 1947–49 conflict, nor was it a signatory to the Geneva convention until 1951 and treaties do not function retroactively<sup>68</sup>.

### The Hague Conventions

The articles most often cited in this context declare that “the lives of persons” and “private property” “must be respected;” that “private property cannot be confiscated;” that “public order and safety” must be “restored and ensured, as far as possible;” and that the occupying military force must “respect, unless absolutely prevented, the laws in force” in the occupied territory. Israel was not occupying territory in 1948. Additionally, these provisions of the Hague Conventions do not prohibit the expulsion of enemy civilian populations and most significantly do not mention any right of return<sup>69</sup>.

### The 1952 Refugee Convention

This convention (from which the Palestinians are specifically excluded due to the demands of Arab states) does not provide for any right of return for refugees<sup>70</sup>.

### International Covenant on Civil and Political Rights

Article 12 (4) of this Covenant generally refers to a right to enter one’s country:

*“No one shall be arbitrarily deprived of the right to enter his own country.”*<sup>71</sup>

This does not apply to Israel who became a signatory in 1991 not only because treaties do not have retrospective operation but because “own country” begs the question of whether any mandate territory belonged to any country<sup>72</sup>.

### Customary International Law

In the history of mass transfers before and immediately following World War 2 there was no sense it was illegal. On the contrary, many powerful states and international organisations

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<sup>67</sup> [IHL Treaties - Geneva Convention \(IV\) on Civilians, 1949 - Article 49 \(icrc.org\)](#)

<sup>68</sup> [Evaluating the Palestinians’s Claimed Right of Return \(upenn.edu\)](#) pg. 179

<sup>69</sup> Ibid pg. 181

<sup>70</sup> Ibid pg. 191

<sup>71</sup> [International Covenant on Civil and Political Rights | OHCHR](#)

<sup>72</sup> [The Right to Leave and Return in International Law and Practice \(nyls.edu\)](#)

approved of it and actively participated in its implementation as is demonstrated by the ethnic reshaping of Europe following both World Wars<sup>73</sup>.

In cases of refugee repatriation such as Afghanistan, Bosnia, and Myanmar it only occurred after comprehensive peace treaties, which the Arab states denied Israel. Furthermore, such repatriations never exceeded 37% of the overall population and in most cases, it was for members of the majority ethnic group. In those cases, there is little to no evidence that such repatriations were required under international law but were rather taken on by the government voluntarily and on that basis no customary norm can be established<sup>74</sup>.

Repatriation is still the vast minority of cases of mass transfers, from Germans after WW2, Serbs in Croatia, Vietnamese from South Vietnam, Indians from Pakistan, or Jews from the Arab world. Refugees by and large do not get to return but are rather resettled and assimilated into their host countries.

## Conclusion

Palestinians have been fed a false dream of return based on a fallacious understanding of international law. The lie is promulgated by their own leadership, the Arab world and now by some in the West. The false dream they engender deepened the conflict and is a significant and some say insurmountable barrier to peace. Israeli Jews would never countenance becoming a minority in their own country (the only Jewish state in the World) and unless there is a seismic shift it seems that Palestinians will never relinquish this core part of their national narrative.

## Right of Return (Jews)

In 1950 the young Jewish state passed the Law of Return guaranteeing haven for the world's persecuted Jews. In fact, it applies to anyone who has even one Jewish grandparent – the same qualification that the Nazis used to determine who they would murder.

Human Rights Watch in its Apartheid report claims that Israel's Law of Return constitutes a racist law and is unjust as it only applies to Jews. Many argue that Jews, unlike Palestinians have no recent familial connection to the land however the connection of the Jewish people to the Land of Israel has been unbroken for millennia. Furthermore, such national provisions are not alien to nation states, a similar provision exists in the constitution of Armenia as well as in Article 28 of the Palestinian Authorities' own constitution<sup>75</sup>.

Such arguments ignore the fact that Israel is a Jewish State, meant to serve their citizens as well as Jews worldwide and any state is free to determine its own migration laws. Any future Palestinian state would in effect serve the same role for the Palestinians<sup>76</sup>. The International Convention on the Elimination of All Forms of Racial Discrimination states that:

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<sup>73</sup> [Evaluating the Palestinians' Claimed Right of Return \(upenn.edu\)](#) pg. 222

<sup>74</sup> Ibid pg. 232

<sup>75</sup> [Palestine 2003 \(rev. 2005\) Constitution - Constitute \(constituteproject.org\)](#)

<sup>76</sup> [A Comparative Constitutional Perspective on Israel's' Nation-State Law | Semantic Scholar](#)



*“nothing in this Convention may be interpreted as affecting in any way the legal provisions of State Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate **against** any particular nationality.”<sup>77</sup>*

The law of return is a positive right welcoming the Jewish people home not a discriminatory policy keeping people out. Given the ever-increasing hostility Jews face currently and have over the decades of Israel’s existence, the Jewish right of return continues to prove its necessity. Who would have accepted the Jews of the Arab world fleeing mobs bent on their destruction? Who would have accepted the Ethiopian Jews in their flight from persecution or the Russian Jews fleeing religious persecution in the former USSR? If not for Israel who would accept the European Jews currently facing escalating violence on the continent that promised “never again”? Thankfully, the Jewish people will never have to ask that question for we have somewhere to return to.

## **6 Day War**

In encounters with Palestinian advocates, I have heard the accusation that the Israeli attack on Egypt in 1967 was part of a war of aggression to satisfy Israel’s desire for land. As one can imagine this is categorically false accusation, even though it was Israel that struck first the war was instigated by an Egyptian blockade of the Straits of Tiran a belligerent act of war<sup>78</sup>. Israel had stated 10 years before such an act would require Israel to act in self-defence under Article 51 of the UN charter<sup>79</sup>. Further indication of Egyptian aggression had been the military build-up in the Sinai as well as Cairo’s demand for UN peace keeping forces to evacuate<sup>80</sup>. The Egyptian President Gamal Abdul Nasser made no secret of his intentions announcing the imminent destruction of Israel on Egyptian media. Following the war the Israeli cabinet voted to offer the West Bank and Sinai taken in the war in return for peace, yet the offer was rebuffed by both Jordan and Egypt<sup>81</sup> thus further debunking claims of Israel’s expansionist intent. Instead, surrounding Arab nations would issue the three no’s from Khartoum, no peace with Israel, no negotiations with Israel, no recognition of Israel<sup>82</sup>.

## **First Lebanon war**

Following the Black September expulsion from Jordan in 1970 the PLO, reestablished itself in southern Lebanon leading an intensifying conflict between it and Israel on the northern border where the PLO conducted raids, fired mortars into Israel and engaged in cross border kidnappings<sup>83</sup>. Henry Kissinger (in a comment that appears equally applicable today) said:

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<sup>77</sup> [International Convention on the Elimination of All Forms of Racial Discrimination | OHCHR](#)

<sup>78</sup> [Blockade | Definition, Examples, & International Law | Britannica](#)

<sup>79</sup> [26: Statement to the General Assembly by Foreign Minister Meir | Ministry of Foreign Affairs \(www.gov.il\)](#)

<sup>80</sup> [The Arab-Israel Crisis.- U.N. Emergency Force withdrawn](#)

<sup>81</sup> [The Israeli Government Designed Peace Plan Devised After the June 1967 War | CIE \(israeled.org\)](#)

<sup>82</sup> [The 3 'No's of Khartoum | The Six-Day War \(sixdaywar.org\)](#)

<sup>83</sup> [The PLO : the rise and fall of the Palestine Liberation Organization](#) pg. 199

*“No sovereign state can tolerate indefinitely the buildup along its borders of a military force dedicated to its destruction and implementing its objectives by periodic shellings and raids.”<sup>84</sup>*

In June 1982 and in response Israel initiated Operation Peace for the Galilee, after the PLO broke a US organised ceasefire<sup>85</sup>. The operation had the stated goal of destroying PLO infrastructure and maintaining Israeli security in the north. The IDF drove north eventually besieging Beirut until an agreement was reached with the United States for Israel to withdraw and an international force to occupy Beirut<sup>86</sup>.

The most significant event of the war for the purposes of Israel advocacy is the Sabra and Shatila massacre on September 15<sup>th</sup>, 1982. The neighbourhood of Sabra in Beirut and the Shatila refugee camp housed PLO training camps<sup>87</sup>. As part of an Israeli offensive capturing west Beirut, they ordered an allied Christian Phalangist militia to clear the towns. The Phalangists were out for revenge for the assassination of their leader Bashir Gemayel the previous day and massacred some 700 Palestinian civilians<sup>88</sup>. During the massacre Israeli flares lit up the battlefield thus facilitating the Phalangist militia’s war crime. News of the massacre precipitated the largest protest movement in Israel’s short history, and 2 investigations, the Kahan Commission by the Israeli Government, and the MacBride Report by the UN.

The Kahan Inquiry held the IDF indirectly responsible, but Ariel Sharon, the Minister of Defence, as having direct responsibility. Given the nature of sectarian violence in Lebanon, Sharon should have predicted what would happen<sup>89</sup>. MacBride who was “noisily anti-Semitic”<sup>90</sup>, made no distinction, holding Israel as responsible as the militia that perpetrated the massacre<sup>91</sup>. Undoubtedly, the Sabra and Shatila Massacre is a dark chapter of Israeli history, but it is also a time in which Israel held itself responsible in accordance with its moral responsibilities.

## Second Lebanon War

In 2000 and following Israel’s unilateral withdrawal from the security zone it established in South Lebanon after the first Lebanon War, Hezbollah, engaged in periodic incitements by raiding and shelling the northern border. This culminated with a Hezbollah raid into Israel in 2006 in which it kidnapped 2 Israeli soldiers<sup>92</sup>. Israel’s reaction was swift, the IDF began shelling almost immediately and a ground offensive soon followed.

The war lasted 33 days, until the passage of UN Resolution 1701 which called for Hezbollah to withdraw north of the Latani River and the installation of an international force between it and the Israeli border. The largest question in relation to this war is whether or not it can be

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<sup>84</sup> [Background & Overview of First Lebanon War \(jewishvirtuallibrary.org\)](http://jewishvirtuallibrary.org/Background%20&%20Overview%20of%20First%20Lebanon%20War)

<sup>85</sup>  [\(51\) Israel in 1982: The War in Lebanon | Ralph Mandel - Academia.edu](http://www.academia.edu/51/Israel_in_1982:_The_War_in_Lebanon)

<sup>86</sup> Ibid page 27

<sup>87</sup> [The PLO : the rise and fall of the Palestine Liberation Organization](http://www.plo.org/About%20PLO/History%20of%20PLO) pg. 277

<sup>88</sup> [Israel in 1982 The War in Lebanon.pdf](http://www.plo.org/About%20PLO/History%20of%20PLO) pg. 83

<sup>89</sup> [The Kahan Commission of Inquiry \(jewishvirtuallibrary.org\)](http://jewishvirtuallibrary.org/The%20Kahan%20Commission%20of%20Inquiry)

<sup>90</sup> [Seán MacBride - Wikipedia](http://en.wikipedia.org/wiki/Se%C3%A1n_MacBride)

<sup>91</sup> [Israel in Lebanon: Report of the International Commission to enquire into reported violations of International Law by Israel during its invasion of the Lebanon: Journal of Palestine Studies: Vol 12, No 3 \(tandfonline.com\)](http://www.tandfonline.com/doi/abs/10.1080/00222920.2011.581111)

<sup>92</sup> [The Second Lebanon War: Coping With the 'Gap of Legitimacies' Syndrome on JSTOR](http://www.jstor.org/stable/2346444)

seen as an Israeli victory. Prime Minister Ehud Olmert outlined Israel's objectives to the Knesset<sup>93</sup>

1. Return the kidnapped soldiers through a process that will not encourage further kidnapping.
2. Eject Hezbollah from the northern border of Israel and enforce UN resolution 1559.
3. deploy the Lebanese army on the border.
4. arrive at a complete cease fire; and
5. rid Israel of the threat of continued attack by Hezbollah missiles and rockets.

Objectively measuring these goals against the outcome, we can assess Israel's efforts as being partially successful. Hezbollah was ejected from Israel's northern border, and the Lebanese army was deployed as a buffer. However, while Hezbollah's military capacity was degraded by the operation their ability to survive an Israeli assault undermined Israel's deterrence and acted as a decisive tool for Hezbollah recruitment<sup>94</sup>.

## Gaza

### 2005 Withdrawal

The 2005 unilateral withdrawal from Gaza was a pivotal moment in the history of the conflict. All settlements in Gaza, along with 5 in the West Bank were evacuated. Many settlers refused to leave and the images of Israeli soldiers forcibly ejecting Jews from their homes scarred the Israeli public as a symbol of the high cost of a peace that never came. The settlers faced great hardship rebuilding their lives after their displacement and many still struggle to this day<sup>95</sup>.

Israeli Prime Minister Ariel Sharon who spearheaded the withdrawal was, always perceived to be a hawk in matters of defence and was motivated by several factors.

The peace accords signed by Arafat and Yitzchak Rabin had failed to deliver and the Palestinian Authorities' (PA) unwillingness to crack down on terror demonstrated that there was no partner for peace. As Sharon's predecessor, Ehud Barak, had learnt, long, fruitless negotiation with the Palestinians was political suicide. The high population growth inside Gaza made it a demographic threat to Jewish sovereignty, and it was a hot bed of terrorism which Sharon thought would be a threat more easily dealt with from defined borders<sup>96</sup>.

Some opponents may bring specific quotes, yet the article cited gives a better overall picture of his motivations. Important to keep in mind for all politics is that right wing leaders must often justify left wing policies with harsh right-wing rhetoric for their supporters.

