



# Jerusalem Center for Public Affairs

## המרכז הירושלמי לענייני ציבור ומדינה

### Three Myths About the “Occupation”

**Claim #1:** Jews are a foreign entity in the region and established a colonial state in Israel.

**Response:** After the British ended their colonial rule, the Jews established the State of Israel - the fulfillment of their dream to renew sovereignty in their historic homeland after two millennia of exile. Israel was established as a result of UN Resolution 181 in 1947. It also had the endorsement of the Balfour Declaration and the League of Nations -- a stronger legal foundation than many modern states.

1) The “colonial Israel” charge is rooted in an ideological denial of any Jewish connection to Palestine and the ancient Land of Israel.

2) Despite the documented history of the Jewish people in the area, the Arab world continues to deny this history, both in official policy and in popular media. The U.S. State Department notes that Palestinian Authority textbooks “often ignored historical Jewish connections to Israel and Jerusalem.” Academic circles in Palestinian Arab society repeatedly imply that Jews are nowhere to be found in the history of the land and have nothing to do with its past.

3) In the early and mid-twentieth century, the Middle East underwent a process of decolonization. In addition to the formation of many Arab states, a Jewish state was formed. Britain, a colonial entity with no historical or indigenous roots in the region, pulled out of Palestine in 1948 and the Jewish nation, which had a deep religious and historical connection to the Land of Israel, declared independence.

4) Despite essentially parallel processes of independence from colonial and protectorate rule for Arabs and Jews, just one of the national movements and resulting states - Israel - is accused of being “colonial.”

5) There was initially an absence of nationalism that had a distinct “Palestinian” identity. The British Peel Commission of 1936 noted, “The Arabs had always regarded Palestine as included in Syria.”

6) After Israel's War of Independence in 1948 and until 1967, Jordan illegally occupied the West Bank. Where was the outcry during nineteen years of illegal Jordanian occupation?

**The bottom line:** The 1922 Palestine Mandate specifically refers to the “historical connection of the Jewish people with Palestine.” Rather than creating a new right for the Jews, the Mandate recognized a pre-existing right pre-dating the colonial powers. The Mandate also called for the Jewish people to begin the “reconstituting of their national home,” essentially stating that they were going to rebuild a national home that had been there before. Many of the Arab states, in contrast, were modern fabrications resulting from British and French colonial policies.

Source: [“Is Israel a Colonial State? The Political Psychology of Palestinian Nomenclature,”](#) by Dr. Irwin J. Mansdorf

Prepared by Kevin Beckoff and Miriam Fink





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**Claim #2:** The West Bank is “occupied Palestinian territory.”

**Response:** Describing the West Bank as “occupied Palestinian territory” is incorrect and misleading. Legally, the territories are “disputed.”

1) Former Chief Justice of the Israeli Supreme Court Meir Shamgar wrote that the term “occupation” is based on the assumption that there had been a legal ruler that had been replaced. Prior to 1967, Jordan had occupied the West Bank as a result of their illegal invasion in 1948. Prior to that the British ruled Palestine under a mandate from the League of Nations after World War I ended Ottoman Turkish rule. Therefore, after 1948 the West Bank had no original legal ruler.

2) Israel only entered the West Bank in 1967 after repeated Jordanian artillery fire and ground movements across the previous armistice lines; under these circumstances, the UN rejected efforts to have Israel branded as the aggressor in the Six-Day War.

3) Under UN Security Council Resolution 242 of 1967, Israel is only expected to withdraw “from territories” to “secure and recognized boundaries” and not from **all** the territories captured in the Six-Day War. Thus, the UN Security Council recognized that Israel was entitled to part of these territories for new defensible borders.

4) Describing these territories as “Palestinian” may serve the Palestinians' political agenda but prejudices the outcome of future territorial negotiations envisioned in Resolution 242. This description also serves the current Palestinian effort to obtain international affirmation of its claims, while totally denying Israel's fundamental rights in every international forum.

5) In March 1994, U.S. Ambassador to the UN Madeleine Albright stated: “We simply do not support the description of the territories occupied by Israel in the 1967 War as occupied Palestinian territory.”

**Bottom Line:** Israel cannot be characterized legally as a “foreign occupier” in the West Bank.

Source: [“From 'Occupied Territories' to 'Disputed Territories'”](#) by Dore Gold



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**Claim #3:** Israel is illegally occupying the West Bank and Gaza.

**Response:** According to the Geneva Conventions and international law, occupation is defined as when a sovereign state takes control of territory that was part of another sovereign state.

1) Egypt did not claim sovereignty over Gaza, even though between 1948 and 1967 Egypt held the territory under a military government. Jordanian assertion of sovereignty over the West Bank was recognized by only two countries, the United Kingdom and Pakistan. Later, in the 1994 Treaty of Peace between the State of Israel and the Hashemite Kingdom of Jordan, Jordan renounced all claims to the West Bank.

2) From a legal standpoint, Israel's control of the West Bank and Gaza does not fall within the definition of "occupation" because a fundamental premise of the law of occupation – a prior legitimate sovereign – was lacking.

3) As a result of the Oslo Agreement, Israel withdrew its military forces from the major population centers of the West Bank, placing over 90 percent of the Palestinian population under the effective control of the Palestinian Authority. Therefore, these areas can no longer be considered "occupied" by Israel. The continued presence of Israeli troops in the area was agreed upon by Israel and the PA.

4) The 2005 withdrawal of all Israeli soldiers and civilians from Gaza constituted a clear end of any Israeli "occupation" of the territory. Hamas subsequently ousted the Palestinian Authority and established its own government in Gaza. The International Court of Justice has ruled that "territory is considered occupied when it is actually placed under the authority of the hostile army."

5) Some argue that the control of Gaza's borders is solely Israel's responsibility. However, the blockade of Gaza is entirely contingent upon Egypt's control of its border with Gaza. Does this mean that Gaza is under Egyptian occupation, or under a joint Israeli-Egyptian occupation?

**Bottom line:** The term "occupation" is often employed for political purposes without regard for its legal meaning. The use of the term "occupation" reduces complex situations of competing claims and rights to predefined categories of right and wrong. According to the definition of "occupation" in customary international law, as understood at least since the drafting of the Brussels Code of 1874, Israel never "occupied" the West Bank and the Gaza Strip.

**Source:** ["Why is Israel's Presence in the Territories Still Called Occupation?"](#) by Avinoam Sharon.