Following withdrawal, the area was governed by the PA before elections were held in 2006 that split power between the PA and Hamas. A tenuous unity government was formed however a year later civil war broke out in Gaza which saw Hamas murder its Fatah rivals<sup>97</sup>. As early as 2006, before the complete take over by Hamas, rockets were being fired towards

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<sup>93</sup> [Full article: The Second Lebanon War: Democratic Lessons Imperfectly Applied \(tandfonline.com\)](#)

<sup>94</sup> *ibid*

<sup>95</sup> [Gush Katif: Rebuilding and healing 10 years later \(jewishjournal.com\)](#)

<sup>96</sup> Warfare to Withdrawal: The Legacy of Ariel Sharon  
<https://www.jstor.org/stable/pdf/10.2979/isr.2010.15.2.149.pdf>

<sup>97</sup>  [Hamas takes control of Gaza | Palestinian territories | The Guardian](#)

Israeli territory<sup>98</sup>. The failure of the withdrawal to achieve any form of peaceful coexistence cemented an attitude of hopelessness for the prospects of peace in Israeli society. Whenever the possibility of land for peace including a “two state solution” is floated as a solution Israelis instinctively point to Gaza as evidence of the real prospects of any such proposal delivering on its promise.

## “Occupation” of Gaza

Some have argued, such as UN representative Francesca Albanese, that since Israel “occupies” the Gaza strip by controlling its air and sea access it has no right to self-defence under Article 51 of the UN charter and has responsibilities to Gazans under the articles of occupation<sup>99</sup>. This is simply untrue. There are 2 definitions of occupation, the Red Cross’s definition which claims “indirect” control qualifies as occupation, and the alternative that requires there to be a direct control of civil institutions. This question was resolved in the case of the Ugandan occupation of part of the Democratic Republic of the Congo in 2004. In this case the Ugandan military had troops stationed at key points within DRC territory and controlled the borders. The ICJ ruled that in order to qualify as occupation:

*“The armed forces should not just be stationed in the territory but should also have substituted their authority for that of the local government.”*

The court confirmed that “indirect” occupation does not trigger the articles concerning occupation in the Geneva Convention<sup>100</sup>. Israel is not occupying Gaza and has a right to self-defence under Article 51 as does every other nation that is attacked in its borders.

## Blockade

Israel imposed a blockade on Gaza after the Hamas takeover in 2007<sup>101</sup>. The blockade’s stated purpose is to prevent arms smuggling and the use of material for civilian purposes being diverted to militaristic use. The blockade has since been labelled as illegal by countless organisations<sup>102</sup>.

Blockades like other acts taken in self-defence must adhere to the laws of proportionality and necessity as well as avoiding collective punishment, Israel’s blockade of the Gaza strip fulfils these requirements. Following an attempted breach of the blockade by a Turkish flotilla in 2010 and the several casualties sustained in by those aboard the ships intercepted by the Israeli navy the UN Palmer report was published. The report criticised Israel for use of excessive force, but the legality of the Blockade was upheld:

*“Israel faces a real threat to its security from militant groups in Gaza ... The naval blockade was imposed as a legitimate security measure in order to prevent weapons from entering Gaza by sea and its implementation complied with the requirements of international law.”*

<sup>103</sup>

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<sup>98</sup> Situation Report Gaza Strip May 3<sup>rd</sup>, 2006 <https://www.un.org/unispal/document/auto-insert-194494/>

<sup>99</sup> Francesca Albanese says Israel’s’ right to self-defence ‘non existent’ | news.com.au — Australia’s leading news site

<sup>100</sup> ["Case Concerning Armed Activities on the Territory of the Congo \(Democratic Republic of the Congo v. Uganda\)": Reviewing The Concept of Occupation in International Humanitarian Law on JSTOR](#)

<sup>101</sup> Contemporary Law of Blockade [978-90-6704-811-8\\_14.pdf \(springer.com\)](#)

<sup>102</sup> [Israel must lift illegal and inhumane blockade on Gaza - Amnesty International](#)

<sup>103</sup> [The Palmer Report on the Gaza Flotilla Incident - CJPME - English](#)

Though denounced many times by the UN there has been no substantial change in the blockade<sup>104</sup>. The flow of aid to the strip increased from 2010<sup>105</sup> and the number of Gazan workers and products making it to Israel was at an all-time high before October 7<sup>th</sup><sup>106</sup> notwithstanding that the threat posed by Hamas has not changed since 2010; In the post October 7<sup>th</sup> world the prospects of any shift in the blockade are more remote than ever.

The Saudi blockade of Yemen in 2018, which is widely regarded as having caused a massive humanitarian crisis was criticised but never deemed illegal<sup>107</sup>. The Indonesian blockade of Timor-Leste and the Sri Lankan blockade of the Tamils both caused humanitarian crises but were never labelled illegal<sup>108</sup>.

The silence of international organisations on the legality of these blockades not only has moral significance but also legal implications for the formation of international law: *“Generally, where states are seen to acquiesce in the behavior of other states without protesting against them, the assumption must be made that such behavior is accepted as legitimate ... This means actual protests are called for to the break the legitimizing process [when a new rule is being established by affirmative conduct]”*<sup>109</sup>”

If such blockades can be deemed legal by the international community all the more so the Israeli blockade with its significantly better record of human rights.

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<sup>104</sup> [Rule Selection in the Case of Israel’s Naval Blockade of Gaza: Law of Naval Warfare or Law of the Sea? by James Kraska :: SSRN](#)

<sup>105</sup> [Movement in and out of Gaza: update covering January 2022 | OCHA \(unocha.org\)](#)

<sup>106</sup> [Israel sends hundreds of Gazan laborers held since Oct. 7 back into Strip | The Times of Israel](#)

<sup>107</sup> [Iran’s Relief Ship and the Blockade of Yemen - Kohelet Forum](#)

<sup>108</sup> [Sri Lanka, Naval War against Tamil Tigers | How does law protect in war? - Online casebook \(icrc.org\)](#)

<sup>109</sup> [The Formation of Customary International Law and Its Methodological Challenges | SpringerLink](#)

<sup>110</sup> [Francesca Albanese says Israel’s’ right to self-defence ‘non existent’ | news.com.au — Australia’s leading news site](#)

<sup>111</sup> ["Case Concerning Armed Activities on the Territory of the Congo \(Democratic Republic of the Congo v. Uganda\)": Reviewing The Concept of Occupation in International Humanitarian Law on JSTOR](#)

## Great March of Return

Portrayed as a peaceful protest suppressed by excessive Israeli brutality, the 2018 protests on Israel's border have been used to argue that Palestinians have tried peaceful means to arrive at peace and now have no alternative but to resort to violence.

The confrontation with security forces and the suppression that followed prompted an appeal to the Israeli High Court in which the court ruled that:

*“The organisers of the demonstrations named them “The Great Return March,” in which regard they called for a mass return of “Palestinian refugees” to the “homes of their ancestors” within the State of Israel. According to the Respondents, the demonstrations were planned over a significant period, and were organised and directed by a body called the “Return Committee, headed by Hamas, and comprising representatives of the Islamic Jihad, and the Popular Front for the Liberation of Palestine. The demonstrations included organised, intentional, and significant confrontations with Israeli security forces, as well as attempts to damage security infrastructure.”<sup>112</sup>*

Hamas leader Yahya Al-Sinwar stated that *“The march of return will continue until the temporary borders are uprooted.”* Mahmoud al-Zahar, a Hamas leader, stated that *“when we talk about ‘peaceful resistance,’ we are deceiving the public. This is a peaceful resistance **bolstered by a military force** and by security agencies and enjoying tremendous popular support”<sup>113</sup> (emphasis added). The protests made extensive use of children as propaganda tools and human shields<sup>114 115</sup>. During the protests hundreds of mortar shells and rockets were fired on Israel as well as an untold number of incendiary balloons<sup>116</sup>. As of January 2019, the Intelligence and Terrorism Information Centre found that 150 out of 187 casualties (latest report found) were affiliated with terrorist organisations 69 were confirmed military wing members<sup>117</sup>. Whilst there may have been peaceful elements in the march it was organised by violent factions pursuing ulterior motives with little regard for the lives or welfare of any innocents who were injured or killed.*

## Conditions in Gaza

Though often referred to as an “open air prison” or a “concentration camp”<sup>118</sup> Gaza ranks well by reference to the primary metrics of the health of a society.

Life expectancy at birth, under-5 mortality, and infant mortality. The metrics paint a picture of a society on the level of Egypt and Mexico in the top 49<sup>th</sup> percentile rather than what one might call a prison<sup>119</sup>. Life in Gaza is by no means luxurious for most of its inhabitants (though there are pockets of extreme wealth) but most life on the planet is not. Access to healthcare implies a society wealthier and healthier than a significant portion of the world.

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<sup>112</sup> [Recent Developments in Israeli Law | Cardozo Israeli Supreme Court Project \(yu.edu\)](#)

<sup>113</sup> [2018-Gaza-COI-Submission-FINAL.pdf \(ngo-monitor.org\)](#)

<sup>114</sup> [United Nations \(ngo-monitor.org\)](#)

<sup>115</sup> Ibid pg. 16-19

<sup>116</sup> Ibid pg. 24

<sup>117</sup> [Palestinian Violence and Terrorism Against Israel, 2018: Data, Nature, and Trends - The Meir Amit Intelligence and Terrorism Information Center \(terrorism-info.org.il\)](#)

<sup>118</sup> [\(141\) Norm Finkelstein GOES OFF: Israel, Hillary, Human Shields & Ben Shapiro - YouTube](#)

<sup>119</sup> [What are Conditions in Gaza Like? - by Coleman Hughes \(substack.com\)](#)



In the second battle of Fallujah It took 13,000-15,000 U.S., UK, Iraqi forces, six weeks to clear the city of 3,000 insurgents. There were some 800 civilian deaths even though 90% of the city's residents had evacuated before the battle. In both cases the cities were mostly rubble by the end of operations<sup>126</sup>.

Israel is fighting an existential war in 20 densely populated cities against 30,000 embedded terrorists with a history of using human shields and civilian infrastructure for protection,<sup>127</sup><sup>128</sup> only kilometres from Israeli population centres. It faces terrorist infrastructure far in excess of that which any military has ever fought<sup>129</sup>, rockets still rain down on their civilians, hostages are being held and with another sworn enemy escalating its attacks on the northern border. All the while the international community howls and screeches at every move Israel makes whilst swallowing the daily feed of Hamas controlled journalists operating within Gaza. While other examples can be useful, the war Israel is fighting is in many ways beyond comparison.

## Civilian Casualties

The Gazan Health Ministry, a part of the Hamas run government, has been the primary source for casualty numbers during the conflict and even if their numbers are accepted at face value several caveats must be attached to them.

The Ministry defines as children anyone under the age of 18 regardless of whether the person was a 17-year-old Hamas gunman or a three-year-old child. It distorts and misrepresents the number women and “children” killed with numbers of women and children rising higher than the total killed on several days<sup>130</sup>. Additionally, the ministry does not distinguish casualties nor who caused them. As of 29<sup>th</sup> of February Israel estimates 13,000 Hamas fighters have been killed<sup>131</sup>, Gaza Health Ministry numbers of that time estimate 30,000 deaths<sup>132</sup>, leaving us with a civilian combatant ratio of 1.3:1, impressive given the nature of the conflict.

-Hamas and Islamic Jihad rockets have a failure rate between 10-20% according to Human Rights Watch<sup>133</sup> and as of January 14<sup>th</sup> 9000 rockets had been fired into Israel<sup>134</sup> giving an estimated 900-1800 rocket failures. In the past rocket failures have caused between 5-15 civilian deaths<sup>135</sup> <sup>136</sup> likely accounting for some portion of the civilian casualties.

Additionally, Hamas has set up roadblocks to impede evacuations<sup>137</sup> and has shot at civilians attempting to evacuate<sup>138</sup>.

Israel is taking measures that no other military in history has done to try to protect the noncombatant population of Gaza. Millions of texts, calls, and leaflets have been spread, “knocking” on buildings that are targeted for military action, evacuation corridors and help

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<sup>126</sup> [ibid](#)

<sup>127</sup> [hamas human shields.pdf \(stratcomcoe.org\)](#)

<sup>128</sup> [\(17\) Hamas had about 30,000 fighters in Gaza before the war, Israel believes \(cnn.com\)](#)

<sup>129</sup> [Gaza's Underground: Hamas's Entire Politico-Military Strategy Rests on Its Tunnels - Modern War Institute \(westpoint.edu\)](#)

<sup>130</sup> [THE WASHINGTON INSTITUTE How Hamas manipulates fatality numbers](#)

<sup>131</sup> [Pentagon head says over 25,000 women, kids killed in Gaza, inflating Hamas claim | The Times of Israel](#)

<sup>132</sup> [The Latest | Gaza death toll tops 30,000 as over 100 killed in aid convoy violence | AP News](#)

<sup>133</sup> [Gaza: Findings on October 17 al-Ahli Hospital Explosion | Human Rights Watch \(hrw.org\)](#)

<sup>134</sup> [January 14, 2024 Rocketfire | IDF \(www.idf.il\)](#)

<sup>135</sup> [Palestinian armed groups killed civilians on both sides in attacks amounting to war crimes - Amnesty International](#)

<sup>136</sup> [Palestinian Rockets in May Killed Civilians in Israel, Gaza | Human Rights Watch \(hrw.org\)](#)

<sup>137</sup> [IDF says Hamas is preventing civilians from evacuating northern Gaza | The Times of Israel](#)

<sup>138</sup> [IDF releases recording of Gazan saying Hamas shooting at people trying to flee south | The Times of Israel](#)



lines have been set up<sup>139</sup>. On October 13<sup>th</sup> Israel issued a much-criticised warning giving Gazans in the north 24 hours to go south as the ground invasion was imminent<sup>140</sup>. It is to be noted that this was a warning NOT an order to relocate. Israel ended up giving those in the north an additional two weeks and didn't launch the ground invasion until the 28<sup>th</sup><sup>141</sup>. Israel never guaranteed there would be no strikes in the south rather they said it would be safer than the north<sup>142</sup>. This is in accordance with Rule 15 of the ICRC mandating states to take "all feasible precautions" to minimise harm to civilians<sup>143</sup>.

Gaza's density attests to the Israeli military's ethical tactics, in Gaza City the population density is 13,121 people per square kilometre<sup>144</sup>, as of January 17<sup>th</sup> the IAF has hit 30,000 targets<sup>145</sup> that number has likely risen significantly since then. Given the high amount of munitions if Israeli were bombing "indiscriminately" and with intent to kill civilians one would expect that the casualties would be significantly higher.

When thinking about casualties and Israeli strategy in this war one must remember that all decisions in war are trade-offs. If the IAF chooses to conduct an air strike to pave the way for a ground assault that avoids additional risk to the life of a soldier on the ground, this does not mean Israel is not following the rules of war, but it does mean there may well be more civilian casualties than if the strike was not carried out.

A significant contributor to the civilian casualties is the number present in areas of operations. Before the battle of Fallujah approximately 90% of its residents evacuated<sup>146</sup>, civilians in Gaza have not been permitted to enter Egypt for even temporary refuge<sup>147</sup>. Despite its rhetoric, Egypt has a requirement under the Organization of African Unity Refugee convention to allow in refugees<sup>148 149</sup>. Instead of ensuring the safety of civilians, the international community has happily attacked Israel for its operations whilst ignoring Egyptian intransigence in offering Palestinians a safe harbour until the war is over. Israel has been caught in a Catch-22, ask civilians to leave and be accused of ethnic cleansing or allow them to stay and be attacked for increased casualties.

## **Bombs and Destruction**

On its face the term "2,000 pound" when referring to a bomb convey a needlessly excessive explosive force to those unaware of the technicalities of munitions and their use. Such munitions form the vast minority of Israel's arsenal. The US Mark-84 bomb, is an example, with 45% of the total weight being explosives<sup>150</sup> it has seen extensive use in every US conflict since Vietnam with 12,000 used in Operation Desert Storm<sup>151</sup>. Other 2,000-pound

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<sup>139</sup> [Opinion: Israel's military actions in Gaza match what the US did to ISIS. Urban warfare is hell, but not illegal | CNN](#)

<sup>140</sup> [\(76\) Israel calls on Gazans in the north to evacuate "southwards." Here's the impacted area \(cnn.com\)](#)

<sup>141</sup> [Israel launches expanded Gaza ground operation — but won't use the I-word - POLITICO](#)

<sup>142</sup> [\(76\) Israel calls on Gazans in the north to evacuate "southwards." Here's the impacted area \(cnn.com\)](#)

<sup>143</sup> [Customary IHL - Rule 15. Principle of Precautions in Attack \(icrc.org\)](#)

<sup>144</sup> [Gaza: The Most Densely Populated Area of the World | Steven Teplitsky | The Blogs \(timesofisrael.com\)](#)

<sup>145</sup> [The IDF's Interim Data Report Shows The Scale Of The Israel-Hamas War \(forbes.com\)](#)

<sup>146</sup> [Moulton urges Israel to make 'tactical change' and help civilians out of Gaza — NBC Boston](#)

<sup>147</sup> [No, Palestinians Can't Just Leave Gaza - The Washington Post](#)

<sup>148</sup> [OAU Convention Governing the Specific Aspects of Refugee Problems in Africa | African Union](#)

<sup>149</sup> [Egypt's border closure flouts international law \(msn.com\)](#)

<sup>150</sup> [MK84 - Dumb Bombs \(globalsecurity.org\)](#)

[Air Power in the Battle of Mosul \(Chapter 11\) - Air Power in the Age of Primacy \(cambridge.org\)](#)

<sup>151</sup> [Aircraft History of the MK-84 Bomb | MotoArt](#)

bombs include GBU-31 which saw use in Coalition bombing of Mosul and Raqqa.<sup>152</sup> Such a munition is suited for the objective of demolishing tunnels in Gaza. When media reports on the use of such weapons rarely do they mention what the target was even though it is always a question of why this munition was appropriate for the specific target.

Accusations of an excessive amount have also been levelled, “Israel dropped almost the same number of bombs then an entire year in Afghanistan”<sup>153</sup>, such claims usually have some caveat intended to go unnoticed. The comparison in this article is to continued operations in recent years, initial bombing of Afghanistan before and during the invasion in 2001 numbered 24,000<sup>154</sup> in the first year. The “military expert” quoted by the post on this topic was Marc Garlasco<sup>155</sup>, an ex-Human Rights Watch advisor with a significant anti-Israel bias and a hobby of collecting Nazi memorabilia<sup>156</sup>.

As of 29<sup>th</sup> of January 50-61% of Gaza’s buildings are damaged or destroyed<sup>157</sup> while this seems like a high number, it is not unusual when compared to similar battles in Mosul and Raqqa where coalition forces fought ISIS, destruction amounted in those cities to 80% and 70% respectively<sup>158</sup>.

Between 55-60% of Israeli munitions have been precision munitions so called “smart bombs”<sup>159</sup>, this is lower than the United States 100% use in other urban conflicts such as Operation Iraqi Freedom and in Afghanistan<sup>160</sup>. While this may seem alarming there are certainly circumstances in which dumb bombs are as appropriate, Israel appears to be using unguided M117 demolition bombs<sup>161</sup> in evacuated areas for demolitions<sup>162</sup>. Unlike the US, Israel does not have the same budget or industrial capacity, disincentivising the use of more expensive smart munitions for every strike, especially given Israel has a northern front and a possible war with Hezbollah to consider. Even smart munitions do not guarantee a decrease in destruction as evidenced by the devastation of cities such as Mosul and Fallujah. As attested to by Hamas sources they have embedded themselves in houses with tunnel shafts and uses many of them to disguise missile attacks<sup>163</sup>. In such circumstances the Israeli military has no reason to risk the lives of its soldiers by clearing buildings (many of them booby trapped) when demolition is an option, a further example of how Hamas has worsened the lives of everyday Gazans.

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<sup>152</sup> [Air Power in the Battle of Mosul \(Chapter 11\) - Air Power in the Age of Primacy \(cambridge.org\)](#)

<sup>153</sup> [Israel drops 6,000 bombs in Gaza in 6 days, nearly matching US total in Afghanistan in 1 year: Report \(aa.com.tr\)](#)

<sup>154</sup> [Operation Enduring Freedom One Year of Accomplishments \(archives.gov\)](#)

<sup>155</sup> [Following Contact from CAMERA, Washington Post Corrects on Disproportionate Bombing Claim | CAMERA](#)

<sup>156</sup> [Expert or Ideologues?: HRW's Defense of Marc Garlasco's Nazi Fetish » ngomonitor \(ngo-monitor.org\)](#)

<sup>157</sup> [At least half of Gaza's buildings damaged or destroyed, new analysis shows - BBC News](#)

<sup>158</sup> [After ISIS: Photographing the Ruins of Raqqa and Mosul | Time](#)

<sup>159</sup> [Unguided 'dumb bombs' used in almost half of Israeli strikes on Gaza - The Washington Post](#)

<sup>160</sup> [Air Power in the Battle of Mosul \(Chapter 11\) - Air Power in the Age of Primacy \(cambridge.org\)](#)

<sup>161</sup> [Israeli Air Force Photos Show Fighter Aircraft Carrying Unguided Bombs \(archive.org\)](#)

<sup>162</sup> [Military experts discuss Israel's use of unguided bombs and harm to civilians in Gaza | PBS NewsHour](#)

<sup>163</sup> [Why Israel Destroys Palestinian Homes \(substack.com\)](#)

## Hospitals and Mosques

Under the 4<sup>th</sup> Geneva Convention and surrounding customary International Law hospitals and mosques are not legitimate military targets<sup>164</sup> **except when used for military purposes** (emphasis added) by an enemy in which case they lose that protection<sup>165</sup>.

- Hamas like ISIS before it has made extensive use of hospitals, mosques, and schools in their military infrastructure. By the end of the Battle of Fallujah a significant number of the cities mosques and hospitals were damaged due to ISIS' use of them<sup>166</sup>. The Al Shifa in Gaza hospital has been known to have a Hamas presence as early as 2007<sup>167</sup> and saw extensive use as a base in 2014<sup>168</sup>. Hamas has been firing rockets from protected sites and using ambulances in their military operations as early as 2014<sup>169</sup> <sup>170</sup> and have continued to do so in this conflict<sup>171</sup>. Israel's capture of Al Shifa was preceded by an assisted evacuation where Israel offered fuel and incubators for premature babies<sup>172</sup>. The operation did not involve large scale destruction of the hospital or its facilities and no large-scale loss of life<sup>173</sup>. Israel has published evidence of weapons, tunnels and hostage taking on Al Shifa grounds<sup>174</sup>, yet some argue this is insufficient to justify the capture of the hospital. The hospital was clearly used for military purposes and hence lost its special protection, it is a question of proportionality. Given that US intelligence services have corroborated Hamas' use of Al Shifa as a base, there may be further evidence that has not been declassified about the hospital<sup>175</sup>. Furthermore, it would be an idiotic decision for Israel to sustain such a public relations disaster if it was not militarily necessary.

## Humanitarian Aid

In the first days of the war a full siege was declared on Gaza which meant cutting all food water and other humanitarian supplies that come from Israel. This initial siege may have been understandable in the context of the barbarism of October 7<sup>th</sup> however it was ill advised and only lasted a week<sup>176</sup>. The Rafah crossing with Egypt opened to Humanitarian Aid a week and a half after the war began<sup>177</sup> and the Kerem Shalom crossing opened approximately a month later<sup>178</sup>. Out of the 206 million cubic meters of water used in Gaza 14.4 is provided by Israeli pipelines, representing 7% of the water supply. On October 29<sup>th</sup> 10.4 of this was reinstated<sup>179</sup>. During the October 7<sup>th</sup> attack 9 of the 10 power lines to Gaza

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<sup>164</sup> [Customary IHL - Rule 35. Hospital and Safety Zones and Neutralized Zones \(icrc.org\)](#)

<sup>165</sup> [The protection of hospitals during armed conflicts: What the law says | ICRC](#)

<sup>166</sup> [Urban Warfare Case Study #7: Second Battle of Fallujah - Modern War Institute \(westpoint.edu\)](#)

<sup>167</sup> [Human rights groups plead for protection for hospital patients in Gaza - PMC \(nih.gov\)](#)

<sup>168</sup> [Why Hamas stores its weapons inside hospitals, mosques, and schools - The Washington Post](#)

<sup>169</sup> [Foreign journalists reveal Hamas' false front \(ynetnews.com\)](#)

<sup>170</sup> [Hamas uses hospitals and ambulances for military-terrorist purposes \(embassies.gov.il\)](#)

<sup>171</sup> [IDF says Hamas firing rockets from Gaza safe zones as civilian scramble for shelter | The Times of Israel](#)

<sup>172</sup> [Israel offers incubators, fuel to Gaza hospital as outrage grows \(nbcnews.com\)](#)

<sup>173</sup> [Mapping the conflict in Israel and Gaza \(reuters.com\)](#)

<sup>174</sup> [IDF publishes evidence of weapons found inside Shifa Hospital's MRI center | The Times of Israel](#)

<sup>175</sup> [White House says it has evidence Hamas using Al Shifa hospital to run military actions | Reuters](#)

<sup>176</sup> [Israel-Hamas war: Israel resumes water supply to southern Gaza after U.S. pressure \(axios.com\)](#)

<sup>177</sup> [In photos: Humanitarian aid arrives in Gaza as Rafah crossing reopens - The Washington Post](#)

<sup>178</sup> [Aid enters Gaza through Israel's Kerem Shalom crossing for first time in war | Reuters](#)

<sup>179</sup> [Is Israel's "Siege" Denying Water and Food to Gaza? Just the Facts | CAMERA](#)

were cut which accounted for 25% of Gazan electricity, furthermore, several hospitals such as the European Hospital have a significant portion of their power from solar panels<sup>180</sup>. The lack of fuel coming from Israel is the largest issue for diesel generation of Gazan power, despite the fact that Hamas has over half a million litres of fuel stored in Rafah<sup>181</sup>. which it refuses to release for civilian purposes.

The prewar number of 500 trucks a day has often been misrepresented as 44% of these bore construction materials, and only 31% were for food<sup>182</sup><sup>183</sup>. This is not to say there is no shortage of food in Gaza, it is simply a clarification of numbers.

Israel like all countries has a requirement under Resolution 1373 and chapter VII of the UN charter to ensure no aid goes to terrorists<sup>184</sup>, videos and reports have come from the strip confirming Hamas is stealing aid<sup>185</sup>. Israel has put no restrictions on the amount of aid and have excess inspecting capacity, the delay in delivering aid is due to the ability of those on the Gazan side of the border to collect and distribute all the assistance<sup>186</sup><sup>187</sup>.

## **The Radicalisation Argument**

It has been argued that Israel's war will be self-defeating as it will radicalise the next generation who are victims in the current conflict. Aside from the fact that the argument implies that such an outcome is inevitable it also does not solve the issue Israel is currently facing with radicals in the Gaza Strip sworn to its annihilation and essentially advocates inaction. When a genocidal terrorist organisation is on your border it is difficult to conjure future alternatives that could be worse, especially since Hamas and the Palestinian education system generally is engaging in radicalisation of the youth without any help from Israel<sup>188</sup>.

## **Journalists**

The number of journalists killed according to the Committee to Protect Journalists as of January 4<sup>th</sup> is between 70-107. It is noted that there are no non-Palestinian journalists in Gaza and 35 of the 70 named journalists claimed by the CPJ are openly associated with proscribed terror groups and are therefore active parts of terror organisations at war with Israel. Approximately 19 (27%) others on the CPJ list do not seem to be "journalists" at all. A freelance graphic designer who works for a PR company, a builder, the unemployed, someone whose father runs a sports club, and administrative employees of media companies, are examples of people listed as journalists by the CPJ. Additionally, many of the journalists claimed by the CPJ died at home unrelated to any assignment thus debunking the lie that Israel is intentionally targeting journalists<sup>189</sup>.

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<sup>180</sup> [Is Israel's "Siege" Denying Water and Food to Gaza? Just the Facts | CAMERA](#)

<sup>181</sup> [ibid](#)

<sup>182</sup> [Israel Humanitarian efforts - Swords of Iron \(govextra.gov.il\)](#)

<sup>183</sup> [Movement in and out of Gaza: update covering January 2022 | OCHA \(unocha.org\)](#)

<sup>184</sup> [The "Swords of Iron" War and International Law - Kohelet Forum](#)

<sup>185</sup> [Video shows humanitarian trucks stolen by Hamas, looted by civilians after they enter Gaza | The Times of Israel](#)

<sup>186</sup> [COGAT Official: Israel Can Send Hundreds of Aid Trucks to Gaza but Agencies Fail to Deliver - The Media Line](#)

<sup>187</sup> [As famine looms in Gaza, aid delivery remains difficult and dangerous - The Washington Post](#)

<sup>189</sup> [Exposing the lie about Palestinian journalists \(david-collier.com\)](#)

## Ceasefire

In early February Hamas offered a ceasefire agreement that required the complete withdrawal of Israeli troops from Gaza in exchange for the remaining hostages<sup>190</sup>. The agreement was rejected by Israel as it would leave Hamas in power and nullify any progress made by the military operation so far. Leaving Hamas in power is a preposterous demand given their threats to repeat their deadly attacks<sup>191</sup>, and would have made all the sacrifices made thus far pointless. Earlier Israeli offers for ceasefire were rejected by Hamas yet saw far less coverage including one in January for a 2-month ceasefire in return for the hostages<sup>192</sup>.

## Israel's Intentions

Despite claims to the contrary Israel's intentions have been clear from the beginning, eliminate Hamas while minimising as much as possible the damage to civilians. The clarification that Israel is fighting Hamas, not the people of Gaza has been stated at every press conference and public address, yet fringe comments that have been condemned by the government are assumed to be a Freudian slip of true intentions.

To claim the term Amalek, clearly referring to Hamas, is a code word to Jews for genocide is intellectually dishonest. The media's recent obsession with biblical exegeses is libellous.

Amalek (an ancient enemy who mounted an unprovoked surprise attack on the Israelites at the time of the Exodus) is frequently applied to the Nazis and has never suggested that Jews seek the destruction of every German. Halachically it is impossible to identify the Amalek that is the subject of the genocidal biblical commandment and the Rabbis have long since enjoined any attempt to carry out that commandment.

Defence Minister Yoav Galant's famous "fighting human animals" statement is clearly speaking about Hamas and has been clarified multiple times<sup>193</sup>.

Israeli President Isaac Herzog said that permanent displacement of Palestinians in Gaza is "absolutely not" the position or aim of the Israeli government, despite widely rebuked remarks from a few Cabinet members embracing this position<sup>194</sup>. "I'm saying outright, officially and unequivocally: This is not the Israeli position," Herzog stated<sup>195</sup>.

As for those ministers that are calling for the resettlement of Gazans, at least some of them are not calling for forced displacement, rather voluntary. As in, open the door, let those who wish to flee Gaza do so. "Do not actively prevent them from leaving"<sup>196</sup>.

"I'll make it simple – open the door! No one is compelling anyone to leave," Gamliel implored the international community. "You cannot disregard the suffering of the Gazans. Just open the door and allow those who seek to join the thousands of Gazans who have emigrated willingly in recent years." <sup>197</sup>.

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<sup>190</sup> [Netanyahu rejects Hamas ceasefire proposal – as Gaza hostage families say time running out to save loved ones \(yahoo.com\)](#)

<sup>191</sup> [Hamas official says group aims to repeat Oct. 7 onslaught many times to destroy Israel | The Times of Israel](#)

<sup>192</sup> [\(10\) Israel offered 2-month ceasefire to Hamas as part of hostage deal, Axios reports \(cnn.com\)](#)

<sup>193</sup> [Israeli Defense Minister: 'We Are Fighting Human Animals' | HuffPost Latest News](#)

<sup>194</sup> [Full Herzog: Israel 'determined to undermine' Hamas throughout 'world' amid threat of expanded war \(nbcnews.com\)](#)

<sup>195</sup> [Israeli president says forced displacement of Palestinians in Gaza 'absolutely not' position of government | The Hill](#)

<sup>196</sup> [No, Palestinians Can't Just Leave Gaza - The Washington Post](#)

<sup>197</sup> [Intelligence Min. to int'l community: Don't disregard Gazans' suffering | Israel National News - Arutz Sheva](#)

Minister for Heritage Amichai Eliyahu who called for the nuking of Gaza, is not involved in the war planning, and was suspended for his comments<sup>198</sup>.

In the ICJ proceedings South Africa quoted prominent Israeli civilians on the far right who advocated the position. The reason why the political beliefs of a private citizen should have any impact on the conduct of a war by a nation state is beyond me.

## **Actions in the West Bank**

The refrain “there is no Hamas in the West Bank” is often heard in protest against arrests and casualties in the West Bank following October 7th. However, Hamas along with other terror groups such as the al-Aqsa Martyrs Brigade, Islamic Jihad, Islamic State, Lions’ Den, and Mujahideen Brigades all conduct terror operations within and from the West Bank<sup>199</sup>. In November Palestinian militias publicly executed 2 men for supposedly being Israeli spies<sup>200</sup> in Tulkarm, and fire fights with Israeli forces were common even before October 7th<sup>201</sup>. To respond to this threat and the threat of greater unrest seeking to take advantage of Israel’s “distraction” by the war in Gaza its security forces have been engaging in raids and arrests, including a recent controversial raid on a hospital in which all fatalities were members of Islamic Jihad<sup>202</sup>. These raids have foiled countless terror attacks aimed at the Israeli interior, confiscating countless weapons and illicit items<sup>203 204</sup>. Notwithstanding Israel’s best efforts terror attacks on Israeli civilians both within and beyond the Green Line have continued in the months since October 7<sup>th</sup>.

## **Israel Sponsoring Hamas**

There are 2 instances people point to when saying Israel created Hamas, Israel’s sponsorship of Shiek Ahmed Yasin in the 1970s, and Netanyahu’s policy of allowing Qatari money to bound for Hamas to flow into Gaza<sup>205</sup>.

In the 1970s the Palestinian Liberation Organization was conducting a global war of terror against Israel comprising hijackings, kidnappings, and suicide bombing. In this period a religious alternative to the PLO arose in Gaza led by the wheelchair bound Ahmed Yasin. Israel, wishing to counterbalance the PLO, endorsed the expansion of schools, hospitals, and the Islamic university created by Yasin’s organisation and turned a blind eye to the less egregious instances of Islamist violence they conducted<sup>206</sup>.

Though they ceased supporting Yassin in the 80s and ultimately arrested him in 1984 and assassinated him in 2004, the organisation he founded would eventually evolve into Hamas. These policies are what led Avner Cohen, a former religious affairs officer, to say “Hamas, to my great regret, is Israel’s creation”<sup>207</sup>. This quote, often taken out of context, does not mean that Israel is singularly at fault for the existence of Hamas. At the time Israel was

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<sup>198</sup> [Netanyahu Suspends Israeli Minister Who Said Dropping a Nuclear Bomb on Gaza Was an Option - The New York Times \(nytimes.com\)](https://www.nytimes.com/2023/10/07/israel-netanyahu-suspends-eliyahu.html)

<sup>199</sup> [Mapping Terrorism in the West Bank \(fdd.org\)](https://www.fdd.org/mapping-terrorism-in-the-west-bank)

<sup>200</sup> [2 men executed in West Bank for allegedly spying for Israel, as mob cheers | The Times of Israel](https://www.thetimesofisrael.com/2-men-executed-in-west-bank-for-allegedly-spying-for-israel-as-mob-cheers/)

<sup>201</sup> [In West Bank, New Armed Groups Emerge, and Dormant Ones Stir - The New York Times \(nytimes.com\)](https://www.nytimes.com/2023/10/07/israel-west-bank-new-armed-groups-emerge-and-dormant-ones-stir.html)

<sup>202</sup> [Israeli forces kill three Palestinian fighters in West Bank hospital raid - BBC News](https://www.bbc.com/news/health-67444444)

<sup>203</sup> [IDF says West Bank raids foiled some 500 terror attacks over past year | The Times of Israel](https://www.thetimesofisrael.com/idf-says-west-bank-raids-foiled-some-500-terror-attacks-over-past-year/)

<sup>204</sup> [The Danger of Violent Escalation in the West Bank | The Washington Institute](https://www.washingtoninstitute.org/policy-analysis/the-danger-of-violent-escalation-in-the-west-bank)

<sup>205</sup> [For years, Netanyahu propped up Hamas. Now it's blown up in our faces | The Times of Israel](https://www.thetimesofisrael.com/for-years-netanyahu-propped-up-hamas-now-its-blown-up-in-our-faces/)

<sup>206</sup> [How and why Israel helped create Hamas? \(tribune.com.pk\)](https://www.tribune.com.pk/story/1234567/how-and-why-israel-helped-create-hamas/)

<sup>207</sup> ibid

dealing with a greater threat in the PLO and it is only with hindsight that we understand the huge threat radical Islamism would pose to the West. Israel's early policies towards what would eventually become Hamas does not absolve those who support their violence.

Netanyahu's support of Hamas is somewhat different, his reasoning appears to be preventing a 2-state solution, according to a leaked meeting with Likud in which he said.

*"Anyone who wants to prevent the establishment of a Palestinian state needs to support strengthening Hamas."*<sup>208</sup>

I do not defend this policy but to say it was essential to Hamas's survival is an exaggeration. I believe Netanyahu engaged in was at its core appeasement, a more stable Hamas is far safer than one strapped for cash, and a quiet Gaza better than a loud Gaza for elections. Before October 7<sup>th</sup> the West was convinced Hamas had given up its larger ambitions and instead focused on governing Gaza<sup>209</sup>. Even if you disagree, fundamentally, the question is, "Would Hamas still be in power if not for this policy?" I believe the answer to be yes. There has never been a genocidal Islamist militia who surrendered power over financial concerns and given Hamas' billions in investment funds it is unreasonable to expect Hamas to be the first. Bibi's policy failed, but it did not make a fundamental difference to the existence or nature of Hamas.

## United Nations

### United Nations

The United Nations is, in theory, a wonderful organisation with the aim of achieving peace and universal human rights. Unfortunately, the United Nations has consistently failed to live up to its charter and is in reality hostage to the factions and groupings of its member nations the vast majority of which are non-democratic and deny basic human rights to their citizens. Serial abusers of human rights are routinely granted legitimacy by admission to UN bodies and eschew responsibility by standing on the podium and perverting the tools of justice for political ends. Israel has been the victim of the ire of anti-western coalition facing unrelenting condemnation and treatment that presumes its guilt far more often and with greater intensity than many other proved human rights abusers such as China, Russia, Syria, Myanmar, and others.

### Durban Conferences

The Durban conferences are a series of conferences intended to combat racism which devolved into an anti-Israel hate fests in which Zionism was denounced as a form of racism. Countries that systematically abuse human rights such as Iran and Cuba happily stand up at Durban and condemn Israel.

Thousands marched in Palestinian-led demonstrations in the streets of Durban, with one placard reading, "Hitler Should Have Finished the Job." Nearby, some were selling the most notorious of anti-Jewish tracts, The Protocols of the Elders of Zion<sup>210</sup>. Jewish human rights

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<sup>208</sup> [Netanyahu: Don't accuse me of boosting Hamas with Qatari money – POLITICO](#)

<sup>209</sup> [For All That Changed, Hamas Is Still Hamas | The Washington Institute](#)

<sup>210</sup> [Durban 4 - UN Watch](#)

activists at Durban were physically intimidated and threatened, with mobs screaming at them: “You don’t belong to the human race!” Durban II in 2009 was more of the same. The conference was boycotted by 10 democracies and further departures during the conference of other democracies who had chosen to attend was a further embarrassment. At Durban III the Syrians, Saudis and Tunisians joined the condemnation of Israel with 14 democracies boycotting. President Barak Obama, not a known friend of Israel, commented: "Since its inception at the 2001 World Conference Against Racism in Durban, South Africa, the Durban process has included ugly displays of intolerance and anti-Semitism". Durban IV in 2021 was boycotted by 38 democracies. Durban is a blight on humanitarianism, orchestrated and celebrated by the United Nations.

## Resolutions

The world health organisation has passed 9 condemnatory resolutions since 2015 all of them against Israel.<sup>211</sup>

Since 2006 The Human Rights Council of the UN has passed 104 resolutions against Israel out of 204 total i.e. more than the rest of the world combined. Currently the council is 64% non-democratic with members including Somalia and Algeria, China, and Cuba.<sup>212</sup>

The General Assembly is worse with 141 out of 215 GA resolutions targeting Israel<sup>213</sup>. Israel is the only country with a standing agenda item in the Human Rights Council and has been the target of most special sessions and condemnations<sup>214 215</sup>. The disproportionate targeting of Israel by the United Nations was even acknowledged by a former UN commissioner<sup>216</sup>.

Even the most virulent anti-Israel advocate must acknowledge that Israel is far from the worst violator of human rights in the World, and the UN’s utter hypocrisy in appointing human rights violators to a council intended to preserve them is breathtaking. The UN’s obsession with Israel is a travesty that is not only unjust but allows countless human rights violations by notorious human rights abusers to pass by unimpeded.

## Human Rights Watch

Human Rights Watch, a UN organisation founded in 1978 to address a crisis of human rights violations around the world has been the vanguard of much anti-Israel rhetoric. The supposed impartiality of such an organisation lends credence to their claims but their deep and acknowledged anti-Israel bias is rarely acknowledged or rectified. Robert L. Bernstein, one of the founders criticised the organisation for its disproportionate and dishonest targeting of Israel<sup>217</sup>. Kenneth Roth the head of HRW from 1993 until 2022 made numerous statements comparing Israeli actions to the holocaust as well as blaming it for worldwide antisemitism<sup>218</sup>. During his leadership he accepted Saudi money to drop the abuse of LGBTQ references in a report on the region. In a recent interview he implied that the only time Israel could use force were if there were no civilian casualties and said he would not

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<sup>211</sup> *ibid*

<sup>212</sup> [UN Watch Database](#)

<sup>213</sup> *ibid*

<sup>214</sup> [The Struggle against Anti-Israel Bias at the UN Commission on Human Rights \(icpa.org\)](#)

<sup>215</sup> [Human Rights Council – UN Watch Database](#)

<sup>216</sup> [Ban Ki-moon says UN has 'disproportionate' focus on Israel | The Independent | The Independent](#)

<sup>217</sup> [Opinion | Rights Watchdog, Lost in the Mideast - The New York Times \(nytimes.com\)](#)

<sup>218</sup> [Ken Roth's Immoral Anti-Israel Obsession and the Gaza War » ngomonitor \(ngo-monitor.org\)](#)



edit previous reports despite factual errors<sup>219</sup>. His anti-Israel bias is an open secret so much so even Harvard could not justify it<sup>220</sup>.

A recent whistleblower's report attests to the organisation's corruption. She claims that during investigations in the region, they selectively chose experts and made no effort to hire Jewish Hebrew speaking Israelis.

"When I named the constellation of my experiences over years to a senior manager as feeling a lot like antisemitism, he replied: "You are probably right".<sup>221</sup>

## UNRWA

United Nations Relief and Works Agency is a UN organisation established in the wake of 1948, such institutions were common for settling refugees, yet UNRWA is the only organisation to continue its existence 77 years after the crisis it was made to address.

Throughout its long existence it has, while providing necessary services to Palestinians, perpetuated refugeedom by redefining refugee status (see above *right of return*) and thereby "sharpen a Palestinian nationalism in which refugeedom was central"<sup>222</sup>.

UNRWA has expanded its mandate multiple times beyond its original purpose leading to many negative externalities for people with refugee status (see above *right of return*). For the past 77 years the international community has been sponsoring the organisation for the resolution of the refugee problem, instead UNRWA simply deepens its political activities.

These include legal backing for the so-called rights-based approach, encouraging grassroots Palestinian organizations that reject negotiations with Israel, and lending explicit support to the concept of a Palestinian right of return which has no legal basis (see above). This notion calls for the dissolution of Israel and hence negates any negotiated two-state settlement, and promises to extend the conflict, and UNRWA's mandate, indefinitely<sup>223 224</sup>.

UNRWA has been found to be supporting and advocating terror in their schools on multiple occasions<sup>225 226</sup> with at least 10%, 1100 of their employees in Gaza actively associated with Hamas and Islamic Jihad with a further 50% estimated to have close friends or family in such organisations<sup>227</sup>.

## UN Resolution 194

Passed in December of 1948, before the war was over, the resolution called for:

*"refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return."*<sup>228</sup>

Israeli representatives responded to the resolution by saying that such an outcome would be contingent on a long-term peace settlement with the surrounding countries which would

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<sup>219</sup> [\(11\) Ken Roth - We Have It Out! Human Rights Watch Director Counters Charge of Anti-Israel Bias. - YouTube](#)

<sup>220</sup> [Ex-HRW head Ken Roth denied Harvard fellowship due to 'anti-Israel bias' - The Jerusalem Post \(jpost.com\)](#)

<sup>221</sup> [whistleblower from human rights watch](#)

<sup>222</sup> [\(51\) A Brief History of UNRWA to 1975: Organizational Adaptation and Changing Contexts | Alex Joffe - Academia.edu](#)

<sup>223</sup> [ibid](#)

<sup>224</sup> [HMTG-118-FA17-Wstate-NeuerH-20240130.pdf \(house.gov\)](#)

<sup>225</sup> [Exposed: UNRWA teachers still inciting Jihadi terrorism & antisemitism - UN Watch](#)

<sup>226</sup> [Report: UNRWA's Teachers of Hate - UN Watch](#)

<sup>227</sup> [Intelligence Reveals Details of U.N. Agency Staff's Links to Oct. 7 Attack - WSJ](#)

<sup>228</sup> [Resolution 194 | UNRWA](#)

involve the addressing of the refugee problem. For Israel, the question of refugees and the question of security were inextricably linked, for good reason given their neighbours at the time. Shortly thereafter hundreds of thousands of Jews who had been living in Arab lands were exiled and for many their property was seized without any compensation. However, 194 was not part of the declaration of principles in the Oslo Accords and is not part of any working discussion<sup>229</sup>.

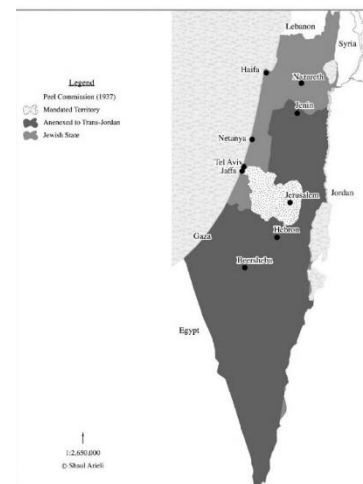
## UN Resolution 242

Passed in November 1967 following the Six Day War of that year the resolution mandated that Israel withdraw **from territories** occupied in the 1967 war in exchange for peace with its neighbours. Resolution 242 was accepted under the Oslo accords in 1995 as a framework for a solution to the conflict. There is much dispute over the wording of the resolution and whether it mandates that Israel withdraws from **all** territories or some dependent on negotiation. Putting aside the fact that the resolution is one of the General Assembly and as such is non-binding and that Israel does not have peace with all of its neighbours, the drafter of the resolution Lord Caradon clearly intended that it did not mean all territories. The “inadmissibility” of land taken in war, laid out in the resolution only applies to land not taken for security purposes<sup>230</sup>.

## Two State Solution

### Peel Commission

Following the Arab riots in 1936 a Royal Commission headed by Lord Robert Peel investigated the cause of the violence and settled on partition as the only path to peace and issued a proposal in 1937<sup>231</sup>. This proposal involved the relocation of hundreds of thousands of Arabs and a few thousand Jews. The proposal split the land into 3, a Jewish area surrounding current areas of Jewish settlement, an Arab area, and an international area acting as a corridor to Jerusalem. The plan was soundly rejected by the Arabs. The Zionists were willing to accept the recommendations conditional on further negotiation<sup>232</sup>.



<sup>229</sup> [Declaration of principles](#)

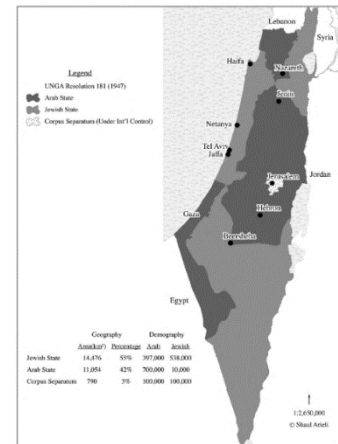
<sup>230</sup> [An Interview with Lord Caradon on JSTOR](#)

<sup>231</sup> [The Peel Commission Report of 1937 and the Origins of the Partition Concept \(jcpa.org\)](#)

<sup>232</sup> [Chances for Peace: Missed Opportunities in the Arab-Israeli Conflict - Elie Podeh - Google ספרים](#)

## UN partition plan of 1947

Passed under resolution 181 in 1947 the plan split the remaining mandate land into 55% Jewish and 43% Arab<sup>233</sup>. At the time Jews only made up 1/3 of the population and the partition of their ancestral homeland was viewed as markedly unjust by the Arabs. The division gave Israel fertile areas in the north and on the Coast while the Arabs got the hills of Judea and Samaria. The Arabs protested giving the Jews the so called “good land,” despite the fact it contained Jewish majorities and the areas on the coast had become fertile because of Zionist cultivation. Furthermore, a significant portion of the new Jewish state was arid desert and could not be described as “good.” Additionally, the nascent Jewish state would be accommodating hundreds of thousands of refugees from the Holocaust, most of whom had no refuge and were waiting in displaced person camps. Again, the Arabs rejected the offer, and the Zionists accepted it. In those circumstances the partition plan was not implemented as it was not agreed upon by both sides and neither it nor the armistice lines of 1949 (the green line) define Israel’s legal borders today.



## 2000 Camp David

The result of the Oslo accords and declaration of principles made possible by the PLO’s purported renunciation of violence, the negotiations at Camp David went through many stages. Almost all those who were present blame Palestinian intransigence for lack of an agreement. The Clinton parameters gave a Palestinian state, including 94–96% of the West Bank and Israeli annexation of settlements in blocks. Israel was to retain sovereignty over the Western Wall. The Palestinians would have gained sovereignty and Israel would gain “symbolic ownership” over the rest of the Temple Mount. This was accepted by both sides with reservations though the Palestinians reservations were beyond the scope of the terms.

Final negotiations broke down when Ariel Sharon, who had replaced Ehud Barak during the negotiations as Prime Minister, withdrew from negotiations after it became clear Arafat did not want a deal. Nabil Amr, a Palestinian negotiator, would say in a letter to Arafat:

*“Didn't we jump for joy over the failure of Camp David? Didn't we throw mud at the picture of President Clinton who dared to submit a proposal for a state with some modifications? Didn't we do this? Were we sincere with ourselves? No, we were not. This is because after two years of bloodshed we accept what we rejected, perhaps because we know that it is impossible to achieve.”*<sup>234</sup>



<sup>233</sup> 1948 : A History of the First Arab-Israeli War pg. 65

<sup>234</sup> <https://imra.org.il/story.php?id=13508>

Following the failure of the talks Yasser Arafat launched the Second intifada<sup>235 236 237</sup>, a pre-planned wave of violence surged from Palestinian groups and suicide bombing was extensively used to deadly effect against civilians. The Second Intifada spelled the end of the Israeli peace camp<sup>238</sup>, Israel's move to the right has been widely attributed to the generation who grew up in this time of violence.<sup>239</sup>

## Historical Revisionism

So called revisionist histories have been published by Robert Malley and Hussein Agha who blame Israel for numerous missteps leading up to negotiations as well as attempt to dispel the myth that Israel offered the moon and that the Palestinians never negotiated. It is true that Israel did not offer everything Palestinians wanted but that is not what a negotiation is. Ultimately, Malley, Agha, Abu Mazen, Ben Ami, and Ross all confirm that the Palestinians never really engaged in negotiations at Camp David and, despite massive pressure from President Clinton, never presented a counteroffer to Israel's proposals. But Ben Ami and Ross argue that the Palestinians went beyond intransigence, by introducing new obstacles to an agreement<sup>240</sup>.

A famous quote often used in relation to Camp David was stated by Shlomo Ben Ami, chief Israeli negotiator, during a debate with Norman Finkelstein in which he said "if I was Palestinian, I would have rejected it as well" implying Palestinians were right to turn down offers at Camp David<sup>241</sup>. However, this was referring to earlier deals in the process of negotiations not the Clinton parameters or Taba offers.

## Geneva Understandings

The 2003 Geneva understandings proposed a solution that broke all of Israel's red lines and would have given a near complete right of return by surrendering the question of repatriation and reparation to an international body and surrendering control over the Old City. Jerusalem would be divided with Arab neighbourhoods of East Jerusalem becoming the capital of the Palestinian state. The Jewish neighbourhoods of East Jerusalem, as well as the West Bank suburbs of Givat Ze'ev, Ma'ale Adumim and the historic part of Gush Etzion would remain part of Israel, while the settlements of Ariel, Efrat and Har Homa would have found themselves in the Palestinian state<sup>242</sup>. As Shlomo ben Ami, Israel's achieve negotiator in Camp David wrote "no peace plan, real or imagined, has ever gone as far as the Geneva Understandings in meeting Palestinian demands"<sup>243</sup>.



<sup>235</sup> <https://www.timesofisrael.com/fatah-official-arafat-hinted-for-us-to-launch-second-intifada-after-camp-david/amp/>

<sup>236</sup> [Arafat and the Second Intifada | Council on Foreign Relations \(cfr.org\)](#)

<sup>237</sup> [Palestinian Responsibility for the Second Intifada \(2000-2005\) \(jcpa.org\)](#)

<sup>238</sup> [The Second Intifada: A defining event that reshaped the nation - The Jerusalem Post \(jpost.com\)](#)

<sup>239</sup> *ibid*

<sup>240</sup> [Whose Fault Was the Failure of Camp David? \(jcpa.org\)](#)

<sup>241</sup> [Fmr. Israeli Foreign Minister: "If I were a Palestinian, I Would Have Rejected Camp David" | Democracy Now!](#)

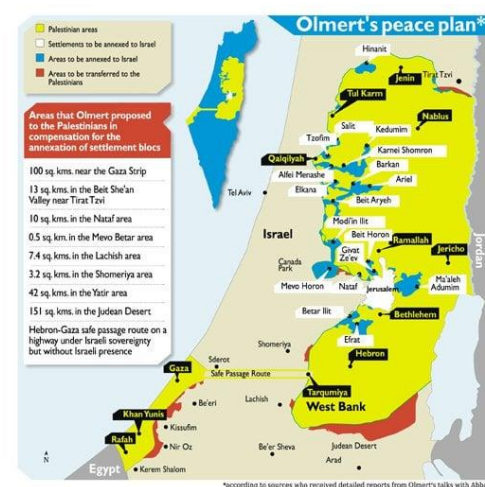
<sup>242</sup> [Details of the 'Geneva Understanding' – The Forward](#)

<sup>243</sup> [An Uninviting Concept | Prophets without Honor: The Untold Story of the 2000 Camp David Summit and the Making of Today's Middle East | Oxford Academic \(oup.com\)](#)

Such a plan would never pass the Israeli public, yet, even this plan was not accepted by the Palestinians, rather they courted the plan as a basis for further negotiations. PA Prime Minister Ahmad Qurei said "We are not against dialogue and peace, but we are not seeing [the Geneva Understandings] as a document of peace." He also said, "The road map is the only document that is still on the table." In a survey conducted by the Palestinian Centre for Public Opinion, which is directed by Dr. Nabil Kukali, 51.4% of the respondent's expressed opposition to the Geneva Understandings, while only 32% expressed support<sup>244</sup>. The Geneva deal was indicative of the larger Palestinian strategy, take every concession offered as a basis for future negotiations but never accept a final plan.

## 2008 Ehud Olmert Offer

The climax of 36 negotiating sessions between Palestinian Authority President Mahmoud Abbas and Israeli Prime Minister Ehud Olmert. Israel agreed to cede almost 94% of the West Bank for the establishment of a Palestinian state retaining approximately 6.4% of the West Bank, "Olmert gave Abbas cause to believe that he was willing to reduce that number to 5.8 percent." and in return swap 5.8% of Israeli territory. The holy basin in Jerusalem comprising the Old City, would be internationalised and the border with Jordan would be administered by NATO though there would be no right of return. U.S. Secretary of State Condoleezza Rice called Olmert's offer "amazing" and warned that "Yitzhak Rabin had been killed for offering far less."<sup>245 246</sup>. Abbas rejected the offer because "he could not see a map"<sup>247</sup>, the final deals were drawn on a napkin. While this is strange, I do not believe a map was necessary, Abbas knew the geography, they had been negotiating over the same land for decades, I believe he was looking for a reason to reject the offer.



## Obama and the Kerry Initiative 2011-2012, 2013-2014.

Despite many claims that Netanyahu has been against the two-state solution since the beginning, he pledged his conditional support in 2009<sup>248</sup> and engaged in negotiations, though unwillingly, in 2011 and 2014.

There was no real expectation that the 2011 talks would result in an agreement, the Israeli preconditions were insurmountable, and the Palestinians were uninterested. The Palestinians actively undermined the negotiations, only coming to the table near the end of the settlement freeze they demanded as a precondition, demanding an extension as well as threatening a unilateral declaration of independence. Netanyahu, despite initiating a settlement freeze at the behest of Obama, approved large amounts of new construction before the freeze began.

<sup>244</sup> [Palestinian Reactions to the 'Geneva Understandings' | MEMRI](#)

<sup>245</sup> [Rice reveals concessions in 2008 peace talks - The Jerusalem Post \(jpost.com\)](#)

<sup>246</sup> [Ehud Olmert's Peace Offer \(jewishvirtuallibrary.org\)](#)

<sup>247</sup> [Abbas admits he rejected 2008 peace offer from Olmert | The Times of Israel](#)

<sup>248</sup> [Israel and the Palestinians: Chronology of a Two-State Solution \(fas.org\)](#)

Ultimately the short-lived Hamas-Fatah unity government would kill negotiations as Netanyahu refused to negotiate with a government that called for the destruction of Israel.<sup>249</sup> In 2014, Obama's Secretary of State, John Kerry tried again. The Palestinian side insisted on a price to join talks, and the price on which they settled was the release of 104 convicted murderers plus another 400 prisoners convicted for lesser crimes. Israel agreed but delayed and refuse release of certain prisoner tranches. Additionally, during the negotiations Israel announced new settlements enraging the PA. Ultimately Fatah's temporary reconciliation with Hamas would kill the negotiations again, giving Netanyahu an exit from the negotiations he did not want to engage in.<sup>250</sup>

## **Problems with a Two State Solution**

### **Lack of Legitimacy**

Even if a just offer were made today the Palestinian Authority has no legitimacy, it is unlikely Palestinians would abide by any deal they negotiate if it made any concessions on the national narratives that would be necessary for peace. Even Yasser Arafat, the greatest figure of the Palestinian national movement, was afraid to make concessions for fear of assassination. Mahmoud Abbas' head would be on a spike in minutes. If a proposal for a Palestinian state would go to elections now, Hamas would undoubtedly defeat its Fatah rivals<sup>251</sup> and Israel would find itself with a hostile state closer to its major population centres. Israel cannot make peace in these circumstances or for that matter until a credible Palestinian leadership emerges.

### **Lack of Support**

In 2019 the question was asked "if the Palestinian leadership is able to negotiate a two-state solution," just 26% of West Bank respondents said that it "should end the conflict with Israel." In Gaza, that figure climbs to 40%. Around 60% in both areas say "the conflict should not end, and resistance should continue until all of historic Palestine is liberated"<sup>252</sup>. Palestinians, rather than adopt a peaceful approach, by and large support violent resistance. When polled after October 7<sup>th</sup> more than 60% of Palestinians in the West Bank and Gaza said armed struggle is the best means of ending the Israeli occupation. In the West Bank, the percentage rises to 70<sup>253</sup>. Palestinian attitudes shaped by decades of rejectionist demonisation of Israel is the primary barrier to peace. As long as Palestinians believe in and pursue violence as a solution security requirement will grow, more will suffer, and the Israeli public will be less and less likely to make concessions for peace. Though I dislike the maxim, "if Israel were to put down its guns there would be genocide, if Palestinians put down their guns there would be a Palestinian state" it holds a lot of truth.

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<sup>249</sup> [Hamas, Fatah Sign Palestinian Unity Accord : The Two-Way : NPR](#)

<sup>250</sup> [The Kerry Initiative \(jewishvirtuallibrary.org\)](#)

<sup>251</sup> [West Bank/Gaza poll: Poll reveals support for Hamas – The Irish Times](#)

<sup>252</sup> [Palestinian Majority Rejects Two-State Solution, But Backs Tactical Compromises | The Washington Institute](#)

<sup>253</sup> [Press Release: Public Opinion Poll No \(90\) | PCPSR](#)

## **Unilateral Withdrawal**

Many claim a unilateral withdrawal from the West Bank is a precondition for peace, “end the occupation and then we’ll talk about peace”, is a common line. This is effectively demanding Israel place its neck on a chopping block, hand Palestine an axe, and ask them politely not to use it. From the hills of the West Bank, Palestinians could snipe at residents of Tel Aviv, rockets launched would fall within 15 seconds in Israel’s most populated cities. This goes without mentioning the 500,000 Israelis living in the West Bank, now without Israeli protection. People who advocate such a position believe Israel has a moral obligation to give freedom to Palestinians and beg them for peace. Such self-assured moral superiority pays little heed to the wider moral consequences of endangering the lives of all of Israel’s civilians.

## **International Support**

The international support for a Palestinian state, in some ways, undermines the chances of peace, by giving Palestinian leaders terrible incentives. The PA knows that they will have international support despite their rejectionism so long as they remain victims, its leaders can afford to make no concessions towards peace given their own lives of luxury and billions of dollars in wealth siphoned from their own population. The assumption is that they can always hold out, there will always be a better deal so long as Israel endures condemnation, and the Palestinians are framed as victims in the international imagination.

Bill Clinton said in his farewell address to the Palestinians in 2000 “There will always be those on the outside encouraging you to hold out for the impossible more, they are not the ones who will pay the price for missing a historic opportunity”. Unfortunately, the Palestinians did not heed his advice, the opportunity was lost and those on the outside grow louder every day.

In the history of national movements have a people fighting for independence rejected a state in any borders. Had the Kurds, Tibetans, or Tigrayans have been offered so many opportunities many lives could have been saved. This is not to say international support is wrong, but as an ideological movement it is utopian and simplified and no lasting peace will be achieved by simplifying the conflict into victims and oppressors.

## **The One State Alternative**

Those despairing of a two State solution have begun advocating for some form of a single state, whether that be a complex confederation or a simple bi-national state. Unfortunately, I believe one state to be unworkable for several reasons, demographics, security, and national aspirations. Putting aside the polls saying that 75% of Palestinians would like to see a Palestine from the river to the sea as opposed to two states or one state for two peoples<sup>254</sup>, the fundamental threat of becoming a Jewish minority remains. In the future state there would be a roughly equal number of Jews and Palestinians, given the disparity in birthrates the new state would consign Jews, if not immediately then eventually, to a minority status. I am highly sceptical the new state would be the only Middle Eastern country exempt from

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<sup>254</sup> [What is the “One-State Solution,” and Why is it Unlikely to Work? | American University, Washington, D.C.](#)

major ethnic violence. One only has to look at Lebanon, Syria, Kuwait, Iraq, or Iran, to see what happens to minorities in this part of the world. Attempts to prevent such violence in Lebanon through complex sectarian divisions of the Parliament have led to numerous civil wars and continued instability<sup>255</sup>.

Additionally, a single state ignores the fundamental aspirations of both Israelis and Palestinians, national self-determination. My ancestors endured immeasurable suffering for thousands of years, hoping that one day the Jewish people would be able to control their own destiny. I will not gamble the future of the Jewish people on a solution that idealistic Westerners insist is the only way towards coexistence. Though it may seem strange to cosmopolitans who see humans as interchangeable and national identity as remnants of a more barbaric age, national aspirations for sovereignty are fundamental to both sides. Stripping us of our nationhood not only ignores the reality of who we are but is also unlikely to lead to a long-term solution<sup>256 257</sup>.

Furthermore, attempting to implement such a Western solution to a Middle Eastern conflict would be dangerous at best, disastrous at worst. The creation of the United States as a multicultural society is a historical anomaly. The US' ability to succeed rested on countless factors, Protestant Christianity played no small role, and deeply entrenched Western ideas of individualism, freedom and liberty were decisive<sup>258</sup>. These factors are simply non-existent in the Middle East and a multicultural society is not easily made in a region known for sectarian violence and intolerance.

## **The Best Solution**

It would be negligent for an advocate to simply criticise the solutions available and not offer one of their own. To my mind the greatest prospect for future peace is a Palestine-Jordan confederation. This confederation would resolve larger questions of security for Israel as Jordan has been a long-time security partner and has an incentive to suppress violent extremism. Additionally, the confederation would resolve issues of geographic contiguity in whatever land division is decided upon in the territories. The confederation would provide Palestine with institutional stability and the capacity to repatriate the Palestinian refugees. Palestinians make up a majority of the Jordanian population and were virtually indistinguishable from Jordanians before the ill-advised British creation of Trans-Jordan in 1921. This makes sectarian violence highly unlikely, certainly better than in a Jewish-Palestinian bi-national state. The primary barrier to this solution is an unwillingness of Jordan to take on the responsibility for dealing with the extremist Palestinian given the complete lack of incentives<sup>259</sup> and the lived experience of civil war during Black September.

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<sup>255</sup> [Insight 251: Sectarianism and the Failure of Lebanon's 2019 Uprising – NUS – Middle East Institute](#)

<sup>256</sup> [\(59\) The One State Delusion | Assaf Sharon - Academia.edu](#)

<sup>257</sup> [Who Wants a One-State Solution? - The Atlantic](#)

<sup>258</sup> [RELIGION AND MULTICULTURALISM: A Web of Legal, Institutional, and Cultural Connections on JSTOR](#)

<sup>259</sup> [A Jordanian Future for the West Bank? - WSJ](#)



However I hope this can change in the future, I believe the future of a secure and prosperous Palestine is with Jordan, not Israel.

## West Bank

### Apartheid

Regulated by the 1972 Apartheid Convention and the 2002 Rome Statute the crime of Apartheid is defined as “inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime.” These inhumane acts include such things as “widespread murder, enslavement, and so forth.” The legal standard for labelling a government an apartheid regime is set quite high, countries such as China and its mistreatment of non-Han minorities, Sri Lanka and its treatment of the Tamils and Sudan’s treatment of its religious minorities have never been branded apartheid. Yet this has not stopped several organisations from launching several libellous claims of apartheid against the State of Israel despite the demonstrable integration of multiple races and religions within the Israeli body politic.

The argument originates from the 3 major reports, Human Rights Watch, Amnesty International and B’Tselem. The three reports have constructed a convoluted argument reliant on countless shaky legal premises, a treatment of major points of accusation should serve to undermine the legitimacy of their arguments though not every claim can be refuted in this guide. When arguing against an accusation of apartheid ask the accuser to name specific examples if they are unable to ask them to explain the flaws in the reports detailed below.

### B’Tselem

B’Tselem’s argument relies on the idea that there is only one state from the river to the sea, claiming “the PA is still subordinate to Israel and can only exercise its limited powers with Israel’s consent.”<sup>260</sup> The Palestinian Authority was created by the Palestinians themselves and is recognized internationally as the legitimate representative of the Palestinian people by almost every country in the world. The Palestinian Authority governs 90% of the Palestinian population, as provided in the Oslo Accords and have full jurisdiction in Area A and civil control in Area B.

### Amnesty and Human Rights Watch

Amnesty’s 280-page report largely echoes those of HRW. It does, however, express (while HRW only did so implicitly) a thesis that the establishment and maintenance of Israel as a Jewish state institutionalised apartheid:

*“Since its establishment in 1948, Israel has pursued an explicit policy of establishing and maintaining a Jewish demographic hegemony and maximizing its control over land to benefit Jewish Israelis while minimizing the number of Palestinians and restricting their rights and obstructing their ability to challenge this dispossession.”*

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<sup>260</sup> [A regime of Jewish supremacy from the Jordan River to the Mediterranean Sea: This is apartheid | B'Tselem \(btselem.org\)](https://www.btselem.org/press/2013/07/13/this-is-apartheid)

An accusation made by HRW and echoed by Amnesty is that Israel:

*“In the course of establishing Israel as a Jewish state in 1948.... chose to coerce Palestinians into enclaves within the State of Israel and, following their military occupation in 1967, the West Bank and Gaza Strip.”*

This is patently false, the current areas of Palestinian habitation were the results of Arab rejectionism of partition, wars declared by surrounding Arab countries and the ultimate Oslo accords.

The Amnesty report is filled with errors, misrepresentations, and double standards quite separate from their dubious legal argument. An exhaustive list is cited here.<sup>261</sup>

### **“Racial Domination” in Law**

HRW contends that Israel’s constitution enshrines Jewish supremacy despite the explicit Basic Law: Human Dignity and Freedom in which all Israeli citizens are guaranteed equal rights, and according to judicial interpretation constitutes a constitutional guarantee of equality. In the case of *Ka’adan v Israel Lands Authority*, the Israeli Supreme Court held that the State could not discriminate amongst citizens when allocating public land, nor could it discriminate between citizens through transfers of land to third-party organisations<sup>262</sup>.

HRW labels the Jewish State Law passed in 2018 as being discriminatory despite provisions for a national religion, national language and national self-determination being common to countless other nations and their constitutions<sup>263</sup>.

HRW and Amnesty point to the Jewish Law of Return as part of a system of racial domination because it excludes Palestinians. This is despite the International Convention on the Elimination of All Forms of Racial Discrimination which states that:

*“Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate **against** any particular nationality.”*<sup>264</sup>

### **“Systematic Oppression”**

To prove “systematic oppression,” the facts underlying allegations need to be established to the criminal standard. This process would entail, among other things, factual assessments of (a) whether an allegedly unlawfully discriminatory act is performed pursuant to a state policy, and (b) whether the impact of that policy, as alleged, is in fact unlawfully discriminatory by reference to standards of proportionality and reasonableness. In this regard, it is notable that many of the examples of “systematic oppression” alleged by HRW and Amnesty have been subject to litigation and judicial review in Israeli courts.

HRW argues that the denial of building permits to Palestinians in Area C and East Jerusalem and to Bedouin in the Negev, residency revocations for Jerusalemites or expropriation of privately owned land, and discriminatory allocation of state lands have no legitimate security justification. Restrictions on movement have an obvious purpose and security reasoning. The

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<sup>261</sup> [Amnesty International’s Cruel Assault on Israel: Systematic Lies, Errors, Omissions & Double Standards \(ngo-monitor.org\)](https://www.ngo-monitor.org/en/articles/2018/07/20/amnesty-international-s-cruel-assault-on-israel-systematic-lies-errors-omissions-double-standards)

<sup>262</sup> [Aadel Ka’adan v. Israel Lands Administration – Decker, Pex, Levi, Rosenberg \(lawoffice.org.il\)](https://www.lawoffice.org.il/en/kaadan-v-israel-lands-administration-decker-pex-levi-rosenberg)

<sup>263</sup> [A Comparative Constitutional Perspective on Israel’s Nation-State Law | Semantic Scholar](https://www.semanticscholar.org/entry/A-Comparative-Constitutional-Perspective-on-Israel-s-Nation-State-Law)

<sup>264</sup> [International Convention on the Elimination of All Forms of Racial Discrimination | OHCHR](https://www.ohchr.org/en/instruments-treaties/instruments-treaties-item-31-1-international-convention-on-the-elimination-of-all-forms-of-racial-discrimination)

Oslo Accords laid out the framework over which roads Israeli and Palestinian security forces have security responsibility<sup>265</sup>.

HRW misrepresents a case brought regarding this specific issue in Road 443 a decision by a military commander to ban Palestinian cars during the Second Intifada was challenged<sup>266</sup>.

HRW's analysis does not show that the Court held that a total ban on Palestinian vehicles from the use of the road exceeded the military commander's authority, and that even if the commander had the authority to exclude Palestinian vehicles, his decision to place an absolute ban on the use of the road by such vehicles failed to meet the demands of proportionality<sup>267</sup>. Nor does it mention that Israeli traffic is forbidden to use Palestinian roads<sup>268</sup>.

With regards to the situation of Palestinians in Area C who are under a different set of laws than the Israelis in the same area "international law itself demands the application of different legal regimes to (groups of) individuals under a state's jurisdiction."<sup>269</sup> Israel simply cannot apply Israeli civil law in the disputed territories without annexing them which is self-evidently an anathema to both sides. Moreover, in certain circumstances international law recognises the permissibility of a state treating nationals and non-nationals differently. A requirement that two groups are subject to different laws does not necessarily entail a regime of domination. Israel's application of the law of belligerent occupation to protected persons in the West Bank, and its application of national law to Israeli nationals – i.e. discriminations based on citizenship – must be assessed by reference to their objective reasonableness and do not constitute apartheid in itself. Israel applies the Laws of Belligerent occupation under the Geneva convention because it only applies to non-nationals in "occupied territory."

## Arab Israelis

The most obvious rebuttal to claims of apartheid is the fact that the Arab citizens of Israel, of which there are 2 million, enjoy full legal and civil rights. While there are disparities between the Arab and Jewish population in employment and education there have been countless initiatives into Arab development as well as commissions investigating discrimination and racism. In 2000 the Israeli High Court of Justice launched the Or Commission which criticised Israel for the discrimination faced by its Arab citizens<sup>270</sup>. Since then, there have been many initiatives to close the gap some recent examples include:

- 2021 the Israeli coalition approved a new five-year, 30 billion shekel (£6.8 billion) socioeconomic development programme for the Arab community.<sup>271</sup>
- March 2022 the Israeli government passed another five-year plan for the social and economic development of the Bedouin community for 2022-2026.<sup>272</sup>
- 2022 comprehensive anti-racism training was introduced to Israeli schools<sup>273</sup>.

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<sup>265</sup> [Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip \(Oslo II\) | Refworld](#)

<sup>266</sup> [NGOMonitor ApartheidReport 2022.pdf \(ngo-monitor.org\)](#)

<sup>267</sup> [The judgment of the supreme court concerning road 443 – Ghiath Nasser \(nasserlaw.net\)](#)

<sup>268</sup> [BICOM-AS-Update-NOV-2022-3.pdf](#)

<sup>269</sup> [Microsoft Word - Apartheid and Occupation - Expert Opinion - Miles Jackson.docx \(triggerfish.cloud\)](#)

<sup>270</sup> [The Official Summation of the Or Commission Report \(September 2003\) \(jewishvirtuallibrary.org\)](#)

<sup>271</sup> [Five-year Plan for Israel's Arab Community: \\$9 Billion Won't Bridge a Gap Decades in the Making - Israel News - Haaretz.com](#)

<sup>272</sup> [Cabinet Approves Five Billion Shekel Five-year Plan for Bedouin Citizens - Israel News - Haaretz.com](#)

<sup>273</sup> [Israel Advances Anti-racism Plan for Schools - Israel News - Haaretz.com](#)

Israel is not a perfect country, yet it has done much and more to stamp out disparities within its citizenry<sup>274</sup>.

Full Rebuttals of all the claims of the apartheid accusations are beyond the scope of this guide for a more thorough dealing of the legal and factual claims, see NGO monitors' reports<sup>275</sup>.

## Israel's Borders

While the 1949 armistice lines (the green line) are the internationally recognised borders of Israel this does not impact the legal entitlements of the State of Israel to the entirety of what was Mandatory Palestine. *Uti possidetis juris* is widely acknowledged as the doctrine of customary international law that determines territorial sovereignty in the era of decolonization. Stated simply, the doctrine provides that states emerging from decolonization shall presumptively inherit the colonial administrative borders that they held at the time of independence<sup>276</sup> this was the principle applied in the creation of Lebanon, Iraq, and Syria as well as much of South America and Africa<sup>277</sup>.

Given the location of the borders of the Mandate of Palestine not ceded to the establishment of Trans Jordan and that the partition of the remainder was not accepted or implemented, Israel would have territorial sovereignty over all the disputed areas of Jerusalem, the West Bank, and Gaza, except to the degree that Israel has voluntarily yielded sovereignty since its independence.

After the War of Independence Israel reached armistice agreements with each of its four neighbours, Lebanon, Syria, Jordan, and Egypt and each of the agreements was clear in stating that the armistice lines demarcated the separation of forces (and, therefore, the lines of *de facto* possession), but not the lines of legal entitlement<sup>278</sup>.

The final peace treaty with Jordan and Egypt recognised the borders of Israel as including the West Bank<sup>279</sup> and Oslo II did not recognise any sovereign claim made by Palestine<sup>280</sup>. Israel, as the only country emerging from the mandate and based on the principles of international law has the greatest legal claim to the West Bank.

## Settlements

While often termed “illegal”, settlements are allowed under international law. UN resolutions labelling it as such have no legal impact on their legal status, resolutions are non-binding suggestions not legislation. International law is generated from treaties, agreements to which countries voluntarily subject themselves to, and customary international law, the conduct of states deemed acceptable by the international community.

The accusation of illegality is based on Article 49 Section 6 of the Geneva convention, which concerns conduct in occupied territory. Even conceding that Israel may be occupying

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<sup>274</sup> [BICOM-AS-Update-NOV-2022-3.pdf](#)

<sup>275</sup> [NGOMonitor\\_ApartheidReport\\_2022.pdf \(ngo-monitor.org\)](#), [BICOM-AS-Update-NOV-2022-3.pdf](#), and [NGOMonitor\\_ApartheidReport\\_2021.pdf \(ngo-monitor.org\)](#)

<sup>276</sup> [Drawing a Better Line: UTI Possidetis and the Borders of New States | American Journal of International Law | Cambridge Core](#)

<sup>277</sup> [PALESTINE, UTI POSSIDETIS JURIS, AND THE BORDERS OF ISRAEL](#)

<sup>278</sup> *Ibid* pg. 692

<sup>279</sup> [IL JO\\_941026\\_PeaceTreatyIsraelJordan.pdf \(un.org\)](#)

<sup>280</sup> [Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip \(Oslo II\) | Refworld](#)

the West bank (see above), Section 6 would seem to only apply to forced re-settlement of civilian populations created by occupying governments, not self-motivated and consensual civilian initiatives. In other cases of settlements in occupied territory, Turkish settlements in Northern Cyprus, Moroccan in western Sahara, Indonesian in east Timor, Armenian in Azerbaijan, there has been no UN condemnation for settlement activity. Investigations and reports published on these occupations and human rights abuses perpetrated therein never invoke Article 49(6) though make frequent use of other parts of the convention<sup>281</sup>.

It is often claimed that the expansion of settlements is a violation of the Oslo Agreements, though no such clause exists. The Oslo Accords gave both Israel and the Palestinian Authority the right to live and build in their allotted jurisdictions, yet Israel is consistently denied this right by the international community.<sup>282</sup>

While settlements and their expansion are certainly a barrier to peace, they are not the primary one as Israel has repeatedly demonstrated its willingness to cede land for peace. However, while they are legal, I cannot justify continued expansion whilst at the same time advocating for a two-state solution.

## **Boycott Divestment and Sanctions (BDS)**

The BDS movement is a “peaceful” means by which Israel would be pressured into making concessions to the Palestinians by cutting off businesses in “occupied” territory. Conceptually there is no problem with this, it is the choice of every individual to boycott whatever country or product they wish. BDS resolutions were brought before local and state legislators, many were passed and would be challenged in court with mixed results<sup>283</sup>.

The choice to target Israel and no other country despite the countless worse violators of human rights that exist is plainly discriminatory if not simply ignorant yet is still a personal choice.

The UN Human Rights Council published a blacklist of Israeli companies to be boycotted expanding to the entire “settler enterprise” including companies that have “captivity of the Palestinian financial and economic markets”. In practice the breadth of the definition includes countless business not in the West Bank, amounting to a general boycott of Israel. The UN has never done the same for other companies in “occupied” territory such as Northern Cyprus or Western Sahara, constituting obvious discrimination<sup>284</sup>.

BDS as a practice is completely ethically defensible, the organisation however has deep ties to terrorist organisations such as the PFLP and Hamas. Many senior staff are convicted terrorists and funds from governments and individuals have been channelled through the organisation to terrorist causes<sup>285</sup>. The Palestinian BDS National Committee (BNC) which leads the international boycott movement, is comprised of 28 Palestinian organizations.

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<sup>281</sup> [Unsettled: A Global Study Of Settlements In Occupied Territories | Journal of Legal Analysis | Oxford Academic \(oup.com\)](#)

<sup>282</sup> [Why Israeli Settlements Are Not a Violation of International Law | Robert Stark | The Blogs \(timesofisrael.com\)](#)

<sup>283</sup> [The Battle Over BDS Trends Lessons and Future Trajectories.pdf \(icpa.org\)](#)

<sup>284</sup> [United Nations \(ngo-monitor.org\)](#)

<sup>285</sup> [De-Legitimization Brochure.pdf \(www.gov.il\)](#)

Foremost amongst them is the Palestinian National and Islamic Forces (PNIF), which include Hamas, the PFLP, and the Palestinian Islamic Jihad<sup>286</sup>.

## **Palestinian Authority**

Often presented as a moderate opponent to Hamas the Palestinian Authority, governed by the Fatah party, is a corrupt organisation that actively supports terror in the West Bank and fails in basic governmental functions. Like Hamas it has a military “wing” in the form of the Al Aqsa martyrs brigade.

## **Supporting Terrorism**

The PA has an infamous program known as “pay for slay” or the Martyrs Fund which incentivises and pays for terrorists. Palestinians and Israeli Arabs who are convicted by Israel of involvement in terror attacks in Israel - “participation in the struggle against the occupation” - are entitled to monthly salaries on a scale which awards more to those imprisoned for more heinous crimes. In 2017 the PA’s total expenditure for directly funding terror in this way was \$355 million more than 10% of the total budget<sup>287</sup>. This has rightly caused the Israeli government to stop transferring taxes they collect on behalf of the PA<sup>288</sup>. Even the IMF has criticised the policy, though as should be expected, only on economic, not moral grounds<sup>289</sup>.

Two-thirds of Palestinians think the PA should give prisoners’ families normal social benefits like everybody else, not extra payments based on their sentences or armed operations. Amongst West Bankers, the exact figure is 65.9%; among Gazans, 67.2%. though other polls show different results<sup>290</sup>. While the PA does cooperate with Israeli military there are multiple terror groups operating openly within, their territory daily, including but not limited to its own Al Aqsa Martyrs Islamic Jihad, Lion’s Den, Nabulus Brigades, and Hamas<sup>291</sup>. Additionally, members of the ruling Fatah party, including cabinet ministers have called for violence against Israel countless times<sup>292 293 294 295</sup>. The PA did not condemn the horrendous attacks of October 7<sup>th</sup>.

## **Administrative failures**

The PA suffers from a chronic lack of legitimacy,<sup>296</sup> Pro-Palestinian activists will lay the blame with Israel for undermining it with settlements and raids into PA controlled Area A, the same activists claim Palestinians in Gaza supported Hamas because of Fatah’s corruption not their genocidal aspirations<sup>297</sup>. It is undeniable that the Israeli presence creates serious challenges to the PA’s legitimacy, but the PA has made no serious effort to alleviate

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<sup>286</sup> Ibid page 6

<sup>287</sup> [Incentivizing Terrorism: Palestinian Authority Allocations to Terrorists and their Families \(jcpa.org\)](#)

<sup>288</sup> [Smotrich said refusing to approve economic measures to assist Palestinian Authority | The Times of Israel](#)

<sup>289</sup> [World Bank Report 2007 | PDF | Palestinian National Authority | Gaza Strip \(scribd.com\)](#)

<sup>290</sup> [Pay4Slay Fact-Sheet-FINAL.pdf \(emetonline.org\)](#)

<sup>291</sup> [Mapping Terrorism in the West Bank \(fdd.org\)](#)

<sup>292</sup> [Report: Fatah calls for violent uprising in Jerusalem - JNS.org](#)

<sup>293</sup> [Fatah Revolutionary Council Member Calls for Violence | MEMRI](#)

<sup>294</sup> [Fatah council calls for ‘escalation of unarmed resistance’ against Israel | The Times of Israel](#)

<sup>295</sup> [Fatah incites violence, praises Israeli Arab terrorists - JNS.org](#)

<sup>296</sup> [Palestinian poll shows a rise in Hamas support and close to 90% | AP News](#)

<sup>297</sup> [People Claim a Majority of Palestinians in Gaza Elected Hamas — Here's Why It Isn't That Simple | Snopes.com](#)

corruption or improve in its basic governmental duties. The only internal attempt at reform in 2010, entitled Last Stretch to Freedom, ended in disaster for the then Prime Minister Salam Fayyad. His attempt to root out corruption ended with his resignation in 2013<sup>298</sup>. Underspending on West Bank infrastructure has led to 33% water loss in pipes and 65% of Palestinian wastewater being released back into the environment untreated thus polluting Palestinian water sources as well as Israeli waterways<sup>299</sup>. The PA and its kleptocracy has received and embezzled billions in aid, yet the situation of their citizens has hardly improved<sup>300</sup>. Additionally, the PA systematically tortures and abuses its own citizens who dissent according to a 2018 HRW report claiming that such treatment is a matter of policy<sup>301</sup>. The Palestinian Authority is not a moderate alternative to Hamas nor is it an Israeli puppet, it is an organisation steeped in corruption that continues to undermine the welfare of Palestinians and the peace process.

## Administrative Detention and Prisons

An oft-used avenue for Israel's critics is the system of administrative detention by which individuals are held without conviction in Israeli prisons. What critics leave out is the fact that such systems are common in cases of terrorism<sup>302</sup> and are used by governments such as the US, Germany<sup>303</sup>, the UK<sup>304</sup> and many others. They also omit the fact that in the past Israel has used it against Israeli settlers<sup>305</sup>. Nor do critics like to mention that administrative detention has a maximum period of 6 months until there is a trial, where individuals have a right to counsel, rights of appeal and it is left to the judicial system to decide, considering alternatives, whether there is credible reason to continue detainment<sup>306</sup>.

A statistic often used in Palestinian advocacy is the 99.74% conviction rate in Israeli military courts. This statistic comes from a Haaretz report on a single year and is only in regard to criminal cases that were brought to court. The US conviction rate for such cases was 94.2% in 2015. According to a law journal report in 2008, 55.75 percent of charges result in either an adjudicated conviction or guilty plea with 40.42 percent of charges being dropped as part of a plea bargain<sup>307</sup>. All legal aspects of the IDF in the West Bank are overseen by the Attorney General and other civil authorities<sup>308</sup> and is subject to significant and ongoing judicial oversight.

As of January 31<sup>st</sup>, 157 minors were held by the Israeli Prison Service, 49 of whom have been sentenced, 65 are undergoing the legal process and 37 who are temporarily detained. Of those minors 23 of whom are between the ages of 14 -16<sup>309</sup>, 8 having been convicted, 6

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<sup>298</sup> [Corrupt, discredited: could a reformed Palestinian Authority run Gaza? | Palestinian territories | The Guardian](#)

<sup>299</sup> [The Myth of the Thirsty Palestinian - The Tower - The Tower](#)

<sup>300</sup> [How much aid does the US give Palestinians, and what's it for? | The Times of Israel](#)

<sup>301</sup> [Palestine: Authorities Crush Dissent | Human Rights Watch \(hrw.org\)](#)

<sup>302</sup> [Administrative Detention](#)

<sup>303</sup> [Preventive detention as a counter-terrorism instrument in Germany | Crime, Law, and Social Change \(springer.com\)](#)

<sup>304</sup> [Prevention of Terrorism Act 2005 - Wikipedia](#)

<sup>305</sup> [Settler activist gets four months of administrative detention | The Times of Israel](#)

<sup>306</sup> [Administrative Detention | StandWithUs](#)

<sup>307</sup> [The Conviction Rate in IDF Tribunals: Is it Too High? | CAMERA](#)

<sup>308</sup> [The IDF Military Justice System | IDF \(www.idf.il\)](#)

<sup>309</sup> [Statistics on Palestinian minors in Israeli custody | B'Tselem \(btselem.org\)](#)

undergoing the legal process, and 9 temporarily detained. This represents a negligible portion of the 4,336 prisoners held by Israel for security purposes<sup>310</sup> and an even smaller amount of the minors who commit acts of violence<sup>311</sup>.

## Checkpoints

In response to rising terror in the course of the Second Intifada Israel increased security measures like checkpoints between Palestinian areas and Israel. As a result in 2002, civilian casualties dropped by over 90%. In 2008 Israel maintained 40 checkpoints inside the West Bank to protect the Israeli civilians living there. As terrorism subsided Israel began taking them down, in 2013 there were 13 permanent checkpoints that operate as needed to address security threats<sup>312</sup>, since then, the number has increased due to the recent uptick in violence<sup>313</sup>. It is indisputable that Palestinians suffer restrictions on their freedom of movement and that sometimes these appear severe, however, the frequent attacks on these checkpoints attest to their necessity<sup>314</sup>. The rise and fall in the number of active checkpoints is indicative of Israel's approach of minimising the restrictions on freedom when possible. If one argues that the checkpoints foster greater violence through discontent, I find it easier to request Palestinians drop their swords rather than demanding Israelis drop their shield.

## Security wall

Before the construction of the fence, terrorists could walk across the invisible border line from West Bank to Israel, no barriers existed and, in many areas, still without a fence, it is still possible. A barrier, no matter how imperfect, will at least make a terrorist's job more difficult. Approximately 75% of the suicide bombers who attacked targets inside Israel during the Second Intifada came across the border in the area where the first phase of the fence was built<sup>315</sup>. From September 2000 until the end of 2006, more than 3,000 terrorist attacks originated from the West Bank, resulting in the deaths of 1,622 people inside the Green Line. By comparison, since 2007 when most of the fence was erected to mid-2022 141 attacks -killed 100 people.<sup>316</sup>

The security barrier is attacked for being a political move to annex Palestinian territory and a violation of Palestinian freedom of movement. The security barrier has cut through private property and made it more difficult for some Palestinians to access their fields and homes. The owners of the land receive compensation annually for the use of the land, and there was an attempt to build on public land wherever possible. Israel has also replanted more than 90,000 trees in the area to try to minimize the damage to local farmers<sup>317</sup>. During the building of the fence there were 124 petitions to the High Court of Justice challenging the

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<sup>310</sup> [Statistics on Palestinians in Israeli custody | B'Tselem \(btselem.org\)](#)

<sup>311</sup> [Excuse and Disregard: Palestinian NGOs on Teens' Involvement in Terror Attacks and Violent Clashes » ngomonitor \(ngomonitor.org\)](#)

<sup>312</sup> [What's the Truth Behind Checkpoints and Crossings in Judea and Samaria? | IDF \(www.idf.il\)](#)

<sup>313</sup> [List of military checkpoints in the West Bank and Gaza Strip | B'Tselem \(btselem.org\)](#)

<sup>314</sup> [Ef\\_202\\_22.pdf \(terrorism-info.org.il\)](#)

<sup>315</sup> [Background & Overview of Israel's' Security Barriers \(jewishvirtuallibrary.org\)](#)

<sup>316</sup> *ibid*

<sup>317</sup> [The Strategic Logic of Israel's' Security Barrier - Col. \(Res.\) Danny Tirza \(jcpa.org\)](#)



construction. In five of these cases, the court demanded changes in the route of the fence<sup>318</sup>  
<sup>319</sup>. According to the chief architect the “The fence is only a temporary security route that  
will be changed the minute we sit and negotiate and agree on a border”<sup>320</sup>.

The fence is not a violation of international law the Geneva Convention allows countries to  
*“take such measures of control and security in regard to protected persons as may be  
necessary as a result of the war”*<sup>321</sup>.

## Rock Throwing and Disproportionate Responses

Accusations of disproportionate response by Israeli Security forces to minor offences has  
been a constant theme in pro-Palestinian rhetoric<sup>322</sup>. Israel does have a zero-tolerance policy  
for rocks and Molotov cocktails with live fire being sanctioned in certain circumstances<sup>323</sup>.  
However, casualties are extremely rare, in 2022 there was 3,000 instances of rock-throwing  
(about 7,600 including encounters with the IDF) and about 500 instances of Molotov  
cocktail-throwing (about 1,200 including encounters with IDF)<sup>324</sup>. Very few of the incidents  
result in casualties, a majority of offenders face no consequences for their violence.

## Demolitions

There are 3 kinds of demolitions precautionary, punitive, and administrative. Precautionary  
demolitions, or “clearing operations,” are used to prevent terrorist groups from having  
locations to shelter snipers or act as operational bases. For their part, punitive demolitions  
involve sealing or razing the homes of Palestinians suspected of or convicted of terrorism.  
Finally, administrative demolitions relate to homes or buildings built without permits.  
Demolitions in the West Bank for security purposes are directly authorised by Article 53 of  
the Geneva Convention<sup>325</sup>.

In 2018 an estimated 15 to 20 percent of all homes in the West Bank had been built without  
permits, either because peoples’ applications were rejected, or owners did not even bother  
submitting the required documentation to receive a license. This left approximately 60,000 to  
70,000 homes at risk of administrative demolitions<sup>326</sup> only a small minority of these are  
demolished and more structures are being built constantly. In 2023 according to OCHA  
1,004 houses and other structures were demolished, of those structures only 31% were  
homes<sup>327</sup> the others included tents, warehouses, fences, etc. Also included in that number  
were demolitions of terrorists’ homes, a tactic, though controversial, that has proven to deter  
terrorism<sup>328</sup>.

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<sup>318</sup> [Israel: The security barrier—between international law, constitutional law, and domestic judicial review | International Journal of Constitutional Law | Oxford Academic \(oup.com\)](#)

<sup>319</sup> [West Bank security fence has been Israel’s’ lifesaver - architect - The Jerusalem Post \(jpost.com\)](#)

<sup>320</sup> [ibid](#)

<sup>321</sup> [Israel Security Fence \(jcpa.org\)](#)

<sup>322</sup> [West Bank: Spike in Israeli Killings of Palestinian Children | Human Rights Watch \(hrw.org\)](#)

<sup>323</sup> [2022 Terrorism Report](#)

<sup>324</sup> [ibid](#)

<sup>325</sup> [ihl-databases.icrc.org/en/ihl-treaties/gciv-1949/article-53](#)

<sup>326</sup> [A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution | HRW](#)

<sup>327</sup> [Microsoft Power BI](#)

<sup>328</sup> [Counter-Suicide-Terrorism: Evidence from House Demolitions | The Journal of Politics: Vol 77, No 1 \(uchicago.edu\)](#)

The demolition of illegal houses in Area C is a dilemma. From an Israeli perspective, Palestinian expansion on land that is disputed and under negotiation is directly against their interest, allowing Jewish settlement to expand is certainly in their interest but is an obvious double standard. I have no ready argument for this, one can make the legal argument, the structures have no permits, or one could point to the fact that it only effects the 10% of the Palestinian population living in Area C, though I don't think this is sufficient moral explanation, nor is that an argument likely to satisfy a Palestinian advocate.

## Settler Violence

Settler violence cannot be justified and individuals who attack civilians should be prosecuted to the full extent of the law. From 2005 to September 2023 of the 1,664 police investigations the NGO Yesh Din investigated, 1,615 have been concluded. Of those, 1,513 were closed without an indictment, amounting to 93.7% of cases tracked. Of the 1,437 cases in which police provided Yesh Din with the reasons why the case was closed, 921, or 64%, were closed on the grounds of “offender unknown” that is, police determined a crime had been committed but could not identify the culprit<sup>329</sup>. This, according to many NGO's, amounts to Israel's tacit support of such violence, others may argue that they simply could not find enough evidence but either way Palestinians in the West Bank are facing violence from settlers.

However, this does not stop distortions and depictions of the reality on the ground. There has not been a sharp increase in settler violence in 2023, police statistics show that settler violence has been slightly less than the same period last year, though it had been rising in previous years<sup>330</sup>. Many of these attacks involve stone throwing, graffiti, or verbal abuse. In 2022 out of the 838 recorded by the IDF only 14 were considered by the IDF to be “serious” ones, where Palestinians were injured, or property was seriously damaged<sup>331</sup>. This does not excuse the violence or abuse, but the statistics often cited misrepresents the nature of the violence.

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<sup>329</sup> [NGO says only 6% of police probes of settler violence it was party to ended in charges | The Times of Israel](#)

<sup>330</sup> [The myth of escalating settler violence – www.israelhayom.com](#)

<sup>331</sup> [IDF says West Bank raids foiled some 500 terror attacks over past year | The Times of Israel](#)